



Brown Ranch Annexation Committee
Meeting No. 11
Carver Conference Room and Via Zoom
WEDNESDAY, JUNE 07, 2023
9:00 AM

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MEETING LOCATION: In-person and virtual via Zoom. See Instructions above. Carver Meeting Room, Centennial Hall; 124 10th Street, Steamboat Springs, CO

A. PRIOR MEETING RECAP

- 1. Approval of Minutes**
 - 1.a. May 24, 2023 Meeting Summary.**
- 2. Post Annexation Land Use Process.**
- 3. BRAC Agenda Topic Schedule.**
- 4. Communications and Public Outreach Update.**

B. CURRENT DISCUSSION

- 5. Contingencies.**

6. Draft Annexation Agreement.

7. Draft Fiscal Impact Analysis.

C. NEXT MEETING

8. Outstanding Topics and Issues.

D. PUBLIC COMMENT

PUBLIC COMMENT IS SCHEDULED FOR 30 MINUTES, AND IT SHALL BEGIN AT 11:30 A.M. OR THE CONCLUSION OF THE ABOVE AGENDA ITEMS, WHICHEVER COMES FIRST. THOSE ADDRESSING THE COMMITTEE ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES. ALL COMMENTS SHALL RELATE ONLY TO TOPICS OF DISCUSSION ON TODAY'S AGENDA.

AGENDA ITEM #1.a.

BROWN RANCH ANNEXATION COMMITTEE

FROM: Emily Katzman, Yampa Valley Housing Authority

DATE: June 7, 2023

ITEM: May 24, 2023 Meeting Summary.

ATTACHMENTS:

Attachment 1: May 24, 2023 Meeting Summary.

ATTACHMENT 1

Brown Ranch Annexation Committee (BRAC)
Wednesday, May 24, 2023
Meeting Summary

Attendance: Robin Crossan, Joella West, Gary Suiter, Leah Wood, Kathi Meyer (virtually), Jason Peasley (BRAC); Jason Lacy (third-party facilitator); Angela Cosby, Kim Weber, Jon Snyder, Mark Beckett, Rebecca Bessey, Dan Foote, Chuck Cerasoli, Matt Barnard (City staff); Emily Katzman (YVHA staff) Sheila Henderson, Robin Schepper (BRAC outreach)

A. PRIOR MEETING RECAP

1. **Approval of Minutes** – Minutes (the official video recording) from the May 10, 2023 meeting were approved unanimously.
2. **Affordability and Attainability of Housing** – Jason Peasley, YVHA Executive Director, presented additional information on affordability and attainability at Brown Ranch as a follow-up to the May 10, 2023 conversation. [Note: this meeting summary is not intended to capture the details of the presentation. Please see the [presentation slides](#) and meeting recording at approximately 0:29 for additional details.]
 - Area Median Income – Used universally in affordable housing sector to establish income limits to qualify for housing, as well as maximum rent prices.
 - [New AMI figures](#) recently updated by HUD. AMI in Routt County increased by just under 6% in 2023. In 2022, there was a 12% increase in Routt County AMI. Implications of AMI increase:
 - As AMI increases, a greater range of people can qualify for income-restricted housing.
 - Rental rates tied to AMI also increase.
 - Following direction provided by BRAC during the May 10, 2024 meeting, YVHA drafted its proposed [Community Affordability Agreement](#), which will function like a deed restriction to maintain affordability of ownership housing units at Brown Ranch. Key provisions in the document include:
 - Local work requirement:
 - Resident: 30+ hours/wk annual average for business physically located in Routt County.
 - Retired: worked for business physically located in Routt County for 5+ consecutive years.
 - Partially retired: work for business physically located in RC for 15+ hours/wk and used to work for business physically located in RC for 30+ hours/wk for 7+ consecutive years.
 - Disabled: Unable to work due to disability; worked for business physically located in RC for 30+ hours/wk for 5 consecutive years prior to disability.
 - Self-employed: 30+ hours/wk for business located within and serving RC + requires physical presence within RC to furnish the service.

- Income limits tied to AMI.
- Sole residency requirement: unit must be owner occupied; owner does not own other residential real estate in Colorado.
- Asset test or debt-to-income rules not included in Community Affordability Agreement.
 - Promotes accessibility to program (YVHA does not want to “punish” people for saving for retirement).
 - Promotes simplicity in administration.
- No short-term rentals at Brown Ranch, no exceptions.
- Provisions for formula to set initial sales price and maximum resale price.
- YVHA will manage lottery system and transactions to provide simplicity and reduce costs to seller at resale.
- Provisions to prevent loss of deed restriction to foreclosure.
- YVHA drafted its proposed Use Covenant, which is an agreement YVHA enters with co-developers to maintain affordability of rental housing. Key provisions include:
 - Requires “Project Owner” (YVHA and co-developer, who have created a joint venture) to construct income and residency-restricted rental housing. Restriction is transferred with title.
 - Units tied to Area Median Income (30% - 200% AMI).
 - Annual rent increases restricted to no more than 50% of increased published in HUD AMI tables or 2% of existing rent.
- Other follow-up on questions/clarifications posed during 5/10/23 meeting:
 - YVHA shared the housing demand segmented by Area Median Income. Based on input from community, YVHA increased share of ownership units beyond what was indicated in demand study.

	TOTAL (2026-2040)	SHARE (2026-2040)
OWNER DEMAND		
Less than 60% AMI	0	0%
60%-80% AMI	157	16%
80%-120% AMI	295	31%
120%+ AMI	508	53%
CUMULATIVE DEMAND	960	100%
RENTER DEMAND		
Less than 60% AMI	507	39%
60%-80% AMI	209	16%
80%-120% AMI	275	21%
120%+ AMI	312	24%
CUMULATIVE DEMAND	1,303	100%

- Neighborhood A detail:
 - Mixed use w/commercial and multi-family units.
 - Large Low-Income House Tax Credit Project (LIHTC) to serve people up to 60% AMI.
 - Single-family attached townhomes for higher AMI levels.

- Exhibit G in Annexation Agreement: YVHA has requested to exempt a 4.8-acre part of Brown Ranch from the affordability requirements. This is the only part of Brown Ranch that would be exempt from affordability requirements. Reasoning: the topography of the land isolates it from Brown Ranch. It would have to be accessed through the Overlook subdivision, rather than Brown Ranch. YVHA contemplating selling the raw land and/or improved lots to help offset cost of developing Brown Ranch.

Discussion/Questions:

Q: Gary Suiter: In the draft Community Affordability Agreement, do you have a requirement for earned income to limit people who are able to live off their investment portfolio?

A: Jason Peasley: Currently, YVHA is proposing an income test and local work requirement and using tax returns and pay stubs to verify. YVHA is open to workshopping ways to test for passive income but wants to keep the process of qualifying for housing simple and accessible.

Q: Robin Crossan: What does YVHA's 2% transaction fee cover?

A: Jason Peasley: YVHA's overhead for handling the compliance and sales transaction for a unit. The goal is that YVHA breaks even and does not make profit on resale of units at Brown Ranch.

Q: Robin Crossan: Why limit ownership of other residential real estate just to Colorado, rather than across the country?

A: Jason Peasley: This is primarily an administrative issue. Because real estate assets can be hidden in LLCs, qualification and enforcement would be incredibly difficult to track beyond the state of Colorado. However, this is a draft deed restriction, and we are open to workshopping this question. YVHA has learned through management of over 100 deed restrictions in Steamboat Springs that more restrictions, more complexity, is not always better. The goal with this draft deed restriction is to find a "sweet spot" between simplicity and effectiveness, with strong remedies to address the "bad actors" who try to take advantage of the system.

Feedback and next steps:

- Robin Crossan: need to ensure transparency in the process so people who are saving, who aspire to live at Brown Ranch, know what to expect in terms of qualifying.
- Joella West: YVHA is committing to a massive enforcement program. This is important since YVHA and the City are contemplating massive investment into Brown Ranch.
- City Council representatives like the provision for YVHA to purchase units going into foreclosure to maintain the Community Affordability Agreement (deed restriction).
- City Council representatives appreciate YVHA leaning more toward ownership opportunities based on community feedback.
- City Council will provide additional feedback at next BRAC meeting.

3. Sustainability Measures – No feedback or follow-up from the May 10, 2023 meeting.

4. Parks and Recreation – Angela Cosby, City of Steamboat Springs Parks & Recreation Director and Matt Barnard, Development Manager, presented the direction staff and BRAC negotiating

team received from City Council regarding YVHA's proposed parks and open space plan. [Note: this meeting summary is not intended to capture the details of the presentation. Please see the [presentation slides](#) and meeting recording at approximately 42:00 for additional details.]

- On Tuesday 5/23/23, the BRAC negotiating team received the following direction from the full City Council in response to YVHA's proposed Parks & Open Space Plan, which includes 70 acres of parkland including a Special Use Facility and 125 acres of open space within 420 acres subject to annexation.
 - Categorize Park H (~12 acres contemplated to be a Special Use Facility w/outdoor fields and indoor sports complex) in Regional parkland category because it's intended to be programmed like a regional park. This results in a deficit in Mini and Neighborhood parkland acreage.
 - To make up deficit noted above, add 8 pocket parks located off greenways. Can double-up as snow storage in the winter.
 - City Council requiring 46-acre Regional Park which includes the requested expansion of Park H, noted above.
 - Open space: Plan acceptable to City Council, provided RCRC easement is removed.
 - Trails: Plan acceptable to City Council, provided RCRC easement is removed.
 - Construction and maintenance:
 - YVHA to construct and maintain mini, neighborhood, and greenways.
 - City to construct and maintain community parks, regional parks, trails, and open space.
 - Phasing: mini, neighborhood, community parks, and greenways to be phased. Provide access to open space, trails, and regional park in first phase of development.

Questions and Discussion:

- Q: Leah Wood: Has City explored the City-owned land near the Bob Adams Airport and whether that is an option for a regional park?
A: Jon Snyder: If the land was purchased using FAA funds, it cannot be utilized as parkland.
- Q: Robin Crossan: Is it possible to utilize 114-acres not being annexed for regional park?
A: Leah Wood: YVHA's concern is twofold: conserving that land for future needs, whatever those may be and 2. Traffic from region going through Brown Ranch to access regional park.
- Angela Cosby: City believes 46-acre regional park should have been included in the Brown Ranch plan from the start.

Next Steps:

- YVHA will circle up internally and about maintenance of parks and impact on Fiscal Impact Analysis, as well as other items noted in City Council's position.
- YVHA and City Police Department to meet with Routt County Rifle Club re shot fall easement. Additional conversations and agreements needed.

5. **Agenda Topic Schedule** – No changes were made to the schedule. Jason Lacy reminded the group he will not be able to attend the meeting on 6/7/23.
6. **Communications and Public Outreach** – Robin Schepper, BRAC communications consultant, shared key findings from the [BRAC survey](#) distributed by the Young Professionals Network and the Steamboat Springs School District. Two more town hall events have been scheduled.

Questions and Discussion:

- Q: Robin Crossan: How can we share these survey results with the broader community? Suggested guest commentary from YPN, City, or YVHA, and broadly share with various media outlets.
A: Robin Schepper: The communications team has prepared a press release to share with media outlets.
- Q: Robin Crossan: can we send the survey to other large employers in the community to get more input? Hospital staff, Steamboat Resort, etc.?
A: Robin Schepper: BRAC outreach team is happy to reach out to large employers to facilitate additional surveys.
- Comment: Joella West: discouraged to see there are some people who do not know anything about Brown Ranch or annexation.

B. CURRENT DISCUSSION

7. **Post Annexation Land Use Approval Process** - Rebecca Bessey, Planning and Community Development Director, presented City staff questions, concerns, and recommendations regarding YVHA's proposed land use approval process. Please see [packet materials](#) and meeting recording at 1:36:00 for additional details.
 - YVHA proposal based on May 4, 2023 draft Annexation Agreement. CDC to be amended to provide for:
 - New TND transects to facilitate development of Brown Ranch Community Development Plan
 - By-Right uses: residential, restaurants, parking, and all civic, public, and institutional use (excluding utilities)
 - Administrative review / approval: Preliminary Plats and Final Plats, Development Plans and Conceptual Development Plans, Major Adjustments, and Major Variances
 - New Variance criteria related to affordable and attainable housing
 - Exempt from collateral requirements
 - Exempt from subdivision and TND open space requirements
 - Exempt from development phasing standards
 - Staff Comments
 - Zoning: City is collaborating with YVHA and is in process of drafting new TND transect zones. However, the City does not intend the zone districts to be exclusive to Brown Ranch; zoning could be applicable and utilized in other parts of

the community. New TND transects intended to provide greater flexibility, uses, and building forms than existing transects.

- City drafting new design guidelines applicable to health equity.
 - Development review: City staff relatively comfortable with administrative review of preliminary plat, final plat, conceptual development plan, and development plan, provided new zoning standards accommodates the type of development proposed at Brown Ranch.
 - Development review: City staff not comfortable with administrative review of major adjustments and major variance. Zoning should accommodate most development. If there are special circumstances, that is the appropriate time to go to a public hearing.
 - Variance Criteria: YVHA proposing an additional variance criterion: “the proposed variance is necessary to achieve the affordability and/or attainability goals of the proposed development.” City staff is currently uncomfortable with this proposal because language proposed by YVHA is broad and not quantifiable, could apply to any standard in the Community Development Code (landscaping, building height, etc.) However, the concept could have support if language is tightened up.
 - Development and Subdivision Standards: YVHA requesting exemption from phasing and collateral requirements. Collateral provided to City to ensure certain improvements are completed to City standards. City staff unsure of YVHA intent. Concerned about safeguarding future owners and renters if there is no way to ensure improvements are complete.
 - Parks and Open Space standard exemption: More discussion needed; issues could be addressed through TND amendments.
- City Staff Recommendation:
 - Allow City and YVHA staff to continue working together toward draft TND zoning amendments. Much of what YVHA is looking for could be addressed by the code, rather than in the Annexation Agreement.
 - Explore options to incorporate affordable / workforce housing into Acceptable Alternative variance criteria.
 - Maintain public hearing process for Major Adjustments and Major Variances.
 - Maintain collateral requirements.
 - YVHA Response: Jason Peasley provided the follow response on behalf of YVHA:
 1. New TND transects: YVHA appreciates the City is creating custom zoning that fits the vision and looks forward to continued collaboration on this effort.
 2. By-Right uses: YVHA’s objective is to make sure most of what YVHA builds is allowed by-right and can be administratively approved.
 3. Administrative review process: Public hearing process creates significant increase in project workflow for all parties. YVHA wants to make process as streamlined as possible to deliver housing units efficiently. YVHA willing to work with City and find common ground re: what threshold should require public hearing.
 4. Variance criteria: same as above response.
 5. Collateral requirement: This is very important to YVHA. Collateral requirements create a challenging and inefficient use of capital that creates a lot of extra cost to a project (eg: raise

\$80M to do \$40M project). YVHA understands why this requirement exists but believes it is unnecessary for Brown Ranch since YVHA is an extension of the City. Will allow YHVA to be nimble in phasing to deliver units in streamlined process and would be a meaningful change that could make a big difference in deriving affordability to future residents.

Questions and Discussion:

- Q: Robin Crossan: how do we protect residents if developers walk away from a project? What if someone goes bankrupt? Who is going to pay for the rest of it?
A: Jason Peasley: When YVHA partners with developers, we require guarantees on projects. If a developer doesn't perform, YVHA can "go after them" per remedies in the contract to make sure a project is completed.
- Q: Jon Snyder: Is it YVHA's intention to file preliminary plat prior to building infrastructure?
A: Jason Peasley: Yes. For construction sequencing, it is much more efficient to start foundation work while excavators are working on utilities so we're only mobilizing them once.
- Jon Snyder clarified that collateral also plays important role in enabling City to complete improvements if developer walks away.
Jason Peasley clarified that YVHA is not requesting exemption from warranty collateral (need to edit Annexation Agreement).
- Robin Crossan: City Council is strong on its position that Major Adjustments and Major Variances should go through existing process.
- Rebecca Bessey clarified that the City accepts public comment on all projects, whether or not it is in public hearing.

Follow-up and Next Steps: City staff, consultants and YVHA to workshop:

- Phasing and collateral issues among staff. Present potential remedies to BRAC and/or City Council.
- Variance criteria related to affordable housing: tighten language so it achieves goals but isn't so broadly applicable.
- Clarify language re exemption from phasing issues in Annexation Agreement.

D. PUBLIC COMMENT

Public comment was held at 11:30 pm. One community member provided comment.

Mackenzie Finlay – Live in deed restricted apartment. Single parent. In need of housing that would be built at Brown Ranch; experienced housing insecurity. Discouraging to hear that affordability is first priority. Concern about AMI targets going up to 250%. Has reached out to YVHA for help and been told to "get on the waiting list." Beyond affordability, what other demographics are you looking for? Also concerned about proximity of shooting range to Brown Ranch.

8. DRAFT Annexation Agreement

- City Council did not have an opportunity to schedule an extra meeting to go through Annexation Agreement and review the “green, yellow, red” version of the document together. City will provide full feedback on the Annexation Agreement for the next BRAC meeting on 6/07/23. Dan Foote, City Attorney, provided high-level summary of “red, yellow, green” points.
 - “Red”: City consulting to creation of districts; References to utilization of STR tax; Transit
 - Outstanding items to workshop as staff, anything that lacks clarity, requires feedback etc.? Assignment language.

9. DRAFT Fiscal Impact Analysis - Dana Schoewe, Principal RCLCO, presented the draft Fiscal Impact Analysis. See 2:44:00 in meeting recording and [packet materials](#) for details.

Key takeaways:

- Fiscal Impact Analyses are useful tool but shouldn’t be the only consideration when evaluating annexation decision.
- Brown Ranch will generate negative net fiscal impact on City budget. The questions: how negative? How does it relate to existing dynamics? How do we mitigate? This negative impact is a function of City’s existing funding model.
- Net fiscal impact based on per household basis. Different approach than total population basis.
- Analysis focused on City operations. Capital and STR revenues have not been included in analysis. Brown Ranch expected to deliver \$32 million in capital projects revenue that could mitigate negative impacts.
- Analysis focuses on direct impacts. There should be an acknowledgement that there is going to be growth throughout the City, and Brown Ranch will support economic growth in the community by housing workforce (indirect impact).

Existing Fiscal Conditions: Existing full-time households and part-time households are a net negative to the City’s budget. Tourists and Steamboat employees who live outside Steamboat are a net positive to the City’s budget. Given the City’s existing tax structure, it is unlikely that the City could ever annex land and develop housing for full-time residents without creating additional net cost to the City.

Net Fiscal Impact: RCLCO has worked closely with City departments and City’s economics consultant (EPS) to build three scenarios of fiscal impact compared against existing fiscal conditions. Revenue assumptions are consistent, but cost scenarios utilize varying methodology [please see page 14 of [packet materials](#) for scenario details.]

- Revenue: City revenue projections are lower for Brown Ranch households compared to existing Steamboat Springs households because BR residents will have lower incomes, lower spending capacity, and sales tax is huge driver of City budget.
- Revenue: Property tax revenue will be impacted because a share of rental housing will be exempt from property tax, and home values will be lower due to deed restrictions. (Note: rental housing serving 80% AMI and below is currently exempt from property tax).

- Notes on expense calculations:
 - General administration and public works: assumed large share of fixed costs.
 - Transit: assumed new full-service route. Expenses include bus replacement, summer and winter servicing.
 - Parks and recreation: cost per acre. Needs refinement.
- Net negative impact is between \$1.5M - \$4.5M. The question is: where do we go from here?

Questions and Discussion:

- Robin Crossan: it's not just Brown Ranch that drives the need to improve basic services in the community.
- Gary Suiter: This is a long-term planning exercise. Can we scale back scope closer to real-time (focus on Neighborhood A?)
- Expense assumptions that need to be refined:
 - Transit: currently attributes costs of entire western route to Brown Ranch. Reduce bus route to serve Brown Ranch only?
 - Fire and Police.
 - Key question: How do we close the gap? Need direction from City Council, though solutions would involve community-wide conversation.
 - Metro district?
 - Property tax?
 - Other?

Next steps:

- RCLCO and EPS provide information on background tourism growth that can be forecast?
- Analyze all options on the table. – future packet material needs to include full synopsis of all options to make up net negative impact to City budget.

Capital Cost and Revenue Forecast – Brian Duffany, Economic Planning Systems (EPS), and Kim Weber, City Finance Director, presented an initial draft of a capital cost and revenue forecast for Brown Ranch. This forecast is intended to be used as a complement to the fiscal impact analysis, which focuses on operations/general fund.

- Background: Brown Ranch will generate revenue to the City from 2 one-time taxes paid as development occurs. The City also has an STR tax. Question: how can these revenues be utilized to pay for on and off-site improvements at Brown Ranch?
 - Building Use Tax
 - Development Excise Tax – One-time tax paid at building permit @ 1.2% construction value.
 - STR Tax – annual ongoing revenue generated on room night sales of short-term rentals.
- Development Cost Background:
 - On-site improvements – typically developer responsibility. Paid for using equity, financing, or metro district.

- Off-site improvements – Developer responsibility with cost sharing and/or adjacent property owners.
- Other projects w/City-wide benefit – Examples: regional parks, transit, fire stations, some road projects. Development typically pays its proportionate share and a city pays its proportionate share. Complicated formula to be treated on case-by-case basis.
- Jason Peasley clarified YVHA would intend to utilize revenues in priority order: 1. City-wide benefit 2. offsite improvements 3. onsite improvements
- Key findings: See page 4 of the [packet materials](#).
 - Total Estimated Capital Revenues (full buildout of Brown Ranch) = \$59,448,112
 - Total Estimated Offsite Capital Costs (full buildout of Brown Ranch) = \$355,989,574
 - Brown Ranch share = \$152,840,279
 - City share = \$203,149,295
 - Note these cost share estimates are based on cost framework noted by Brian Duffany earlier in presentation.
 - Clarification: costs assume no support from other sources/partners: CDOT, bonding of water/wastewater enterprise fund, etc.
 - STR tax could be a significant financing source for Brown Ranch: could provide roughly \$140M in project capacity from 2023-2042.
- Outstanding questions:
 - What are the on-site infrastructure costs needed for a first phase of development?
 - On-site costs are not included in this analysis
 - Sources and uses / financing plan for on-site (and necessary off-sites) needed to further evaluate allocation of use tax, excise tax, and STR tax revenues
 - Need to understand what we all can feasibly pay for
- Next Steps:
 - Develop project proforma w/focus on on-site infrastructure analysis (YVHA, City, and both consultant teams collaborate).
 - Need to understand the revenue and cash flow potential of Brown Ranch to cover some of these costs.
 - Include revenue from development.
 - Include ranges of grant funding, CDOT funding.
 - Possible to break into smaller time horizons (costs per neighborhood?)
 - Indicate development milestones that trigger major capital outlays.
 - Include total costs, not just those attributed to Brown Ranch (water treatment, fire station, US40).
 - ***Acknowledge this will be a work in process. What was presented today will change significantly in a few weeks as points are negotiated, grant funding comes in, etc.

C. NEXT MEETING - June 7, 2023

1. Contingencies
2. Annexation agreement
3. Fiscal Impact Analysis

AGENDA ITEM #3.

BROWN RANCH ANNEXATION COMMITTEE

FROM: Rebecca Bessey, Planning & Community Development Director

DATE: June 7, 2023

ITEM: BRAC Agenda Topic Schedule.

ATTACHMENTS:

Attachment 1: BRAC Agenda Topic Schedule.

BRAC Agenda Topic Schedule

Meeting	Discussion Topic	Primary Party for Packet Material
1: January 20	Meeting Procedures and Schedule	City
2: February 1	Community Outreach Plan General Plan of Development a) Unit types and numbers b) Phasing plan c) Parks d) Wildfire mitigation e) Public Infrastructure Plan provided by YVHA <ul style="list-style-type: none"> • Water, wastewater, stormwater, multi-modal transportation, Fire Station • Construction costs • Phasing • Maintenance • Onsite v offsite (offsite cost shares) • Exactions/Land Dedications f) Private Infrastructure Plan provided by YVHA <ul style="list-style-type: none"> • Cable, telecoms, wireless, gas, electricity 	City YVHA
3: February 15	City Services/Operations/Maintenance Responsibilities a) City to provide City public utility services <ul style="list-style-type: none"> • Timing dependent construction of infrastructure • Water service • Water Demand Report provided by YVHA • Wastewater, stormwater • Existing fee system 	City
4: March 1	City Services/Operations/Maintenance Responsibilities b) General Municipal Services <ul style="list-style-type: none"> • Transit, streets • Capital equipment needs (Buses, snow removal) • Equitable service levels for SS and BR residents (parties to define) • Identification of equipment/maintenance responsibilities and costs 	City
5: March 15	Fiscal Impact Analysis Assumptions/Introduction	YVHA
6: March 29	Exactions/Dedication of Land a) Parks and open space and trails easement dedications b) Indoor Field House and Sports Complex c) Fire station d) Avigation easements e) Utility easements f) Other agencies, School District, Arts and Humanities	City & YVHA

Meeting	Discussion Topic	Primary Party for Packet Material
7: April 12	City Services/Operations/Maintenance Responsibilities b) General Municipal Services <ul style="list-style-type: none"> • Public safety, parks and open space • Capital equipment needs (fire/police/parks vehicles and equipment) • Equitable service levels for SS and BR residents (parties to define) • Identification of equipment/maintenance responsibilities and costs 	City & YVHA
8: April 26	Traffic Impacts and Infrastructure <ul style="list-style-type: none"> • Traffic Study • Offsite cost share 	City & YVHA
9: May 10	Affordability/Attainability of Housing a) Ownership model and breakdown <ul style="list-style-type: none"> • YVHA rental, restricted sales, market rate sales b) Deed/rental restrictions? <ul style="list-style-type: none"> • Income, workforce, primary residence, STR, Pacaso, etc. • Flexibility over time c) Conformance with WSSAP	YVHA
	Sustainability Measures a) Energy efficiency: LEED, Energy Star, etc., energy conservation, smart home and construction practice tech, living classroom b) Reflective roofs, airtight homes, passive solar, thermal mass, xeriscaping, graywater use, fireproofing, aircrete, permeable surfaces, sidewalks, parks, driveways, walkable neighborhood design, shared spaces/community gathering spaces, integrated pest management plan, EV chargers	YVHA
	Draft Annexation Agreement and Fiscal Impact Analysis	City & YVHA

Meeting	Discussion Topic	Primary Party for Packet Material
<p>10: May 24</p>	<p>Post Annexation Land Use Approval Process</p> <ul style="list-style-type: none"> a) Zoning <ul style="list-style-type: none"> • YVHA/City staff to propose TND Zoning with STR Overlay and Airport Overlay. • Result of zoning ordinance cannot be guaranteed; petition may be withdrawn if TND Zoning not granted • Property may be re-zoned per CDC procedures • YVHA -- requested changes to administrative approvals b) Subdivision applications <ul style="list-style-type: none"> • Petition may be withdrawn if subdivision applications filed during the annexation process are not approved. c) CDC shall govern post annexation land use applications <ul style="list-style-type: none"> • Engineering, Water, and Sewer Standards shall apply to post annexation land use applications. • YVEA requested exemptions for infrastructure bonding and surety d) Fire, building, electrical, etc. Codes shall apply e) Vested Rights <ul style="list-style-type: none"> • Term 	<p>YVHA</p>
	<p>Draft Annexation Agreement and Fiscal Impact Analysis</p>	<p>City & YVHA</p>
<p>11: June 7</p>	<p>Contingencies</p> <ul style="list-style-type: none"> a) Legal Challenges b) Referendum/Referred Measure c) Annexation shall not occur until forty days have passed from approval of annexation ordinances. City shall not complete statutory process until the forty-day period has expired. 	<p>City</p>
	<p>Draft Annexation Agreement and Fiscal Impact Analysis</p>	<p>City & YVHA</p>
<p>12: June 23</p>	<p>Outstanding Topics and Issues</p>	

AGENDA ITEM #4.

BROWN RANCH ANNEXATION COMMITTEE

FROM: Sheila Henderson
Robin Schepper
Mike Lane, Communications Manager

DATE: June 7, 2023

ITEM: Communications and Public Outreach Update.

ATTACHMENTS:

Attachment 1: Communication and Public Outreach Update.
Attachment 2: AMI Fact Sheet.

ATTACHMENT 1



MEMORANDUM

TO: BRAC Committee Members
FR: Sheila Henderson and Robin Schepper
RE: BRAC Communications and Community Engagement May Summary
DA: June 1, 2023
Cc: Mike Lane

As requested by the BRAC Committee members, the following memo summarizes our outreach activities in the month of May as well as plans for June.

- **BRAC Town Halls**

- **May 4th Town Hall** - The summary presentation can be found [here](#). Robin drafted the presentation and City staff added to it. Sheila served as the MC.
4pm: 30 people in person, eight online
6 pm: 12 people in person, eight online
These numbers do not include YVHA and City staff.
Many people came to talk about the Sports Barn and others talked about the need for affordable housing for workers, including teachers.
We promoted the Town Hall on Steamboat Radio in English and Spanish as well as in the newsletter and social media. A complete summary with comments can be found [here](#).
- **June 28th Town Hall is at 5:30 pm.** This Town Hall will have two focus areas: one to review the green, yellow and red sections on the annexation agreement. It will be helpful to have City attorney Dan Foote in attendance. Some education slides on Area Median Income will also be included. Sheila will moderate and all outreach will be repeated: social media, radio, newspaper ads, and partnership with groups.
- **July 27th Town Hall 4 and 6pm.** Hopefully, this Town Hall can discuss the annexation agreement in more detail. Will decide on the content based on progress of June BRAC meetings.

- **Community Meetings – ongoing**

- *Afternoon Rotary, May 2nd.* - Questions varied from water sources, how much it will cost to provide City Services, will property taxes increase, what will happen to highway 40, etc.

- *Routt County Democrats*, - Questions centered on annexation process and requirements. Costs for development as well as AMI details and workforce definition
 - *First Impressions* - Want to make sure many homes fit requirements for home daycare opportunities. YVHA working with them to ensure that occurs
 - *YVHA properties (residents English/Spanish)* - Are they eligible, what is required to buy.
 - *Craig Sheckman Family Foundation* - Most interested in annexation requirements and the red, yellow green areas of draft agreement.
 - *YVEA Board* - Most interested in annexation details, big picture policy, easements, access by streets to hwy 40. Want YVHA to present specifically on how board got to energy choices. Also asked about AMI.
 - *Upcoming Meetings*: The following meetings are expected in July and August:
 - *Steamboat Spring Winter Sports Club – TBD*
 - *Steamboat School District principals/staff – August*
 - *Restaurant Group from Chamber*
 - All questions or comments from every meeting are inputted into the Engage platform.
 - *More surveys*: Reached out to Steamboat Resort and UCHealth about surveying employees like YPN, so far no response.
- **BRAC content creation**
 - Area Median Income fact sheet created for educating the community (attached)
 - **BRAC Content Amplification – ongoing**
 - *Newsletter*:
 - Information about the upcoming BRAC agenda as well as links to all the materials in the agenda packets is sent prior to every BRAC meeting to subscribers to the newsletter.
 - The newsletter is from the YVHA contact list. City PIO is going to add newsletter sign up to City Annex page to increase numbers.
 - In January, there were 1883 subscribers, as of June 1, 1940 subscribers. Industry average for open rates are 20%.
 - Open rate for BRAC newsletters are:
 - 1/27/23, BRAC schedule, 48.2% open rate, 1883 subscribers
 - 2/27/23, 3/1 BRAC meeting, 49.2% open rate, 1892 subscribers
 - 3/13/23, 3/15 BRAC meeting, 50.7% open rate, 1896 subscribers
 - 3/17/23, 3/22 Town Hall Meeting, 53.5% open rate, 1894 subscribers
 - 3/22/23, 3/22 Town Hall Meeting, 34.3% open rate, 1893 subscribers
 - 3/28/23, 3/29 BRAC meeting, 46.3% open rate, 1887 subscribers
 - 4/11/23, 4/12 BRAC meeting, 52.8% open rate, 1884 subscribers
 - 4/24/23, 4/26 BRAC meeting, 43.7% open rate, 1881 subscribers
 - 5/3/23, May Town Hall, 42.3% open rate, 1878 subscribers
 - 5/8/23, May 8 BRAC meeting, 43.8% open rate, 1898 subscribers

- 5/12/23, May 12 BRAC meetings, 42.7% open rate, 1912 subscribers
 - 5/22/23, May 24 BRAC meeting, 45.5% open rate, 1948 subscribers
 - 5/24/23, YPN Survey press release, 54.5% open rate, 1942 subscribers
- *Amplification with other groups:*
 - The Routt County PIO has included the Town Hall and BRAC information in her biweekly newsletter that goes to 5000 subscribers. She also added the YPN survey.



Young Professionals Worry About Housing Costs: For the first two weeks of May 2023, the Young Professional Network as part of the Steamboat Springs Chamber conducted a housing survey to its members in partnership with the Brown Ranch Annexation Committee (BRAC). 254 individuals in the network responded to the survey questions and 104 provided additional comments. This survey follows the advice of the Urban Land Institute to pursue outreach to 20-40 year olds.

The key themes gleaned from the survey include the workforce leaving the community because of lack of housing; majority of respondents pay more than 30% of their income on housing; housing is unstable and there is a lack of supply of housing, even for high wage earners. The survey was presented at the BRAC meeting on May 24. The full report can be seen [here](#).

- LatinX members share updates with their community through FaceBook.
 - YVHA residents from financial planning classes for upward mobility.
 - The Chamber has sent information about the Town Hall and BRAC meetings in the Monday Minute.
 -
- *Social Media:*
 - BRAC meetings are posted on YVHA and Brown Ranch social media accounts weekly, as well as any articles written about the BRAC process. In the last 28 days, the metrics are:
 - Posts' reach: 5637
 - Posts' engagement: 1290
- *Brown Ranch Website:*

- BRAC meeting documents are posted and promoted on Brown Ranch website to make it easier to find:
<https://brownranchsteamboat.org/category/brown-ranch-annexation/>
- **City Assets:**
 - City PIO team continues to update content on BRAC page
<https://www.engagesteamboat.net/annex>
 - City PIO will add newsletter sign up to Annex webpage
- **BRAC media coverage**
 - We regularly reach out the Pilot, Steamboat Radio and the Yampa Valley Bugle to get media coverage.
 - *Yampa Valley Bugle:*
 - [Updated estimate predicts Brown Ranch infrastructure costs would exceed \\$355 million](#)
 - [Two-thirds of young professionals surveyed fear lack of housing will force them from Steamboat](#)
 - [City, housing authority lack 'common ground' on 46-acre regional park at Brown Ranch](#)
 - [The Brown Ranch promises to be affordable. How will the Housing Authority make that happen?](#)
 - [Brown Ranch traffic study shows need for two more stoplights, additional lanes on U.S. 40](#)
 - *Steamboat Pilot:*
 - [Young Professionals survey shows 67% worry housing costs will force them to leave](#)
 - [City, county talk Brown Ranch road maintenance responsibilities](#)
 - [Brown Ranch town hall scheduled for Thursday night](#)
 - [Housing Authority working to find balance between park space and housing at Brown Ranch](#)
 - [Annexation committee settles on new Brown Ranch population estimate](#)
- **Budget:**
 - For May, Sheila and Robin spent a combined time of 80 hours for \$6000.
 - \$500 was spent by YVHA on advertising for the May Town Hall and under \$100 was spent on social media boosts.



YAMPA VALLEY HOUSING AUTHORITY

2023 AMI Fact Sheet

- Using data from the U.S. Census Bureau, the Department of Housing and Urban Development (HUD) annually calculates **AREA MEDIAN INCOME (AMI)**. This estimates median family income for every area of the country. Half of the family incomes are above the median and half are below the median. These estimates are used to calculate various income limits which are defined as percentages of the median family income. AMI varies by the number of persons in a household.
- AMI is the metric the Yampa Valley Housing Authority (YVHA) uses to determine eligibility for all our communities and programs. YVHA also follows the traditional rule that monthly housing costs should be no more than 30% of one's monthly gross income (i.e., income before taxes). Data for the entirety of Routt County is included in the AMI information YVHA uses. In 2023, the Routt County AMI increased by almost 6%.
- HUD defines **LOW INCOME** as anyone whose income is **below 80% AMI**. Local examples include our friends and neighbors who are elementary and preschool teachers, restaurant and grocery store workers, lift operators, bus drivers, and patient/medical assistants.
- HUD defines **MIDDLE INCOME** as anyone whose income falls **between 80-120% AMI**. Local examples include our friends and neighbors who are nurses, firefighters, and sworn police officers.

Routt County 2023 Income Limits

AMI	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
120%	\$91,080	\$104,040	\$117,000	\$129,960	\$140,400	\$150,840
100%	\$75,900	\$86,700	\$97,500	\$108,300	\$117,000	\$125,700
80%	\$60,720	\$69,360	\$78,000	\$86,640	\$93,600	\$100,560

YVHA Communities

- Hillside Village Apartments - 55 units for households below 80% AMI
- The Reserves - 48 units for households between 40-60% AMI
- Alpenglow Village - 72 units for households between 30-100% AMI
- Sunlight Crossing - 90 units for households between 80-120% AMI
- Anglers Four Hundred - 75 units for households between 30-80% AMI

Occupations & Salaries in Steamboat Springs

2023 AMI	Steamboat Springs Occupation*	1 Person Household Income	Single Person Affordable Monthly Housing Cost	3 Person Household Income	3 Person Affordable Monthly Housing Cost
20%	Seasonal Lifty	\$21,510	\$538	\$27,630	\$691
20-50%	Restaurant Support	\$16-40k	\$400-\$1,000	\$20,552-\$51,380	\$514-1,285
20-50%	Cooks	\$22-40k	\$550-\$1,000	\$28,259-\$51,380	\$550-1,285
40-50%	Entry Grocery Position	\$33,280-45,365	\$832-1,134	\$42,748-57,271	\$1,069-\$1,432
45-55%	Patient Care/Medical Assistant	\$34,728-45,144	\$869-1,129	\$44,608-57,987	\$1,115-1,450
50%	Food & Beverage Worker	\$41,600	\$1,040	\$53,436	\$1,336
50-60%	Preschool Teacher	\$41,600-58,115	\$1,040-1,453	\$53,435-76,649	\$1,336-1,916
70%	Parks Tech	\$55,260	\$1,075	\$70,983	\$1,775
70%	Bus Driver	\$57,360	\$1,434	\$73,680	\$1,842
70-100%	Bartenders/Servers	\$55-80k	\$1,375-\$2,000	\$70,647-\$102,760	\$1,766-2,569
60-80%	New Teachers	\$48,750-62,305	\$1,219-1,558	\$62,620-80,030	\$1,566-\$2,001
80-120%	Nurse (RN)	\$61,926-95,977	\$1,548-2,399	\$79,544-123,282	\$1,989-\$3,082
80%	Firefighter/EMT	\$71,700	\$1,793	\$92,100	\$2,303
90-140%	Physical Therapist	\$75,275-112,902	\$1,882-2,823	\$96,691-\$145,23	\$2,417-\$3,626
100%	Sworn Police Officer	\$86,040	\$2,151	\$110,520	\$2,763
130%	Civil Engineer	\$100,380	\$2,510	\$128,940	\$3,224
180%	IT Manager	\$143,400	\$3,585	\$184,200	\$4,605

*This chart is based on actual 2023 salaries for Steamboat Springs occupations. Incomes were disclosed by various business in the community.

Stay informed with accurate information: Scan the QR code to sign up for our newsletter, or to follow us on Instagram and Facebook.



AGENDA ITEM #6.

BROWN RANCH ANNEXATION COMMITTEE

FROM: Dan Foote, City Attorney
DATE: June 7, 2023
ITEM: Draft Annexation Agreement.

ATTACHMENTS:

Attachment 1: DRAFT Annexation Agreement (with City notes).

ATTACHMENT 1

BROWN RANCH ANNEXATION AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

Commented [DF1]: Planning Department will be proposing amendments to the TND provisions. This definition may need to change if and when these amendments are adopted.

Commented [DF2]: This definition is too broad.

[TO SUPPLEMENT AS NEEDED]

2. GENERAL PLAN OF DEVELOPMENT

a. Unit Types & Numbers

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

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

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

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

COMMERCIAL/COMMUNITY	PROGRAM	Building Type	Area in Square Feet				TOTAL PER TYPE
			NBH A	NBH B	NBH C	NBH D	
			Grocery	Mixed Use	15,000	-	
Retail Space (coffee, restaurant, etc.)	Mixed Use	16,000	16,000	32,500	31,500	96,000	
Office Space/ Non-Profit Center	Mixed Use	3,333	3,333	9,334	12,000	28,000	
Childcare accepting CCAP	Mixed Use	2,500	2500	2,500	2,500	10,000	
Fire Station Site Area (3 FT Staff)	Free Standing	50000	-	-	-	50,000	
K-8 School Site Area (590 people)	Free Standing	-	-	200,000	-	200,000	
Indoor Field House	TBD	-	-	10,000	10,000	20,000	
Total by NBH			86,833	21,833	254,334	56,000	419,000

Commented [DF3]: City requests table be updated to reflect any changes per the paragraph below.

Commented [DF4]: Fire station references 50,000 sq.ft. instead of the required 87,000 sq.ft. Reference to FT staff should be deleted.

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

Commented [DF5]: Changes in unit mix could impact property tax exemptions and the fiscal impact analysis. This language should be revised to address this issue.

b. Phasing Plan

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

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

c. Parks, Trails, and Open Space

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

Commented [DF6]: Regional park needs to be addressed.

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

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

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

Commented [DF7]: This provision needs more details and should account for population increases and not just completion of discrete neighborhood blocks.

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

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

Commented [DF8]: Unless there is a material change to the General Plan of Development. And this restriction should be limited to land area and locations, and not whether the proposed dedications meet other CDC requirements.

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

Commented [DF9]: Needs clarification as to when the twenty years commences.

Commented [DF10]: Need more details as to the timing and phasing of trails development?

d. Wildfire Mitigation

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

Commented [DF11]: Change to "shall".

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

Commented [DF12]: Need to clarify that this plan is subject to any applicable regulations.

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

3. PRIVATE INFRASTRUCTURE PLAN

Commented [DF13]: Revise to clarify that "private infrastructure" means infrastructure that will not be owned/maintained by the City. Broadband should be added to this section.

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

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

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

Commented [DF14]: Consent to the formation of a District by approving a service plan is a legislative act. The annexation agreement cannot bind a future Council to approve a service plan.

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

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

4. GENERAL PUBLIC INFRASTRUCTURE PLAN

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

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

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

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

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

Commented [DF15]: Should be revised to clarify that YVHA is not entitled to reimbursement for STR funds or other City funds.

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

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

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

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

a. Water Service

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

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

Commented [DF16]: Reference to the City’s \$1,200,000 expenditure should be restored. Completion estimated in 2026.

Commented [DF17]: This project is dependent on Core Trail project because both will be constructed at the same time. The Core Trail project is not funded.

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

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

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

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

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

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

b. Water Conservation

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

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

Commented [DF18]: This should revised to restore YVHA responsibility for payment of tap fees including a surcharge for the Elk River Plant. Specifying the use of STR tax funds for Water/Wastewater Utility purposes would jeopardize the enterprise status of that fund.

Commented [DF19]: Unless there are material changes . . .

Commented [DF20]: This should be revised or deleted. This decision is legislative and subject to the discretion of future Council(s). In addition, City will propose restoring the disclaimer that City has not acquired a site.

Commented [DF21]: City to provide a water budget to clarify this goal.

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

Commented [DF22]: Add “in accordance with state guidelines”, e.g. every seven years.

c. Water Rights Dedication

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

Commented [DF23]: City has not agreed to waive the otherwise applicable fee-in-lieu.

d. Wastewater Service

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

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

Commented [DF24]: YVHA to confirm that sufficient capacity exists.

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

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

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

Commented [DF25]: As noted above, this provision would jeopardize the enterprise status of the Water/Wastewater Utility Fund.

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

6. OTHER OFFSITE INFRASTRUCTURE

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

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

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

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

7. CITY SERVICES/OPERATIONS/MAINTENANCE RESPONSIBILITIES

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

Commented [DF26]: The "commensurate" service level concept is not workable and should be replaced or revised.

a. Streets

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

Commented [DF27]: The originally agreed paragraph regarding ROW widths and City recommendation that YVHA should consider doing more than the bare minimum should be restored.

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

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

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

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

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

Commented [DF28]: Restore the \$800,000 annual estimated cost to the City for road maintenance purposes.

b. Transit

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

Commented [DF29]: This obligation to be contingent on City ordering and receiving equipment. Lead time for delivery of equipment/employees is fourteen months.

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

Commented [DF30]: Restore the previously agreed language re: basic service levels; that City has not agreed to fund microtransit; and restore the sentence providing that maintenance of sidewalks accessing transit facilities is the responsibility of adjacent property owners.

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

c. Parks, Trails, and Open Space

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

Commented [DF31]: Mini parks?

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

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

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

d. Police, Fire, and EMS Services

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

Commented [DF32]: This subsection needs language regarding the timing of land dedications and capital contributions.

8. AFFORDABILITY/ATTAINABILITY OF HOUSING

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

Commented [DF33]: The mechanism and timing for imposing these restrictions need to be clarified. Permanent affordability should be addressed.

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

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

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

Commented [DF34]: This section should be revised to address permanent affordability.

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

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

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

Commented [DF35]: Sports facility to be dedicated to the City.

Commented [DF36]: Specify maintenance responsibilities for third party facilities.

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

Commented [DF37]: This statement should be in the annexation ordinance. In addition, the City can't make this finding without knowing the AMI numbers that are referenced above.

9. SHORT-TERM RENTAL TAX

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

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

Commented [DF38]: Subject to staff evaluation of the STR project list.

10. POST-ANNEXATION LAND USE APPROVALS

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

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

Commented [DF39]: Will select from the existing menu.

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

Commented [DF40]: Subject to revision of the Code. May be unnecessary.

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

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

Commented [DF41]: Pending discussions at staff level.

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

Commented [DF42]: City will apply standards other than the overall acreage standards.

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

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

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

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

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

11. DEDICATIONS OF LAND

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

Commented [DF43]: Current assessment is that Fire needs 87,000 sq.ft., i.e. two acres.

12. SUSTAINABILITY MEASURES

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

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

13. VESTED PROPERTY RIGHTS

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

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

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

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

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

14. TERM

The term of this Agreement shall commence on the effective date (“Effective Date”) of the City ordinance annexing the Property and approving this Agreement (the “Annexation Ordinance”) and shall continue until the obligations of the Developer hereunder have been completed, satisfied, or financially secured to the satisfaction of the City (the “Term”), but not less than the period of vesting set forth in Section _____. After the expiration of the Term, this Agreement shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect the (a) annexation of the Property to the City; (b) any common law vested rights obtained prior to such termination; (c) any rights arising from City permits, approvals, or other entitlements for the Property or the Development which were granted or approved concurrently with, or subsequent to the approval of this Agreement, the TND Zone District, and the Regulating Plan; (d) the parties’ rights pursuant to Section _____ concerning the prevailing party’s right to fees and costs in the event of litigation. Termination

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

15. ANNEXATION CONTINGENCIES

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

Commented [DF44]: Who would pay for a referendum election?

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

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

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

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

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

17. MISCELLANEOUS

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

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

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

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

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

Commented [DF45]: Definition of YVHA to include HOA/Districts is problematic in this context.

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

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

Commented [DF46]: This language needs revision. It is not clear which contingencies are referenced and the last sentence is not applicable as YVHA is the owner of the annexation property.

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

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

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

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

Commented [DF47]: The City proposes deletion of the attorney fee provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Signature pages follow]

Commented [DF48]: The proposed assignment language is too broad and should be revised to focus more narrowly on YVHA's needs.