CITY HEIGHTS ANNEXATION AND DEVELOPMENT AGREEMENT

Between

CITY OF CLE ELUM, WASHINGTON

and

HIGHMARK RESOURCES, LLC;

COOPER PASS, LLC; and

GREEN CANYON, LLC

(collectively, "RIDGE ENTITIES")

November 11, 2011

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CITY HEIGHTS DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into effective the 11 day of November, 2011, by and between the CITY OF CLE ELUM, a Washington municipal corporation ("City") and GREEN CANYON, LLC; HIGHMARK RESOURCES, LLC; and COOPER PASS, LLC, all Washington limited liability companies (collectively, "Ridge Entities" or "Developer"). For and in consideration of the mutual covenants contained herein, the City and the Ridge Entities do hereby agree as follows regarding the real property legally described on Exhibit 1, attached hereto and incorporated herein ("Property" or "City Heights").

1. RECITALS

1.1 THE CITY OF CLE ELUM

The City of Cle Elum is a code city organized under the laws of the State of Washington. It has authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens and to control the use and development of property within its jurisdiction. The City has authority to annex territory and specify zoning and development standards for annexed areas. The City also has authority, pursuant to Chapter 36.70 RCW, to enter into development agreements such as this Agreement. The City was a Washington second-class city at the time the Ridge Entities filed the Petition (defined below). In March 2010, the City reorganized itself as a code city under Chapter 35A.14, RCW. RCW 35A.14.120-.150 sets forth the review and approval procedures for processing and reviewing petitions filed under the sixty percent petition annexation method, which process is substantively similar to the process applicable to non-code cities. Any references to, or actions taken under, the non-code city provisions with respect to the Petition shall be construed consistently with the provisions applicable to code city annexations under RCW 35A.14.120 through .150.

1.2 RIDGE ENTITIES

As of the date hereof, Green Canyon, LLC, Highmark Resources, LLC, and Cooper Pass, LLC, each own that portion of the real property so identified on Exhibit 1. Each of the foregoing entities is wholly owned or controlled by Storm King LLC, a Washington limited liability company. Storm King LLC has appointed Northland Resources, LLC, a Washington limited liablity company, as the management and development agent for the Ridge Entities. Storm King LLC has granted to Northland Resources, LLC, on behalf of the Ridge Entities, full authority to act on behalf of, represent, and bind, each of the Ridge Entities, individually and collectively, as to such entities' respective ownership of the Property.

1.3 PRIOR AGREEMENTS

The Ridge Entities filed a petition for annexation pursuant to the sixty percent petition annexation method set forth in RCW 35.13.125 ("Petition"). On January 8, 2008, in response to the Petition, the City Council held a duly noticed public hearing to determine whether the City

would accept, reject, or geographically modify the proposed annexation area of the Property. The City Council accepted the Petition proposing annexation of that portion of the Property lyng within the City's Urban Growth Area, and notice of intention to annex was filed with the Kittitas County Boundary Review Board. The Boundary Review Board did not invoke jurisdiction over the proposed annexation. Thereafter, the City and the Ridge Entities entered into a PreAnnexation Agreement in 2009. The PreAnnexation Agreement formed the basis for this Agreement. Execution of this Agreement wholly replaces the PreAnnexation Agreement, rendering it of no further legal consequence to the Parties.

1.4 JOINT PLANNING; URBAN GROWTH AREA

Kittitas County, the City and the Ridge Entities have cooperatively planned for appropriate land uses and infrastructure for the Property, consistent with the County and City comprehensive plans for use and development within City Heights. The County and the City have already, through their planning under the Growth Management Act and their designation of the Property as part of the City's Urban Growth Area, determined that the Property is appropriate for annexation into the City and development at urban densities with urban services and land uses.

1.5 PUBLIC PARTICIPATION

The City and the Ridge Entities have engaged in the public notice and hearing processes mandated by State and local law, including those associated with annexation, the adoption of comprehensive plan designations and zoning for City Heights, and Type IV project permit applications such as this Agreement. In addition, the City and the Ridge Entities have provided numerous additional opportunities for public comment and input on this Agreement and the subject matter thereof.

A record of the notices, hearings, and opportunites for comment is on file with the City.

1.6 ENVIRONMENTAL REVIEW

The City has conducted the following environmental review associated with this Agreement and the development authorized herein, including the Master Site Plan and the Rezone Application for portions of the Property already within the City of Cle Elum.

On June 18, 2009, the City issued a Determination of Significance and a Request for Comments on the Scope of the EIS for the Project.

On July 8, 2009, the City held a public open house scoping meeting at the Walter Strom Middle School in Cle Elum, Washington.

On December 10, 2009, the City gave public notice of action and of environmental review, pursuant to the optional DNS process of WAC 197-11-355, for preannexation comprehensive land use and zoning designation of Planned Mixed Use for the Property within the City Heights UGA. On January 26, 2010, and on March 9, 2010, the City Council held a

public hearing on the proposed comprehensive land use and zoning designations and voted in favor of its adoption. No appeals were taken, and pursuant to the PreAnnexation Agreement and the terms hereof, the comprehensive land use and zoning designations will be effective immediately upon annexation, without further action.

On April 23, 2010, the City issued a Draft EIS for the Project Development Agreement/Master Site Plan and rezone of 28 acres and invited public review and comment.

On May 13, 2010, the City held a public open house at the Walter Strom Middle School in conjunction with soliciting public comments on the Draft EIS.

On November 12, 2010, the City issued the Final Environmental Impact Statement for the Project.

On November 26, 2010, the period for appealing the FEIS expired.

1.7 PLANNING COMMISSION REVIEW

The Cle Elum Planning Commission held a duly noticed open record public hearing and conducted its public review of and deliberations on this Agreement and proposed rezone and the subject matter hereof on July 7, 2011. The Planning Commission, after having considered the materials on file in this record including the application for Planned Mixed Use master site plan approval and Development Agreement; all comments, written and oral, received on the record regarding said applications; the Draft and Final EIS performed thereon, this Development Agreement and the Staff Report regarding the same, subsequently proposed revisions to this Agreement, adopted Findings of Fact and Conclusions of Law and recommended, to the Cle Elum City Council, approval of the Agreement and all ordinances contemplated therein, as modified by the Planning Commission.

1.8 CITY COUNCIL REVIEW

On September 13, 2011, the City Council held a duly noticed closed-record public hearing pursuant to the Type IV process of the Cle Elum Municipal Code, which closed-record public hearing was continued to September 20, September 27, October 4 and October 18, 2011, and at which hearing the Council considered the contents hereof, as well as the application for Planned Mixed Use Zoning, Comprehensive Planning and Development Agreement; all comments, written and oral, received on the record regarding said Applications; the Draft and Final EIS performed thereon, and further considered the Findings of Fact, Conclusions of Law and the recommendations of the Planning Commission.

1.9 VOLUNTARY AGREEMENT

The City and the Ridge Entities agree that each has entered into this Agreement knowingly and voluntarily, and that each shall be bound by the terms and conditions set forth herein.

1.10 MATERIALITY OF RECITALS

The City and the Ridge Entities agree that the foregoing recitals are material to this Agreement and that each party has relied upon the material nature of such recitals in entering into this Agreement.

2. DEFINITIONS

"Agreement" means this development agreement for City Heights entered into by the parties herein, together with all Exhibits and Appendices attached hereto, which together constitute mixed use approval for City Heights.

"Allowable Development" means the overall number and mix of units, uses, and densities specified in Appendix A , which development is approved upon the adoption of the Ordinances contemplated herein, subject to the terms hereof and the receipt of all Implementing Approvals.

"Buildout Period" means the period during which the Development Standards for the Property shall not be modified except as expressly stated in this Agreement, which period shall be the earlier of: (a) twenty (20) years from the recording of the first final plat for the Property under this Agreement, or (b) twenty-five (25) years from the date that Ordinances have been adopted and all applicable appeal periods have elapsed.

"City" means the city of Cle Elum, a code city organized under the laws of the State of Washington.

"City Heights" means the real property owned by the Ridge Entities described on Exhibit 1 and delineated on Exhibit 2. It includes that real property that is within the City limits as well as that which is in the UGA and proposed for annexation.

"City Property" means that portion of Kittitas County Assessor tax parcels 493935, 19165, and 12528, consisting of approximately twenty eight (28) acres of City Heights, that is presently (prior to annexation of City Heights) within the City limits.

"Collector Road" means a road within City Heights that connects Development Areas to one another or to the general road network lying beyond City Heights.

"Conditions of Approval" are those Development Standards (defined below), mitigation measures, and authorizations constituting the terms and conditions upon which development of the Property may occur, including but not limited to provisions setting forth: density and intensity of use, height and size of buildings, road standards, terms for reservation and dedication of land or payment of fees in lieu of dedication, applicability or exemption from impact fees, standards for construction, installation and extension of public improvements, and the law and regulations that will otherwise govern development of City Heights. To the extent not expressly set forth in, or modified by, this Agreement, development of City Heights shall be subject to the municipal ordinances in effect and applicable as of the date of this Agreement.

"County" means Kittitas County, a political subdivision organized under the laws of the State of Washington.

"**Designated Group Parking Areas"** means separate parking lots designated specifically as parking exclusively serving multiple residential units within a Development Pod.

"Development Area" refers to any one of the eight (8) discrete planning areas identified on the Master Site Plan, each of which consists of a series of Development Pods.

"Development Pod" means any one of the discrete developable footprints within a Development Area, as shown on the Master Site Plan.

"Development Standards" refer to those provisions set forth in Appendices A and B, together with those provisions of otherwise applicable laws and regulations as such laws and regulations exist on the Vesting Date and govern the uses, density, design, development, and construction of and within City Heights.

"District" means the Cle Elum-Roslyn School District.

"DNS" means the determination of nonsignificance issued by the City in January, 2010 for the adoption of preannexation comprehensive plan land use designation and zoning for the Property in the UGA pursuant to RCW 35.13.177-.178 and/or RCW 35A.120-.150.

"EIS" or "City Heights EIS" refers to the Draft Environmental Impact Statement dated April 2010, and the Final Environmental Impact Statement dated November 12, 2010, which together constitute the complete environmental review performed under RCW 43.21C for rezoning of the City Property, development of City Heights pursuant to this Agreement, and for the Master Site Plan approved herewith.

"ERU" means equivalent residential unit which, for purposes of this Agreement, is equal to one housing unit (whether a single-family or multi-family unit) or 5000 sq. ft. of nonresidential use (other than utility, right of way, or open space uses).

"Flexibility Objectives" means the purposes of modifying various Project elements in order to incorporate new information, respond to changing needs, encourage reasonably priced housing, and encourage modifications which provide comparable benefit or functional equivalence with no significant reduction of public benefits or increased cost of development.

"Force Majeure" means extraordinary natural elements or conditions, wars, riots, union labor disputes or other causes beyond the control of the obligated party which make timely performance on the part of the obligated party impossible or impracticable, despite good faith efforts to perform timely. A Force Majeure excusing one Party from performing its obligations pursuant to this Agreement shall similarly excuse the other Party from having to perform any corresponding or reciprocal obligation arising under this Agreement.

"Growth Management Act" or "GMA" means the planning legislation codified at

Chapter 36.70A RCW that requires state and local governments to manage growth by identifying and protecting critical areas and natural resource lands, designating urban growth areas, preparing comprehensive plans, and implementing all through capital investments and consistent development regulations.

"Implementing Approvals" means those approvals or permits subsequent to execution of this Agreement which implement or otherwise are consistent with this Agreement, including but not limited to plats contemplated under CEMC 17.45.110, building permits, clearing and grading permits, and all other approvals necessary prior to or in furtherance of construction activity in City Heights.

"Internal Road" means a road within the confines of a Development Pod.

"Master Site Plan" means the mixed use master site plan approved by the City and this Agreement, and attached hereto as Exhibit 3.

"Ordinances" means those ordinances set forth and described in Section 4.1.

"PMU" means the land use and zoning designation of Planned Mixed Use district, as codified in CEMC 17.45.

"Project" means the mixed use development approval for City Heights authorized hereunder, the annexation of that portion of City Heights not already within the City, the adoption of land use and zoning designations for City Heights, and the Rezone.

"Property" means the real property owned by the Ridge Entities described on Exhibit 1 and delineated on Exhibit 2. It includes that real property that is within the City limits as well as that which is in the UGA.

"Recoverable Costs" include all actually incurred costs of direct construction such as grading, excavation, concrete, framing, electrical, plumbing, and carpentry, together with all associated costs of architecture, engineering, design, financing, and administration. .

"Rezone" means the rezoning of the approximately twenty-eight acres of City Heights that are already within City limits.

"Ridge Entities" means, collectively, Green Canyon, LLC; Highmark Resources, LLC; and Cooper Pass, LLC, as the owners of the real property that constitutes City Heights. This Agreement applies to each one of the Ridge Entities with respect to that portion of the Property each owns. The obligations of each of the Ridge Entities shall be joint and several.

"RWWTF" means the regional wastewater treatment facility and related improvements as discussed more fully in, and the subject of, the RWWTFA.

"RWWTFA" means the Fourth Amended Upper Kittitas County Regional Wastewater Treatment Facilities Project Agreement, Development Agreement and Service Agreement between the City of Cle Elum, Town of South Cle Elum, City of Roslyn, and Suncadia Resort

Development (dated April 2008).

"Third Party Development" refers to development within City Heights that is undertaken on Property that is then-owned by a person or entity other the Ridge Entities or an entity in which the Ridge Entities own a controlling interest.

"Urban Growth Area" or **"UGA"** refers to that portion of the City Heights Property that the City of Cle Elum and Kittitas County have designated as suitable for future urban growth and thus within the City of Cle Elum's urban growth area pursuant to RCW 35.70A.110.

"**Vesting Date**" means the calendar date upon which the ordinance approving this Development Agreement is adopted. No amendment to this Agreement shall alter the Vesting Date.

"WTP" means the City of Cle Elum water treatment plant and associated infrastructure and diversion works into which is pumped surface water diverted from the Yakima and Cle Elum River pursuant to the City's surface water rights. The WTP filters and chlorinates such water prior to its entry into the City's water distribution system.

"WTP Agreement" means the Water Supply System Project Development Agreement between the City of Cle Elum, Town of South Cle Elum, Trendwest Investments, Inc., Trendwest Resorts, Inc., and Trendwest Properties, Inc., dated June 19, 2001.

3. AUTHORITY; PLANNING CONCEPTS AND GUIDING PRINCIPLES

3.1 AUTHORITY

This Agreement is based upon the City's police power, contracting power and other authority established by Chapter 35A RCW, including the authority to establish land use designations and development regulations as part of annexation, the development agreement statute contained in Chapter 36.70B RCW, and the development agreement and planned mixed use regulations set forth in Cle Elum Municipal Code Chapters 17.45 and 17.110. The purpose of this Agreement is to comply with the aforecited provisions of law by setting forth the Conditions of Approval applicable to the Project. The City, upon execution of this Agreement and adoption of applicable ordinance(s), shall approve development of the Property subsequent to annexation, in accordance with the Master Site Plan and this Agreement.

3.2 PLANNING CONCEPT AND GUIDING PRINCIPLES

The Master Site Plan for City Heights promotes growth management and planning objectives of the City of Cle Elum, as such objetives are contained in the City's 2007 Comprehensive Plan, of which a true and accurate copy of the version effective at the time of execution of this Agreement is attached hereto as Appendix S, the Growth Management Act of Chapter 36.70A RCW, including, specifically: preservation and creation of open space; pedestrian-oriented neighborhoods with a mix of housing types, densities, costs and ownership patterns consistent with urban densities; provision of housing adjacent to the downtown core;

efficient infrastructure design and improvements; creative solutions for housing, water conservation, and traffic demand management; creative mix of residential and commercial uses; sustainable economic vitality; and quality architectural and design standards. This Agreement, and any document or action taken in furtherance or implementation of this Agreement, shall be guided by the principles that: (a) the Ridge Entities shall be responsible for mitigating only the impacts caused or necessitated by the Project as demonstrated by the EIS and otherwise identified in this Agreement, and (b) the extent of such mitigation shall be roughly proportional to the impact caused by the Project.

4. ANNEXATION

4.1 COUNCIL ACTION FOR ANNEXATION AREA

Immediately after, or concurrently with, adoption of this Agreement, the City shall consider annexation of that portion of City Heights that is within the UGA. The PMU comprehensive plan designation and zoning approved by the City in 2009, shall become effective upon annexation of the Property. At the final public hearing on the annexation of City Heights, the Council shall consider and take action on the following ordinances, collectively, the "Ordinances:"

(a) The "Rezone Ordinance," which if adopted shall designate that portion of City Heights that is already within the City limits as "PMU";

(b) The "Development Agreement Ordinance," which if adopted shall approve this Agreement and the Master Site Plan and constitute mixed use approval of the Project;

(c) The "Annexation Ordinance," which if adopted shall annex those portions of City Heights not yet in the City limits and which shall apply the PMU land use designation and zoning provisions approved by City action in 2009 for such lands effective upon annexation;

(d) The "Planned Action Ordinance," which, if adopted, shall designate City Heights as a planned action under RCW 43.21C.031 and WAC 197-11-164 for which the significant impacts of such action will have been fully addressed through the conditions and mitigation measures, derived through the City's exercise of its SEPA substantive authority and included in this agreement, and those *DEIS Mitigation Measures Included in Development Proposal* such that further environmental review of site specific development within City Heights will not be necessary if the proposed development is consistent with, and already evaluated within the scope of, the City Heights EIS.

4.2 ADDITIONAL ACTION

The City shall undertake any other official action necessary to have this Agreement constitute and otherwise implement the Conditions of Approval for the Property effective automatically upon adoption of the Annexation Ordinance. Such additional action may include execution or adoption of subject-specific agreements dealing with water supply, wastewater,

capital facilities and improvements, or latecomer agreements pertinent to the Property. Any such additional action shall be exercised consistent with the terms of this Agreement and the Conditions of Approval, and in adopting such additional agreements, neither Party shall be entitled to add, reduce, or materially modify the substance of the Conditions of Approval. Any additional action shall further and be consistent with the guiding principles set forth in Section 3.2.

4.3 DENIAL OR WITHDRAWAL OF ANNEXATION PETITION

The City has expressed its intention to annex City Heights through entry into, and actions taken consistent with, a signed PreAnnexation Agreement. Contemporaneously, the Ridge Entities have invested significant resources in furtherance of the PreAnnexation Agreement. If the City denies or fails to adopt any of the Ordinances on the terms set forth in this Agreement, or if this Agreement or any of the Ordinances are overturned on appeal, then the City agrees not to protest the Ridge Entities' withdrawal or rescission of the Petition. If the Ridge Entities withdraw, or if the City votes to deny annexation of, the portion of the Property that is within the City's urban growth area, or if this Agreement is overturned on appeal, then this Agreement shall terminate. If only a portion of this Agreement is invalidated, or if one or more of the Ordinances are overturned on appeal, then the Ridge Entities shall have the option to terminate this Agreement, or to have the Agreement remain intact to the maximum extent practical, with reformation of this Agreement made to the extent necessary.

4.4 ASSUMPTION OF INDEBTEDNESS

The City has no outstanding indebtedness for which City Heights will be assessed and taxed upon the effective date of annexation.

5. CITY HEIGHTS PROJECT ELEMENTS

5.1 PROJECT LOCATION

The City Heights Project area consists of approximately 330 acres of land in the UGA which is owned by the Ridge Entities, plus approximatley 28 acres of land that is already within the City, for a total Project area of 358 acres. The Ridge Entities' property is legally described in Exhibit 1. The Vicinity and Area Map are attached hereto as Exhibit 2.

The Property shown on the Master Site Plan in Exhibit 3 that is currently in the City of Cle Elum Urban Growth Area, but not yet part of the City, will be annexed into and developed under the jurisdiction of the City under the terms of this Agreement and the Exhibits and Appendices attached hereto.

5.2 ALLOWABLE DEVELOPMENT

City Heights may be developed for a mix of public and private uses, consistent with the City's Master Site Plan and terms set forth in this Agreement. The Project shall consist of Development Areas shown on Exhibit 3, within which may be situated one or more

Development Pods. Changes to units, densities and mixes set forth in Appendix A may occur without the need for additional environmental review or mitigation, provided the end development proposed is within the scope of the Project that was subject to the environmental review described in Section 1.6.

6. PROJECT REQUIREMENTS AND MITIGATION

6.1 STORMWATER

The Ridge Entities shall provide at their cost all stormwater facilities necessary to mitigate the direct impacts of stormwater generated by City Heights on the Property, all as further provided in, and consistent with, Appendix C. The improvements will be designed to comply with the Washington State Department of Ecology's Storm Water Design Manual for Eastern Washington ("Ecology Design Manual"), the authoritative regulatory document guiding design and construction of such systems based on best practices known in the engineering community. While the manual stipulates that the design needs to assume a 25-year flood event, the City has requested, and the Ridge Entities have agreed, to design the stormwater system for City Heights assuming a 100-year flood event, thereby increasing the capacity of the system beyond what is required by current regulations. The Project will not be required to remedy any already existing deficiencies in the existing system.

6.2 CITY HEIGHTS WASTEWATER SERVICE

The Ridge Entities shall provide at their cost all additional wastewater collection, treatment and discharge facilities and improvements necessary to mitigate the impacts of City Heights, all as further provided in, and consistent with Appendix D. The City shall provide wastewater service to City Heights in accordance with the provisions of Appendix D .

6.3 CITY HEIGHTS WATER SERVICE

The Ridge Entities shall provide at their cost all additional water diversion, treatment and delivery facilities necessary to mitigate the impacts to the water system from City Heights. Additionally, the Ridge Entities, at their sole cost, shall provide the water rights necessary to comply with the City's water ordinances related to the annexations to the City, all as further defined and consistent with Appendix E.

6.4 COAL MINE HAZARD AREAS ("CMHAs")

Development and activity in Coal Mine Hazard Areas shall be subject to the provisions set forth in Appendix F.

6.5 EARTH, SOILS, AND CRITICAL AREA STANDARDS

Impacts to earth, soils, and critical areas shall be mitigated through the conditions set forth in Appendix G.

6.6 WILDLIFE AND HABITAT

Impacts to wildlife and habitat shall be mitigated in accordance with Appendix H.

6.7 TRANSPORTATION AND ROAD DESIGN

The Project's road standards are set forth in Appendix I. The parties hereby adopt and approve the mitigation set forth in Appendix I to address transportation impacts.

6.8 AFFORDABLE HOUSING

For purposes of the affordable housing requirements set forth herein, median home prices shall be based on the calculations published by the Washington Center for Real Estate Research (http://www.wcrer.wsu.edu/WSHM/WSHM.html). If the Washington Center for Real Estate Research ceases to publish or update median home prices for the State of Washington for a period of eighteen months or more, then the Ridge Entities shall rely upon median household income data and percentages as provided annually by the U.S. Department of Housing and Urban Development.

6.8.1 Low Income. The Developer shall identify at least twelve (12) residential units in the Project, which units shall be distributed among at least two different Development Areas, the initial sale or rental of which shall be as low income housing. Such low income housing requirement shall be deemed satisfied provided that the initial sale price or rental price of such twelve residential units to third party end users does not exceed eighty percent (80%) of the median home price or median rental price (as applicable) in the State of Washington for the year in which the property is listed for sale. Such provision of housing shall apply regardless of the total number of residential units in the Project.

6.8.2 Moderate Income. The Developer shall identify at least twelve (12) residential units in the Project, which units shall be distributed among at least two different Development Areas, the initial sale or rental of which shall be as moderate income housing. Such moderate income housing requirement shall be deemed satisfied provided that the initial sale price or rental price of such 12 residential units in the Project does not exceed one hundred percent (100%) of the median home price in the State of Washington for the year in which the property is listed for sale. Such provision of housing shall apply regardless of the total number of residential units in the Project.

6.9 POLICE AND PUBLIC SAFETY

Police and law enforcement services to City Heights shall be provided by the City as set forth in Appendix J . Impacts of the Project on police and law enforcement shall be mitigated through the provisions of Appendix J. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

6.10 FIRE AND EMERGENCY SERVICES

Fire services to City Heights shall be provided by the City as set forth in Appendix K. Impacts of the Project on fire and emergency services shall be mitigated in accordance with the provisions of Appendix K. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

6.11 ADMINISTRATIVE SERVICES

Administrative services for City Heights shall be provided by the City as set forth in Appendix L . The Ridge Entities shall provide mitigation in accordance with the provisions of Appendix L. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

6.12 PUBLIC WORKS

Public works services to City Heights shall be provided by the City as set forth in Appendix M . The Ridge Entities shall provide mitigation in accordance with the provisions of Appendix M. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

6.13 PARKS AND RECREATION

The Ridge Entities shall provide park and recreation facilities for City Heights as set forth in Appendix N.

6.14 SCHOOLS

The Ridge Entities shall provide school mitigation in accordance with the provisions of Appendix O. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

6.15 MUNICIPAL COURT SERVICES

Municipal court services for City Heights shall be provided by the City as set forth in Appendix P. The Ridge Entities shall provide mitigation in accordance with the provisions of Appendix P. The Ridge Entities' development of City Heights commensurate with this Agreement, and compliance with such provisions, is consistent with the principles found at Section 3.2 above.

7. PHASING

The parties acknowledge that the development of the Property depends upon numerous factors, such as market orientation and demand, interest rates, and competition, and that the Ridge Entities are entitled ultimately to determine the extent and rate of development consistent with the Conditions of Approval. The Phasing of the Project is expressly provided to occur over the Buildout Period.. The Ridge Entities may proceed with development of the Property according to whatever phasing or parcel development plan the Ridge Entities deem appropriate, provided that: (a) any phase of development includes a complete Development Pod, (b) prior to final plat approval of any plat of or within a Development Pod, a Collector Road sufficient to access the Development Pod from outside of the Project has been completed or adequate financial assurances given therefore; and (c) prior to final plat approval of a Development Pod or Development Area, the off-site utility infrastructure improvements necessary to serve the Development Pod or Development Area at issue have been completed or adequate financial assurances given therefore in accordance with applicable CEMC provisions for sureties and financial assurances. Mitigation and satisfaction of Conditions of Approval may be phased or apportioned in a manner consistent with the proposed development phasing, provided that such phasing is reasonably practicable and will not result in a threat to public health and safety. No certificate of occupancy may be issued for any structure until all final plat conditions necessary to protect the public health, including specifically those pertaining to sewer, potable water, and stormwater, have been satisfied. The foregoing notwithstanding, a certificate of occupancy may be issued where sewer, water, and stormwater improvements have been completed but certain road improvements or other conditions have not been satisfied, as long as bonding or adequate assurance of the performance of such conditions has been provided.

8. PERMITTING AND APPROVAL PROCESS

8.1 MIXED USE & MASTER SITE PLAN APPROVAL

The Ridge Entities have provided the City with all information that the CEMC requires, or the City otherwise deems appropriate, for a mixed use Master Site Plan within the PMU district. The environmental impacts of the Project, including the Master Site Plan for City Heights, have been evaluated in the EIS and will be mitigated through the Conditions of Approval set forth in this Agreement. Adoption of the ordinances set forth in Section 4.1 shall constitute approval of the Master Site Plan, mixed use approval for City Heights, and the framework within which actual applications for development within City Heights will be reviewed. The Master Site Plan and mixed use approval shall remain effective for the Buildout Period, and any such extensions as the City may approve, upon a finding of good cause, prior to the expiration of the effective period of the Master Site Plan.

8.2 VESTING OF DEVELOPMENT STANDARDS AND MITIGATION

The Project shall vest under the laws and regulations in effect on the Vesting Date. Except as expressly stated herein, the Project shall not be subject to any mitigation, impact fee (whether adopted pursuant to RCW 82.02.050-090 or otherwise), development standard, connection fee or condition that has not been adopted, implemented, and in effect by the Vesting

Date. During the Buildout Period, the City shall not modify or impose new or additional Conditions of Approval on City Heights beyond those set forth in this Agreement except if: (a) such is required to avoid a serious threat to public health or safety or (b) modification is necessary to prevent a violation of applicable state or federal laws or regulations necessary for approving subsequent development or construction permits for the Project. The Parties agree that budgetary issues and lack of funds for general or capital improvements shall not be construed to constitute a serious threat to public health or safety. To the extent this Agreement does not establish Development Standards covering a certain subject, element or condition, then City Heights shall be governed by the city codes and standards in effect on the Vesting Date, with any ambiguity construed in furtherance of the policies and goals set forth in Section 3.2, except as follows:

8.2.1 During Buildout. After notice, a public hearing and adoption of findings, the City Council may modify this Agreement, including the Conditions of Approval during the Buildout Period to the extent required to avoid a serious threat to the public health or safety or a violation of applicable state or federal laws and regulations, provided that any such modification shall be consistent with the principles of Section 3.2. Notwithstanding the foregoing or the Vesting Date, the International Building Code, the International Fire Code and other mechanical and construction codes in effect on the date of a building permit application or other construction application shall apply, except no code changes after the date of this Agreement shall require retrofitting or modification of utilities, facilities or other infrastructure which were installed in accordance with this Agreement unless such retrofitting or modifications are required to avoid a serious threat to the public health or safety. A disagreement over the existence of a serious threat to public health or safety shall be decided through dispute resolution under Section 12.7.1 of this Agreement.

8.2.2 After Buildout. This Agreement, including the Conditions of Approval, shall expire at the end of the Buildout Period without any further act by either Party; provided, however, that either Party may request an extension of the Buildout Period and the term of this Agreement through the amendment process set forth in this Agreement.

8.2.3 Application and Processing Fees. The application and processing fees for all Implementing Approvals shall be established in accordance with generally applicable and uniform fee schedules adopted by the City and in effect on the date of the application for the Implementing Approval; provided, however, nothing in the foregoing authorization shall be construed to authorize the imposition of impact fees pursuant to RCW 82.02.050-.090 that are adopted subsequent to the Vesting Date. The Ridge Entities shall not be required to pay higher application and processing fees than applicable to any other property owner within the City seeking a comparable type of approval.

8.2.4 Replacement Regulations. During the Buildout Period, as an alternative to using one or more of the Development Standards for particular subject matters specified in this Agreement, the Ridge Entities may, with City approval, use new code provisions or generally applicable standards adopted after the execution of this Agreement.

8.3 IMPLEMENTING APPROVALS

8.3.1 City Review Procedures and Standards. Development of the Project will require additional development review and Implementing Approvals. Consistent with the CEMC, applications for development within City Heights shall be governed by the Conditions of Approval and shall be implemented through plats, short plats, binding site plans, site development permits, building permits and other permits and approvals issued by the City. Applications for Implementing Approvals shall be submitted and processed in accordance with the procedures set forth in the attached Appendix Q. The preliminary plat life shall be extended to the end of the Buildout Period, and thereafter for such additional time as permissible under State law.

8.3.2 SEPA Compliance; Planned Action and Project EIS. The EIS covering this Agreement and City Heights shall constitute compliance with SEPA to the fullest extent possible for the Project, including all Implementing Approvals, during the Buildout Period. The Conditions of Approval set forth in this Agreement constitute appropriate mitigation of the Project through the Buildout Period, provided the Project is developed consistent with the applications evaluated in the EIS. Additional environmental review under SEPA, including but not limited to a supplement or addendum to the EIS, or the imposition of mitigation measures and conditions of approval beyond those in this Agreement will be required by the City only to the extent an Implementing Approval or requested modification creates materially adverse impacts different than those of the Project evaluated in the EIS or contemplated in the Master Site Plan and this Agreement. The City's annexation of the Property and the adoption of the Planned Action Ordinance shall constitute the City's adoption of the City Heights EIS for purposes of environmental review of Implementing Approvals after annexation such that any development proposed within the City Heights Area will not be subject to a SEPA threshold determination or any other additional review under SEPA as long as the proposed development is within the scope of and consistent with the Planned Action Ordinance and development parameters set forth in the EIS and this Agreement.

8.4 FLEXIBILITY; PROJECT MODIFICATION

The Project described in this Agreement, including the Exhibits and Appendices, provides the desired initial definition and certainty of the Project concept for purposes of environmental review, this Agreement, and the Master Site Plan and mixed use approval under CEMC 17.45. However, the parties acknowledge modifications to the Project may occur during the Buildout Period to achieve a number of purposes including: incorporation of new information; responding to changing community and market needs; encouraging reasonably priced housing; and encouraging modifications that provide comparable benefit or functional equivalence with no significant reduction of public benefits, increased cost to the development, or adverse change in environmental impacts. The Project and Conditions of Approval may be modified under the standards and procedures set forth in Appendix R based upon these Flexibility Objectives. Nothing in this Agreement shall modify mandatory state imposed concurrency requirements, nor allow either party to unilaterally modify the restrictions or requirements set forth herein.

9. CAPITAL FACILITIES; CONCURRENCY

As indicated in Section 3.2 above, development of City Heights consistent with the provisions of this Agreement and the Exhibits and Appendices attached hereto provides adequate and sufficient public facilities and services for police, public works, fire, medical, schools, general governmental, and park and recreation facilities and services for the Project. This Agreement, together with Appendices A through T, represents the complete capital facilities plan for City Heights for the types of facilities addressed herein, and no impact fees or amounts of monetary or in-kind mitigation are due with regard to the capital facilities or project improvements covered by this Agreement other than those expressly imposed hereby. The Ridge Entities' compliance with the Conditions of Approval and performance of the obligations contained in this Agreement shall constitute provision of, or mitigation for, adequate and sufficient public facilities and services for City Heights, and such performance shall be deemed to satisfy all applicable concurrency and level of service requirements of the City with respect to all components of the Allowable Development. For the Buildout Period, City Heights shall not be subject to any impact fees or taxes adopted by the City for system improvements to the extent such system improvements are identified or established through a capital facilities plan amended or adopted subsequent to the date hereof, provided, however, this Agreement does not prevent the City from imposing taxes, costs or fees authorized by law on City Heights to the extent that such taxes, fees or costs are necessary for the City to remain in compliance with legislation or regulations, imposed by a superseding authority and generally applicable and uniform City-wide, the non-compliance with which would result in fines, penalties or imprisonment to the City and its elected officials. Any such taxes shall be payable as other taxes in the City and the capital facilities related to such other taxes shall not modify or establish different concurrency standards or compliance requirements from those set forth in this Agreement.

10. FINANCING AND REIMBURSEMENT AGREEMENTS

10.1 COOPERATION IN CREATIVE FUNDING OPPORTUNITIES

The Ridge Entities may pursue and utilize any type of public and/or private-public financing to finance infrastructure, capital facilities, and other Conditions of Approval to the extent the City's cooperation in such efforts does not result in any out-of-pocket expense, exposure to imposition of development standards not otherwise applicable to the City, or any similar detriment to the City. Additionally, the City agrees to cooperate, in public financing efforts including, but not limited to, the formation of community facilities districts ("CFDs") or local improvement districts ("LIDs"), and the pursuit of grant and bond funding, provided that any expenses associated with cooperation shall be borne solely by the Ridge Entities, and further, that cooperation in such efforts does not result in any out-of-pocket expense, exposure to imposition of development standards not otherwise applicable to the City or similar detriment to the City. The City may issue bonds for construction of any capital improvements contemplated herein for the benefit of the Project. If the City finances any of these facilities with bonds, the owners of the benefited properties within City Heights will be responsible for their allocable share of the bond levy amounts based on the per unit calculation of benefit ultimately adopted by the City, and consistent with Section 3.2. If the Ridge Entities are constructing capital

improvements or facilities, then upon the Ridge Entities' request, the City shall consider forming an LID or using a bonding source as may be available for those City Heights capital facilities, subject to applicable City procedures and laws, and further provided that cooperation in such efforts does not result in any out-of-pocket expense, exposure to imposition of development standards not otherwise applicable to the City, or any similar detriment to the City.

10.2 LATECOMER OR OTHER REIMBURSEMENT AGREEMENTS

If the Ridge Entities, through the provision or construction of infrastructure or capital facilities (whether through actual payments, improvements, or incurring binding obligations therefore) anticipate that such infrastructure or capital facilities may confer a benefit or improvement in excess of the improvements necessary to serve the Project itself, then to the extent allowed by law, the City shall cooperate with the Ridge Entities in adopting a reimbursement agreement or other mechanism authorized under law that will enable the Ridge Entities to be reimbursed, to the maximum extent allowed by law, for all Recoverable Costs by owners of property benefiting from said improvements.

11. VOLUNTARILY NEGOTIATED MITIGATION; NO REOPENER.

This Agreement, including all Conditions of Approval and any obligation to pay monetary mitigation, is undertaken voluntarily by the City and the Ridge Entities. The City and the Ridge Entities acknowledge that the Conditions of Approval are reasonably related to and are a direct result of the impacts from the Project identified during the SEPA process. The mitigation conditions and payments contained in this Agreement reflect an exercise of the City's SEPA substantive authority under CEMC 15.28 and WAC 197-11-660, or mitigations volunteered by the Ridge Entities. The Conditions of Approval, including mitigation measures, are rationally related to and intended to mitigate fully all impacts, including system wide impacts, resulting from the development of the Project. The parties have spent considerable time and effort to calculate the impacts of this Project to the City. The City and the Ridge Entities are satisfied that the methodologies used and the results obtained adequately and effectively mitigate the adverse impacts of the development of the Project. The terms of this Agreement, including all Conditions of Approval and the Exhibits and Appendices herein, were developed voluntarily and at arms' length in consideration of the Project as proposed in its application materials and as further described through environmental review, as well as in consideration of the City of Cle Elum as it is currently configured. The context and circumstance of the City of Cle Elum, in 2009 when the application for this Development Agreement was submitted through 2011 when this agreement was approved, are unique to the present time, and likely will evolve. Land within the City may be developed in the future, and land adjacent to the City may be annexed and developed, ultimately resulting in a City that is different in form and substance than it is today. The impacts to the City of Cle Elum as a result of the proposed Project, along with likely cumulative impacts caused by the Project, have been evaluated in light of the City's current comprehensive land use and other capital facilities planning documents, its zoning ordinances and development regulations, the City's current boundaries, its natural environment, its built environment, and future development that is authorized by contract, agreement, plat, site plan or other binding land use device but which is not yet completed. Upon adoption of the Ordinances

called for herein, the rights and duties of the Ridge Entities with respect to City Heights shall not be subject to renegotiation if new land is proposed for annexation to, or for development within, the City. Similarly, the adoption of the Ordinances called for herein and any development of the Project shall not be construed to authorize or imply any reduction in the City's ability to meet its residents' infrastructure needs concurrent with population growth. To the fullest extent possible, this Development Agreement is intended to take into consideration all the existing and approved land uses within the City, and to address the Ridge Entities' proportionate share of the impacts the Project causes to the City and its residents. The foregoing notwithstanding, nothing herein shall be construed to make the Ridge Entities a party to any contract predating this Agreement to which the Ridge Entities are not a party.

12. GENERAL PROVISIONS

12.1 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

12.2 BINDING ON SUCCESSORS; ASSIGNMENT; RELEASE OF LIABILITY

12.2.1 Binding. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the Ridge Entities and upon the City.

12.2.2 Assignment. The parties acknowledge that development of the Project likely will involve sale and assignment of portions of the Property to other persons who will own, develop and/or occupy portions of the Property and buildings thereon. Upon the transfer under this Section, the transferee shall be entitled to all interests and rights and be subject to all obligations under this Agreement, and the Ridge Entities released of liability with respect to such portion as has been assigned and assumed. Transfers or attempted transfers that are undertaken in a manner inconsistent with these provisions shall be *void ab initio* and shall not excuse the performance of the Ridge Entities of any of its obligations under this Agreement.

12.2.2.1 Transfers Not Requiring Consent. The Ridge Entities shall have the right to assign or transfer all or any portion of the respective interests, rights or obligations under this Agreement or in the Project to other parties acquiring an interest or estate in all or any portion of the Property, including transfer of all interests through foreclosure (judicial or nonjudicial) or by deed in lieu of foreclosure, without notice or consent from the City, if the transfer is within the scope of one of the following: (a) a single-family residential parcel, a single-family residential unit or a multi-family unit, to a purchaser; (b) any property that has been established as a separate legal parcel, provided that the transferee assumes in writing all obligations of the Ridge Entities pertaining or proportionate to the parcel being transferred, and the transferee has not breached a similar written agreement with, or obligation to, another municipal corporation; or (c) a transfer where the Ridge Entities have bonded for, or provided other suitable assurance of performance, of all conditions set forth in the Agreement that are applicable to the parcel that is being transferred.

12.2.2.2 Transfers Requiring Consent. Any transfer that is not within the scope of Section 12.2.2.1, shall not release the Ridge Entities from its obligations under this Agreement unless the City has consented in writing to such transfer. The City shall not unreasonably withhold, condition, or delay its consent, and in the event the City withholds, conditions, or delays consent, the City shall provide express findings therefore. The City agrees to cooperate in executing such documentation as reasonably necessary to evidence any obligations under this Agreement that have been satisfied with respect to a piece of Property that is proposed for transfer.

12.2.3 Release of Liability. If the conditions for assignment are met under this subsection, then from and after the date of transfer, the Ridge Entities shall be released of all liabilities and obligations under this Agreement that arise in relation to events occurring after the date of transfer and that are associated with the portion of Property being transferred. From and after the date of transfer, the transferee shall exercise the rights and perform the obligations of the Ridge Entities under this Agreement for that portion of the Property acquired by the transferee. If, after release of liability, a default occurs relating to the transferred portion of the Property, such default shall not constitute a default by the released party nor shall it be deemed a default as to any other portion of the Property not subject to the defaulted obligation. Notwithstanding any other provision hereof, the owner of any portion of the Property whose interest has been transferred through forfeiture, judicial or nonjudicial foreclosure, or through a deed given in lieu of foreclosure shall be released of liability from and after the effective date of transfer through foreclosure or deed in lieu thereof, provided, however, all liabilities, duties and obligations arising from this Agreement remain recorded encumbrances upon the Property and remain fully enforceable against the successor in interest following such forfeiture, foreclosure or deed in lieu thereof.

12.3 RECORDING

Pursuant to RCW 36.70B, a memorandum of this Agreement shall be recorded against all Property that comprises the Project as a covenant running with the land and shall be binding on the Ridge Entities, their successors and assigns. The City shall cooperate with the Ridge Entities

in executing such releases or partial releases of portions of the Property from this Agreement once the obligations or liabilities associated with such portions of the Property have been fulfilled.

12.4 INTERPRETATION; SEVERABILITY

12.4.1 Interpretation. The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the City's authority to enter into such agreements, and this Agreement shall be construed in furtherance of effectuating the Flexibility Objectives and the purposes and principles set forth in Section 3.2. In the event of a conflict between provisions relevant to the Project, the terms of the Appendices shall prevail, then the provisions of this Agreement, then the provisions of applicable laws and regulations.

12.4.1.1 Interpretations Affecting Mitigation Fund Collection and Management. Various provisions in this Agreement allow the City to collect mitigation funds, using its SEPA substantive authority, that must be used to mitigate impacts, including but not limited to those impacts on schools, roads, water treatment and wastewater treatment capital facilities. Funds collected under the Agreement pursuant to the City's exercise of its substantive SEPA authority are expressly and solely intended to mitigate for impacts that are a direct result of, and roughly proportional to, the development of the Project. It is not the City or the Ridge Entities' intent that mitigation funds be treated as revenue to the City. It is not the City or the Ridge Entities' intent that any mitigation funds collected by the City and reserved for potential water and wastewater system improvements be treated as water or wastewater utility revenues. In the event the parties hereto receive an advisory opinion that the structure of payment, receipt and disbursement of the Agreement's called-for mitigation funds may be deemed revenues resulting in unanticipated tax consequences, or that the structure for payment, receipt and disbursement may be *ultra vires*, then the parties shall reform those provisions to fulfill the intent of this Agreement, which intent is to offset impacts identified during SEPA rather than to generate revenue to the City. The foregoing notwithstanding, any reformation of the Agreement to further such intent shall not alter the amounts, uses and timing of the payments set forth in this Agreement.

12.4.2 Severability. Invalidation or unenforceability of any provision of this Agreement shall in no way invalidate or nullify the balance of this Agreement. If any provisions of this Agreement are determined to be unenforceable or invalid by a court of competent jurisdiction, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law. If a court finds unenforceability or invalidity of any portion of this Agreement, the parties agree to seek diligently to modify the Agreement consistent with the court decision, and no party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed. If the parties do not mutually agree to modifications within forty five (45) days after the court ruling, then either party may initiate the dispute resolution proceedings in Section 12.7.1 for determination of the modifications which implement the intent of this Agreement and the court decision.

12.1 AUTHORITY

The City and the Ridge Entities each represent and warrant it has the respective power and authority, and is duly authorized, to execute, deliver,perform and enforce its rights and the other Party's obligations under this Agreement.

12.2 AMENDMENT

This Agreement shall not be modified or amended without the express written approval of the City and the Ridge Entities (or any party to whom either Ridge Entities has sold or assigned where that Ridge Entity has been released of liability under this Agreement). The process for modifying this Agreement, the Project, and the Conditions of Approval is set forth in Appendix R.

12.3 EXHIBITS AND APPENDICES

Exhibits 1 through 7 and Appendices A through T are incorporated herein by this reference as if fully set forth.

12.4 HEADINGS

The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

12.5 TIME OF ESSENCE

Time is of the essence of this Agreement in every provision hereof. Unless otherwise set forth in this Agreement, the reference to "days" shall mean calendar days. If any time for action occurs on a weekend or legal holiday, then the time period shall be extended automatically to the next business day.

12.6 INTEGRATION

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

12.7 DISPUTES; DEFAULT AND REMEDIES

12.7.1 Dispute Resolution. In the event of any dispute relating to this Agreement, all parties upon the request of any other party shall meet within seven (7) days to seek in good faith to resolve the dispute. The City shall send its chief administrative officer, or as his designee a department director and/or persons with information relating to the dispute, and the Ridge Entities shall send an owner's representative and any consultant or other person with technical information or expertise related to the dispute. The parties shall use good faith efforts to resolve directly all claims, disputes, and other matters in question between the parties arising

out of or relating to this Agreement. In the event the parties cannot mutually resolve their dispute(s) directly, all claims and disputes shall be resolved through binding arbitration utilizing Judicial Dispute Resolution, LLC, in King County, Washington. If the parties cannot utilize an arbitrator from Judicial Dispute Resolution, LLC, then one shall be selected from the panel of Judicial Arbitration and Mediation Services, in King County, Washington, where also shall be the venue for any arbitration. The proceedings shall be governed by the Civil Rules and the Rules of Evidence of the State of Washington, except as otherwise determined by the arbitrator in the interests of justice and efficiency to the proceedings. The arbitration hearing shall begin within thirty days of submission of the case to the arbitrator with the goal of any arbitration being to resolve the issue as quickly as possible but in no event later than sixty days after submission of the case to the arbitrator. The foregoing notwithstanding, if the amount at issue in the disputes is greater than One Hundred Thousand Dollars ($100,000), either party may elect to have the arbitrator serve as a referee under Chapter 4.48, RCW. If one or both parties have elected to have the arbitrator serve as a referee, the arbitrator shall be deemed to be serving as a referee pursuant to RCW 4.48.010, with venue in King County, Washington. The parties shall take all steps necessary to process any such dispute(s) pursuant to Chapter 4.48, RCW.

12.7.2 Default and Remedies. No party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) days after written notice of default from any other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure. Any party not in default under this Agreement shall have all rights and remedies provided by law including without limitation damages, specific performance or writs to compel performance or require action consistent with this Agreement. The prevailing party (or the substantially prevailing party if no one party prevails entirely) shall be entitled to reasonable attorneys' fees and arbitrator fees, expert fees, costs and out of pocket expenses, including attorneys fees, costs and out of pocket expenses incurred on any appeal.

12.7.3 Relief Against Defaulting Party or Portion of Property. In recognition of the anticipated sale(s) by the Ridge Entities of portions of the Property to others to own, develop and/or occupy within City Heights, the remedies under this Agreement shall be tailored to the Property or parties as provided in the remaining provisions of this subsection. After the transfer of portions of the Property for which the release of liability provisions apply under Section 12.2.3, any claimed default shall relate as specifically as possible to the portion of the Property involved and any remedy against any party shall be limited to the extent possible to the owners of such portion of the Property. To the extent possible, the City shall seek only those remedies which do not adversely affect the rights, duties or obligations of any other nondefaulting owner of portions of the Property under this Agreement, and shall seek to utilize the severability provisions set forth in this Agreement. The City shall have no liability to any person or party for any damages, costs or attorneys fees under this Section 12.7 so long as the City exercises reasonable and good faith judgment in seeking remedies against appropriate parties or portions of the Property. Nothing in this section modifies the liability or release thereof for the Ridge Entities as provided in Section 12.2.3, nor releases the Ridge Entities' joint

and several liability to the extent provided in any Appendices.

12.8 AUTHORIZED AGENT

The Ridge Entities have designated, and hereby reaffirm such designation of, Northland Resources, LLC, as their agent with authority to give notices, approvals and otherwise act pursuant to this Agreement. Unless otherwise stated by the Ridge Entities, representations and actions by Northland Resources, LLC shall represent and bind each Ridge Entities as to its respective ownership within the Property.

12.9 TERM

The term of this Agreement shall correspond with the Buildout Period.

12.10 MORTGAGEE RIGHTS

Any person who is the beneficiary of a deed of trust or mortgagee ("Mortgagee") of a mortgage secured against all or any portion of the Property ("Mortgaged Parcel") who has provided written notice to the City of the Mortgagee's interest in the Mortgaged Parcel shall be entitled to notice of default and opportunities to cure as provided in this section. Any Mortgagee may provide written notice to the City requesting a copy of all notices of default and correspondence, claims or litigation related thereto or the Mortgaged Parcel. For each Mortgagee who has provided such notice, the City during the remaining term in this Agreement shall notify such Mortgagee of any event of default, claim or litigation relating to the Ridge Entities or the Mortgaged Parcel under this Agreement and provide the same opportunity to cure such event of default, within the times provided below, as provided to the Ridge Entities under this Agreement. Notwithstanding any other provision of this Agreement, this Agreement shall not be terminated by the City as to any Mortgagee either (1) who has requested notice but has not been given notice by the City or (2) to whom notice of default is given by the City and to which either of the following is true:

(a) the Mortgagee cures a default involving the payment of money by the Ridge Entities within sixty (60) days after notice of default; or

(b) for defaults which require title or possession of all or any portion of the Property to effect a cure, then:

(1) the Mortgagee agrees in writing, within ninety (90) days after its receipt of written notice of default, to perform the defaulted obligation allocable to the Mortgaged Parcels conditioned upon the Mortgagee's acquisition of the Mortgaged Parcel by foreclosure (judicial or nonjudicial) or through a deed in lieu of foreclosure;

(2) the Mortgagee commences foreclosure proceedings to acquire title to the Mortgaged Parcel within ninety (90) days and thereafter diligently pursues the foreclosure to completion; and

(3) the Mortgagee (or any purchaser of the Mortgaged Parcel at foreclosure, trustee's sale or by deed in lieu of foreclosure) promptly and diligently cures the default after obtaining title or possession. Subject to the foregoing, if Mortgagee delivers a notice of default to the City, then the Ridge Entities' rights and obligations under this Agreement may be transferred to the Mortgagee or to any purchaser of the Mortgaged Parcel at a foreclosure, trustee's sale or conveyance by deed in lieu of foreclosure.

12.11 ESTOPPEL CERTIFICATE

Within thirty (30) days following any written request which any party or a Mortgagee may make from time to time, the other party to this Agreement shall execute and deliver to the requesting person a statement certifying that: (a) this Agreement is unmodified and in full force and effect, or stating the date and nature of any modification; and (b) to the best knowledge of the certifying party (i) no notice of default has been sent under Section 12.7.2 of this Agreement or specifying the date(s) and nature of the notice of such default and (ii) no written notice of infraction has been issued in connection with the Project. Failure to deliver such statement to the requesting party within the thirty (30) day period shall constitute a conclusive presumption against the party failing to deliver such statement that this Agreement is in full force and effect without modification (except as may be represented by the requesting party) and that there are no notices of default nor infraction (except as may be represented by the requesting party). The delivery of an estoppel certificate on behalf of the City pursuant to this section shall be deemed an administrative matter and shall not require legislative action. The City shall not have any liability to the requesting party or to any third party for inaccurate information if it provides the estoppel certificate in good faith and with reasonable care.

12.12 NO THIRD PARTY BENEFICIARIES

Except for the mortgagee rights under Section 12.10, this Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

12.13 INTERPRETATION

This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement. Any and all references to, and annexation actions take under, the non-code city provisions of the Revised Code of Washington in this matter shall be construed as consistent with the provisions of RCW 35A.14.120 through .150 for code city annexations.

12.14 NOTICE

All communications, notices and demands of any kind which a party under this Agreement requires or desires to give to any other party shall be in writing and either (i) delivered personally, (ii) sent by facsimile transmission with an additional copy mailed first class, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested,

and addressed as follows:

If to the City:

City of Cle Elum
119 West First Street
Cle Elum, Washington 98922
Attn: Planning

with copy to:

Erin Anderson
Stoel Rives, LLP
600 University St., Suite 3600
Seattle, WA 98101

If to the Ridge Entities:

City Heights
Northland Resources LLC
c/o Sean Northrop
206 West First Street
Cle Elum, WA 98922

with a copy to:

Traci Shallbetter
Shallbetter Law
3201 Airport Road
Cle Elum, WA 98922

Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given.

12.15 COOPERATION

The parties shall not unreasonably withhold requests for information, approvals or consents provided for in this Agreement. The parties agree to take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The City agrees to work cooperatively with the Ridge Entities to achieve the mutually agreeable goals as set forth in this Agreement, subject to the City's independent exercise of judgment.

12.16 DELAYS

If either party is delayed in the performance of its obligations under this Agreement due to Force Majeure, then performance of those obligations shall be excused for the period of delay.

12.17 THIRD PARTY LEGAL CHALLENGE; INDEMNIFICATION

Except and to the extent resulting from the City's negligence or intentional act(s) or omission(s), Developer shall hold City harmless from, and indemnify it against, any and all fines or penalties that result or arise directly or indirectly from (a) actions associated with, and including, the annexation, zoning or entitlement actions for City Heights or (b) the City's implementation of this Agreement.

In the event any legal or equitable action or other proceeding is instituted by a party, entity or organization (including governmental units), their officials or agents, challenging the validity of any provision of the City's approval and/or implementation of the Ordinances, this Agreement, or any actions precipitating the same, then the Parties hereto shall cooperate in entering a joint defense agreement substantially in the form attached hereto as Appendix T. Unless otherwise agreed, joint defense counsel shall be selected through the following process: (a) Ridge Entities shall present to the City its preferred attorney and related credentials and unless the City can provide a verifiable objection to such attorney, whether related to prior experience, general knowledge or otherwise, that attorney shall be engaged for joint representation; (b) If the preferred attorney of the Ridge Entities is not engaged, then (i) Ridge Entities shall present to the City a list of three attorneys and such attorneys' credentials; (ii) from such list, the City shall identify the attorney (if any) with which the City is willing to engage for joint representation pursuant to this Agreement; (c) in the event that none of the candidates are acceptable to the City, then each party shall propose a list of three candidates with qualifications, and a combined list of the six attorneys shall be provided to a mutually agreed-upon neutral, independent person for selection of the attorney that such person believes is best suited to jointly represent the City and the Developer.

If the parties enter into a joint defense agreement then Developer shall bear all costs of, and hold the City harmless from and otherwise indemnify the City against the costs of the defense and reasonable investigation of any such claim, lawsuit or liability, incurred from the joint defense, including all attorney fees associated with the joint defense, provided, however, that in no event shall Developer be obligated to pay the costs and attorney fees associated with any claim, action, or lawsuit arising from the negligence of the City or the inability on the part of the City to fulfill an obligation under this Agreement. Neither the Ridge Entities nor the City shall settle a claim or lawsuit challenging this Agreement without the consent of the other, which consent shall not be unreasonably withheld. Notwithstanding any suggestion to the contrary herein, consistent with the provisions of hereof, the Ridge Entities shall not be liable for the costs and attorney fees associated with any claim, action, or lawsuit arising from the negligence of the City or the inability on the part of the City to fulfill an obligation under this Agreement or that involves a legal proceeding between the City and the Ridge Entities, including its successors and assigns.

Nothing herein shall preclude either party from retaining its own independent legal defense at its own expense in lieu of, or addition to, entering a joint defense agreement although if a joint defense agreement is entered into the City will bear the cost (and will not be reimbursed by the Ridge Entities) for the costs of retaining its own independent legal defense.

12.18 AUTHORITY TO APPROVE AGREEMENT

12.18.1 By Ridge Entities, through Northland Resources. By executing this Development Agreement, the Ridge Entities represent and warrant that they have taken all necessary steps under their corporate authorities to authorize such act, and that execution of this Development Agreement is valid and binding for all purposes.

12.18.2 By City. By executing this Development Agreement, the City represents and warrants that it has taken all necessary steps under its corporate authorities to authorize such act, and that its execution of this Development Agreement is valid and binding for all purposes, subject only to subsequent appeals filed in accordance with RCW 36.70B.200.

CITY OF CLE ELUM, a Washington municipal corporation

By Charles Glondo
Charles Glondo
Its Mayor

Date: 11/8/11

APPROVED AS TO FORM:

Erin Anderson, City Land Use Attorney

COOPER PASS, LLC, a Washington limited liability company

By , its managing member
By
Sean Northrop
Its President

Date: 11/11/11

HIGHMARK RESOURCES, LLC, a Washington limited liability company

By , its managing member
By
Sean Northrop
Its Managing Member

Date: 11/11/11

GREEN CANYON, LLC, a Washington limited liability company

By ., its managing member

By _____
Sean Northrop
Its Managing Member

Date: 11/11/11

APPENDIX A
ALLOWABLE DEVELOPMENT AND DENSITIES

A. Land Uses, Units, Densities, and Mix

Land uses for the 358 acre Project shall be within the types, densities, and areas shown on the Master Site Plan in Exhibit 3 and described in this table.

Development Area	Total Acreage (approx.)	Developable Acreage (approx.)	Maximum Density (ERUs)	Development Pods	Type of Product
A	21	7 to 11	55	A1	Detached & Attached Residential, Commerci
B	63	25 to 35	215	B1 thru B7	Detached & Attached Residential, Commerci
C	23	7 to 10	50	C1	Detached & Attached Residential
D	111	42 to 52	290	D1 thru D7	Detached & Attached Residential, Commerci
E	27	7 to 10	100	E1	Detached & Attached Residential
F	69	15 to 24	110	F1 thru F4	Detached & Attached Residential
G	27	11 to 14	88	G1 thru G2	Detached & Attached Residential
H	17	6 to 9	60	H1 thru H2	Detached & Attached Residential
Total	358	120 to 165	962		

APPENDIX B
DEVELOPMENT STANDARDS

To the maximum extent allowable under applicable Washington law, development of City Heights shall be vested under and subject to the development regulations set forth in the CEMC as they exist on the date of mutual execution of this Agreement, including, specifically Titles 12 through 18 ("Development Regulations"), except to the extent such Development Regulations are inconsistent with, or modified by, this Appendix B or other provisions of the Agreement or the Master Site Plan. In addition to the Development Standards set forth in this Agreement, all development within City Heights shall implement and be subject to those mitigation measures identified in the DEIS as "*Mitigation Measures Included In Development Proposal.*"

SEWER REGULATIONS (CEMC CHAPTERS 13.08 AND 13.10)

1. **Wastewater Service (Appendix D).** The development regulations set forth in CEMC 13.08 and elsewhere in the CEMC shall not apply to City Heights to the extent such regulations would be inconsistent with the provisions of this Agreement governing Wastewater Service as such provisions are set forth in Appendix D of this Agreement.

2. **Onsite Option.** City Heights may be served by an Onsite Treatment Facility consistent with the Onsite Option set forth in Appendix D of this Agreement, obviating any obligation of City Heights under the Onsite Option to connect with public sanitary sewer as otherwise would be required under CEMC 13.08.040-.050, and .100. The minimum lot size specified in CEMC 13.08.090 of five thousand (5000) square feet shall not apply to onsite systems otherwise allowed herein, provided such lots rely upon some form of community septic system that meets regulatory standards.

3. **Sales Center and Model Homes.** In each Development Area, there may be constructed one sales/marketing/information center not to exceed five thousand (5000) square feet, which exists for the primary purpose of marketing and selling lots or product within City Heights; up to twelve (12) detached model homes; and up to four (4) model buildings for attached product, each of which are utilized for sales and marketing purposes (collectively, "Temporary Uses"). Temporary Uses may be served by onsite septic systems compliant with the Washington State Department of Health standards until such time as the unit is occupied full time as a residential unit with a certificate of occupancy, provided that in no event shall connection to the onsite septic systems exceed a period of thirty six (36) months. Temporary Uses shall count as an ERU for purposes of this Agreement, but shall not be subject to the sewer system rates, charges, and reserves otherwise applicable under CEMC Chapters 13.08 and 13.10 until issuance of a certificate of occupancy for any such structure. Upon such issuance, the structure may be subject to the sewer system rates, connection charges, and reserves applicable to a single family residence except to the extent otherwise provided below and in Appendix D (i.e. in the event the Expansion Option or Onsite Option is elected). In order to ensure adequate capacity for the Temporary Uses upon the date of conversion to residential use/issuance of certificates of occupancy, at the time the Developer submits a complete application for a building

permit for a Temporary Use, the City shall take such administrative action as reasonably necessary to reserve water and sewer capacity that will be necessary for the Temporary Use upon its conversion to a residential use and issuance of a certificate of occupancy therefore.

4. **Community Center and Public Facilities.** Any community center or facility open for public uses and benefit shall be classified as a single-family dwelling for purposes of sewer rates, sewer reserves, and sewer system connection charges (CEMC Chapters 13.08 and 13.10) regardless of occupancy status. Public restrooms within public parks and public spaces shall not be charged for sewer system connection, use, or reserves that would otherwise be applicable under CEMC Chapter 13.10.

5. **Expansion Option**. If City Heights completes the Expansion Option contemplated in Appendix D, then no structure constructed within City Heights shall be subject to the wastewater capital reimbursement charge or administrative fees of CEMC Chapter 13.10.

WATER REGULATIONS (CEMC CHAPTERS 13.12, 13.14, 13.20)

1. **Water Rights and Water Service.** The development regulations set forth in CEMC Chapters 13.12, 13.14, 13.20 and elsewhere in the CEMC shall not apply to City Heights to the extent such regulations would be inconsistent with the provisions of this Agreement governing water service as such provisions are set forth in Appendix E of this Agreement.

2. **Groundwater Sourcing.** To the extent that City Heights relies upon Groundwater Sourcing contemplated in Appendix E, and is not served by the WTP, City Heights shall not be subject to the capital reimbursement charges of CEMC 13.14.020-.030 (or any amendment thereof) associated with the City's WTP.

3. **Water Rates and Charges.** Notwithstanding CEMC 13.20.040, property within City Heights shall not be subject to different or additional surcharges, rates or other charges for hookup and connection to public water; rather, the rates, charges, fees, and capital reimbursement charges for water that are applicable to City Heights shall be limited to only those rates, fees, and capital reimbursement charges expressly set forth or authorized in this Agreement.

4. **Community Center and Public Facilities.** Any community center or other facility open for public uses and benefit shall be classified as a single-family dwelling for purposes of water rates, water reserve fees, and water system connection charges regardless of occupancy status. Public restrooms within public parks and public spaces shall not be charged for water connection, use, or reserves, nor shall they be required to pay the water system connection charges or administrative fees otherwise applicable under CEMC Chapters 13.12 and 13.14.

SIGNAGE (Chapter 16.20)

Notwithstanding anything to the contrary in CEMC 16.20, the Ridge Entities may erect at any time during the Buildout Period, without the need for a sign permit or other City review or

signage design standard compliance, the following signage within City Heights: on premises, non-electrical signs, sixteen (16) square feet or less in size used for advertising real estate available for sale or lease, serving as directional signs for the convenience of prospective purchasers of lots within City Heights, or pertaining to the construction or improvement activities within City Heights; in each Development Pod, up to eight (8) land sales signs of twenty-five square feet or less, non-illuminated, advertising the sale, lease or development of City Heights. The Ridge Entities shall have the ability, consistent with State and local laws and procedures, and after consultation with KITCOM to avoid duplication of street names, , to name the streets and roads within City Heights and to develop and implement signage design standards throughout City Heights, provided such standards are consistent with Chapter 16.20.

SUBDIVISIONS (Title 16)

1. Sales Center. Notwithstanding anything to the contrary in CEMC 16.04.040, one sales/marketing/information center may be constructed on any existing tax parcel, as such tax parcels exist on the date hereof, without the need for platting of such parcel.

2. Development Agreement Compliance. Provided that a preliminary plat is consistent with the terms set forth in this Agreement and the Master Site Plan, and provided further that any such proposed preliminary plat will not cause the level of service of public facilities to drop below the levels of service deemed applicable and acceptable on the date of this Agreement, any such preliminary plat shall be deemed to meet the criteria for preliminary plat approval set forth in CEMC 16.12.050.

3. Design. In furtherance of the objectives of PMU zoning, except as otherwise provided herein, City Heights shall not be subject to the standards for lot size, block size, the shape and orientation of lots, and subdivision design set forth in CEMC 16.12A.060(A) (1), (5), (8), and (12). In lieu thereof, the following standards shall apply to City Heights. Lots may be accessed from Collector Roads and Internal Roads. Front property lines may abut Internal Roads, and rear property lines may abut either or both Collector Roads or/and Internal Roads. Trees with a diameter in excess of thirty (30) inches, measured four feet above grade, in any open space or planned public area, shall not be removed prior to creation of a vegetation management and revegetation and planting plan completed by a certified arborist. Individual lot impervious area may vary, provided the total artificial and native impervious surface within any given Development Pod does not exceed eighty five percent (85%). Lots within any given Development Pod may be clustered, rely on zero lot lines, and contain any mix of townhomes, cottages, condominiums, multifamily units and single family detached units, consistent with the Allowable Development. Structures on lots shall be set back at least five feet from all property lines unless the plat is clustered or involves zero lot lines. All lots shall abut an improved public road that is dedicated (or will be dedicated to the City in accordance with Appendix I) for at least fifteen (15) feet or be served by an easement for ingress and egress not less than twenty (20) feet in width that abuts a dedicated public road (or one that will be dedicated in accordance with Appendix I). Ingress and egress for each Development Area and Development Pod shall be consistent with the Master Site Plan.

4. Stormwater. Stormwater detention facilities may be located off-site, in designated stormwater detention facilities compliant with applicable law, or on-site. Stormwater drainage for each subdivision shall comply with CEMC 16.12A.060(B) and the 100-year floodplain design parameters of the Washington State Department of Ecology's Storm Water Design Manual. All additional terms and conditions pertaining to stormwater management are set forth in Appendix C.

5. Streets. Due to topographical limitations and the objectives of the PMU Zoning, compliance with the provisions of CEMC 16.12A.060(C) shall not be required in City Heights, provided that: all streets within City Heights shall comply with the design standards set forth in Appendix I; Internal Roads shall be designed to efficiently serve the lots within each Development Area, and Collector Roads shall be designed in such a way as to connect in a logical manner with the arterials and collector streets outside of the Property. Alleys for accessing lots or improvements within Development Areas shall be permitted, but not required. While connectively within Development Areas is encouraged, cul-de-sacs and dead ends shall be allowed to the extent that such alternative design is practical in light of terrain, access, development costs, and site constraints. Road grades within City Heights may be up to twelve percent (12%) for segments less than one thousand (1000) feet, where the Ridge Entities provide certification from a professional engineer that such grade is reasonably necessary given terrain or other site constraints. Due to terrain and other physical limitations of the Property, intersections of Collector Roads and Internal Roads may be constructed at angles less than ninety degrees, provided such angle will not result in a traffic hazard. Standards for roads within City Heights shall be as set forth in Appendix I, and curbs, sidewalks and gutters shall not be required within City Heights.

6. Public Improvements. Notwithstanding the provisions of CEMC 16.12A.060(D), the standards for public improvements shall be those set forth in this Agreement, except to the extent mutually agreed otherwise.

7. Guarantee and Security. An application for final plat, or for an extension of the period for applying for final plat, shall be made to the City within five years of the date of preliminary plat approval. Absent a showing a bad faith, the City shall automatically grant one five-year extension for each preliminary plat, if a request for such extension is timely submitted to the City. Any additional extensions shall be discretionary. All required public improvements shall be made prior to final plat approval, unless the applicant posts a bond or other financial security acceptable by the City in an amount equal to one hundred twenty five percent (125%) of the estimated construction cost of the improvements (as estimated by a professional engineer hired by the Ridge Entities and concurred with by the City Engineer). Except to the extent expressly required elsewhere in this Agreement or the Appendices hereto, no bonds or other financial security shall be required of the developer in conjunction with development of City Heights, including those associated with ongoing maintenance.

1. A community center may be located within any City Heights Development Area.

2. "Acreage," as utilized only in determining compliance with the average, minimum, and maximum unit densities for single family and multiple family dwelling units under CEMC 17.45.060(8) only shall mean total acreage within City Heights less all area attributable to Collector Road rights of way, utility rights-of-way, parks, open space, and areas that are classified as critical areas under CEMC Title 18.

3. At least thirty five percent (35%) of the Property (approximately one hundred twenty five (125) acres, inclusive of areas within power line easements) shall be dedicated to open space, natural areas, parks, recreation areas, village greens, commons, or public assembly areas.

4. The mixed use approval granted for City Heights pursuant to this Agreement and CEMC 17.45.140 shall be valid through the Buildout Period and any extension thereof.

5. Within any Development Area, clustering of lots, zero lot lines, and other innovative land use design and planning shall be allowed through the platting process.

6. Parking for residential single family development with lots less than five thousand (5,000) square feet in size including clusters, zero lot line and cottage style homes, shall be allowed to meet the parking requirements both by on-street and off-street parking including Designated Group Parking Areas. Otherwise, designated off-street parking shall be provided for uses within City Heights, consistent with the following:

Residential Single Family	2.0 per dwelling unit
Residential Attached -Studio/One Bedroom	1.0 spaces per unit
Residential attached-Two Bedroom	1.5 spaces per unit (average)
Commercial Space-Retail	3.0 spaces per 1000 sf of gross building area
Commercial Space-Restaurant	7.0 spaces per 1000 sf of gross building area
Commercial Space-Office	4.0 spaces per 1000 sf of gross building area
Community Center	3.5 spaces per 1000 sf of gross building area
Parks/Recreation	1.0 space per 3000 sf of gross building area

7. Off-street loading space shall be required for any commercial building space that exceeds 40,000 square feet. No off-street loading shall be required for a community center.

8. Asphalt shall be permitted as a paving material for parking facilities. For all single family detached dwellings, the parking spaces shall be located on the same lot being served unless the plat design includes cottage homes, zero lot line homes, clusters, or similarly designed plats. In these cases, parking may be provided in Designated Group Parking Areas. Bumper stops and concrete curbs shall not be required for residential parking areas/driveways.

9. Landscaping for City Heights shall be consistent with the standards set forth in CEMC 17.64, with the following modifications and clarifications:

9.1 The definition of "significant trees" set forth in CEMC 17.64.040 pertains only to trees within wetlands, fish and wildlife conservation areas, frequently flooded areas, and geologically hazards areas. Such trees may be removed from these areas where such removal is mitigated through relocation or revegetation pursuant to a critical area mitigation plan consistent with applicable law.

9.2 Landscaping shall not be required within surface parking areas encompassing fewer than fifteen (15) stalls. In surface parking areas with fifteen (15) or more stalls, landscaping shall cover a minimum of five percent (5%) of the parking area, maneuvering areas and loading space landscaped. Landscaped islands of such size and tree coverage as determined by the applicant, shall be distributed through such parking area at a ratio of one tree per every 15 stalls. No permanent curbs or structural barriers shall be necessary around plantings or landscaped areas.

9.3 Medium and tall shrubs required under CEMC 17.64 shall be at least eighteen inches in height at time of planting.

9.4 Single-stemmed trees required pursuant to CEMC 17.64 shall, at the time of planting, be a height of at least ten (10) feet when deciduous trees. Conifers and evergreens shall be at least six feet in height. Groundcover required under CEMC 17.64 shall not be subject to planting height requirements, provided such groundcover is planted and spaced to result in the required coverage within three years.

10. Development within City Heights shall not be subject to the site and design review requirements of CEMC 17.76, but rather reviewed pursuant to the provisions of CEMC Title 16 (as modified herein) and CEMC 17.45.110 (subsequent approvals and permits in the PMU zone).

CRITICAL AREAS (Title 18)

1. The critical area designations and delineations set forth in the EIS shall be deemed the final determination of the identification, designation, and extent of critical areas and boundaries for purposes of applying and implementing the provisions of the City's critical area ordinance(s) set forth in Title 18 of CEMC.

2. If wetland buffer areas are disturbed, buffer averaging will be allowed. Wetlands within City Heights, as designated in the EIS, shall be subject to the following buffers and mitigation ratios:

Classification	Buffer
Type I	One Hundred (100) feet

Type II	One Hundred (100) feet
Type III	Fifty (50) feet
Type IV	Twenty Five (25) feet

3. Recreational trails may be installed across wetlands, streams and buffers, provided applicable permits are obtained for such trail construction.

4. Development shall be permitted in critical aquifer recharge areas to the extent that such development is served by the Water Rights dedicated to the City by the Ridge Entities pursuant to Appendix E.

APPENDIX C
STORMWATER MANAGEMENT

1. The Ridge Entities shall construct the stormwater infrastructure necessary to mitigate the stormwater impacts related to City Heights and shall bear all costs associated with construction of the stormwater infrastructure serving City Heights. All stormwater infrastructure designed for construction by the Ridge Entities related to City Heights shall be done under the supervision and shall bear the seal of a Professional Engineer licensed in the state of Washington. Washington State Department of Ecology's Storm Water Design Manual for Eastern Washington (the "Ecology Design Manual") recommends designing facilities to handle a 25-year flood event. For City Heights, however, the Ridge Entities shall design all stormwater infrastructure to comply with the more stringent 100-year floodplain design parameters as set forth in the Ecology Design Manual in effect on the date hereof. In addition, stormwater infrastructure design shall take into account the impacts of rain on snow events when calculating and designing requisite stormwater infrastructure that complies with the parameters as set forth in the Ecology Design Manual in effect on the date hereof.

The objective of the Ecology Design Manual is to provide guidance in stormwater design and management for eastern Washington. This manual aims to provide a commonly accepted set of technical standards in addition to presenting new design information and new approaches to stormwater management. These stormwater management practices, if properly applied at a project site, should protect water quality in the receiving waters (both surface and ground waters). Improperly managed stormwater runoff is one of the principal sources of water quality and habitat degradation in urban areas. A number of existing laws and regulations require that project proponents properly manage stormwater runoff to avoid adverse impacts to water quality and aquatic resources. The Ecology Design Manual is intended to provide technically sound and realistic guidance on how properly to manage stormwater runoff from individual project sites.

The Ecology Design Manual identifies eight core elements for managing stormwater runoff from new development and redevelopment projects of all sizes. This manual also provides guidance for preparation and implementation of stormwater site plans. The requirements of the core elements are generally satisfied by the application of best management practices (BMPs) selected from Chapters 5 through 8 of this manual. Projects that follow this approach will apply reasonable, technology-based BMPs and water quality-based BMPs to reduce the adverse impacts of stormwater. This manual is applicable to all types of land development. BMPs for residential, commercial and industrial development and road projects are included.

2. Unless required by the design parameters and requirements of the Ecology Design Manual, the City agrees that no offsite stormwater infrastructure will be required to be constructed to mitigate for the impacts from the Project.

3. To the extent that infrastructure that the Ridge Entities must construct in order to serve City Heights creates a benefit to persons or properties outside of City Heights, the City and Ridge Entities shall cooperate in executing a latecomer's agreement pursuant to Chapter 35.91 RCW, establishing a local improvement district pursuant to 35.43 RCW or other mechanism allowed by law for City Heights' recovery of costs in excess of those incurred to serve City Heights alone.

4. The City will cooperate with the Ridge Entities, at the Ridge Entities' sole cost, in investigating and pursuing public (noncity) funding sources, including grants, the issuance of community facility district bonds, and other third party funding, to finance, offset, or reimburse the costs of stormwater infrastructure serving the Project in accordance with the provisions and restrictions outlined in Section 10.1 of this Agreement.

5. Upon completion of construction of each phase of the stormwater infrastructure serving City Heights, and subject to City inspection and acceptance thereof, the Ridge Entities shall convey to the City, in accordance with applicable City code, all of the stormwater infrastructure associated with that phase of City Heights. With respect to any infrastructure proposed for dedication to the City, the Ridge Entities shall provide the City with notice of and an opportunity to inspect such infrastructure at various stages of construction, consistent with City standards.

6. The Ridge Entities shall tender a one-time payment to the City in the amount of Twenty Thousand Dollars ($20,000.00) upon the issuance of the first City permit for stormwater infrastructure development in City Heights. Such funds shall be designated and expended only for the purpose of improving stormwater facilities in the City of Cle Elum. Notwithstanding any suggestion to the contrary in this Agreement or the Conditions of Approval, this payment shall not qualify to be the subject of any latecomer agreement, reimbursement, or offset for the Ridge Entities.

7. A stormwater mitigation fee in the amount of Two Hundred Fifty Dollars ($250.00) per ERU shall be imposed against each platted lot within City Heights. Such one-time stormwater mitigation fee shall be collected by the City from each applicant at the time such applicant is issued a building permit for the vertical construction of that ERU within City Heights. The City shall utilize such stormwater fees, as collected, for the sole purpose of improving stormwater facilities within the City of Cle Elum. Notwithstanding any suggestion to the contrary in this Agreement or the Conditions of Approval, such payments shall not qualify to be the subject of any latecomer agreement, reimbursement, or offset for the Ridge Entities.

APPENDIX D
WASTEWATER SERVICE

1. History and Context. The City of Cle Elum owns the existing RWWTF and related facilities as described in the RWWTFA and operates the RWWTF and related system subject to the terms and conditions of the RWWTFA. The parties to the RWWTFA are the City of Cle Elum, the Town of South Cle Elum, the City of Roslyn, and Suncadia Development LLC ("Suncadia"). The RWWTFA defines the "Regional Facility," the "Regional Elements," and a "Facility Plan." Unless otherwise noted or defined in this Agreement, all capitalized terms utilized in this Appendix have the same meaning as provided in the RWWTFA.

The Facility Plan describes the major components of the RWWTF as such facilities have been actually constructed pursuant to the terms of the RWWTFA (the "Existing Facilities"). Based on the projected flows identified in the Facilities Plan, the RWWTFA identifies the actual total capacity of the Regional Elements as 3.6 MGD. The RWWTFA allocates the capacity of the Regional Elements of the Existing Facilities as follows: the City of Cle Elum and Town of South Cle Elum, for present and future growth in such areas, including growth within Suncadia's UGA Properties (56.338%); the City of Roslyn for present and future growth in such areas (21.127%); and Suncadia, for present and future growth in the MPR (22.535%). Such allocations are referred to as each party's "Capacity Share" to which each respective party holds all right, title and interest.

Presently, the Existing Facilities (including the 2nd Street Interceptor that consists of a 24-inch pipe used to transport wastewater to the RWWTF) have sufficient actual physical capacity to transport and treat wastewater from much of, if not all, of the development contemplated in City Heights. Such actual physical capacity will not, however, exist if and when each of the parties to the RWWTFA actually achieve and utilize the ERUs that were contemplated and allocated to each of the parties when the RWWTF was designed. Based on the RWWTFA and the assumptions contained therein, the City of Cle Elum's Capacity Share will not be sufficient to provide wastewater services to City Heights at full build-out on a permanent basis.

2. Wastewater Capacity to Serve City Heights. In context of the foregoing, the Ridge Entities will design, construct and pay the cost of any additional wastewater treatment, collection, and discharge facilities necessary for the City to be able to provide wastewater services to the Project, through any one of the following options or a combination thereof, provided that, under any option selected by the Ridge Entities, the Ridge Entities bear only those costs of any improvements or modifications to the Existing Facilities directly associated with and necessary to serve City Heights. It is understood that it may be necessary to construct a reactor bed to a capacity that is greater than that which is necessary for just City Heights and the reimbursement for the costs allocable to other parties is addressed later in this Appendix D. Upon compliance with the terms set forth herein, and payment of applicable connection fees (CEMC 13.10), the City will provide wastewater service for City Heights. Any such wastewater facilities required to be constructed by the Ridge Entities shall be constructed to, and not required to

exceed, the applicable standards common in the municipal wastewater industry for comparable facilities.

2.1 Capacity Purchase Option ("Purchase Option"). The Ridge Entities may obtain or provide all or a portion of the wastewater capacity necessary to serve City Heights by purchasing, from one or more parties to the RWWTFA, on behalf of the City of Cle Elum, some portion of one or more party's Capacity Share. Any such purchase and permanent transfer to the City of a portion of Capacity Share under RWWTFA for serving City Heights shall be documented pursuant to a separate agreement consistent with Section 3.2 of the RWWTFA (the "City Heights Capacity Purchase Agreement" or "CHCPA"). To the extent this Purchase Option is utilized to provide capacity in the wastewater facilities for treatment of City Heights waste, City Heights will deliver waste to the Existing Treatment Facilities without necessitating modifications or additions to such Existing Treatment Facilities. The foregoing notwithstanding, the Ridge Entities would be responsible, at their cost, for such extensions of wastewater lines and other infrastructure necessary to deliver City Heights waste to the Existing Treatment Facilities

2.2 Expansion of Existing Facilities ("Expansion Option"). The Ridge Entities may obtain or provide all or a portion of the wastewater capacity necessary to serve City Heights by expanding the Existing Treatment Facilities, or any portion thereof, to provide the City with sufficient capacity to serve City Heights with wastewater treatment. Under this option, the Ridge Entities would bear the costs of design and construction associated with a modification or an expansion of the RWWTF to serve City Heights, or such elements thereof (including any additional wastewater lines and additional wastewater treatment infrastructure) as necessary to enable the RWWTF to serve, on a permanent basis, the additional ERUs created in City Heights ("the Expansion Facilities). If the Ridge Entities elect to construct the Expansion Facilities, then the City and the Ridge Entities shall cooperate in executing an agreement that specifically sets forth the timing and process for bidding, contracting, constructing, and funding the Expansion Facilities ("City Heights Wastewater Agreement" or "CHWA"), which CHWA shall be consistent with the following key principles:

2.2.1 The Expansion Facilities shall be designed and constructed in conformity with the plans and specifications approved by the City of Cle Elum, based upon standards set forth under the then-current Cle Elum Comprehensive Wastewater Plan and Facilities Plan, and all other applicable laws and regulations in effect at the time of construction. The Expansion Facilities shall become part of the Existing Facilities upon completion.

2.2.2 The City's Capacity Share of 3,390 ERUs under the RWWTFA ("City's Existing Capacity") shall be allocated on a first come-first served basis, such that the actual design, bidding, and construction of the Expansion Facilities need not occur until such time as there is reasonable evidence that completion of the Expansion Facilities is necessary to serve imminent development with the City's boundaries, as such boundaries exist upon annexation of the Property. The City shall have authority, based on objective standards and in consultation with the Ridge Entities, to determine when construction of the Expansion Facilities must be commenced (the date of such construction commencement being referred to as the

"Construction Commencement Date"), provided however, that the Ridge Entities shall be afforded at least thirty six (36) months' advance written notice of the Construction Commencement Date to ensure that sufficient time exists to design, bid, and construct the Expansion Facilities. As a basis for determining when construction should commence the City will not utilize plat applications as a basis for their determination; rather, the decision will be based on an assessment of the then current and future building trends and RWWTF operations that could impact the ability of the City to provide wastewater treatment services. In no event shall the notice be provided until building permits have been issued for at least one thousand seven hundred (1,700) ERUs within the City. The City will provide wastewater services to City Heights utilizing Existing Facilities until the Expansion Facilities are completed, provided that the construction begins on the Construction Commencement Date (subject to extensions caused by any delays beyond its control in securing the necessary approvals) and is diligently pursued to completion.

2.2.3 All costs associated with design and construction of the Expansion Facilities shall be borne by the Ridge Entities; provided, however, that to the extent that the Expansion Facilities serve, or are designed or constructed to serve, more capacity than that of City Heights, the City shall agree, as authorized by law, to a latecomer reimbursement system or other legal mechanism whereby the City will collect and remit to the Ridge Entities funds that reimburse the Ridge Entities for such benefits conferred to persons or properties outside of City Heights by the Expansion Facilities. The City may also consider formation of a local improvement district,a capital facilities district or similar funding mechansims, and shall allow credits, offsets or other financing provisions to the extent authorized by law and approved by the City.

2.2.3.1 If the proposed modification of the Existing Facilities will specifically benefit the parties to the RWWTFA either through needed upgrades oroperational efficiencies, then the City shall notify the parties to the RWWTFAof the proposed modifications. Each party to the RWWTFA who agrees , shall share in the cost of such modifications in proportion to the benefit to be received by the participating RWWTFA parties.

2.2.3.2 If none, or fewer than all, of the parties to the RWWTFA agree in writing to share in the cost of such modifications in proportion to the benefit they will receive, then the modifications may proceed at the expense of the Ridge Entities and any of those who have agreed to participate, and the benefits shall be apportioned to the participating parties, subject to rights of reimbursement as contained in paragraph 2.2.3 above; alternatively, the proposed modifications may be redesigned to serve and benefit only the Ridge Entities and any RWWTFA party who has expressly agreed to share in the costs.

2.2.4 If, at any time prior to construction of the Expansion Facilities, an ERU within City Heights (except those ERUs covered by Section 3 below) connects to the RWWTF, such ERU shall be responsible for paying the City a reserve upgrade fee of Three Thousand Dollars ($3000.00) ("Reserve Upgrade Fee"). The Reserve Upgrade Fee will be placed in a separate wastewater reserve fund and will be disbursed to the Ridge Entities for the

specific purpose of funding the costs of the Expansion Facilities. Given that under this Expansion Option City Heights, (except those ERUs covered by Section 3 below), will not be relying upon the capacity funded by the capital reimbursement charge of CEMC 13.10.040, such capital reimbursement charge ($3500/ERU) shall not be applicable to development at City Heights (except those ERUs covered by Section 3 below) and the City agrees to take such action as necessary and appropriate to amend its Capital Facilities Plan, the CEMC, and such other agreements as necessary, to reflect the provisions herein.

2.2.5 City Staff or consultants shall review plans, issue permits, and inspect construction for the Expansion Facilities, consistent with the CEMC. In instances where a permit is issued to the City of Cle Elum for activities associated with construction of the Expansion Facilities, the City hereby appoints the Ridge Entities as the City's authorized agent, to proceed in accordance with those permit authorizations for the Expansion Facilities. The City agrees to apply, subject to reimbursement by City Heights, for any permits or permit modifications required by Kittitas County or the Washington Department of Ecology for completion of the Expansion Facilities.

2.2.6 The Ridge Entities shall provide the City for its review, and at the City's sole discretion, approval, the proposed plans and specifications for the Expansion Facilities. After approval of the proposed plans and specifications by the City and the Washington Department of Ecology (if applicable), the Ridge Entities shall provide the City with all submittals required by the approved plans and specifications. No materials or equipment shall be incorporated into the Expansion Facilities unless consistent with City-provided standards or otherwise approved by the City Engineer or the City Engineer's designee.

2.2.7 The Ridge Entities shall submit all shop drawings to the City Engineer or its designee for review and approval. No construction requiring shop drawings shall commence until such drawings have been approved by the City of Cle Elum. The City, in its sole discretion, shall approve all substitutions of materials or equipment submitted as "equal" by the engineer of record.

2.2.8 The City shall cooperate with the Ridge Entities in obtaining easements from third parties for construction of the Expansion Facilities across any real property not owned or controlled by the Ridge Entities or the City.

2.2.9 Prior to conveyance of the Expansion Facilities to the City, the Ridge Entities shall obtain, record and convey or assign any and all required franchises and easements for ingress, egress and utilities; provided, the City shall assist in the acquisition of any such easements or other property interests. Upon completion of the Expansion Facilities, or any portion thereof, and upon the City's acceptance thereof, the Ridge Entities shall convey such facilities to the City by bill of sale and shall grant to the City any and all required easements for ingress, egress, conveyance pipelines and utilities, and convey or assign the same to the City.

2.2.10 Acceptance of the Expansion Facilities shall be upon motion of the City Council to approve the same, provided, before the City shall give final approval to the

acceptance, the Ridge Entities shall furnish to the City an affidavit stating that all charges for materials and labor have been paid and there are no liens against the Expansion Facilities; or, to the extent some work remains to be completed, that a bond or other acceptable financial security assuring completion and payment as been provided.

2.2.11 The Ridge Entities shall provide the City with a written warranty warranting the Expansion Facilities to be free of defects in material and workmanship for a period ending one (1) year after conveyance. The Ridge Entities shall assign to the City any and all contractual warranties given by any third party to the Ridge Entities in connection with construction or equipping of the Expansion Facilities.

2.2.12 Concurrent with the City's acceptance of the Expansion Facilities, the Ridge Entities shall provide the City with complete as-built drawings of the Expansion Facilities.

2.2.13 All supplies, materials, equipment, fixtures and other property of whatever kind or nature used in the construction of the Expansion Facilities, whether or not incorporated therein, and all facilities and improvements constituting the Expansion Facilities, shall be owned and controlled by the Ridge Entities, subject to the rights and interests of third parties as may exist under applicable law, and the City shall not own or control or have any liability therefore, until such time and to the extent that the same are conveyed or otherwise transferred to the City.

2.2.14 Except with respect to a challenge brought by the Ridge Entities, and subject to the provisions of Sections 12.17, the Ridge Entities shall defend and indemnify the City against any and all challenges to the CHWA Agreement, including any challenges to a latecomer reimbursement system.

2.3 Onsite Wastewater Treatment Facility ("Onsite Option"). If, despite good faith efforts, within twelve (12) months of the date of this Agreement or upon receipt of written documentation from the parties to the RWWTFA that they are unwilling to sell and permanently transfer to the City a portion of Capacity Share for serving City Heights as contemplated by Paragraph 2.1 of this Appendix D (whichever occurs earlier) the Parties have been unsuccessful in executing a CHCPA in furtherance of the Purchase Option, or in executing a CHWA in furtherance of the Expansion Option, then the Ridge Entities may, at their expense, design and construct an on-site membrane bioreactor plant or equivalent wastewater treatment facility of sufficient capacity to serve the wastewater needs of City Heights, or any portion thereof, whether on a temporary or permanent basis (the "Onsite Wastewater Facilities"). The Onsite Wastewater Facilities shall be designed and constructed to City standards and comply with all applicable laws and regulations pertaining to location, design, construction, operation, wastewater treatment and discharge standards, and maintenance associated with the Onsite Wastewater Facilities. Upon completion, such facilities shall be transferred to the City and operated as part of the City's wastewater service facilities. If the Onsite Option is elected, then, promptly upon election, the parties shall cooperate in executing a written agreement setting forth

the process for design, bidding, contracting, construction, and payment for the Onsite Wastewater Facilities (the "City Heights Onsite Wastewater Agreement" or "CHOWA"). To the extent that City Heights is served by Onsite Wastewater Facilities and is not served by the RWWTF, City Heights shall not be subject to capital reimbursement charges that otherwise apply to property within the City that is served by the City's RWWTF (i.e. CEMC 13.10.040 charge of $3500/ERU). The City agrees to take such action as necessary and appropriate to amend its Capital Facilities Plan, the CEMC, and such other agreements as necessary, to reflect the provisions herein.

3. **Property Within the City Limits.** Approximately 28 acres of City Heights (the "City Property") lies within the city limits of Cle Elum with the capacity to be developed into approximately 140 ERUs. The City Property portion of City Heights was within the City limits at the time the RWWTFA was executed and became effective and it is entitled to be provided wastewater services from the existing Cle Elum wastewater capacity on a permanent basis. Therefore, notwithstanding anything to the contrary in this Appendix, the first 140 ERUs constructed within City Heights will be allowed to connect to and be served by the Existing Facilities on a permanent basis subject to payment of the capital reimbursement fee of CEMC 13.10.040.

4. **City Rights of Way.** The City will allow the Ridge Entities to utilize City rights-of-way and/or City controlled-property (i.e. expansion of the existing wastewater treatment facilities) in accordance with applicable laws and ordinances as necessary to provide wastewater facilities to City Heights. The City agrees to exercise its power of eminent domain in all situations where the City determines such right-of-way is necessary to enable extension of Existing Facilities, or completion of the Expansion Facilities or the Onsite Wastewater Facilities.

5. **Financing Mechanisms.** The City will consider formation of a local improvement district and/or capital facilities district and shall allow credits, offsets or other financing provisions to the extent authorized by law and approved by the City for the Expansion Facilities or the Onsite Wastewater Facilities. Further, at the Ridge Entities' request, the City shall agree as authorized by law to a latecomer reimbursement or other cost recovery system allowed by law whereby the City will collect (at the time of building permits, site plans, plats or other City approvals), latecomer or other cost recovery fee from those persons and properties (both within and outside of the Project) which connect to or use the Existing Facilities, Onsite Wastewater Facilities or Expansion Facilities developed by the Ridge Entities under this Appendix and remit those funds (less a reasonable administrative fee to the City) to the Ridge Entities. The Ridge Entities shall indemnify, defend and hold harmless the City against any and all challenges to this latecomer reimbursement or other cost recovery system, including payment of the City's legal fees and costs incurred in connection with any challenge, except for those fees and costs associated with the City's negligence or intentional misconduct. In the event the court determines all or any portion of the reimbursement or cost recovery fees collected must be refunded, the Ridge Entities shall pay said reimbursement, plus any interest, cost and attorneys' fees to the extent ordered by the court. In the event a court prohibits future collection of said fees, the Ridge Entities will not seek any recovery or damages from the City. In addition to the

above financing mechanisms, the City agrees to cooperate to the fullest extent, at the sole cost and expense of the Ridge Entities, in pursuing, applying for, and obtaining grants, bonds, and other third-party funding for the Onsite Wastewater Facilities and Expansion Facilities in accordance with the provisions and restrictions outlined in Section 10.1 of this Agreement.

6. **System Ownership.** All wastewater system hardware and associated wastewater facility hardware serving City Heights shall be designed and constructed to City standards and, upon completion to applicable standards, shall become part of the City's wastewater system. Sewer capacity for up to the maximum number of ERUs authorized in this Agreement shall be appurtenant to City Heights.

7. **Temporary Onsite Septic System**. In the event that a CHCPA or a CHWA is not executed between the City and the Ridge Entities within nine (9) months of mutual execution of this Agreement, the Ridge Entities shall have the right to construct temporary onsite septic systems to serve up to One Hundred (100) ERUs provided a bond or other financial assurance satisfactory to the City is provided by the Ridge Entities equal to 125% of the estimated cost of connection to the municipal system. Such septic system(s) shall comply with all applicable Washington State Department of Health regulations. Provided a CHCPA or CHWA or CHOWA is executed, the ERUs associated with the onsite septic system must connect to the permanent municipal wastewater system within six (6) months of the execution of that agreement and any septic system will be properly decommissioned and removed within 30 days of that connection, weather permitting.

APPENDIX E
WATER RIGHTS AND WATER SERVICE

1. **Background and Context.** CEMC 13.20.060 requires that, prior to any annexation of property to the City, the property owner(s) who has petitioned for annexation to transfer and convey water rights in the full amount deemed necessary to serve the property proposed for annexation. In the alternative, at the election of the City, CEMC 13.20.060 allows the property owner(s) and the City to enter into an agreement where the City allows the property owner(s) to pay a fee to the City in lieu of conveying water rights. The City acknowledges that the Ridge Entities have a water permit to appropriate public waters of the State of Washington as approved by the Washington State Department of Ecology (Reference #G4-35273(A)P) to serve City Heights and that this water permit and the quantity of water within that water permit are sufficient to meet the requirements of CEMC 13.20.060-.070. The City acknowledges that contribution of such water in accordance with the provisions of this Appendix E will constitute full compliance with the provisions of CEMC 13.20.030, and CEMC 13.20.060-.090.

2. **Ridge Entities' Water Right Obligations.** The Ridge Entities have effected the transfer of water rights with a priority date of before 1905, and of a type consistent with Ch. 13.20 CEMC, to a place of use within the City of Cle Elum under Washington State Department of Ecology Water Right Number G4-35273(A)P. A copy of Water Right Number G4-35273(A)P is attached hereto as Exhibit 4. From this water right, the Ridge Entities shall convey to the City sufficient water by certificate or permit from Water Right Number G4-35273(A)P,, sufficient to serve all ERUs platted within those portions of City Heights proposed for annexation at a rate of 0.285 acre feet per ERU per year (equal to 0.138 acre feet per ERU consumptive per year) ("Water Rights"). The City and Ridge Entities agree that this quantity of water completely and adequately mitigates the usage of water by the Project and that these quantities do not impose or create a maximum usage limitation on ERUs within the Project. Such Water Rights may be either seasonal irrigation water rights or year-round irrigation water rights or some combination of each, provided, however, the water rights benefit from a priority date of 1905 or earlier. The foregoing notwithstanding, if events beyond the parties' control result in the need for additional water rights beyond those that will be provided to the City by the Ridge Entities as described above, then nothing herein shall prevent or limit the ability of the Ridge Entities to make payments to the City for additional water, provided that such payment in lieu is consistent with the provisions of CEMC 13.20.060-.070. By way of illustration and not limitation, events beyond the parties' control include changes in statutory or regulatory water laws of the state of Washington. The foregoing notwithstanding, the City acknowledges that City Heights contains approximately twenty-eight (28) acres of City Property within the City limits for which no transfer of water rights is necessary, and agrees that the City shall provide, from the City's existing water rights portfolio, such water rights and water supply as necessary to serve the first one hundred forty (140) ERUs constructed within City Heights.

3. **City Water Supply Obligations.** The City shall rely on the City's existing water supply water, and the Ridge Entities shall have no obligation to convey to the City water rights

necessary to provide potable and irrigation water, for all public parks, public recreational areas, and public open spaces within City Height which total approximately 125 acres, substantially as depicted in Exhibit 7. In addition, the City shall provide the water rights and water supply for twenty-four (24) affordable housing units constructed in accordance with Section 6.8 of this Agreement.

4. Quantity and Timing of Water Rights Contributions. The conveyances of Water Rights from the Ridge Entities to the City under Water Right Number G4-35273(A)P may be done on a phased, plat by plat basis, with effectuation of the conveyance taking place through the Ridge Entities' tender of such formal legal documents as determined necessary to effectuate a permanent transfer to the City of Cle Elum of Water Rights for the total number of ERUs within the subject final plat to the City on or prior to the date of final plat approval. The Ridge Entities shall have the right, but not the obligation, to tender to the City Water Rights in excess of that required for the plat that is the subject of final plat approval. No plat within a Development Area shall receive final approval until transfer of Water Rights to the City sufficient to serve the subject plat has been completed.

5. Water Supply Sourcing. The Ridge Entities shall, at their sole cost and expense, design and construct the additional, incremental water supply infrastructure necessary to serve the Project ("Water Supply Facilities") and convey such improvements to the City upon completion. Infrastructure to be constructed and paid for by the Ridge Entities may include all or some of the following: (a) additional pumping capacity or pump stations as necessary to increase the withdrawal capacity for the City's Yakima River diversion system such that it could supply City Heights, (b) new groundwater wells to serve City Heights, including water treatment facilities, water mains, distribution lines, pump stations, and water reservoirs required to serve the Project ("Groundwater Sourcing"), or (c) some combination thereof. All water supply infrastructure shall be designed and constructed to meet then-applicable city standards. To the extent the Ridge Entities rely upon Groundwater Sourcing, the Ridge Entities, at their sole cost and expense, shall locate the appropriate locations for new wells and will undertake the necessary efforts to develop the new wells. City Heights shall not develop more than twenty (20) new wells to serve the Project without obtaining approval from the City's Public Works Director. In the event that more than twenty (20) new wells are needed, the Ridge Entities will need to demonstrate to the Public Works Director that the cost of maintaining additional wells will not result in a net overall negative cash impact to the City water system. Once constructed and needed to supply a water source for City Heights, the wells will be dedicated to the City and the City will own, operate and maintain the wells at its cost as part of its municipal water system. The City will allow the Ridge Entities to utilize such lands that are in the City's ownership and control as sources for any new groundwater wells that the Ridge Entities elect to construct for purposes of serving City Heights. The City agrees to cooperate with the Ridge Entities in securing rights of way for distribution pipes and access to well locations within its ownership. With respect to any infrastructure proposed for dedication to the City, the Ridge Entities shall provide the City with notice of and an opportunity to inspect such infrastructure at various stages of construction, consistent with City standards.

6. **Water Treatment Plant**. The City's water supply principally and presently originates from the Yakima River and the Cle Elum River, and is diverted to and treated through the City's 4.0 MGD WTP. The City owns and operates the WTP in accordance with the provisions of the Water Supply System Project Development Agreement between the City of Cle Elum, Town of South Cle Elum, Trendwest Investments, Inc., Trendwest Resorts, Inc., and Trendwest Properties, Inc., dated June 19, 2001 ("WTP Agreement"). The City owns the existing 4 MGD capacity in the WTP, and by terms of that agreement the City delivers potable water to the Suncadia MPR (f/k/a Trendwest Resort) from the City's 4 MGD capacity. Pursuant to Section 2.2 of the WTP Agreement, Suncadia has an obligation, once certain standards or thresholds are reached, to pay for the expansion of the WTP to provide a total capacity of 6 MGD. Once expanded, the WTP will have adequate treatment capacity to allow the City to serve City Heights with water from its 4 MGD capacity. If the expansion of the WTP to 6 MGD is not substantially under construction or complete at such time as City Heights has water needs and if by such time, expansion of the WTP is needed to supply potable water to City Heights (that is, Groundwater Sourcing that does not need the WTP for treatment has not been made operational), then the Ridge Entities may, at their option, in cooperation with the City, design and construct those improvements to or expansion of the WTP as deemed necessary by the City of Cle Elum and any regulatory agency(ies) with jurisdiction to meet City Heights' water needs. Any WTP capacity beyond the existing 4 MGD that is created by improvements to or expansion of the WTP undertaken by and strictly to satisfy the water needs of City Heights shall be the sole capacity of the City, and reserved for use within the then-existing City water service area including City Heights, and shall in no way be available to serve the land of parties who have pre-existing contractual obligations to fund improvements to or expansion of the WTP for capacity beyond the City's existing 4 MGD.

7. **Connection Fees.** City Heights will be subject to the connection fees within CEMC 13.12.100(F). To the extent that City Heights relies upon the WTP or any expansion thereof paid for by entities other than the Ridge Entities, City Heights shall be subject to the applicable capital reimbursement charges (per CEMC 13.14) for the WTP. To the extent that City Heights relies upon Groundwater Sourcing, and is not served by the WTP, City Heights shall not be subject to the capital reimbursement charges of CEMC 13.14.020-.030, nor shall any special surcharges, hookup fees, or connection charges be imposed on City Heights pursuant to CEMC 13.20.040 but, City Heights may be subject to any hereafter-adopted regulatory fees allowed by law for the purpose of maintenance and operations and/or future capital water improvements from which City Heights benefits.

8. **Rights of Way.** The City shall allow the Ridge Entities to utilize City rights-of-way and/or City controlled-property (i.e. expansion of the existing wastewater treatment facilities) in accordance with applicable laws and ordinances as necessary to provide the Water Supply Facilities to City Heights. The City agrees to exercise its power of eminent domain in all situations that the City deems necessary and appropriate for such purposes.

9. **Design and Construction.** The Water Supply Facilities shall be designed and constructed to City standards under the direction of the Ridge Entities. All construction of water

supply facilities shall be performed under and subject to City inspection, which inspection costs shall be borne by the Ridge Entities. Upon completion of construction, the Water Supply Facilities shall become part of the City system. With respect to any infrastructure proposed for dedication to the City, the Ridge Entities shall provide the City with notice of and an opportunity to inspect such infrastructure at various stages of construction, consistent with City standards.

10. Water Service Area. The City shall undertake such action, including all action associated with Chapter 246-293 of the Washington Administrative Code, necessary to include City Heights within the City's water system plan, water service area and any Critical Water Supply Service Areas established prior to the date of this Agreement. In conjunction with the Professional Services Agreement between the Ridge Entities and the City, the Ridge Entities shall reimburse the City for the Ridge Entities' proportionate share of the City's time and expense associated with completing such task(s).

11. Financing Mechanisms. Upon request from the Ridge Entities, the City shall consider formation of a local improvement district, capital facilities district, or similar mechanism, and, in order to assist in the financing of the new water diversion, treatment and delivery infrastructure for the Project, the City shall allow credits, off sets or other financing provisions to the extent authorized by law. Further, at the Ridge Entities' request, the City shall agree as authorized by law to a latecomer reimbursement system whereby the City will collect (at the time of building permits, site plans, plats or other City approvals), and remit those funds (less an administrative fee to the City) to the Ridge Entities, a latecomer fee or capital reimbursement charge from those persons and properties (both within and outside of City Heights) which connect to or use the water facilities installed by the Ridge Entities under this Appendix. In addition, the City will cooperate with the Ridge Entities, at the Ridge Entities' sole cost, in investigating and obtaining public funding sources, including grants, community facilities district bonds, and other third party funding, to finance, offset, or reimburse the costs associated with potable water provision for the Project in accordance with the provisions and restrictions outlined in Section 10.1 of this Agreement. The Ridge Entities shall indemnify, defend and hold the City harmless against any and all challenges to this latecomer reimbursement system or other cost recovery system, including payment of the City's legal fees in connection with any challenge, except for the City's negligence or intentional misconduct. In the event the court determines all or any portion of the fees collected must be refunded, the Ridge Entities shall pay said reimbursement, plus any interest, cost and attorneys' fees to the extent ordered by the court. In the event a court prohibits future collection of said fees, the Ridge Entities will not seek any recovery or damages from the City.

12. Cooperation; Future Agreement. At the request of either the City or the Ridge Entities, the Parties shall cooperate in executing an agreement ("Water Supply Agreement" or "CHWSA") that more specifically defines the procedures that will govern the process for design, construction, and payment for the Water Supply Facilities, including, but not limited to, provisions governing the timing and process for bidding, contracting, and constructing the Water Supply Facilities, and provisions specifying the terms and procedures for City Heights to fund or

recover the costs of the Water Supply Facilities. The CHWSA shall implement the provisions of this Appendix, and be consistent with the following principles:

All costs associated with design and construction of the Water Supply Facilities shall be borne by the Ridge Entities; provided, however, that to the extent that the Water Supply Facilities are designed or constructed to serve more capacity than that necessitated by City Heights, the City shall adopt, as authorized by law, a latecomer reimbursement system whereby the City will collect and remit to the Ridge Entities funds that fairly reimburse the Ridge Entities for such benefits conferred upon such latecomers by the Water Supply Facilities.

a. The Water Supply Facilities shall be designed and constructed in conformity with the plans and specifications approved by the City of Cle Elum, based upon standards set forth under the then-current Cle Elum Comprehensive Water System Plan, and all other applicable laws and regulations in effect at the time of construction. City Staff or consultants shall review plans, issue permits, and inspect construction for the Water Supply Facilities, consistent with the CEMC. In instances where a permit is issued to the City of Cle Elum for activities associated with construction of the Water Supply Facilities, the City hereby appoints the Ridge Entities as the City's authorized agent, to proceed in accordance with those permit authorizations for the Water Supply Facilities. The City agrees to apply, subject to reimbursement by the Ridge Entities, for any permits or permit modifications required by applicable regulatory agencies with jurisdiction for completion of the Water Supply Facilities.

b. The Ridge Entities shall provide the City for its review, and at the City's sole discretion, approval, the proposed plans and specifications for the Water Supply Facilities. After approval of the proposed plans and specifications by the City and the Washington Department of Health (if applicable), the Ridge Entities shall provide the City with all submittals required by the approved plans and specifications. No materials or equipment shall be incorporated into the Water Supply Facilities unless first approved by the City Engineer or the City Engineer's designee.

c. The Ridge Entities shall submit all shop drawings to the City Engineer or its designee for review and approval. No construction requiring shop drawings shall commence until such drawings have been approved by the City of Cle Elum. The City, in its sole discretion, shall approve all substitutions of materials or equipment submitted as "equal" by the engineer of record.

d. The City shall cooperate with the Ridge Entities in obtaining easements from third parties for construction of the Water Supply Facilities across any real property not owned by the Ridge Entities or the City.

e. Prior to conveyance of the Water Supply Facilities to the City, the Ridge Entities shall obtain, record and convey or assign any and all required franchises and easements for ingress, egress and utilities; provided, the City shall assist in the acquisition of any such easements or other property interests. Upon completion of the Water Supply Facilities, or any

portion thereof, and upon the City's acceptance thereof, the Ridge Entities shall convey such facilities to the City by bill of sale and shall grant to the City any and all required easements for ingress, egress, conveyance pipelines and utilities, and convey or assign the same to the City. The City agrees to accept Water Supply Facilities, including any groundwater wells located outside of the City's boundaries, provided that such Water Supply Facilities have been designed and constructed to applicable standards.

f. Acceptance of the Water Supply Facilities shall be upon motion of the City Council to approve the same, provided, before the City shall give final approval to the acceptance, the Ridge Entities shall furnish to the City an affidavit stating that all charges for materials and labor have been paid and there are no liens against the Water Supply Facilities; or, to the extent some work remains to be completed, that a bond or other acceptable financial security assuring completion and payment as been provided.

g. The Ridge Entities shall provide the City with a written warranty warranting the Water Supply Facilities to be free of defects in material and workmanship for a period ending one (1) year after conveyance. The Ridge Entities shall assign to the City any and all contractual warranties given by any third party to the Ridge Entities in connection with construction or equipping of the Water Supply Facilities.

h. Concurrent with the City's acceptance of the Water Supply Facilities, the Ridge Entities shall provide the City with complete as-built drawings of the Water Supply Facilities.

i. All supplies, materials, equipment, fixtures and other property of whatever kind or nature used in the construction of the Water Supply Facilities, whether or not incorporated therein, and all facilities and improvements constituting the Water Supply Facilities, shall be owned and controlled by the Ridge Entities, subject to the rights and interests of third parties as may exist under applicable law, and the City shall not own or control or have any liability therefore, until such time and to the extent that the same are conveyed or otherwise transferred to the City.

j. Except with respect to a challenge brought by the Ridge Entities, and subject to the provisions of Section 12.17, the Ridge Entities shall defend and indemnify the City against any and all challenges to the CHWSA Agreement, including any challenges to a latecomer reimbursement system.

APPENDIX F
COAL MINE HAZARD AREAS

The City of Cle Elum has no adopted regulations regarding development above abandoned coal mine areas that would apply to the proposed development of City Heights. The *Coal Mines Hazards Risk Assessment* ("Risk Assessment") contained in the EIS thereto identifies six categories of Coal Mine Hazard Areas ("CMHAs") on the City Heights site.

Construction of infrastructure (roads and utilities) can occur in all areas of the site provided such is designed in accordance with a geotech engineer's approval.

No vertical development shall occur within any area of City Heights identified in the Risk Assessment as a CMHA 1, CMHA 2, or CMHA 6 (i.e. portions of Development Areas E and K2, as such are shown in the Risk Assessment) unless and until: (a) a qualified geotechnical engineer hired by the Ridge Entities at their sole expense has provided to the City a professional evaluation determining the suitability of the subject area (or parts thereof) for development; and, (b) and the Ridge Entities have agreed to comply with all such mitigation or other measures upon which such geotechnical engineering determination of suitability is predicated.

Vertical development within CMHAs 3, 4, and 5 may occur if building designs use rigid foundations (conventional reinforced concrete spread footings) supporting a flexible superstructure (metal or wood frame), or if a geotechnical engineer provides further site-specific investigation and opines in writing that such foundation design is not necessary.

The Ridge Entities shall implement appropriate measures, such as those remediation measures contained in the Washington Model Toxics Control Act at Ch. 70.105D Revised Code of Washington and regulations promulgated thereunder at Ch. 173-340 Washington Administrative Code, as well as may be consistent with coal mine waste reclamation practices, to address soils that present a direct contact risk with carcinogenic polycyclic aromatic hydrocarbons cPAH's in concentrations that exceed human health screening levels.

APPENDIX G
EARTH, SOILS, AND CRITICAL AREAS

1. No development, earthmoving activity, or deposit of spoils or drainage shall occur on the Red Rock Park delineated on the Master Site Plan, except as specifically authorized by the City for purposes of improving slope stability or enhancing the recreational aspects of the Red Rock Park.

2. No development shall be performed in proposed Development Area A until the Ridge Entities have performed geotechnical investigations that identify engineering and construction practices that are necessary and sufficient to support the nature of structures or development being proposed by the Ridge Entities for Development Area A, and comply with such practices.

3. In addition to complying with all applicable provisions of the CEMC, construction on slopes shall conform to Washington Industrial Safety and Health Act requirements for excavation and trenching.

4. Cut slopes shall be no steeper than 2H:1V or, upon recommendation of the Ridge Entities' licensed geotechnical engineer, approved by the City Engineer.

5. No vegetation shall be removed from slopes with a grade in excess of thirty five percent (35%) unless, upon recommendation of the Ridge Entities licensed geotech engineer, the City Engineer determines vegetation removal is necessary to complete road, trail or utility corridors and appropriate measures are undertaken to ensure slope stability.

6. On slopes exceeding thirty five percent (35%), no clearing or grading shall occur within 25 feet from the top of any slope, unless, upon recommendation of a geotechnical report from the Ridge Entities licensed geotechnical engineer demonstrating that such work will not adversely affect slope stability, the City Engineer determines that such work will not adversely affect slope stability.

7. On slopes exceeding thirty five percent (35%) earthmoving or clearing activities would only be allowed by the City Engineer after review of recommendations therefor by the Ridge Entities' licensed geotechnical engineer.

8. No disturbance shall occur within any area designated as a wetland and associated buffer on map attached to this Agreement as Exhibit 5 unless approved by the appropriate legislative body. Prior to the start of construction in any area where wetlands have been delineated on Exhibit 5, the Ridge Entities shall flag wetland boundaries and install silt fencing for the purpose of alerting contractors to the "no disturbance" requirements for such areas. Buffer averaging shall be allowed.

9. The Ridge Entities shall require all contractors to implement best management practices during construction.

10. In the event the developer proposes fill or other modifications to wetlands, the Ridge Entities shall provide compensatory mitigation in amounts determined at the time of specific development applications, based on regulations in effect at the date of this Agreement. In addition, the Ridge Entities shall obtain all requisite federal, State, and local permits and approvals necessary for any filling or disturbing of wetlands or work within waters of the State prior to commencement of such work.

11. Soil and rock slopes created by blasting (if any) shall be maintained according to the requirements of the City Engineer based upon review of the recommendation of a licensed geotechnical engineer hired by the Ridge Entities.

APPENDIX H
WILDLIFE AND HABITAT

1. The Ridge Entities shall identify at least one hundred twenty five (125) acres (thirty-five percent 35% of the total acreage within City Heights) as open space, natural areas, parks, recreation areas, village greens, commons or public assembly areas, or otherwise undeveloped space. Such acreage set aside for open space, recreation, and otherwise may include right-of-way or easement area beneath powerlines on site.

2. Land development and exterior construction activities shall be limited to 7 AM to 8PM Monday thru Saturday to prevent possible disturbance of wildlife within adjacent, undeveloped areas.

3. The Ridge Entities shall record Conditions, Covenants, and Restrictions that: (a) will provide for revegetation with native plant species of all areas where native vegetation is disturbed during construction or development with the exception of the following areas: (i) areas containing built product; (ii) public areas planned for parks, recreation areas, or other areas otherwise managed for uses other than only forested open space, and (iii) areas planned for lawn, managed plantings, or otherwise landscaped areas that are planned for manicured vegetation and ongoing maintenance; (b) prevent noxious weed introduction and proliferation; (c) prohibit hunting and the discharge of firearms; and (d) require all garbage cans to have tight fitting lids or be wildlife-proof, and require all garbage cans to be kept in a protected area except when set out for pick-up.

APPENDIX I
TRANSPORTATION STANDARDS AND IMPROVEMENTS

1. Road Construction. The Ridge Entities shall construct, at Ridge Entities' sole cost, and in accordance with the road standards set forth herein and applicable provisions of the CEMC, all Internal Roads and Collector Roads (as those terms are defined below) (collectively, the "Roads") within City Heights on a phased basis. The Ridge Entities shall dedicate to the City and the City shall accept the dedication of each Internal Road for City ownership and maintenance upon completion, in accordance with applicable standards, of each Internal Road. The Ridge Entities, at such time as the Ridge Entities elect, but in no event later than the time that the last Internal Road connecting to the applicable Collector Road is dedicated, shall dedicate to the City, and the City shall accept, Collector Roads within a given Development Area. Upon such dedication, the City shall own such roads and be responsible for their maintenance. Prior to dedication of such roads, the Ridge Entities shall be responsible for their maintenance.

2. Road Standards.

2.1 Internal Roads. All roads within the confines of a Development Pod shall be deemed "Internal Roads." All Internal Roads shall be designed for local access, thirty (30) feet wide, with a fifty-foot (50) right-of-way, all in accordance with the cross-section schematic attached as Exhibit 4 to this Agreement. All Internal Roads shall be designed to drain towards a collection ditch or bio-filtration swale adjacent to the edge of pavement. Curbs, gutters and sidewalks shall not be required. To facilitate snow plowing activities in the area, a five (5) foot easement immediately adjacent to any Internal Road will be recorded against all lots fronting the Internal Road.**2.2**

2.2 Collector Roads. All roads within City Heights outside Development Pods which connect Development Pods to one another or to the general road network beyond City Heights shall be deemed "Collector Roads." All Collector Roads shall have a forty-five (45) foot right of way, inclusive of twenty-eight (28) feet of hard surface comprised of twenty-two (22) feet of travel lanes and three (3) feet of shoulders on either side of the travel lanes, and shall be constructed in accordance with the applicable cross-section schematic attached as Exhibit 6 to this Agreement. All Collector Roads shall be designed to drain towards a collection ditch or bio-filtration swale adjacent to the edge of pavement. All Collector Roads between the point of connection with existing City streets and their point of entry into Development Areas shall be developed with hard-surfaced pedestrian trails of a width sufficient to safely accommodate two (2) pedestrians travelling in opposite directions, which trails shall to the fullest extent practicable be off-set from and parallel to the hard-surface roadway of said Collector Roads. All Collector Roads should be aligned with existing City streets at intersections creating 90 degree cross or "T" intersections. Curb, gutter and sidewalks shall not be required. Summit View Drive and Columbia Avenue shall be deemed "Collector Roads" to the extent within the Property, as shall Montgomery Avenue, to the extent within the Property and extending northward as far as Sixth Street. A ten (10) foot easement immediately adjacent to any Collector Road will be recorded against all lots

within the Property that front a Collector Road to faciliate snow plowing activities in that area. The foregoing notwithstanding, a right of way of thirty (30) feet has been permitted along the roughly two hundred (200) foot stretch of Montgomery Avenue coincident with the portion of the Collector Road located outside of the City limits (immediately north of Fourth Avenue), and no additional easement shall be required for that area. This section does not lie within the City limits, and is subject to regulation by Kittitas County.

2.3 Cuts and Fills. Notwithstanding and in addition to the provisions in 2.1 and 2.2 of this Appendix I, the Developer shall provide such additional right of way for Internal and Collector Roads when the City Engineer deems such additional right of way to be necessary to accommodate cuts and fills adjacent to such roads in sloped areas. The amount of additional right of way shall be the minimum necessary to accommodate the cuts and fills reasonably required for the construction of safe Internal and Collector Roads in such areas. .

3. Road Maintenance and Snowplowing. The Ridge Entities shall maintain the Internal and Collector Roads until such time as they are dedicated to the City, after which it will be the responsibility of the City to maintain and snowplow them. The design of the Internal Roads and Collector Roads is intended to provide sufficient width for general snow plowing needs. If, in the judgment of the City's Public Works Director, cuts in the terrain, other geologic features or Project design make snow storage locations necessary, then the Ridge Entities shall cooperate in making such accommodations available for the City.

4. Stafford Street. If Stafford Street is proposed to be used as a Haul Route, then before construction vehicles start using Stafford Street, the Ridge Entities shall, at their sole cost, widen the roadway at the corner of Stafford Avenue, just north of 4th Street, to allow construction trucks to safely pass each other at the corner (it being accepted that a twenty-eight (28) foot paved area is sufficient width for such passing) During its use as a construction haul route, the Ridge Entities shall, at their sole cost, improve the guard rail and resurface the pavement to a minimum level necessary to support construction truck use, and shall maintain that Haul Route as provided further in Paragraph 8.1, below. Once the 100th Certificate of Occupancy is issued for those Development Areas served by Stafford Street to Summit View Drive (described in Paragraph 8.2. below as Access #1), then Access #1 shall be repaved in accordance with the provisions of Paragraph 8.2 below.

If Stafford Street is not proposed to be used as a Haul Route, then before issuance of the one hundredth (100th) building permit within Development Areas A, B and C combined, the Ridge Entities shall, at their sole cost, widen the roadway at the corner of Stafford Avenue, just north of 4th Street, improving the guard rail and resurfacing the pavement to a minimum level to allow for adequate lane travel for two passenger vehicles.

The widening of roadway, resurfacing and guard rail installation are referred to herein as the "Stafford Improvements." Notwithstanding anything to the contrary herein and to the extent additional right of way must be acquired to widen this portion of

Stafford Street to meet the safe turning radius described above, the City shall cooperate with the Ridge Entities in any efforts to acquire the right of way necessary, including without limit the City's exercise of its eminent domain authority as allowed by law; and to obtain, on behalf of the City, grant money or bond financing to fund all or part of the Stafford Improvements contemplated herein. The Ridge Entities shall be solely responsible for and shall hold the City harmless from and indemnify it against all fees and costs, including without limit the cost of the additional right of way and legal fees reasonably incurred by the City in exercising its rights to acquire such right of way.

5. **Columbia Avenue.** Portions of Columbia Avenue are situated within the jurisdiction of Kittitas County. Upon or prior to the issuance of a building permit for development within Development Areas G or H, the City will utilize its best efforts to negotiate an Interlocal Agreement with the County pursuant to which the City will agree to maintain and snowplow the portion of that road that lies within the County's jurisdiction between the City limits and the Property boundary of City Heights.

6. **Western Access to/from SR 903.** The City acknowledges that, near the west end of the Property, the Ridge Entities desire to place a Property access off of SR903. The Ridge Entities agree to exercise their best efforts to obtain written consent from Suncadia to relocate Suncadia's proposed access from SR 903 to Suncadia's property (formerly known as the Bullfrog UGA) situated on the west side of SR903, such that there would be a single intersection providing access to the Suncadia property on the west side of SR903 and the City Heights access on the east side of SR903. The City agrees to participate in those discussions when requested. In the event that an agreement cannot be reached between City Heights and Suncadia on a common access intersection within six (6) months of the date of this Agreement, the City agrees that the Ridge Entities shall have the right to place the access point at the location identified in Exhibit 3, and will cooperate with the Ridge Entities in securing any necessary approvals from the Washington State Department of Transportation and Kittitas County (if applicable).

7. **Intersection of SR903/SR970.** Upon the date that a building permit is issued for the 100th ERU within City Heights, the Ridge Entities shall contract and pay for a professional traffic engineering analysis of traffic flows at the intersection of SR903 with the SR 970 spur road, near Exit 85 in Cle Elum. Such traffic analysis shall be performed for the purpose of evaluating, as against any pre-City Heights construction baseline traffic flow and volume data developed or maintained by WSDOT or otherwise provided by the Ridge Entities, the extent to which City Heights-generated traffic turning west (left) onto west bound SR903 is adversely impacting north bound traffic on the SR970 spur. Such analysis shall be performed again, at the Ridge Entities sole expense, upon issuance of the building permit for the 300th, 500th, and 700th ERUs in City Heights (for a total of up to four traffic analyses). At such time, if ever, that the traffic analyses commissioned by the Ridge Entities hereunder reveals that the LOS at such intersection is at level "D" or worse, and that traffic coming/going to City Heights is directly responsible for such deficiency, then the Ridge Entities shall fund the design, in its entirety, and pay its share of construction costs (proportionate to the amount of impacts that the City Heights traffic has to the total traffic at the intersection at such time, if ever, it reaches LOS "D" or worse) of a left turn collector lane from the SR970 northbound

spur to west bound SR 903. Any design of said left turn collector lane shall be subject to the approval of WSDOT.

8. Haul Routes. Prior to the commencement of any construction activity associated with City Heights, the Ridge Entities shall propose the access routes for construction traffic and provisions for other construction-related matters ("Haul Route Agreement") to the City Public Works Director for his review and approval prior to construction commencing. Any changes to the approved Haul Routes must be approved by the Public Works Director, such approval shall not be withheld provided the Haul Routes Agreement is consistent with the terms of this Section 8.

8.1 Once construction begins the Ridge Entities shall continue to maintain the Haul Routes at its sole cost in a usable condition that is no worse than such Haul Route's then-current condition at the time construction traffic commences as established by pre-construction road assessment prepared by a licensed engineer hired by the Ridge Entities documenting the condition of said Haul Route.

8.2 The Ridge Entities and the City agree that the main Haul Routes that will have impacts from construction traffic within the City will be associated with three existing roads: 1) the approved route from First Street along Stafford to Summit View Drive (Access #1); 2) from First Street along Montgomery Avenue (Access #2); and 3) from First Street along Columbia (Access #3). Within sixty (60) days (or as soon thereafter if weather or an Act of God prevents construction) of the City's issuance of the one-hundredth (100^{th}) Certificate of Occupancy for a structure within Development Areas B, C or Development Pods D1 thru D4 within Development Area D, the Ridge Entities shall repave Access #1. Within sixty (60) days (or as soon thereafter if weather or an Act of God prevents construction) the City's issuance of the one-hundredth (100^{th}) Certificate of Occupancy for a structure within Development Area E or Development Pods D5 thru D7 within Development Area D, the Ridge Entities shall repave Access #2. Within sixty (60) days (or as soon thereafter if weather or an Act of God prevents) the City's issuance of the one-hundredth (100^{th}) Certificate of Occupancy for a structure within Development Areas F, G or H, the Ridge Entities shall repave Access #3. The term "repave" as used in this paragraph shall be limited in scope to include only the removal of the existing pavement materials in the existing paved area, such leveling as is necessary to provide a smooth paveable surface, and the installation of a two-and-one-half-inch thick asphalt surface in its place. The term "repave" is expressly meant to exclude any subsurface work or additional subsurface materials or any other improvements to the road other than such leveling as is necessary to smooth the surface to prepare it for receipt of the two-and-one-half inch thick asphalt called for above. The Ridge Entities may post a completion bond, letter of credit or other device authorized by the Cle Elum Municipal Code in an amount adequate to secure the improvements to the construction road necessary by the time of issuance of the 100th Certificate of Occupancy described above. Any security device provided in accordance with this paragraph shall specifically require the issuer of such security device to provide the City with at least 30 days' actual advance written notice of any intent to cancel such security device.

9. Traffic Development Mitigation Fees. The analysis for City Heights identified potential impacts to the following intersections within the city of Cle Elum: Douglas Munro (Cemetery) and First Street; Oakes Avenue and West 2nd Street; North Stafford and West 2nd Street (SR 903); and Columbia Avenue and 1st Street. Additionally, it is possible that the intersections of First Street and Stafford, and First Street and Montgomery Avenue, could be impacted depending on phased development of the Project and the driving patterns of City Heights residents. The intersections enumerated above in this paragraph 9 are collectively referred to as "Potentially Impacted Intersections." As voluntarily agreed upon mitigation, based upon the parties' estimate of actual impacts of City Heights on the City's transportation infrastructure, the applicant for a building permit for an ERU shall, at the time of issuance of a building permit, tender to the City Seven Hundred Fifty Dollars ($750.00) per ERU to offset impacts on City roads resulting from the development of City Heights. By way of example, if building permits were issued by the City for the construction of Nine Hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of Six Hundred Seventy Five Thousand Dollars ($675,000.00) at the time of issuance of the building permits. The City shall utilize these mitigation funds obtained through its exercise of SEPA substantive authority under CEMC 15.28 and WAC 197-11-660 for the exclusive purpose of offsetting impacts of the City Heights development on City transportation infrastructure that will facilitate concurrency at intersections impacted by City Heights with priority given to the Potentially Impacted Intersections. The City shall not utilize such funds for any intersection that is not a Potentially Impacted Intersections until after building permits for the last plat within City Heights have been issued. Development within City Heights that is within the scope of this Development Agreement shall not be subject to any additional or different impact fees related to traffic and transportation that the City may adopt subsequent to the mutual execution of this Development Agreement.

10. Summit View Drive Single Access Goal. The Ridge Entities agree that, if legally permissible, they will provide for a single access from the intersection of Sixth Street and Reed Street or from the intersection of Sixth Street and Steiner Street through City Heights to connect to Summit View Drive.

APPENDIX J
POLICE/LAW ENFORCEMENT

The City Police Department shall provide police protection for City Heights upon annexation at the same level of service enforced within the City. The parties agree that the following payments by the Ridge Entities, at the times set forth below, will adequately offset the costs for staffing, vehicle, equipment, training, jail, KITCOM, and other police related expenditures directly attributable to City Heights. Such payments shall be tendered or promptly delivered to the City of Cle Elum Police Department.

1. The Ridge Entities shall pay a one-time payment of One Hundred Twenty Five Thousand Dollars ($125,000.00) related to operation and equipment impacts during construction upon execution by the City and the Ridge Entities of both: (a) a CHCPA or CHWA for wastewater, and (b) a CHWSA or equally acceptable alternative for water supply.

2. The Ridge Entities shall pay a total of One Hundred Twenty Five Thousand Dollars ($125,000.00) related to operation and equipment impacts in five equal annual installments of Twenty Five Thousand Dollars ($25,000) each, with the first installment coming due on the anniversary of the payment of the $125,000 noted in Section 1 in this Appendix J and with each subsequent installment coming due annually thereafter, up to tender of a total of $125,000.

3. Upon the City's issuance of the first permit for infrastructure construction within City Heights, the Ridge Entities shall pay a one-time payment of One Hundred Twenty Five Thousand Dollars ($125,000.00) related to operation and equipment impacts.

4. Upon issuance of the building permit for the 1st ERU within City Heights, the Ridge Entities shall pay to the City the sum of One Hundred Fifty Thousand Dollars ($150,000.00) related to operations and equipment impacts.

5. Each applicant shall pay the City for operations and equipment needs a sum equivalent to Four Hundred Dollars ($400.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit. By way of example, if building permits were issued by the City for the construction of nine hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of Three Hundred Sixty Thousand Dollars ($360,000.00) at the time of issuance of the building permits.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on police and law enforcement. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services, including police and law enforcement, required by the Project. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority under CEMC 15.28 and WAC 197-11-660 in arriving at the

mitigations and fees set forth herein and that such are rationally related to the impacts to the City before complete buildout, notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buildout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially unforeseen burdens or needs that the City may have prior to full build-out and occupancy of the Project.

APPENDIX K
FIRE AND MEDICAL SERVICES

The City's Fire Department and Emergency Medical Services unit shall provide fire and emergency medical services to City Heights upon annexation at the same level of service as is currently provided by the City. The Ridge Entities shall tender, or be responsible for tendering to the City Public of Cle Elum Fire Department and Emergency Medical Services the amounts set forth below:

1. The Ridge Entities shall pay a one-time payment related to the purchase of a fire-fighting vehicle(s) of One Hundred Twenty Five Thousand Dollars ($125,000.00) upon execution by the City and the Ridge Entities of both: (a) a CHCPA or CHWA for wastewater, and (b) a CHWSA or equally acceptable alternative for water supply.

2. The Ridge Entities shall pay a total of One Hundred Twenty Five Thousand Dollars ($125,000.00) related to the purchase of a fire fighting vehicle(s) in five equal annual installments of Twenty Five Thousand Dollars ($25,000) each, with the first installment coming due on the anniversary of the payment of the $125,000 noted in Section 1 in this Appendix K and with each subsequent installment coming due annually thereafter, up to tender of a total of $125,000.

3. Upon the City's issuance of the first permit for infrastructure construction within City Heights, the Ridge Entities shall pay a one-time payment of One Hundred Thousand Dollars ($100,000.00) related to operations and equipment.

4. Each applicant shall pay the City for operations and equipment needs a sum equivalent to Two Hundred Fifty Dollars ($250.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit. By way of example, if building permits were issued by the City for the construction of nine hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of Two Hundred Twenty Five Thousand Dollars ($225,000.00) at the time of issuance of the building permits.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on fire and medical services. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services required by the Project, including services for fire and medical. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority under CEMC 15.28 and WAC 197-11-660 in arriving at the mitigations and fees set forth herein and that such are rationally related to the impacts to the City before complete buildout, notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buidlout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially unforeseen burdens or needs that the City may have prior to full build-out and occupancy of the Project.

APPENDIX L
CITY ADMINISTRATION

The City's Planning and General Administration offices shall provide to City Heights the same level of service provided to rest of the City. The Ridge Entities shall tender, or be responsible for the tender of, to the City of Cle Elum, for purposes of planning and general administration expenses, the amounts set forth below:

Each applicant shall pay the City for operations and equipment needs a sum equivalent to Two Hundred Dollars ($200.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit. By way of example, if building permits were issued by the City for the construction of nine hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of One Hundred Eighty Thousand Dollars ($180,000.00) at the time of issuance of the building permits.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on City administration. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services required by the Project, including services for City administration. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority under CEMC 15.28 and WAC 197-11-660 in arriving at the mitigations and fees set forth herein,and that such are rationally related to the impacts to the City before complete buildout notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buildout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially unforeseen burdens or needs that the City may have prior to full build-out and occupancy of the Project.

APPENDIX M
PUBLIC WORKS

The City's Public Works Department shall operate and maintain the streets and storm drainage, water system and the wastewater system within the City Heights project. The Ridge Entities shall tender, or be responsible for the tender of, to the City Public Works Department the amounts set forth below:

1. Upon the City's issuance of the first permit for infrastructure construction within City Heights, the Ridge Entities shall pay a one-time payment related to the purchase of equipment of One Hundred Forty Thousand Dollars ($140,000.00).

2. The Ridge Entities shall pay a total of Sixty Five Thousand Dollars ($65,000.00) as a one-time payment related to operations and equipment on the anniversary of the payment of the $140,000 noted in paragraph 1 in this Appendix M.

3. Upon the issuance of a building permit for the Three Hundred and First (301st) ERU within City Heights, the Ridge Entities shall pay a total of Seventy Five Thousand Dollars ($75,000.00) related to operations and equipment.

4. Each applicant shall pay the City for operations and equipment needs a sum equivalent to Three Hundred Seventy Five Dollars ($375.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit. By way of example, if building permits were issued by the City for the construction of Nine Hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of Three Hundred Thirty Seven Thousand Five Hundred Dollars ($337,500.00) at the time of issuance of the building permits.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on public works for the City of Cle Elum. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services required by the Project, including those for public works. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority under CEMC 15.28 and WAC 197-11-660 in arriving at the mitigations and fees set forth herein and that such are rationally related to the impacts to the City before complete buildout, notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buildout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially unforeseen burdens or needs that the City may have prior to full build-out and occupancy of the Project.

APPENDIX N
PARKS AND RECREATION

Within the areas designated on Exhibit 7 as "Open Space," the Ridge Entities shall construct, at their sole cost, publicly open recreational trails in accordance with the Master Site Plan shown on Exhibit 3 to this Agreement, of such surfacing or mix of surfaces that the Ridge Entities deems appropriate. Said open recreational trails shall be developed consistent with typical and normal industry standards for similar trail types in areas that are similar to the City in climate, geography and topography and otherwise consistent with the traditional rural, small town, mountain character of the Cle Elum area. The Ridge Entities, in their sole discretion, may limit the use of certain trails or portions of trails to pedestrians, bicycles, or other modes of recreational use. Upon completion of trail systems by plat, the Ridge Entities shall dedicate such trail systems to the City in fee. After dedication, the maintenance of the trails for the purpose and to the standard to which they were developed will be the responsibility of the City.

In addition to the trails shown on Exhibit 7 as Open Space, the Ridge Entities shall also construct, at their sole cost, public open parks as shown on Exhibit 7. Upon completion of parks as enumerated below, the Ridge Entities shall dedicate such parks to the City in fee. After dedication, the maintenance for the public open parks will be the responsibility of the City, which maintenance at a minimum shall include routine mowing, irrigation, weed suppression, trash removal and upkeep of cleanliness. The City and the Ridge Entities will cooperate on the design of the public open parks with the goal of minimizing maintenance costs.

The construction of each park identified in Exhibit 7 will be completed in accordance with the following phasing plan:

1. Park # 1 will be constructed and completed prior to the time that one hundred percent (100%) of the ERUs designated for Development Area A in Appendix A have certificates of occupancy.

2. Park # 2 will be constructed and completed by the time that seventy-five percent (75%) of the ERUs designated for Development Area B in Appendix A have certificates of occupancy.

3. Park # 4 will be constructed and completed by the time that seventy-five percent (75%) of the ERUs designated for Development Area D in Appendix A have certificates of occupancy.

4. Park # 3 is an existing area that can be used for recreation and it will be left in its natural state with some improvements added. There are no time limits on completion.

5. The foregoing notwithstanding, if fifty percent (50%) or more of the total, combined occupancy within all of the Development Areas, collectively, reaches fifty percent (50%) of the total, cumulative certificates of occupancy allocated/authorized

collectively for all Development Areas, then the Developer shall promptly, within six (6) months unless performance is prevented by inclement weather or act of God, in which case completion will occur as soon thereafter as possible, complete at least one of the parks described above.

At the City's election, or the request of the Ridge Entities, the City may create an "Adopt-a-Park" type of program that allows clubs, volunteer groups and non-governmental organizations and associations to participate in parks and recreation open space maintenance on a volunteer basis with supplies, service support and recognition provided by the City.

The Ridge Entities and the City may agree to substitute facilities or modify the timing of specific facilities and improvements. Upon dedication to the City, the City shall maintain and operate all such dedicated facilities.

APPENDIX O
SCHOOLS

The Ridge Entities shall tender the following amounts to the Cle Elum Roslyn School District ("School District") in accordance with the following schedule:

1. At time of issuance of the first building permit for an ERU in City Heights (not including a building permit for a sales center) the Ridge Entities shall pay the School District a one-time payment of Seventy Five Thousand Dollars ($75,000.00) related to facility and equipment impacts.

2. At time of issuance of the first building permit for an ERU in City Heights (not including a building permit for a sales center) the Ridge Entities shall pay a one-time payment to the School District of One Hundred Fifty Thousand Dollars ($150,000.00) related to school bus impacts.

3. The Ridge Entities shall pay a one-time payment to the School District equal to Seventy Five Thousand Dollars ($75,000.00) related to facility and equipment impacts on the anniversary of the payment of the $75,000 noted in paragraph 1 in this Appendix O.

4. Upon the School District's provision to the Ridge Entities of an affidavit supported by verifiable data indicating at least One Hundred (100) students attending the School District reside in City Heights, the Ridge Entities shall pay directly to the School District a one-time payment to the School District of One Hundred Fifty Thousand Dollars ($150,000.00) related to school bus impacts. If the School District does not provide such evidence by the time of issuance of a certificate of occupancy for the Six Hundredth ERU, then the requirement to make this payment will cease to exist.

5. Upon issuance of a building permit for the 100th ERU within City Heights, the Ridge Entities shall donate to the School District up to three (3) acres of land, or such amount of land the fair market value of which does not exceed One Hundred Fifty Thousand Dollars ($150,000), whichever is less. The Ridge Entities will consult with the School District regarding the location of the land to be donated but the selection of the land donated will be at the sole determination of the Ridge Entities.

6. To offset impacts to facilities of the School District, each applicant shall pay a sum equivalent to Two Thousand Two Hundred Fifty Dollars ($2,250.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit ("School Fee"). By way of example, if building permits were issued by the City for the construction of Nine Hundred (900) ERUs within City Heights the applicants for those building permits would pay the total sum of Two Million Twenty Five Thousand Dollars ($2,025,000.00) at the time of issuance of the building permits. Such funds shall be tendered at the time of building permit issuance for the subject ERUs, with Seven Hundred Fifty Dollars ($750.00) of such School Fee being collected by an agreed-upon

Escrow Agent and remitted directly to the School District, and with the balance of One Thousand Five Hundred Dollars ($1,500.00) per ERU being deposited into an escrow account expressly marked and managed by the escrow agent for the benefit of the School District and the Ridge Entities ("City Heights School Impact Reserve Account"). Proceeds of such City Heights School Impact Reserve Account can be remitted by the escrow agent to the School District upon the School District's provision of an affidavit signed by the school district and the Ridge Entities substantiated by verifiable data indicating that: (a) total student enrollment (a full-time equivalent student counts as one student) attending the School District, as reported to the State of Washington Department of Education, has increased by at least fifty (50) students over the greater of (i) nine hundred twenty five (925) students, or (ii) the student enrollment that existed in the school year corresponding to the year the first building permit was issued by the City for an ERU in City Heights and (b) at least fifty students enrolled in such school year are residents within City Heights (together, the "Conditions of Disbursement"). The escrow agent shall have no obligation to question or investigate the School District's affidavit and attached information. Once the Conditions of Disbursement have been met, as determined by the escrow agent, the Escrow Agent shall collect the entire School Fee from building permit applicants and remit the full amount to the School District. If, upon the earlier to occur of: (a) the tenth (10th) anniversary of the issuance of the first building permit for an ERU in City Heights or (b) the issuance of a building permit for the six hundredth (600^{th}) ERU within City Heights, the Conditions of Disbursement have not occurred, then the escrow agent shall return the funds in the City Heights School Impact Reserve Account to the Ridge Entities, and thereafter, the School Fee shall be modified to equal Seven Hundred Fifty Dollars ($750)/ERU, and such modified School Fee shall be collected at the time of building permit issuance by the City and remitted directly to the School District, with no funds being deposited into the City Heights School Impact Reserve Account. The School District and the Ridge Entities will cooperate in executing escrow instructions consistent herewith, and the Ridge Entities shall provide evidence of such mutually agreed upon escrow instructions prior to the City's approval of the first final plat within City Heights.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on schools in the City of Cle Elum. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services required by the Project, including those for schools. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority to obtain these financial mitigation measures under CEMC 15.28 and WAC 197-11-660 and that such are rationally related to the impacts to the City before complete buildout and the personnel of the Cle Elum-Roslyn School District in arriving at the mitigations and fees set forth herein , notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buildout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially

unforeseen burdens or needs that the District or the City may have prior to full build-out and occupancy of the Project.

APPENDIX P
MUNICIPAL COURT FEES

The Ridge Entities shall tender the following amounts to the Cle Elum-Roslyn Municipal Court in accordance with the following schedule:

1. Upon the City's issuance of the first permit for infrastructure construction within City Heights, the Ridge Entities shall pay a one-time payment related to the purchase of equipment of Twenty Thousand Dollars ($20,000.00).

2. Each applicant shall pay the City for operations needs a sum equivalent to One Hundred Dollars ($100.00) per ERU at the time of the issuance of a building permit for each ERU related to that building permit. By way of example, if building permits were issued by the City for the construction of Nine Hundred (900) ERUs within City Heights the applicants for those building permits would pay the City the sum of Ninety Thousand Dollars ($90,000.00) at the time of issuance of the building permits.

The parties have spent considerable time and effort to calculate the impacts that the Project will have on the municipal court system. The parties acknowledge that, according to the analysis contained in the EIS, property tax, sales tax and other revenues projected from the Project at complete buildout are anticipated to exceed the costs of public services, including municipal court services, required by the Project. The Ridge Entities are satisfied with the methodologies utilized by the City at exercising its SEPA substantive authority under CEMC 15.28 and WAC 197-11-550 in arriving at the mitigations and fees set forth herein, and that such are rationally related to the impacts to the City before complete buildout notwithstanding the fact that such mitigations and fees may be in excess of impacts directly related to the Project at complete buildout, and, to the extent such is the case, waive any right or claim for refund or other modification of the fees set forth in this Appendix, agreeing to provide such mitigation voluntarily in an effort to facilitate annexation, development, and potentially unforeseen burdens or needs that the City may have prior to full build-out and occupancy of the Project.

APPENDIX Q
PROCESSING OF LAND USE IMPLEMENTING APPROVALS

The City Heights proposal and impacts analyzed in the City Heights EIS include all permitting, approvals and construction within the Master Site Plan and this Agreement. The Master Site Plan includes the Allowable Development of residential and nonresidential uses within City Heights at the maximum densities and intensities allowed under this Agreement.

The Implementing Approvals covered by the City Heights proposal analyzed in the EIS include: this Development Agreement, the Master Site Plan and mixed use approval pursuant thereto, the preliminary and final plats for the Project and each phase or Development Area of the Project, grading and other site clearing approvals for the residential and nonresidential development, installation of on-site and off-site infrastructure as described in this Agreement and the Exhibits, and building permits up to the maximums for Allowable Development. These permits and approvals, together with any other similar permits and approvals subsequent to execution of this Agreement which implement or otherwise are consistent with this Agreement, including but not limited to plats contemplated under CEMC 17.45.110, are collectively denominated "Implementing Approvals" for the buildout of the Project.

A. APPLICATION PROCESS

Approval of this Agreement and the Master Site Plan constitute mixed site plan approval as contemplated in CEMC 17.45.100. All Implementing Approvals shall be applied for and issued in accordance with CEMC 17.45.110, as it exists on the date of this Agreement. To the extent of any inconsistency or conflict between CEMC 17.45.110, this Agreement, or this Appendix Q, this Appendix Q shall govern. To the extent that the CEMC does not identify the process for reviewing any Implementing Approval is not defined as a Type I, Type II, Type III, or Type IV, the Implementing Approval shall be reviewed as a Type II application.

Site and Design Review under CEMC Chapter 17.76 shall not be required for any residential Implementing Approval insofar as pursuant to CEMC 17.45.11, the City Planner will be reviewing any Implementing Approval for consistency with the Master Site Plan.

Step One: Applicant for an Implementing Approval within City Heights files an application with the City on the relevant application form of the City or otherwise containing sufficient information and detail for the City to evaluate the consistency of the proposed action with this Development Agreement and the Master Site Plan. The application shall specifically state that it is an application being submitted under the City Heights Development Agreement and the Planned Action Ordinance for City Heights.

Step Two: Within 14 days of receipt of the application for an Implementing Approval, the City notifies the applicant that the application is complete, or that

additional information is needed. In the case of the latter, any additional information required for continued processing shall be specifically identified in the City's letter to the applicant as necessary in order to determine the application for Implementing Approve is complete. If within fourteen days of receipt of the application, the City fails to notify the applicant that the applicant is incomplete, then the application shall be deemed complete for purposes of processing and commencement of the timelines set forth herein.

Step Three: Consistent with the process outlined below in Part B below, the City evaluates compliance of the application with the State Environmental Policy Act.

Step Four: Within 45 days after receipt of the complete application for the Implementing Approval, the City Planner determines whether the application is within the scope, and materially consistent with, the Master Site Plan and this Development Agreement. In making such determination, the City Planner shall consider:

1. Whether the proposed action is within the scope and intent of the Master Site Plan;
2. Whether the proposed action is of a similar size and scale, and does not present appreciably different environmental effects from those identified in the City Heights EIS;
3. Whether the proposed action reduces overall acreage identified as dedicated public areas, open space or buffering areas;
4. Whether the proposed action materially and significantly changes the balance of uses approved as part of the Master Site Plan; and
5. Whether for proposed action can be completed consistent with the Development Standards set forth in this Agreement.

Step Five: Immediately upon rendering a decision as to compliance with the criteria set forth in Step Four, above, the City Planner shall mail and publish the City Planner's determination, and such determination shall be final unless appeal is taken to the City Council within fifteen (15) days after the date of publication.

B. SEPA COMPLIANCE FOR IMPLEMENTING APPROVALS

Upon receipt of any application for an Implementing Approval, the City shall undertake SEPA review as follows:

Step 1 – City Heights Determination. First, the City shall determine if the requested Implementing Approval applied for is within City Heights and the scope of the City Heights EIS and Planned Action Ordinance. If the proposed Implementing Approval is within the scope of the Planned Action, then the existing City Heights EIS shall be utilized and no further SEPA checklist or threshold determination is required (see WAC 197-11-600(4)(a): "Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document." and RCW 43.21C.031(1) "a planned action…does not require a threshold determination").

Step 2 - Threshold Determination. If the requested Implementing Approval exceeds the Planned Action, then the City shall prepare a threshold determination, taking into account the existing City Heights EIS and the governing Development Standards under this Agreement which address environmental mitigation for the City Heights Project. Any studies or other information requested by the City from the applicant shall relate only to those potential impacts not adequately covered by the existing City Heights FEIS. The City shall issue a determination of nonsignificance (DNS) or a mitigated DNS (MDNS) utilizing an addendum or incorporating the prior EIS to the fullest extent possible, except a supplemental EIS (SEIS) shall be required if the conditions in Step 3 are present. The City's approval of "Administrative Minor Modifications" under Appendix R shall not be deemed a significant change which would require an SEIS.

Step 3 - SEIS. The City shall prepare an SEIS if there are:

3.1 Substantial changes to the Project so that the proposal described in the FEIS is likely to have significant adverse environmental impacts not previously analyzed and which cannot be mitigated through the Conditions of Approval applicable to the Project (or revisions to those Conditions of Approval under Appendix R); or

3.2 New information indicating the Project is likely to have significant, adverse environmental impact not previously analyzed in the EIS and which cannot be mitigated through the Conditions of Approval applicable to the Project (or revisions to those Conditions of Approval under Appendix).

If an SEIS is required, the City shall limit the scope thereof to the impacts which required the SEIS to be prepared (i.e., the City shall utilize a focused scope and EIS).

Step 4 - Modified Development Standards. If the SEIS discloses additional mitigation is required to avoid imminent public health and safety hazards, then the Conditions of Approval applicable to the Project may be modified pursuant to the procedure set forth in Appendix R of the Agreement.

C. REMEDIES

All Implementing Approvals, including requests for a Minor or Major Modification, shall be processed in accordance with applicable state and local law, and remedies for the City's failure to meet any mandatory timelines established for processing applications for minor or major modifications shall be those that are established by law.

APPENDIX R
AMENDMENT; MODIFICATION OF DEVELOPMENT STANDARDS AND CONDITIONS OF APPROVAL

This Appendix sets forth the standards and review procedures for City review of modifications to the City Heights Project elements, Development Standards, and other Conditions of Approval.

1. APPLICANT ELECTIONS

1.1 Authorized Elections and Modifications. The Ridge Entities shall have the right to elect to include as part of any application for (or to modify any pending or approved) preliminary plat, revisions to approved preliminary plats prior to final plat recording, short plats, site development permits or other Implementing Approvals the following pre-approved matters ("Authorized Elections"):

1.1.1 Designations or changes in residential density or layout so long as the change falls within the density range approved for that Development Area under Exhibit 3 and Appendix A and other relevant portions of this Agreement.

1.1.2 Designations or changes in the square footage or layout of retail/commercial uses so long as the modification falls within the range of square footage/acreage approved for the Development Areas on Exhibit 3 and Appendix A and other relevant portions of the Agreement.

1.1.3 Designations or changes in lot size, lot configuration and road layout resulting from changes in the density or intensity under Paragraphs 1.1.1 or 1.1.2 above.

1.1.4 Reallocation of Type of Product per Development Area so long as the maximum densities are unchanged and the Type of Product remains proposed for development within the Development Areas on Exhibit 3 and Appendix A and other relevant portions of the Agreement..

1.1.5 Designation or modification in alignment, location or layout of roads within City Heights, provided that the four Points of Access set forth in Appendix I do not change, and provided that the extent of connectivity of the roads is not materially reduced.

1.1.6 Revision (amendment) of an approved preliminary or final plat, provided that such revision/amendment is consistent with the Conditions of Approval and the Master Site Plan.

1.1.7 Other elections or modifications requested by the applicant, which are within the pre-approved ranges or provisions of this Agreement and the Exhibits or which the City Planning Director determines provide functional

equivalence or are minor in nature. Such election or modification may include a proposed or revised phasing plan for a Development Area or for the Project.

1.2 Review Procedures. The City Planning Director shall verify the applicant's elections or modifications under Paragraph 1.1 and to verify no other City-regulated feature has been significantly affected by the modification. The City Planning Director shall not have discretion to deny an Authorized Election.

2. MINOR MODIFICATIONS.

2.1 Criteria for Minor Modifications. Upon the Ridge Entities' request, Minor Modifications (defined below) to preliminary plats, short plats, other Implementing Approvals or Development Standards may be authorized by the City Planning Director under the standards provided in Paragraph 2.2 below. A proposed modification qualifies for review as a "Minor Modification" if it:

2.1.1 Does not include residential densities, commercial floor area ratio, or total units or square footages, that exceed the ranges specified in the Master Site Plan and Development Agreement for the particular Development Area(s); or, if it exceeds the density ranges specified in the Master Site Plan and Development Agreement, but includes a demonstration that any variation from the limitations in the particular Development Area(s) can be accommodated by an increase or decrease in another Development Area, if the modification approval includes a condition requiring accommodation of this change in the other affected Development Area(s), and if the City determines that this change is consistent with the overall intent of the MSP and Development Agreement; and

2.1.2 Does not result in a reduction in the amount of open space provided in the Conditions of Approval for the particular Development Area(s); or, if it does result in a reduction, but it includes a demonstration that any variation from the locations of proposed open space(s) can be accommodated by an equal or greater amount and function of open space in another Development Area, and the City determines that this change is consistent with the overall intent of the Conditions of Approval, then the City may approve (or approve with conditions) a modification that results in a change in the amount of open space in a particular Development Area; and

2.1.3 Does not include uses that uses represent a major change in the project concept as embodied in the Master Site Plan, Development Agreement and Conditions of Approval; and

2.1.4 Is functionally equivalent to, or superior to, the original standard or requirement in fulfilling the intent and purpose of that original standard or requirement; and

2.1.5 Is compatible with the scale and character of the properties and uses adjacent to the location of the proposed modification, whether such properties and uses are inside or outside the Project.

2.2 Minor Modification Examples. By way of example, but not limitation, the following proposed modifications shall be reviewed as Minor Modifications:

2.2.1 Changes to the size or shape of the Development Areas within City Heights from the size and shape set forth in Exhibit 3 to this Agreement, provided that such modification does not encroach upon critical areas or materially impact the storm drainage plan for City Heights.

2.2.2 Inclusion of uses in addition to the permitted uses set forth in Appendix A, unless the additional uses represent a major change in the project concept as embodied in Appendix A.

2.2.3 Increases in the maximum clearing or impervious surface percentages under Appendix A, which do not exceed 5% in any clearing or impervious surface category for any Development Area listed in Appendix A.

2.2.4 Designations or changes to the locations, widths or other aspects of access, utility or other easements.

2.2.5 Designations or changes in the surface water management practices and standards, including the size and/or alterations to the configuration of detention facilities or tracts or other standards established under Appendix C so long as the changes provide substantially equivalent or better protection for aquatic resources.

2.2.6 Elections by the Ridge Entities to use a more recently-enacted City standard than the vested Development Standards established by this Agreement, which election shall be approved unless the City Planning Director determines the vested Development Standard must be retained because of the interdependency or other critical relationship to Development Standards which are not being changed.

2.2.7 Modifications to Conditions of Approval set forth in this Agreement which (a) are authorized in a particular Condition of Approval, or (b) if the Condition of Approval does not discuss authorized modifications, then modifications which meet the Type II approval standard set forth below.

2.3 Minor Modification Approval Procedures. The City Planning Director may approve, approve with conditions or deny the requested Minor Modification based upon the proposed modification's consistency with one or more of the Flexibility Objectives set forth in the Agreement. Minor Modifications shall be reviewed and decided as a Type II process under CEMC 17.100.040, and no separate variance procedures or other revision procedures, including no variances under the sensitive area regulations, zoning or road portions of the City Code, shall apply. Notwithstanding the foregoing, the City Planning Director may circulate the requested modification to appropriate City departments and officials for review and comment. The City Planning Director may impose reasonable conditions as part of the approval of a Minor Modification. The modification if approved may be in writing or incorporated through

appropriate revisions or notations on the approved preliminary plat, final plat or engineering drawings, binding site plan or other appropriate document. The City shall maintain a cumulative list of all approved Minor Modifications.

3. MAJOR MODIFICATIONS.

3.1 Major Modifications. If the City Planner determines that an application or request does not constitute a Minor Modification, the City Council shall review the application as a "Major Modification" through the Type IV process applicable to amendment of a Development Agreement, consistent with the below.

3.2 Major Modification Review Process. Subsequent to applicant's submission of an application, and the City Planner's determination that the application constitutes a Major Modification, the application shall necessitate an amendment to the Development Agreement and be reviewed as a Type IV application, consistent with the process set forth below:

Step One: Within 14 days of receipt of the application, the City Planner shall notify the applicant in writing that the application constitutes a Major Modification, and, if additional information is needed for continued processing, the City Planner notifies the applicant of the additional information needed. Notwithstanding the foregoing, any additional information that the City requires of the applicant shall be reasonably necessary for continued processing and shall not be duplicative of information already on file.

Step Two: Upon receipt of all information necessary for continued processing, the City Planner shall evaluate compliance of the application with the State Environmental Policy Act and, if beyond the scope of the City Heights EIS, the City Planner shall issue a threshold determination and, if necessary and authorized by applicable law, require a limited scope SEIS. No SEIS shall be required if the City Planner determines that the additional impacts associated with the Major Modification have been fully disclosed and can be mitigated through compliance with the Development Standards or additional conditions imposed by the City.

Step Three: Within 60 days after receipt of the application for the Implementing Approval, rendering of a threshold determination, and submission by the application of any requisite environmental documentation, the City Planner shall make a recommendation to the City Council on the Major Modification. Notice of the City Planner's recommendation shall be published in a newspaper of local circulation, together with the date of a public hearing before the City Council on the City Planner's recommendation. The notice shall be published at least 14 calendar days prior to the date set for a public hearing and written comments on the proposed action shall be invited and accepted up until the close of the public hearing. Upon close of the public hearing, the City Council shall render a decision on the Major Modification. The City Council's decision shall be a final decision. Notice of the decision shall be provided in writing to the applicant and published in a newspaper of local circulation. The City Council's

decision on the Major Modification shall be a final land use decision appealable to Superior Court pursuant to RCW 36.70C.

EXHIBIT T

FORM OF JOINT DEFENSE AND CONFIDENTIALITY AGREEMENT

PRIVILEGED AND CONFIDENTIAL -- JOINT DEFENSE AGREEMENT

This Joint Defense Agreement ("Agreement") is made and entered into by the CITY OF CLE ELUM ("City"), and GREEN CANYON, LLC; HIGHMARK RESOURCES, LLC; and COOPER PASS, LLC, collectively ("Developer").

THIS AGREEMENT IS MADE IN REFERENCE TO THE FOLLOWING FACTS:

A. On or about_____, by Ordinances _____, _____, and _____ ("Ordinances"), the City authorized a planned mixed use development, master site plan, and development agreement for the real property legally described in such Ordinances.

B. Paragraph _____ of the Development Agreement sets forth the City's and Developer's agreement to enter into a joint defense agreement to defend any legal challenge(s) to the City's approval and implementation of the Ordinances, and to any action by Developer or the City leading up to the adoption of the Ordinances, for which Developer will pay the costs incurred for such joint defense.

C. A Petition for Judicial Review was filed in the ____ Court of Kittitas County, ___, Case No. _____ ("Petition"). The Petitioners are _____ opposing _____.

D. The City and the Developer have common interests in certain issues of fact and law in connection with the Petition.

IN CONSIDERATION OF THE PROMISES STATED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

I. Definitions of terms, as used in this Agreement

A. The term "party" or "parties" means the City and Developer.

B. The term "privileged information" includes, but is not limited to, any of the following which may be the subject of exchanges among legal counsel of parties to this Agreement or those in privy with them: legal theories, ideas, trial strategy, mental impressions, reports of consultants or experts hired by any party or counsel, any confidential communications as defined by Washington Rule of Evidence 501, and any other material that may be protected under Washington law from disclosure for any reason.

II. Purpose of this Agreement

A. The parties to this Agreement have concluded that the outcome of litigation may adversely impact the parties' rights and their interests. The parties, therefore, have determined it is within their common interests to cooperate with each other in the defense of claims arising from the protests and to share certain relevant "privileged information." This sharing of information is intended to advance the interest of and rendition of professional services to the parties.

B. Execution of this Agreement is not an acknowledgement that any claim asserted is meritorious or is supported by existing state law. Rather, the parties are entering this Agreement as a prudent measure to allow cooperation in the defense of any such claims where the interests of the City and the Developer are similar.

C. This Agreement is entered into to formalize and effectuate Section _____ of the Development Agreement. Developer shall pay the attorney fees and costs of the joint counsel and defense pursuant to Section _____ of the Development Agreement.

D. Subject to final approval by the City Council, the parties have agreed and stipulated that Joint Counsel for this matter shall be _____ of _____. The signatures of the parties to this Agreement appearing below constitutes approval of the joint counsel. Once formally approved by the City Council, Joint Counsel will report directly to the Mayor for the City, to the City Council as requested by the Mayor, and to the Developer and its authorized representatives as designated from time to time.

E. Full disclosure is hereby made that _____ has represented the Developer related to _____. While the parties and their independent counsel do not believe such prior representation constitutes a conflict of interest, any conflict arising thereby is hereby expressly waived by the execution of this Agreement and City's approval of retaining _____ as joint counsel. The parties hereby agree _____ may rely upon this Agreement as an express written waiver of any conflict of interest.

F. Counsel for the parties believe _____ can: (a) diligently represent the City and Developer and provide competent and diligent representation to each Party; (b) the proposed representation is not prohibited by law; (c) the representation as proposed will not involve (law firm)'s assertion of any claim by one Party against another Party in the Action or in contravention of this Agreement; and, (d) each affected Party acknowledges by its signature that it has provided its informed consent to enter into this Agreement.

III. Sharing of privileged information

A. The parties intend that this Agreement will enable them, to the fullest extent permitted by law, to share certain Privileged Information without waiving any privileges or other exemptions from disclosure that might attach thereto, whether under the common law, the Federal or Washington Rules of Civil Procedure, the Federal or Washington Rules of Evidence, or any other rule or statute. The term "Privileged Information" includes all documents which are employed in the context of the Action in

their broadest sense and include, but are not limited to the original, each draft, and any non-identical copies of any written, recorded or graphic material of any kind, whether prepared by a Party or by any other person, that are in a Party's possession, custody, or control or that of a Party's attorneys, or accountants or agents. The term includes, without limitation, the following items: correspondence; communications; electronic mail; memoranda; summaries or other records of conversations or interviews; minutes or records of meetings; lists of persons attending meetings; opinions of counsel; opinions or reports of consultants; records or summaries of investigations; offers; records or summaries of negotiations; contracts; agreements; telegrams; telefaxes; cables; telexes; teletype messages; computer printouts; electromagnetic tape recordings, video recordings, or other electronic recordings, tapes, diskettes, discs and transcriptions thereof; films; accounting worksheets; appraisal reports; original preliminary notes; and marginal comments appearing on any document. The term "Privileged Information" also includes all electronically stored data from which information can be obtained either directly or by translation through detection devices or readers.

B. Disclosure of Privileged Information by the Developer or the City shall not be made to any person or entity, other than attorneys representing the City or by the Developer and their authorized representatives. Outside experts and consultants receiving copies of any privileged information shall agree to keep such information confidential and shall sign a confidentiality agreement, agreeing to keep the information confidential in accordance with this Agreement. In furtherance of this Agreement, communication between the parties shall be primarily through joint counsel or between the parties or party affiliates.

C. Privileged information shared pursuant to this Agreement shall be kept in confidence and shall be used by legal counsel for the parties exclusively for the preparation of defenses against the petitions, protests and claims giving rise to implementation of this Agreement. The confidentiality of this information shall survive termination of this Agreement.

D. Each Party may, in its discretion, exchange and share Privileged Information with the Parties and member(s) of the Parties to further the Parties' mutual interests. Such Privileged Information may be disclosed orally or in writing. The Parties do not intend to waive any claim of work product protection, attorney-client privilege, or any other privilege or immunity by reason of such disclosure. The Parties further intend that all communications made in connection with the defense efforts contemplated by this Agreement shall be protected from discovery by the Joint Defense Privilege to the fullest extent permitted by existing law and by any future law that takes effect during the course of this Agreement.

IV. Execution of the Agreement

A. This Agreement shall be binding on all successors and assigns of the parties.

B. This Agreement is executed in duplicate. Each Agreement with an original signature of each party shall be original.

C. This Agreement may not be amended or modified except by an instrument in writing signed by or on behalf of each Party and its independent counsel.

IN WITNESS THEREOF, THE PARTIES EXECUTED THIS AGREEMENT ON THE DATE FOLLOWING THEIR RESPECTIVE SIGNATURES:

CITY OF CLE ELUM

_____ Date: _____

Charles Glondo, Mayor

ATTEST:

_____ Date: _____

_____, City Clerk

NORTHLAND RESOURCES, LLC,
AUTHORIZED AGENT OF DEVELOPER

_____

Date: _____

Encompass
ENGINEERING & SURVEYING

EXHIBIT 1
Part 1 of 2
LEGAL DESCRIPTION
CLE ELUM CITY HEIGHTS ANNEXATION

LOT 15 OF THAT CERTAIN SURVEY RECORDED IN BOOK 28 OF SURVEYS AT PAGES 177 AND 178, UNDER AUDITOR'S FILE NUMBER 200302030013; LOTS A-1, A-2 AND A-3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 222 AND 223, UNDER AUDITOR'S FILE NUMBER 200706060020; LOTS B-1 AND B-2 OF THAT CERTAIN SURVEY RECORDED IN BOOK H OF SHORT PLATS AT PAGES 187 AND 188, UNDER AUDITOR'S FILE NUMBER 200601260040; A PORTION OF LOT 11-C OF THAT CERTAIN SURVEY RECORDED IN BOOK 31 OF SURVEYS AT PAGES 136 AND 137, UNDER AUDITOR'S FILE NUMBER 200507280018; LOTS C-1, C-2 AND C-3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 206 AND 207, UNDER AUDITOR'S FILE NUMBER 200704060001, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 15 OF SAID SURVEY WHICH IS THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 70°33'50' EAST, 265.95 FEET; THENCE NORTH 88°25'37" EAST, 39.10 FEET; THENCE NORTH 88°25'37" EAST, 480.20 FEET; THENCE NORTH 39°30'18" WEST, 51.97 FEET; THENCE SOUTH 88°42'02" EAST, 55.45 FEET; THENCE CONTINUING ALONG SAID BEARING, 2123.80 FEET; THENCE SOUTH 88°38'40" EAST, 2650.73 FEET; THENCE SOUTH 89°27'57" EAST, 1696.72 FEET; THENCE CONTINUING ALONG SAID BEARING, 960.22 FEET; THENCE SOUTH 88°38'56" EAST, 72.95 FEET; THENCE SOUTH 01°21'04" WEST, 29.66 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00 FEET (RADIUS BEARING SOUTH 01°21'04" WEST), A LENGTH OF 159.34 FEET, THROUGH A CENTRAL ANGLE OF 91°17'39"; THENCE SOUTH 00°03'25" WEST, 147.26 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00 FEET (RADIUS BEARING SOUTH 89°56'35" EAST), A LENGTH OF 107.54 FEET, THROUGH A CENTRAL ANGLE OF 61°36'54"; THENCE SOUTH 61°33'29" EAST, 283.39 FEET; THENCE SOUTH 38°45'20" EAST, 804.11 FEET; THENCE SOUTH 73°18'17" EAST, 569.17 FEET; THENCE SOUTH 00°25'27" WEST, 40.64 FEET; THENCE SOUTH 00°25'27" WEST, 23.23 FEET; THENCE SOUTH 73°18'17" EAST, 788.37 FEET; THENCE NORTH 00°47'37" EAST, 497.30 FEET; THENCE SOUTH 89°26'24" EAST, 2214.93 FEET; THENCE SOUTH 31°14'36" EAST, 810.33 FEET; THENCE SOUTH 56°56'11" WEST, 74.55 FEET TO THE POINT OF CURVATURE OF THE LEFT HAVING A RADIUS OF 99.05 FEET (RADIUS BEARING SOUTH 33°03'49" EAST), A LENGTH OF 159.14 FEET, THROUGH A CENTRAL ANGLE OF 92°03'42"; THENCE NORTH 86°48'10" WEST, 660.31 FEET; THENCE SOUTH 00°37'10" WEST, 530.06 FEET; THENCE NORTH 57°56'11" WEST, 196.85 FEET; THENCE NORTH 50°06'55" WEST, 161.08 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 50.42 FEET (RADIUS BEARING SOUTH 39°53'05" WEST), A LENGTH OF 102.10 FEET, THROUGH A CENTRAL ANGLE OF 116°01'38"; THENCE SOUTH 13°51'27" WEST, 186.64 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 74.00 FEET (RADIUS BEARING NORTH 76°08'33" WEST), A LENGTH OF 89.26 FEET, THROUGH A CENTRAL ANGLE

108 East 2nd Street, Cle Elum, WA 98922 Phone: (509) 674-7433 Fax: (509) 674-7419

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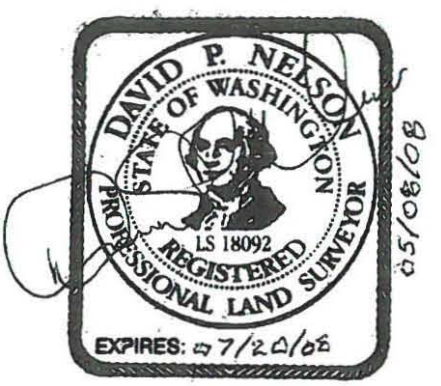
OF 69°06'54"; THENCE SOUTH 82°58'21" WEST, 326.41 FEET; THENCE SOUTH 78°10'46" WEST, 228.39 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 108.93 FEET (RADIUS BEARING SOUTH 11°49'14" EAST), A LENGTH OF 102.18 FEET, THROUGH A CENTRAL ANGLE OF 53°44'43"; THENCE NORTH 89°12'00" WEST, 236.35 FEET; THENCE NORTH 89°01'06" WEST, 835.04 FEET; THENCE NORTH 00°58'54" EAST, 659.24 FEET; THENCE NORTH 89°01'06" WEST, 859.49 FEET; THENCE SOUTH 01°37'14" WEST, 280.25 FEET; THENCE NORTH 89°01'44" WEST, 153.66 FEET; THENCE SOUTH 00°58'16" WEST, 139.48 FEET; THENCE NORTH 89°01'08" WEST, 274.97 FEET; THENCE SOUTH 00°58'52" WEST, 160.00 FEET; THENCE NORTH 86°50'06" WEST, 446.37 FEET; THENCE SOUTH 02°50'31" WEST, 96.55 FEET; THENCE NORTH 89°01'06' WEST, 49.72 FEET; THENCE NORTH 00°03'25" EAST, 1314.63 FEET; THENCE NORTH 89°27'57" WEST, 217.05 FEET; THENCE SOUTH 01°37'14" WEST, 14.17 FEET; THENCE NORTH 89°27'57" WEST, 2432.25 FEET; THENCE NORTH 00°15'29" WEST, 24.09 FEET; THENCE NORTH 88°50'40" WEST, 206.96; THENCE NORTH 14°27'03" EAST, 590.45 FEET; THENCE NORTH 88°45'34" WEST, 399.57 FEET; THENCE SOUTH 01°14'26" WEST, 575.22 FEET; THENCE NORTH 88°50'40" WEST, 1046.44 FEET; THENCE NORTH 12°05'29" WEST, 205.47 FEET; THENCE NORTH 88°50'41" WEST, 738.92 FEET; THENCE SOUTH 01°09'19" WEST, 83.72 FEET; THENCE NORTH 79°42'25" WEST, 369.15 FEET; THENCE NORTH 79°42'25" WEST, 280.72 FEET; THENCE NORTH 53°22'30" WEST, 340.47 FEET; THENCE NORTH 78°56'35" WEST, 275.86 FEET; THENCE NORTH 60°34'20" WEST, 240.49 FEET; THENCE NORTH 48°41'30" WEST, 185.31 FEET; THENCE NORTH 16°51'48" WEST, 233.52 FEET; THENCE NORTH 88°41'57" WEST, 70.91 FEET; THENCE SOUTH 00°30'48" WEST, 464.30 FEET; THENCE NORTH 75°41'50" WEST, 611.82 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 1860.08 FEET (RADIUS BEARING NORTH 14°18'10" EAST), A LENGTH OF 779.04 FEET, THROUGH A CENTRAL ANGLE OF 23°59'48"; THENCE NORTH 51°42'02" WEST, 28.75 FEET; THENCE NORTH 51°42'28" WEST, 365.15 FEET TO THE TRUE POINT OF BEGINNING AND TERMINUS OF SAID LINE.

SITUATED IN SECTIONS 25, 26, 27 AND 28, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON.

CONTAINING 330.36 ACRES MORE OR LESS



PARCEL NUMBERS AND OWNERSHIP:

LOT 15 OF SURVEY BOOK 28, PAGES 177 & 178
20-15-27010-0001
20-15-27020-0001
20-15-27020-0007
OWNED BY HIGHMARK RESOURCES LLC

PORTION OF LOT 11-C OF SURVEY BOOK 31, PAGES 136 & 137
20-15-26057-0003
OWNED BY COOPER PASS LLC

LOTS A-1, A-2 & A-3 OF SURVEY BOOK 10, PAGES 222 & 223
20-15-26061-0001
20-15-26061-0002
20-15-26061-0003
OWNED BY GREEN CANYON LLC

LOTS B-1 & B-2 OF SURVEY BOOK H, PAGES 187 & 188
20-15-26060-0001
20-15-26060-0002
OWNED BY HIGHMARK RESOURCES LLC

LOTS C-1, C-2 & C-3 OF SURVEY BOOK 10, PAGES 206 & 207
20-15-25064-0001
20-15-25064-0002
20-15-25064-0003
OWNED BY HIGHMARK RESOURCES LLC

Encompass
ENGINEERING & SURVEYING

EXHIBIT 1
Part 2 of 2
LEGAL DESCRIPTION
FOR
PROPERTY ALREADY WITHIN CITY LIMITS

BLOCK 7, REED'S SECOND ADDITION TO CLE ELUM, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN BOOK 2 OF PLATS, PAGE 36, RECORDS OF SAID COUNTY; EXCEPT THAT PORTION OF SAID BLOCK 7 LYING WITHIN PARCELS A AND B OF THAT CERTAIN SURVEY RECORDED IN BOOK 27 OF SURVEYS, PAGE 62, UNDER AUDITOR'S FILE NO. 200201100024.

AND

A PORTION OF LOT 11-C OF THAT CERTAIN SURVEY RECORDED IN BOOK 31 OF SURVEYS AT PAGES 136 AND 137, UNDER AUDITOR'S FILE NUMBER 200507280018; RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 11-C OF SAID SURVEY WHICH IS THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE SOUTH 89°27'57" EAST, 2649.68 FEET; THENCE SOUTH 00°03'25" WEST, 651.55 FEET; THENCE NORTH 89°08'59" WEST, 1323.17 FEET; THENCE NORTH 00°06'00" WEST, 514.88 FEET; THENCE NORTH 89°15'19" WEST, 1324.55 FEET; THENCE NORTH 00°15'29" WEST, 124.52 FEET TO THE TRUE POINT OF BEGINNING AND TERMINUS OF SAID LINE.

SITUATED IN SECTIONS 26 & 27, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON.

CONTAINING 28.01 ACRES MORE OR LESS

108 East Second St., Cle Elum, WA 98922 Phone: (509) 674-7433 Fax: (509) 674-7419
WWW.ENCOMPASSES.NET

EXHIBIT 2

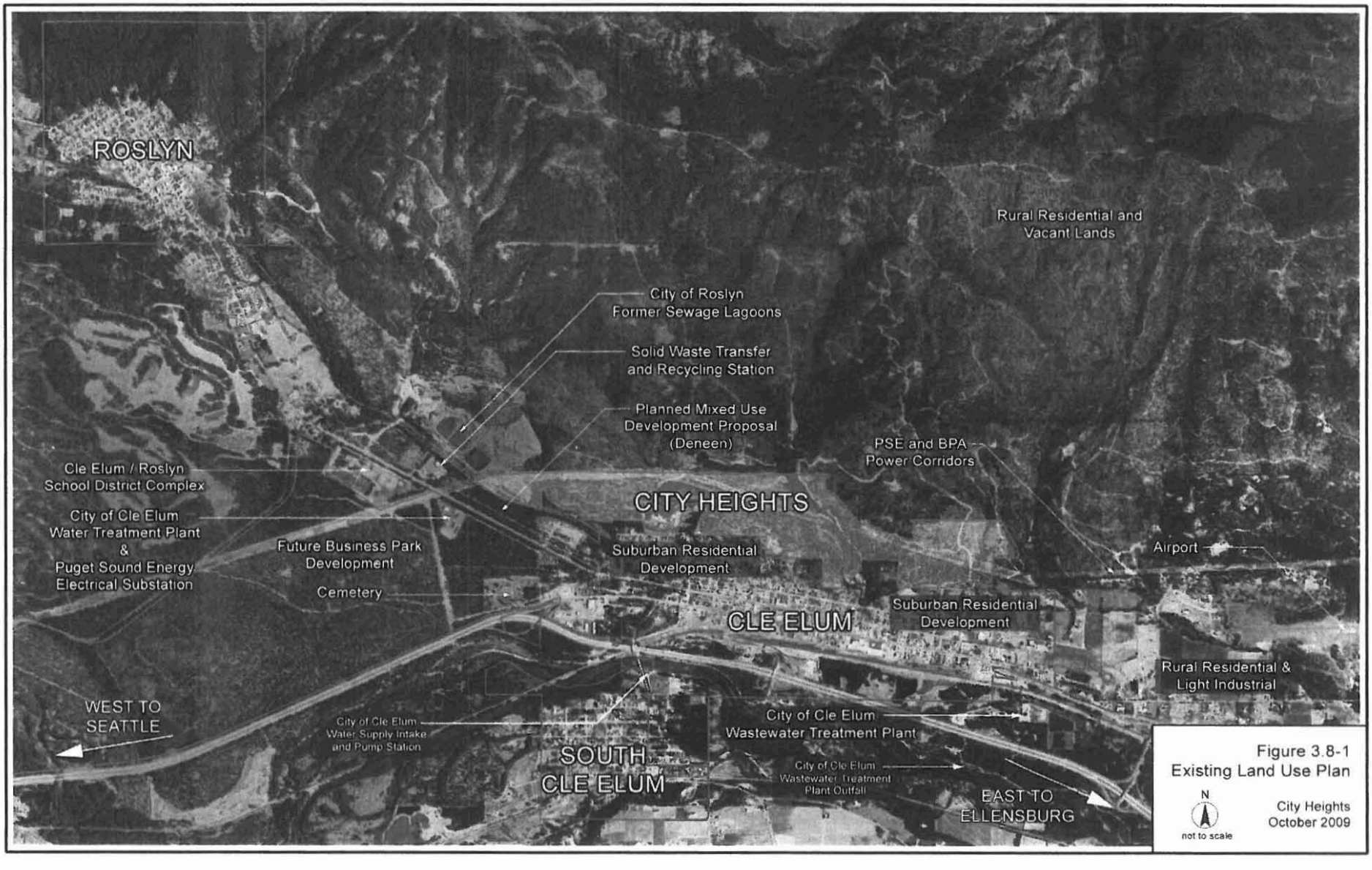
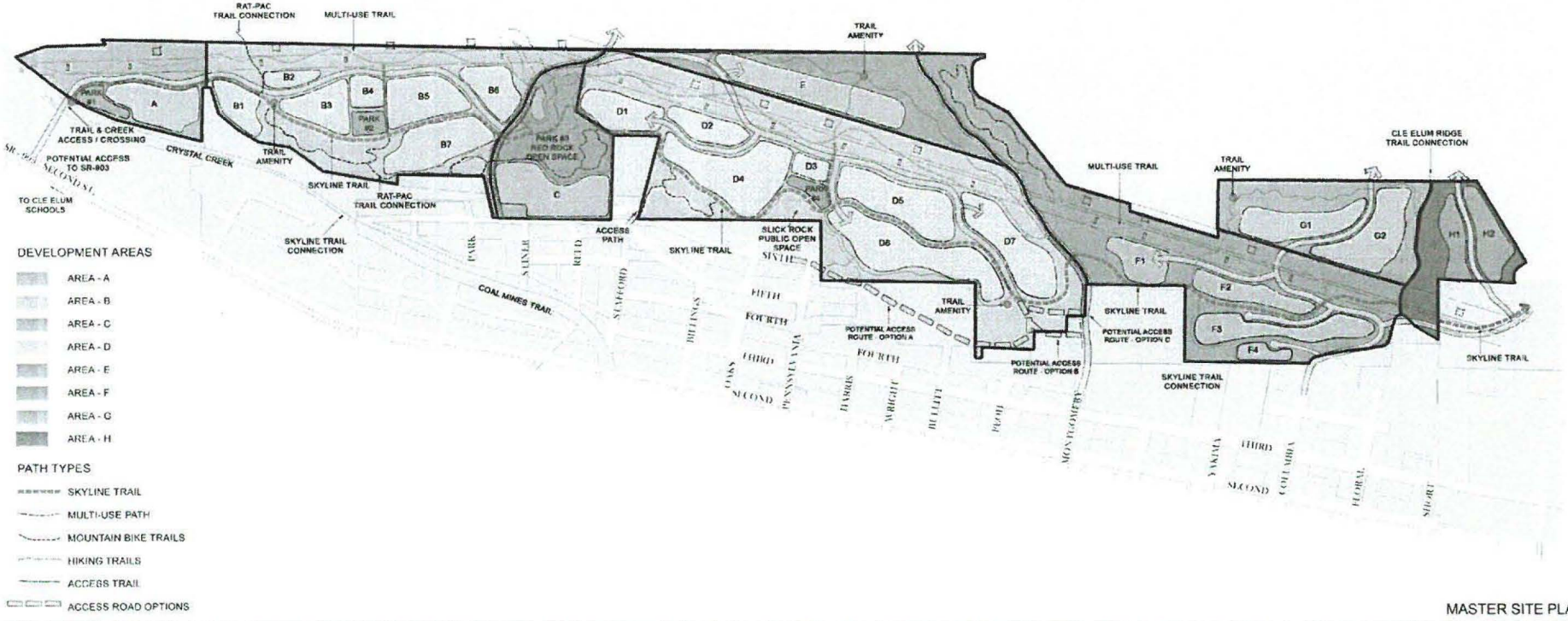

ROSLYN
Rural Residential and Vacant Lands
City of Roslyn Former Sewage Lagoons
Solid Waste Transfer and Recycling Station
Planned Mixed Use Development Proposal (Deneen)
PSE and BPA Power Corridors
Cle Elum / Roslyn School District Complex
CITY HEIGHTS
City of Cle Elum Water Treatment Plant & Puget Sound Energy Electrical Substation
Future Business Park Development
Suburban Residential Development
Airport
Cemetery
CLE ELUM
Suburban Residential Development
Rural Residential & Light Industrial
WEST TO SEATTLE
City of Cle Elum Water Supply Intake and Pump Station
City of Cle Elum Wastewater Treatment Plant
SOUTH CLE ELUM
City of Cle Elum Wastewater Treatment Plant Outfall
EAST TO ELLENSBURG
Figure 3.8-1
Existing Land Use Plan
N
not to scale
City Heights
October 2009

EXHIBIT 3



MASTER SITE PLAN

GCH planning and landscape architecture
geyer cobum hutchins

CITY HEIGHTS
CLE ELUM, WASHINGTON

EXHIBIT 4

DEPARTMENT OF ECOLOGY
State of Washington

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PERMIT
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

☐ Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)

☒ Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
March 16, 2010	G4-35273	G4-35273(A)P	

NAME
Green Canyon LLC Cooper Pass LLC, Highmark Resources LLC (City Heights Project)

ADDRESS (STREET)	CITY	STATE)	ZIP CODE)
206 West First Street	Cle Elum	WA	98922

The applicant is hereby granted a permit to appropriate the following public waters of the State of Washington, subject to existing rights and to the limitations and provisions set out herein.

PUBLIC WATERS TO BE APPROPRIATED

SOURCE
Up to eight (8) wells.

TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE -FEET PER YEAR
	1,140	235.5

QUANTITY, TYPE OF USE, PERIOD OF USE

1,140 gallons per minute, 128.9 acre-feet per year for year-round multiple domestic supply for up to 767 units, and 106.6 acre-feet per year for the irrigation of 42.66 acres[1] from May 1 through September 30.

[1] the allocation of irrigation water shall not exceed 94.3 acre-feet per year and 37.7 acres unless the Department of Ecology issues a written determination that additional mitigation water is available from CS4-0223CTCLsb2@1 or other trust water right mitigation approved by the Department of Ecology.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL
Up to 8 wells. (Final well locations to be determined.)

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP N.	RANGE, (E. OR W.) W.M.	W.R.I.A.	COUNTY
SE¼	25	20	15 E.	39	Kittitas
S½N½	26	20	15 E.	39	Kittitas
SE¼SE¼	27	20	15 E.	39	Kittitas
SW¼	30	20	16 E.	39	Kittitas

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

See Attachment 1 for full legal description.

COb4

DESCRIPTION OF PROPOSED WORKS

New points of withdrawal will be used to provide domestic supply for 767 residential units at the planned City Heights development. The conveyance and distribution system built at the development will be connected to the City of Cle Elum Group A Public Water System (System ID 13500). Domestic wastewater will be conveyed to the City of Cle Elum Municipal Wastewater Treatment Plant for treatment prior to discharge to the Yakima River in the SW¼NW¼ of Section 36, T. 20 N., R. 15 E.W.M.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER PUT TO FULL USE BY THIS DATE:
December 31, 2011	December 31, 2028	December 31, 2030

PROVISIONS

Wells

1) The water supply wells for the City Heights project shall be drilled and completed in the unconsolidated alluvial or glacial deposits in hydraulic continuity with the Yakima River

2) The water supply wells for the City Heights project shall not be drilled within 500 feet of any non-project well.

3) In accordance with WAC 173-160, wells shall not be located within certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations, as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of the boundary of a solid waste landfill.

4) All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.

5) Flowing wells shall be constructed and equipped with valves to ensure that the flow of water can be completely stopped when not in use. Likewise, the well shall be continuously maintained to prevent the waste of water through leaky casings, pipes, fittings, valves, or pumps – either above or below land surface.

6) The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right change authorization by the Department of Ecology does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

7) All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

8) Required installation and maintenance of an access port as described in WAC 173-160- 291(3).

9) In order to maintain a sustainable supply of water, pumping must be managed so that static water levels do not progressively decline from year to year. Static water level is defined as the water level in a well when no pumping is occurring and the water level has fully recovered from previous pumping. Static water levels at each well used under this authorization shall be measured and recorded bi-annually (May and September), using a consistent methodology. Data for the previous year shall be submitted by January 31 to the Department of Ecology.

10) Static water level data shall be submitted in digital format and shall include the following:

    a. Unique Well ID Number
    b. Measurement date and time
    c. Measurement method (air line, electric tape, pressure transducer, etc.)
    d. Measurement accuracy (to nearest foot, tenth of foot, etc.)
    e. Description of the measuring point (top of casing, sounding tube, etc.)
    f. Measuring point elevation above or below land surface to the nearest 0.1 foot
    g. Land surface elevation at the well head to the nearest foot
    h. Static water level below measuring point to the nearest 0.1 foot

Metering and Reporting

11) An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html

12) Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years. The maximum monthly rate of diversion/withdrawal and the monthly total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.

13) Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

General

14) Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

15) The water right holder shall file the notice of Proof of Appropriation of water (under which the permit of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. A certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

16) The water source and/or water transmission facilities may not be wholly located upon land owned by the applicant. Issuance of a water right change authorization by the Department of Ecology does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

17) Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

    a. Use of water under this authorization shall be contingent upon the Department of Ecology's written approval of, and the permit holder's compliance with a storage and release plan consistent with the mitigation offered, which addresses out-of-irrigation season (October 1 to March 31) impacts associated with the withdrawals under this authorization. If the aforementioned storage and release plan is not implemented consistent with the mitigation offered, all outdoor use shall no longer be authorized until such time that the Department of Ecology issues a letter stating that mitigation has been sufficiently reinstated.

18) Per WAC 173-539A consumptive use authorized under this authorization must be water budget neutral. Consumptive use quantities (total withdrawal minus return flow) must be fully offset by debit of an equal consumptive use quantity of seasonal irrigation water rights placed into permanent trust in the Washington State Trust Water Right Program (TWRP) by Northland Resources LLC.

19) Water use under this authorization is contingent upon the conveyance of an equal (121.75 acre-feet per year) or greater amount of consumptive use from a suitable instream flow right (see trust water right agreement) to the Washington State Trust Water Right Program.

20) The connection limit for City Heights (767 units) is an upper limit and is contingent upon the approval of a Group A Water System by the Washington State Department of Health (DOH). The permittee recognizes that the DOH may limit the connections to less than requested because the estimated indoor water use is not consistent with the DOH Water System Design Manual which recommends a minimum of 200 gpd for indoor use. If DOH requires greater than the 150 gpd per connection as proposed, the permittee may choose to reduce the number of connections and/or acres of irrigation to accommodate a greater minimum daily demand.

This permit shall be subject to cancellation should the permittee fail to comply with the above development schedule and/or to give notice to the Department of Ecology on forms provided by that Department documenting such compliance.

Given under my hand the seal of this office at Yakima, Washington, this 9th *day of* AUGUST *2011.*

Ted Sturdevant, Director
Department of Ecology

by _____
Robert F. Barwin, Acting Section Manager
Water Resources Program/CRO

DATA REVIEW
OK MMD

If you need this publication in an alternate format, please call Water Resources Program at 509 575 2490.
Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Attachment 1

Encompass
ENGINEERING & SURVEYING

EXHIBIT A

LEGAL DESCRIPTION
CLE ELUM CITY HEIGHTS ANNEXATION

LOT 15 OF THAT CERTAIN SURVEY RECORDED IN BOOK 28 OF SURVEYS AT PAGES 177 AND 178, UNDER AUDITOR'S FILE NUMBER 200302030013; LOTS A-1, A-2 AND A-3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 222 AND 223, UNDER AUDITOR'S FILE NUMBER 200706060020; LOTS B-1 AND B-2 OF THAT CERTAIN SURVEY RECORDED IN BOOK H OF SHORT PLATS AT PAGES 187 AND 188, UNDER AUDITOR'S FILE NUMBER 200601260040; A PORTION OF LOT 11-C OF THAT CERTAIN SURVEY RECORDED IN BOOK 31 OF SURVEYS AT PAGES 136 AND 137, UNDER AUDITOR'S FILE NUMBER 200507280018; LOTS C-1, C-2 AND C-3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 206 AND 207, UNDER AUDITOR'S FILE NUMBER 200704060001, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 15 OF SAID SURVEY WHICH IS THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 70°33'50" EAST, 265.95 FEET; THENCE NORTH 88°25'37" EAST, 39.10 FEET; THENCE NORTH 88°25'37" EAST, 480.20 FEET; THENCE NORTH 39°30'18" WEST, 51.97 FEET; THENCE SOUTH 88°42'02" EAST, 55.45 FEET; THENCE CONTINUING ALONG SAID BEARING, 2123.80 FEET; THENCE SOUTH 88°38'40" EAST, 2650.73 FEET; THENCE SOUTH 89°27'57" EAST, 1696.72 FEET; THENCE CONTINUING ALONG SAID BEARING, 960.22 FEET; THENCE SOUTH 88°38'56" EAST, 72.95 FEET; THENCE SOUTH 01°21'04" WEST, 29.66 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00 FEET (RADIUS BEARING SOUTH 01°21'04" WEST), A LENGTH OF 159.34 FEET, THROUGH A CENTRAL ANGLE OF 91°17'39"; THENCE SOUTH 00°03'25" WEST, 147.26 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00 FEET (RADIUS BEARING SOUTH 89°56'35" EAST), A LENGTH OF 107.54 FEET, THROUGH A CENTRAL ANGLE OF 61°36'54"; THENCE SOUTH 61°33'29" EAST, 283.39 FEET; THENCE SOUTH 38°45'20" EAST, 804.11 FEET; THENCE SOUTH 73°18'17" EAST, 569.17 FEET; THENCE SOUTH 00°25'27" WEST, 40.64 FEET; THENCE SOUTH 00°25'27" WEST, 23.23 FEET; THENCE SOUTH 73°18'17" EAST, 788.37 FEET; THENCE NORTH 00°47'37" EAST, 497.30 FEET; THENCE SOUTH 89°26'24" EAST, 2214.93 FEET; THENCE SOUTH 31°14'36" EAST, 810.33 FEET; THENCE SOUTH 56°56'11" WEST, 74.55 FEET TO THE POINT OF CURVATURE OF THE LEFT HAVING A RADIUS OF 99.05 FEET (RADIUS BEARING SOUTH 33°03'49" EAST), A LENGTH OF 159.14 FEET, THROUGH A CENTRAL ANGLE OF 92°03'42"; THENCE NORTH 86°48'10" WEST, 660.31 FEET; THENCE SOUTH 00°37'10" WEST, 530.06 FEET; THENCE NORTH 57°56'11" WEST, 196.85 FEET; THENCE NORTH 50°06'55" WEST, 161.08 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 50.42 FEET (RADIUS BEARING SOUTH 39°53'85" WEST), A LENGTH OF 102.10 FEET, THROUGH A CENTRAL ANGLE OF 116°01'38"; THENCE SOUTH 13°51'27" WEST, 186.64 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 74.00 FEET (RADIUS BEARING NORTH 76°08'33" WEST), A LENGTH OF 89.26 FEET, THROUGH A CENTRAL ANGLE

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OF 69°06'54"; THENCE SOUTH 82°58'21" WEST, 326.41 FEET; THENCE SOUTH 78°10'46" WEST, 228.39 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 108.93 FEET (RADIUS BEARING SOUTH 11°49'14" EAST), A LENGTH OF 102.18 FEET, THROUGH A CENTRAL ANGLE OF 53°44'43"; THENCE NORTH 89°12'00" WEST, 236.35 FEET; THENCE NORTH 89°01'06" WEST, 835.04 FEET; THENCE NORTH 00°58'54" EAST, 659.24 FEET; THENCE NORTH 89°01'06" WEST, 859.49 FEET; THENCE SOUTH 01°37'14" WEST, 280.25 FEET; THENCE NORTH 89°01'44" WEST, 153.66 FEET; THENCE SOUTH 00°58'16" WEST, 139.48 FEET; THENCE NORTH 89°01'08" WEST, 274.97 FEET; THENCE SOUTH 00°58'52" WEST, 160.00 FEET; THENCE NORTH 86°50'06" WEST, 446.37 FEET; THENCE SOUTH 02°50'31" WEST, 96.55 FEET; THENCE NORTH 89°01'06' WEST, 49.72 FEET; THENCE NORTH 00°03'25" EAST, 1314.63 FEET; THENCE NORTH 89°27'57" WEST, 217.05 FEET; THENCE SOUTH 01°37'14" WEST, 14.17 FEET; THENCE NORTH 89°27'57" WEST, 2432.25 FEET; THENCE NORTH 00°15'29" WEST, 24.09 FEET; THENCE NORTH 88°50'40" WEST, 206.96; THENCE NORTH 14°27'03" EAST, 590.45 FEET; THENCE NORTH 88°45'34" WEST, 399.57 FEET; THENCE SOUTH 01°14'26" WEST, 575.22 FEET; THENCE NORTH 88°50'40" WEST, 1046.44 FEET; THENCE NORTH 12°05'29" WEST, 205.47 FEET; THENCE NORTH 88°50'41" WEST, 738.92 FEET; THENCE SOUTH 01°09'19" WEST, 83.72 FEET; THENCE NORTH 79°42'25" WEST, 369.15 FEET; THENCE NORTH 79°42'25" WEST, 280.72 FEET; THENCE NORTH 53°22'30" WEST, 340.47 FEET; THENCE NORTH 78°56'35" WEST, 275.86 FEET; THENCE NORTH 60°34'20" WEST, 240.49 FEET; THENCE NORTH 48°41'30" WEST, 185.31 FEET; THENCE NORTH 16°51'48" WEST, 233.52 FEET; THENCE NORTH 88°41'57" WEST, 70.91 FEET; THENCE SOUTH 00°30'48" WEST, 464.30 FEET; THENCE NORTH 75°41'50" WEST, 611.82 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 1860.08 FEET (RADIUS BEARING NORTH 14°18'10" EAST), A LENGTH OF 779.04 FEET, THROUGH A CENTRAL ANGLE OF 23°59'48"; THENCE NORTH 51°42'02" WEST, 28.75 FEET; THENCE NORTH 51°42'28" WEST, 365.15 FEET TO THE TRUE POINT OF BEGINNING AND TERMINUS OF SAID LINE.

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CONTAINING 330.36 ACRES MORE OR LESS

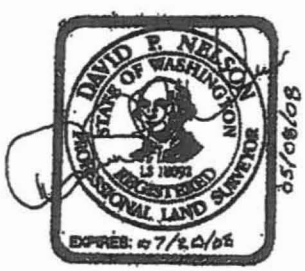
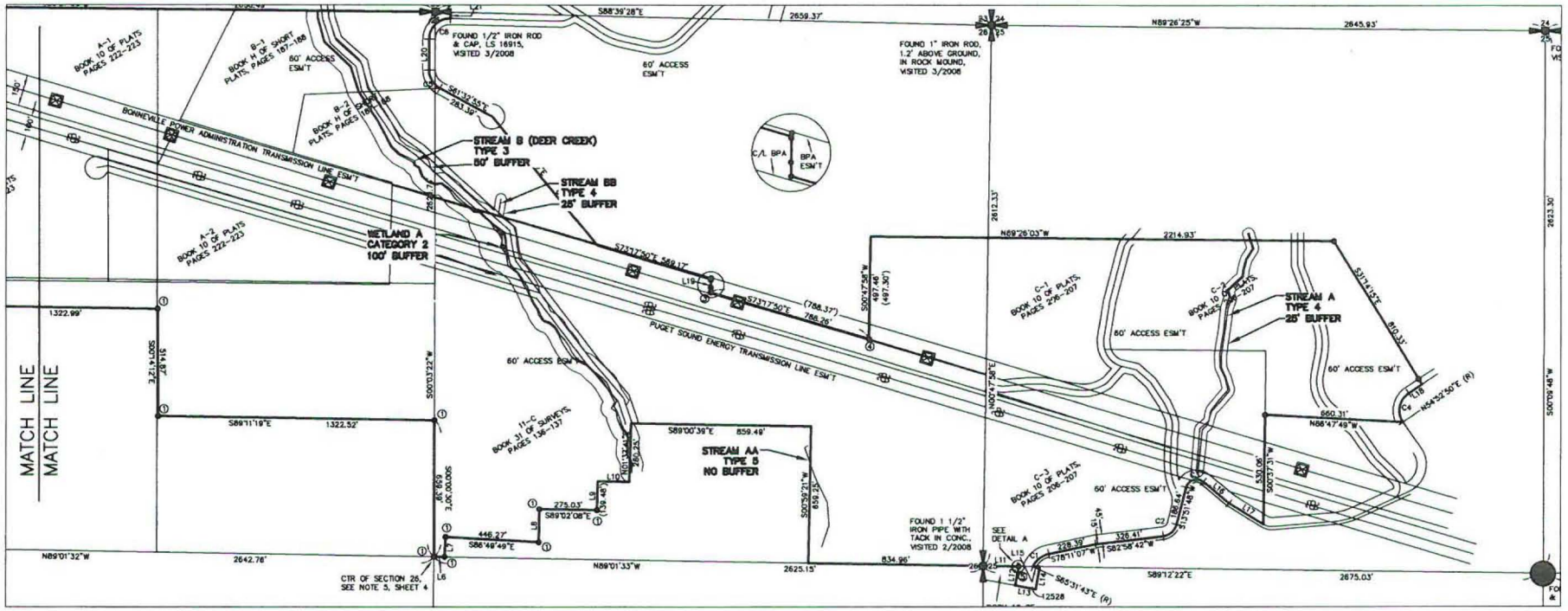


EXHIBIT 5

p 1 of 2



NOTE: BASE MAP PROVIDED BY ENCOMPASS ENGINEERING AND SURVEYING.

GRAPHIC SCALE

500' 0 250' 500'

(IN FEET)
1 inch = 500 ft.

N

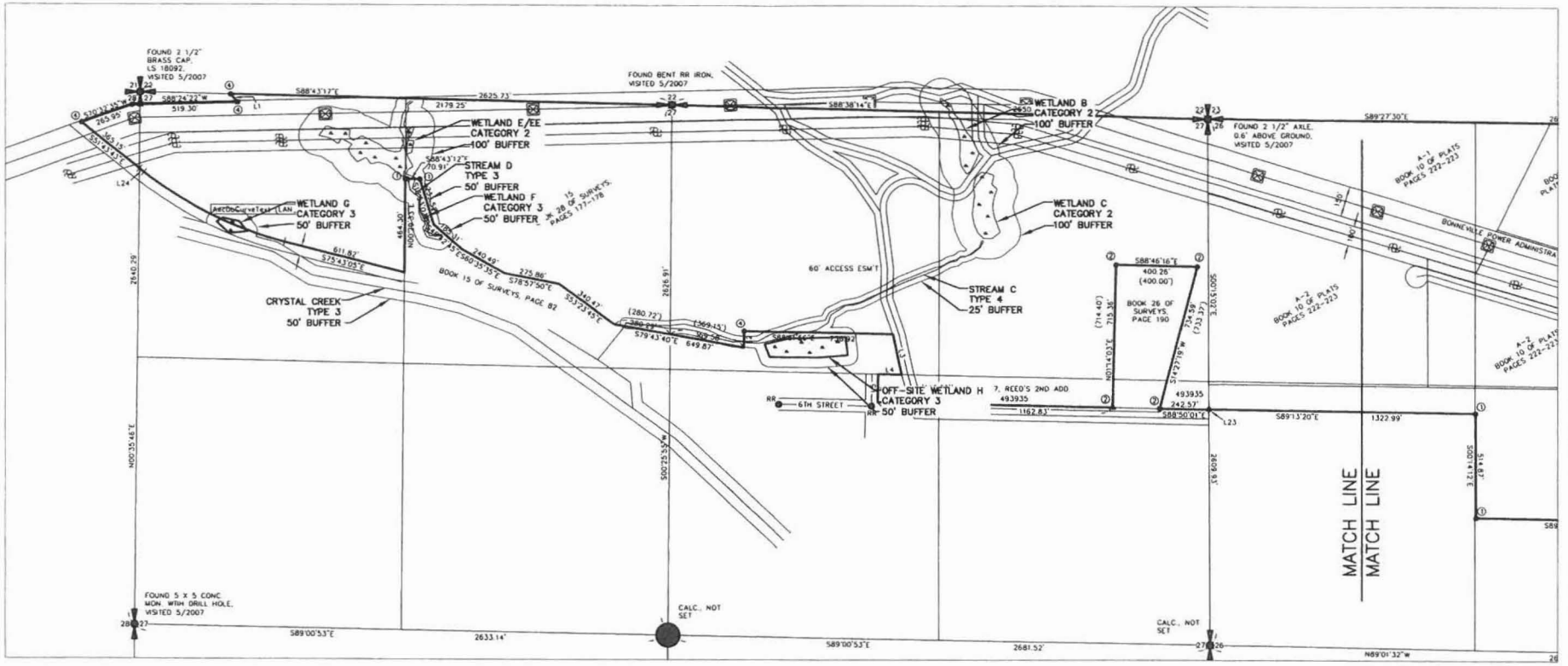
Figure 3.4 - 1
City Heights Property
Streams and Wetlands Delineation Map:
East End

JOB# A9-121 DATE: OCT 2009

DRAWN BY: AW SCALE: 1"=500'

REVISED: DESIGNER: ES

Sewall Wetland Consulting, Inc.
Ecological Services
27614 Covington Way SE#2
Covington, WA 98042
253-859-0515 Fax 253-852-4732



NOTE: BASE MAP PROVIDED BY ENCOMPASS ENGINEERING AND SURVEYING.

GRAPHIC SCALE

500' 0 250' 500'

(IN FEET)
1 inch = 500 ft.

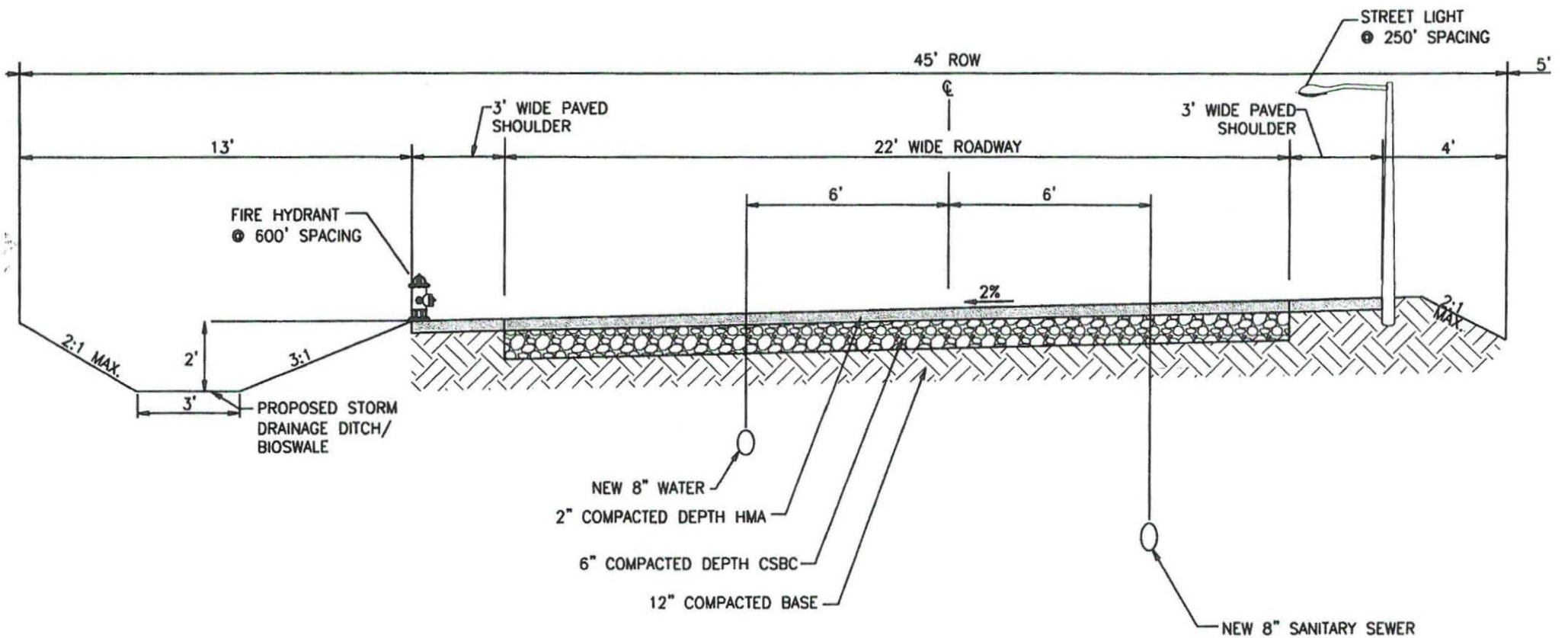
N

Figure 6
City Heights Property
Streams and Wetlands Delineation Map: West End

JOB# A9-121 DATE: OCT 2009
DRAWN BY: AW SCALE: 1"=500'
REVISED: DESIGNER: ES

Sewall Wetland Consulting, Inc.
Ecological Services
27614 Covington Way SE#2
Covington, WA 98042
253-859-0515 Fax 253-852-4732

EXHIBIT 6
P 1 of 2

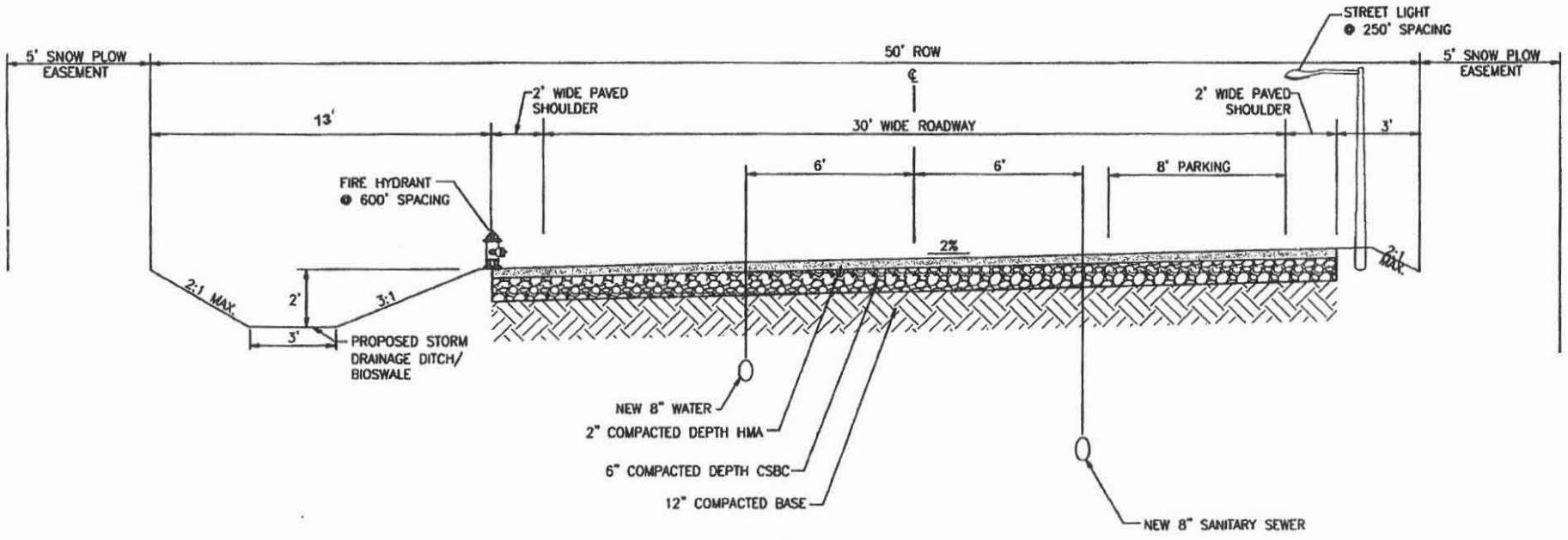


TYPICAL 45' ROW ROAD CROSS SECTION
COLLECTOR ROAD

NOT TO SCALE

EXHIBIT 6

p 2 of 2

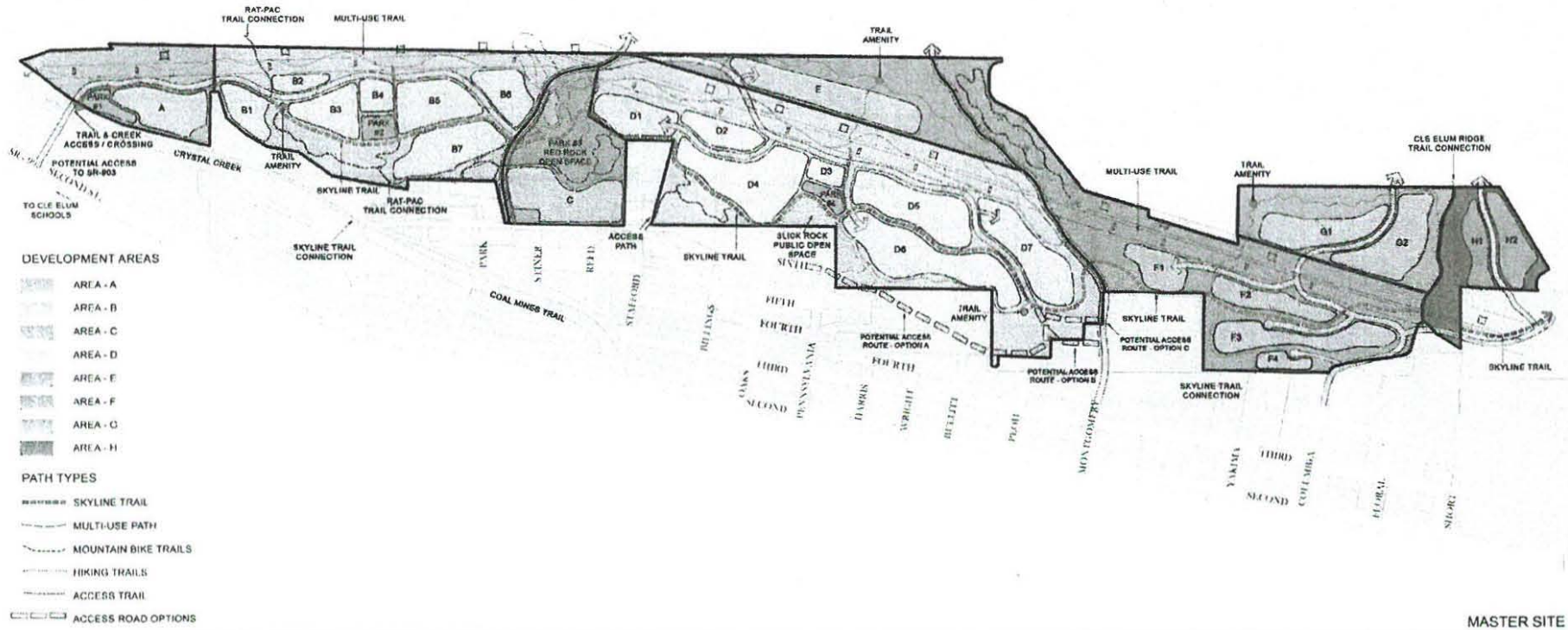


TYPICAL 50' ROW ROAD CROSS SECTION
INTERNAL ROAD (W/ PARKING ON ONE SIDE)

NOT TO SCALE

File:P:\14000s\14953\exhibit\50 ROW CROSS SECTION.dwg Date/Time:10/12/2011 4:50 PM Scale:1:1 MYORK Xref: ----

EXHIBIT 7



MASTER SITE PLAN

GCH planning and landscape architecture

CITY HEIGHTS
CLE ELUM, WASHINGTON