

ORDINANCE NO. 93-2

AN ORDINANCE TO CREATE A NEW CHAPTER 17 OF THE HUDSON MUNICIPAL CODE RELATING TO SUBDIVISION REGULATION.

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. A new Chapter 17 of the Hudson Municipal Code is hereby adopted to provide as follows:

ARTICLE I ENACTING CLAUSES

Section 17-1. Intent:

The regulations are designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of Hudson, Colorado.

Section 17-2. Authority:

The Subdivision Regulations are authorized by Colo. Rev. Stat. ' 31-23-214 (1986 Repl. Vol.), as amended, and are hereby declared to be in accordance with all provisions of these statutes.

Section 17-3. Acceptance of a Subdivision:

No Preliminary Plan or Final Plat of a subdivision shall be recommended for approval by the Planning Commission or approved by the Board of Trustees unless it conforms to the provisions of this Ordinance.

Section 17-4. Control Over Platting:

1. All plans, plats and replats of land laid out in a subdivision or building lots, and the streets, highways, alleys, or other portions of the same intended to be dedicated to a public use shall be submitted to the Board of Trustees for approval before they are recorded. Acceptance of said proposed dedication to the public shall be given by action of the Board of Trustees following recommendation by the Planning Commission and shall be transferred by separate legal instrument which grants the title to the property so designated to the Board of Trustees for Hudson, Colorado.

2.Public Improvements and Maintenance - The Town of Hudson shall not be responsible for the improvement or maintenance of any rights-of-way which have not been dedicated to the Town and accepted for maintenance purposes by the Board of Trustees.

3.Building Permits - No building or structure shall be erected, nor shall a building permit be issued within a subdivision before the Final Plat thereof shall have been approved by the Board of Trustees and recorded with the County Clerk and Recorder.

Section 17-5. Establishing Fee Schedule:

The Board of Trustees shall establish and adopt a schedule of fees to be paid by the subdivider to defray the expenses of the Town in reviews and hearing proposals requiring their approval and for public improvements and dedications contained therein. The Board of Trustees reserves the right to change any fee structure after notice by publication in a newspaper of general circulation.

Section 17-6. Jurisdiction:

The regulations shall apply to the subdivision of all lands located within the legal boundaries of the Town and such other areas as may be permitted by Colo. Rev. Stat. ' 31-23-212 (1986 Repl. Vol.).

Section 17-7. Enforcement:

Oversight of compliance with these Regulations shall be the responsibility of the Planning Commission, or their designee, and the Building Inspector. Whenever the Planning Commission, their designee, or Building Inspector has personal knowledge of any violation hereof, he shall give written notice to the violator to correct such violation within thirty (30) days after the date of such notice. The Planning Commission shall then forward the file to the Town Attorney for further action. Any action brought to remedy or prosecute a violation shall be brought in the name of the Board of Trustees of Hudson, Colorado, or the People of the State of Colorado. The Board of Trustees may authorize the Building Inspector to withhold the issuance of building permits or certificates of occupancy if a violation is found to exist.

Section 17-8. Waivers:

The Board of Trustees may authorize waivers and/or modifications from these regulations. Waiver and/or modifications may be granted for the purpose of encouraging flexibility and variety in land development or where an unnecessary hardship would be placed on the applicant. The Board of Trustees will not look

favorably on waiver or modification requests for self-inflicted hardships. Such waiver or modification may be granted if it is deemed by the Board of Trustees to be in the public interest and does not impair the intent and purpose of this Ordinance. The conditions of any waiver or modification authorized shall be stated in writing by the Board of Trustees with the jurisdictions set forth.

Section 17-9. Penalties:

Any person, firm, or corporation who, with respect to any land located within a subdivision, transfers or agrees to sell or negotiates to sell any land by references to or exhibition of or by use of a plat of a subdivision before such plat has been approved by the Board of Trustees and recorded or filed in the office of the County Clerk, shall forfeit and pay a penalty not to exceed one hundred dollars (\$100.00) for each lot or parcel so transferred or sold or agreed or negotiated to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this Ordinance. The Board of Trustees may enjoin such transfer or sale or agreement by action for injunction brought in any court of competent jurisdiction or may recover the said penalty by civil action in any court of competent jurisdiction. These remedies shall be additional and cumulative to any remedies provided by the Colorado Revised Statutes.

Section 17-10. Interpretation:

In the interpretation and application of the provisions of this Ordinance, the following regulations shall govern:

1. Provisions are minimum requirements: In their interpretation and application, the provisions of these regulations shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare of the residents of Hudson, Colorado. These regulations shall therefore be regarded as remedial and shall be liberally construed to further their underlying purposes.
2. Application of overlapping regulations: Whenever both a provision of this Ordinance, and any other provision of this Ordinance or any provision of any law, ordinance, resolution, rule, or regulation of any kind, contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern,

except those regulations covered within approved Development Guides for approved Planned Developments which shall prevail in all cases.

3. Existing permits and private agreements: This Ordinance shall not abrogate or annul:
 - a. Any permits issued before the effective date of this Ordinance.
 - b. Any easement or covenant.
 - c. Any previously approved subdivisions.

Section 9-11. Amendment:

The Board of Trustees, upon its own motion or following the recommendation(s) of the Planning Commission, may consider revisions and/or amendments to this Ordinance after giving adequate public notice of any such proposed revision or amendment and after holding a public hearing thereon.

Section 17-12. Severability:

It is hereby declared to be the legislative intent that the several provisions of these regulations shall be severable, in accordance with the provisions set forth below:

1. If any provision is declared invalid: If any provision of these regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
 - a. The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
 - b. Such decision shall not affect, impair or nullify these regulations as a whole or any other part thereof, but the rest of these regulations shall continue in full force and effect.
2. If the application of any provision is declared invalid: If the application of any provision of this Ordinance to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
 - a. The effect of such decision shall be limited to that tract of land immediately involved in the

controversy, action or proceeding in which judgment or decree of invalidity was rendered; and

b. Such decision shall not affect, impair or nullify these regulations as a whole or the application of any provision thereof, to any other tract of land.

**ARTICLE II
GENERAL SUBDIVISION REQUIREMENTS
AND RESPONSIBILITIES**

Section 17-13. Intent:

The purpose of the subdivision requirements listed on the following pages is to provide Hudson with sufficient information to review and make determinations on intended land uses within the Town.

Section 17-14. General Requirements:

1. Narrative: A general narrative report shall be required to either explain pertinent information and/or to elaborate on information shown on any submitted plans.
2. Disclosure letter: Any application for subdivision shall present as part of its application a written statement, signed by the title holder and acknowledged before a notary public, stating the name in which title to said land is held, the address of the title holder, and the names of those persons authorized to act on behalf of the titleholder and the applicant. The applicant shall in addition provide a current written title commitment verifying the state of the title.
3. Representation by applicant: The applicant or his authorized representative shall attend all Planning Commission Board of Adjustment (when applicable) and Board of Trustees meetings at which the proposal or request is considered, discussed, and acted upon. If the applicant or the authorized representative is not present, the proposal or request shall be tabled and a new hearing date scheduled.

**ARTICLE III
DEFINITIONS FOR SUBDIVISIONS**

Section 17-15. Intent:

As used in this Ordinance, the following words shall be interpreted and defined in accordance with the provisions set forth in this Ordinance:

1. Rules of construction of language:

- a. The particular controls the general;
- b. In case of any difference of meaning or implication between the text of this Ordinance and the captions for each section, the text shall control;
- c. The word "shall" is always mandatory and the word "may" is permissive;
- d. Words used in the present tense include the future, unless the context clearly indicates the contrary;
- e. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

2. Applicant: Any owner of a right or title in real property in the Town who formally requests action on a land use proposal submitted in accordance with applicable regulations.

3. Authorized representative: Any individual, partnership, or corporation given written authorization by an applicant to process a proposal through the Town.

4. Dedicated land: Land area transferred to the Town by deed or other legal method approved by the Town Attorney. Land so transferred shall be utilized for public or community purposes, as approved by the Board of Trustees.

5. Disposition: A contract of sale resulting in the transfer of equitable title to an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or, any other conveyance of an interest in subdivided land.

6. Evidence: Any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition.

7. Open space: Any unoccupied, unobstructed space open to the sky except for trees, shrubbery, vegetation or improvements relating to recreation exclusive of buildings or structures.

8. Plat: The maps and supporting materials of a proposed subdivision, prepared in accordance with the requirements of these subdivision regulations, and utilized as an instrument for recording real estate interests with the County Clerk and Recorder.

9. Streets and alleys: The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, place or however otherwise designated.

a. Major arterials are those streets which are used primarily for fast or heavy traffic.

b. Collectors are those streets which carry traffic from local streets to the system or major arterial streets and highways and move traffic to parks, schools and shopping centers serving residential neighborhoods.

c. Local streets are those streets which are used primarily for access to abutting properties.

d. Marginal access streets are local streets which are parallel to and adjacent to expressways or major arterials, and which provide access to abutting properties and protection from through traffic.

The term "alley" means a way which is used primarily for service access to the back or the side of business, commercial, light industrial or general industrial properties otherwise abutting on a street.

10. Subdivision or Subdivided Land: Means any parcel of land which is to be used for condominiums, apartments, or any other multiple-dwellings units, unless such land was previously subdivided and the filing accompanying such subdivision complied with municipal regulations applicable to subdivisions of substantially the same density, or the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

a. Unless the method of disposition is adopted for the purpose of evading this part a., the terms "subdivision" and "subdivided land" as defined in

the first paragraph of this subsection 10, shall not apply to any division of land:

- (1) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;
- (2) Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of Trustees of the Town in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this part a. prior to entry of the court order; and, if the Board does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, then such action may proceed before the court;
- (3) Which is created by a lien, mortgage, deed of trust, or any other security instrument;
- (4) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
- (5) Which creates cemetery lots;
- (6) Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;
- (7) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this subsection 10, as only one interest; and
- (8) Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one interest in said land shall be allowed. If

the resulting parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph (8).

b. The Board of Trustees may, pursuant to rules and regulations or resolution, exempt from this definition of the terms "subdivision" and "subdivided land" any division of land if the Board of Trustees determines that such division is not within the purposes of this Ordinance.

11. Subdivision improvements agreement: Means one or more security agreements which the Town shall accept to secure the actual cost of construction of such public improvements as are required by these subdivision regulations. The "subdivision improvements agreement" may include any one or a combination of the types of security or collateral listed below and the subdivider may substitute security in order to release portions of the subdivision for sale. The types of collateral which may be used as security under the "subdivision improvements agreement" are as follows: performance of property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on property, letters of credit, deposits of certified funds, or other similar surety agreements. Security required under the "subdivision improvements agreement" shall be sufficient in the judgment of the Board of Trustees to make reasonable provision for the completion of said improvements in accordance with design and time specifications.

The amount of security may be incrementally reduced as subdivision improvements are completed. Further, this agreement will include a one-year warranty by the developer of all workmanship and materials utilized in all public improvements.

ARTICLE IV CERTIFICATIONS, DEDICATIONS AND ACKNOWLEDGMENTS

The following information and appropriate signatures shall be provided at the stages indicated on the plans or plats submitted:

Section 17-16. Preliminary Plans:

1. Preparer's statement attesting to the accuracy of the plan and that it properly shows the development proposed. (All plans shall be prepared by qualified persons.)

2. Complete drawing to scale of the property legally described and tied to proper monumentation.

Section 17-17. Final Plat:

1. Complete legal description tied to proper monumentation and section or quarter-section line references.

State of Colorado)
) ss.
County of Weld)

I hereby certify that this Plat was filed in my office on this ____ day of _____, 19____, A.D., at _____ o'clock, a.m./p.m., and was recorded per Reception Number _____.

(Signature)
County Clerk and Recorder

2. Approval of Board of Trustees.

This Plat was approved by the Board of Trustees of Hudson, Colorado, on the _____ day of _____, 19____, A.D., for filing, subject to the conditions set forth by the Board which are recorded in Book _____ at Page _____, Weld County, Colorado.

(Signature)
Mayor of Town of Hudson

**ARTICLE V
PRE-APPLICATION CONFERENCE**

Section 17-18. Intent:

This stage of review is designed to provide the applicant with a means of understanding regulations, policies and procedures prior to any formal submission of a proposal being made and to learn who they have to contact and work with in the process. The Planning Commission will arrange for any joint meetings with other offices, when they are appropriate, so that discussion of a proposal can occur at one time with the applicant rather than having meetings occur at separate times with each person involved.

Section 17-19. Procedure:

1. The applicant should make an appointment with the Planning Commission to discuss the proposal being considered. The Planning Commission Chairman should be provided

with some information to determine whether or not other offices need to be involved in the initial discussion.

2. The Chairman would then arrange for an informal meeting so the applicant can discuss the proposal.
3. The informal meeting would be held with the applicant providing a brief presentation of the proposed land use to those present. The goal is then to have constructive dialogue occur and for the applicant to receive some guidance on the request to be made formally to the Town at a later date.
4. Should the applicant decide to proceed further, formal submission of a Preliminary Plan, based upon the recommendation(s) of the Planning Commission, Town regulations and the applicant's desires should then occur.

**ARTICLE VI
PRELIMINARY PLAN**

Section 17-20. Intent:

1. After the applicant has reached initial conclusions concerning the feasibility and design of his proposed subdivision, a Preliminary Plan and required supplemental data shall be prepared for formal presentation and review by the Planning Commission and action by the Board of Trustees.
2. The purpose of this preliminary review is to check the proposed subdivision against the technical requirements, design standards, and improvement requirements of the Town to be sure the conditions imposed can be met. Additionally, the Planning Commission and Board of Trustees shall review the proposal for site planning characteristics and compatibility with adjoining land uses. The detailed review at this stage will help determine if the plan complies with zoning requirements, circulation patterns, desired open space, and other applicable plans, standards and regulations.
3. Approval of the Preliminary Plan by the Board of Trustees is valid for only one (1) year. An extension may be granted by the Board for valid reasons expressed in writing by the applicant prior to expiration of the initial Preliminary Plan approval.

Section 17-21. The Preliminary Plan Shall be Processed as Follows:

1. The applicant shall submit three (3) copies of the Preliminary Plan and required submittal materials to the Planning Commission for review in addition to a completed application form, submittal fee (to the Town Clerk) and a disclosure letter. Additionally, required information and plans for review by referral agencies shall be provided to the Planning Commission in unsealed manila envelopes properly folded, compiled, addressed and stamped.
2. After general review, if the plan and required information is determined by the Planning Commission to be in acceptable form for further processing, it shall be scheduled for hearing within thirty (30) days before the Planning Commission. The applicant shall be notified by registered mail of the time and place of said hearing at least seven (7) days prior to such hearing. The applicant shall provide for distribution a sufficient number of plans and related supplemental information for the following referral agencies for their review and comment:
 - a. School District serving the area;
 - b. Any appropriate utility, local improvement and service district, or ditch company;
 - c. Appropriate fire protection entity;
 - d. Colorado State Highway Department;
 - e. Weld County Highway Department;
 - f. Building Inspection Department;
 - g. Appropriate Sanitation Department;
 - h. Appropriate Division of Water Resources for an opinion regarding material injury to decreed water rights, historic use of and estimated water yield to supply the proposed development, and conditions associated with said water supply evidence. The Division shall consider the cumulative effect of on-lot wells on water rights and existing units;
 - i. Mineral rights owners, when different than the applicant, contacted by certified mail by the applicant;

j. And other agencies or affected parties as may be required or determined necessary by the Planning Commission.

3. The agencies named in this Section shall make recommendations within twenty-five (25) days after the mailing of such plans unless a necessary extension of not more than thirty (30) days has been consented to by the developer and the Board of Trustees. The failure of any of these agencies to respond within twenty-five (25) days or within the period of an extension shall for the purpose of the hearing on the plan be deemed an approval of such plan. Where such plan involves twenty (20) or more dwelling units, the School District shall be required to submit within said time specific recommendations with respect to the adequacy of school sites serving the proposed development and area.

The Planning Commission shall inform the applicant of referral responses prior to the applicable hearing. The applicant shall respond to the referral comments at the public hearing at which the proposal is scheduled.

Within two (2) weeks after the public hearing the Planning Commission shall evaluate the responses from the referral agencies and the application presented for their review and shall recommend to the Board of Trustees approval of the proposal, approval with conditions, denial of the request, or may table comment until the next available meeting when additional information is needed and requested by the Planning Commission. Recommendations for approval will be based on the evidence presented and the appropriate standards, regulations, policies and other guidelines of the Town.

The Board of Trustees shall, unless it is deemed advisable to hold another public hearing, act upon the Preliminary Plan at a regularly scheduled public meeting of the Board within two (2) weeks after receipt of the Planning Commission recommendations. Should the Board deem it advisable to hold another public hearing on said plan, such hearing shall be held no later than three (3) weeks after receipt of the Planning Commission's recommendations and final action on said plan by the Board shall be at the next regularly scheduled public meeting of the Board of Trustees.

Section 17-22. The Preliminary Plan Shall be Prepared as Follows:

1. The Preliminary Plan:

a.The drawing shall be made at a scale of 1" = 100', 1" = 200', or another scale approved by the Planning Commission which shows the entire proposal clearly. Three (3) full scale paper copies of the Preliminary Plan, whether on single or multiple sheets, shall be provided to the Planning Commission for review. Additional paper copies may be requested for referral agencies. The outside dimensions of the sheets utilized shall be twenty-four inches (24") by thirty-six inches (36").

b.The plan shall be prepared by qualified professionals.

2.The Preliminary Plan shall be accompanied by the following:

a.Completed application form;

b.Appropriate fee;

c.Disclosure letter;

d.A written narrative concerning the proposed project describing its general impacts on the adjoining and surrounding land uses and specifically:

(1)Estimated number of gallons per day of sewage to be treated;

(2)Estimated number of gallons per day of water requirements;

(3)Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed. Such evidence may include, but shall not be limited to:

(a)Evidence of ownership or rights of acquisition or use of existing and proposed water rights;

(b)Historic use and estimated yield of claimed water rights;

(c)Amenability of existing rights to a change in use;

- (d) Evidence that public or private water owners can and will supply water to the proposed subdivision, stating the amount of water available for use within the subdivision and the feasibility of extending service to that area;
 - (e) Evidence concerning the potability of the proposed water supply for the proposed subdivision;
 - (f) An evaluation of the potential for material injury to existing vested water rights as a result of the use of groundwater in the proposed subdivision. If domestic wells are proposed for supply, their cumulative effect shall be considered;
 - (g) In cases where tributary ground water or surface water is proposed for a water supply, the developer must present a plan of augmentation or plan of exchange whereby material damage caused by the wells to existing vested water rights is prevented.
- (4) From the County Assessor's Office, records, a list of current property owners of record and their complete mailing addresses within five hundred feet (500') of the property being considered for development. The distance may be extended by the Planning Commission when the proposed site is within a larger parcel of land not part of the request being made;
 - (5) A list indicating both the surface and mineral owners of record for the affected property; when not held by the applicant, the name(s) and complete addresses of the parties shall be provided;
 - (6) A preliminary development schedule for required improvements;
 - (7) A preliminary phasing plan when the proposal is being developed in more than one phase;
 - (8) Total number of proposed dwelling units and breakdown by type;

(9)Lands to be retained in open space or other uses including dedicated land, the purpose for which it is to be used and how it is to be maintained;

(10)Zoning of land and of property adjacent to the parcel or tract proposed for development; land uses on and adjacent to the proposed development shall also be shown;

(11)Such reasonable additional information as may be needed and requested by the Planning Commission in order to better understand the proposed development or elements of it, zoning of the site, average lot size, proposed density, and all public and private sources of utilities.

Section 17-23.The Preliminary Plan Submittal Shall Contain:

- 1.All the acreage involved in the proposed development with areas not part of the request being noted as exceptions;
- 2.Proposed name of the subdivision, filing number, if applicable, and labeled Preliminary Plan;
- 3.Location map showing the relationship of the proposed plan to the surrounding area;
- 4.Location of the subdivision as a part of a larger subdivision or tract of land with reference to permanent survey monument(s) with a tie to a section corner or a quarter-section corner; a legal description of the proposed site shall be placed on the plan;
- 5.Name(s) and complete addresses of the applicant/developer and architect/engineer or surveyor who prepared the plan and related information;
- 6.Total acreage of the subdivision;
- 7.Location and principal dimensions for all existing and proposed streets, alleys, easements, water courses and other significant features within and adjacent to the proposed development. When the names of the streets and alleys are known they shall be provided, as well as the use and ownership of easements and watercourses impacting the site;
- 8.Areas to be dedicated and/or deeded to Town for public use;

9. Date of preparation, scale, and North sign (designated as true North);
10. Topography at one foot (1') intervals, or with approval of the Planning Commission, different intervals which will adequately reflect the specific site conditions may be allowed;
11. Shall note geologic characteristics on the site and their impact on/by the proposed development, including existing or potential geologic hazards;
12. Delineation of 100-year flood plain(s) stating quantities, methods, and areas subject to flooding or in a natural drainage;
13. Site data in chart form giving the number of residential lots, net size of average lot, minimum lot size, areas of land proposed for each, and types of land use;
14. Proposed sites, if any, for multiple-family residential use, business areas, industrial areas, churches, and other non-public uses exclusive of one-family residential areas shall be labeled appropriately and indicate net acreage of the sites;
15. Preliminary drainage plans in accordance with this Ordinance and preliminary road profile, cross-sections and specifications for all public improvements;
16. Delineation of all existing buildings and structures, easements and major drainage courses within one hundred feet (100') of the subject property;
17. Provision for certification in accordance with this Ordinance.

**ARTICLE VIII
FINAL PLAT**

Section 17-24. Intent:

1. This is the last stage of review and action on a proposed subdivision of land in the Town prior to appropriate recordation of the plan.
2. The purpose of this review is to see that the plan of development is in keeping with the previous approvals given, recommendations and alternative considerations

recognized and the legal documentation accurately provided for action and signature.

Section 17-25. The Final Plat Shall be Processed as Follows:

1. Not more than twelve (12) months after the date of Preliminary Plan approval, unless an extension has been granted, the Final Plat application, three (3) paper copies of the Final Plat, required fee(s), and other required materials shall be submitted to the Planning Commission for review and processing.

Failure to submit the Final Plat and required materials within this time period shall automatically invalidate Town approval of the Preliminary Plan. Extensions of time up to an additional twelve (12) months may be requested in writing by the applicant to the Board of Trustees. Such request and Board action will be made part of the applicant's file.

In the event an extension is granted, the Town may require increased security for performance under an applicable subdivision agreement performance bond or letter of credit for increased cost of materials and labor.

2. Final Plats may be phased in accordance with a general phasing plan suggested by the applicant and approved by the Board of Trustees. Phasing of the Final Plat for a proposed development will not jeopardize preliminary approval of later phases of the development, unless the actual work being done on the site is not in accord with the approved plans, reviewed yearly by the Planning Commission.
3. The completed Final Plat original and sufficient copies shall be provided to the Planning Commission.
4. Final Plats which have not complied with the requirements of this Ordinance shall not be recommended for approval. Road bond and other agreements must be approved prior to or at the same time as the hearing.
5. Not more than one (1) week after approval of the subdivision road bond and any other necessary document approvals, and after having received the appropriate recordation fee from the applicant, the Town shall record the Final Plat in the Office of the County Clerk and Recorder.

Section 17-26. The Final Plat Shall be Prepared as Follows:

- 1.The design shall reasonably conform to the Preliminary Plan as approved. Should the applicant desire to phase final platting rather than Final Plat the entire development, he may do so in accordance with an approved phase plan.
- 2.The drawing shall be done at a scale of 1" = 100' or another scale approved by the Planning Commission which clearly shows the entire proposal. Multiple sheets may be utilized with a cover sheet referencing and indexing all required graphic information. All drawings shall be accurate and legible. Plats found unacceptable shall be returned to the applicant.

Section 17-27.The Final Plat Shall Contain the Following Information:

- 1.Title, scale, North arrow, and preparation date;
- 2.Legal description of the proposed development, together with a complete reference to the book and page of records with the County;
- 3.Primary control points, or descriptions, and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
- 4.Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;
- 5.Name and right-of-way width of each street or other right-of-way, even if for private maintenance and responsibility;
- 6.Location, dimensions, purpose, and the owner/holder of any easements;
- 7.Number to identify each lot or site, each as lot and block numbers;
- 8.Purpose for which sites, other than residential lots, are dedicated or reserved;
- 9.Location and description of monuments;
- 10.Certification of title showing the applicant is the land owner or option-holder;

11. Statement by owner dedicating streets, rights-of-way and any sites for public use; transfer to the Town of dedicated land shall be by appropriate legal instrument prior to or concurrent with Final Plat review by the Board of Trustees and prior to recordation of the Final Plat.
12. Certification for approval of the Board of Trustees;
13. Certification by the project surveyor certifying to the accuracy of the survey and plat;
14. Location or vicinity map to scale;
15. Statement by a title insurance company, title attorney, or attorney-of-law able to attest to the accuracy and validity of the title to the property being platted;
16. Certification for the Weld County Clerk and Recorder;
17. Individual lot acreage calculated to two decimal places may be provided on a separate sheet for recordation;
18. Designation of lots where special studies are required prior to obtaining a building or driveway permit. Areas of slope greater than or equal to twenty percent (20%) should be delineated on the affected lots;
19. Delineation of any 100-year flood plains for affected property within the subdivision;
20. General plat notes as required and deemed necessary by the Board of Trustees.

Section 17-28. The Final Plat Shall be Accompanied by the Following:

1. Two copies of the profiles of all streets to be dedicated to the Town;
2. A subdivision improvement agreement.

Section 17-29. Guarantee of Public Improvements.

No Final Plat shall be approved or recorded until the applicant has submitted, and the Board of Trustees has reviewed and accepted, one or a combination of the following:

1. Subdivision Agreement in the form attached hereto as **Exhibit A** for development without phases and in the

form attached hereto as **Exhibit B** for development by phases, agreeing to construct any required public improvement shown in the Final Plat documents together with:

- a. Collateral which is sufficient, in the judgment of said board, to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or
- b. Other agreements or contracts which, in the judgment of said council, will make reasonable provision for the completion of said improvements in accordance with the design and time specifications.

2. As improvements are completed, the subdivider may apply to the Board of Trustees for a release of part or all of the collateral deposited with said Board. Upon inspection and approval, the Board may release said collateral. If the Board determines that any of such improvements are not constructed in substantial compliance with specifications, it shall furnish the applicant a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of Trustees determines that the applicant will not construct any or all of the improvements in accordance with all of the specifications, upon thirty (30) days written notice to the subdivider, the Board of Trustees may withdraw and employ from the deposit of collateral twice the amount of funds as may be necessary to construct the improvement or improvements in accordance with the specifications.

3. A one-year warranty period by the applicant shall be required on all phases of public improvements.

Section 17-30. Process of Review.

1. The plat and required information will be reviewed by the Planning Commission. When the application is found to be complete, a hearing before the Board of Trustees shall be scheduled at the earliest convenient time.

2. The Board of Trustees shall then review the Final Plat and the recommendations on the proposal. The Board shall consider public improvements to be made, Town dedicated land or cash-in-lieu of land, and shall consider concerns addressed at the preliminary stage of review.

After discussion of the proposal, the Board of Trustees may take any of the following actions:

- a. Approval of the proposed subdivision without conditions.
- b. Conditional approval of the proposed subdivision with the conditions being noted and made part of the motion.
- c. Denial of the request with the reason(s) noted and made part of the motion.
- d. Tabling action until additional information is provided or clarification of proposal is achieved.

ARTICLE IX MINOR DEVELOPMENTS

Section 17-31. Intent:

To allow for flexibility in the subdivision of land for proposed developments which are minor in impact and to adjust the platting process for the scale of the intended development. Projects classified as minor development shall comply with the following standards established by the Board of Trustees.

Section 17-32. Minor Developments:

Any proposed subdivision of land which contains four (4) or fewer lots and which lots all abut a public street and where all minimum requirements of these regulations are met and therefore no variance is required may, at the discretion of the Board, be granted the opportunity to follow the below outlined subdivision submittal and action procedure. Subdivisions meeting these criteria are considered minor in nature and therefore the Preliminary Plan and Final Plat procedures have been combined and simplified in the interest of public convenience. Minor plat procedures shall not be used to plat only a portion of a larger parcel which is owned or controlled by a single owner, partnership or corporation, unless the applicant can show that the area to be platted under minor plat procedures is independent of the remaining property with respect to drainage, utilities and vehicular traffic circulation.

In those instances when the applicant is found to be utilizing the minor development allowance to circumvent the regular process of review, the applicant shall be required to comply with the regular process of review and provide all related submittal requirements. The creation of more than one minor development adjoining another may require compliance with the

standards of the regular subdivision process or additional studies or regulations.

Section 17-33. Required Submittal Information for Minor Developments:

1. Proof of ownership;
2. Proof of adequate water availability;
3. Proof of adequate sewer availability;
4. Drainage study;
5. Subdivision improvement agreement;
6. Topographic information may be requested of applicant for the site;
7. A Final Plat submitted in accord with Final Plat requirements; signatures need not be provided until after Board action. Signatures shall be provided prior to recordation at the office of the County Clerk and Recorder;
8. If taken with rezoning request, that procedure/process and fee for rezoning is not altered;
9. Dedication of land to Town or cash-in-lieu thereof;
10. Such other information as may be required by the Planning Commission.

Section 17-34. Procedure: (When rezoning is not involved)

1. Informal conference with the Planning Commission to discuss the proposed development, and determination of the materials and/or information needed for submittal;
2. Formal submittal to the Planning Commission including the completed application form, appropriate supplemental information and fee(s);
3. Review of the request by the Planning Commission;
4. The Planning Commission shall make written recommendations to the Board of Trustees within twenty (20) days of formal submission. A copy of such recommendations shall be forwarded to the applicant;
5. Public hearing and action by the Board of Trustees;

6.Filing and/or recordation of any documents with the County Clerk and Recorder's Office.

Section 17-35.

A rezoning request made with this request may lengthen the process in accord with zoning regulations and review by the Planning Commission and Board of Trustees.

**ARTICLE X
MINOR AMENDMENTS AND ADJUSTMENTS
TO RECORDED PLANS OR PLATS**

Section 17-36. Intent:

To provide a refined process of review and reasonable procedure to be followed for those proposals involving minor changes to recorded plats.

Section 17-37. Applicability:

When minor changes are proposed for recorded plats, inclusive of, but not limited to: property splits; divisions; partitions; replats of lots in recorded subdivisions; adjustments of lot lines; configuration of dedicated land, streets, and/or easements; and re-subdivision of land, an applicant shall provide such information as deemed necessary by the Board of Trustees. Such information shall include, but not be limited to:

- 1.Proof of ownership: copy of deed, title policy or other sufficient information;
- 2.Such information as may be requested by the Board of Trustee or the Planning Commission;
- 3.Final Plat/Plan: Submitted in accord with the Final Plat or Final Site Plan requirements of this Ordinance and indication that the plat represents an amendment or an adjustment in a previously recorded plat.

Minor changes shall not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, dedicated land, or encompasses more than twenty-five percent (25%) of the overall site.

Section 17-38. Procedure:

- 1.Informal conference with the Planning Commission to discuss the proposal and determine the materials/information

needed for submittal and the actual process to be followed;

2. Formal submittal to the Planning Commission of a completed application form, appropriate fee, Final Plat, and related supplemental information;
3. Review of the request by the Planning Commission within two (2) weeks of formal submittal;
4. Recommendations to the Board of Trustees by the Planning Commission;
5. Hearing and action to the Board of Trustees by the Planning Commission;
6. Filing and recordation of any documents with the County Clerk and Recorder's Office.

**ARTICLE XI
VACATION OF A PLAT, RIGHT-OF-WAY OR EASEMENT
OF RECORD**

Section 17-39. Conditions:

An applicant may make application to the Board of Trustees to vacate any plat of record, right-of-way, easement, or portion thereof, under the following conditions:

1. The plat, right-of-way, or easement, or portion(s) thereof, to be vacated are of record with the Weld County Clerk and Recorder's Office.
2. Vacation of the plat, right-of-way, easement, or portion(s) thereof will not interfere with development of, nor deny access via a public thoroughfare to existing structures, within the recorded plat, adjoining properties, utility services, or other improvements.
3. Notification of a request to vacate a plat, right-of-way or easement is sent to all affected utility companies and property owners by the applicant.

Section 17-40. Procedure:

1. The applicant shall present the proposal to the Planning Commission inclusive of, but not limited to, the following:
 - a. A completed application;

- b. Full legal description of the property, right-of-way, or easement to be vacated;
 - c. The reason(s) for the request being made;
 - d. Five (5) paper copies of an accurate drawing prepared by a qualified professional showing the affected property, right-of-way, or easement to be vacated;
 - e. Location map;
 - f. Appropriate fee; and
 - g. Such other reasonable information as may be requested to help clarify the request being made.
2. The Planning Commission shall review the application and required supplemental information. Within two (2) weeks of submittal, unless the Planning Commission requests additional information from the applicant, it shall make written recommendations regarding the application to the Board of Trustees and forward a copy of such recommendations to the applicant by certified mail.
3. The Board of Trustees shall schedule a public hearing to consider the application. Such public hearing shall be within thirty (30) days of the receipt by the Board of the Planning Commission's recommendations. The applicant shall cause to be published in a newspaper of general circulation within the Town, at least fifteen (15) days prior to said hearing, notice of the time, date, place and purpose of such hearing to all property owners within five hundred feet (500') of the affected parcel.
4. The Board of Trustees shall either approve, conditionally approve, table for further study, or deny the proposal submitted to them. Their action shall be of public record, indicating the reason(s) for their decision.
5. If approved, the vacated plat, right-of-way, easement, or portion(s) thereof shall be recorded at the applicant's expense with the County Clerk and Recorder's Office.

**ARTICLE XII
DESIGN STANDARDS AND STUDIES**

Section 17-41. Intent:

1.The following standards shall apply to all new subdivisions of land in Hudson, Colorado:

- a.No building permit or driveway permit shall be allowed on properties with twenty percent (20%) or greater slope without the applicant submitting a special engineering feasibility study to the Building Inspection Department and Planning Commission prior to, or at the time of seeking a building permit application. The study shall show the feasibility of the site to be engineered to allow for construction on the site impacted by the excessive slope and what methods are to be utilized.
- b.Land defined by the Weld County Soil Conservation Service to be unstable or having inadequate drainage shall be noted and, unless acceptable provisions are made for elimination or control of any problems which may endanger health, life, or property, should be discouraged from being platted. Such land may be set aside for community use for such open area uses as sites, conservation areas, farm land, recreation sites, or private open space for the residents of the proposed development.
- c.Any land located within a defined, mapped or otherwise designated 100-year flood plain, flood regulatory area, floodway area, flood breach area, flood prone area, or flood storage area, as defined by officially approved flood plain maps and/or studies provided by the U.S. Army Corps of Engineers, Federal Flood Insurance Administration, or other agency or authority whose work is acceptable to the Board of Trustees, shall be subject to all applicable provisions of the Flood Plain Regulations, of the Zoning Ordinance and applicable Federal Flood Insurance Administration regulations.
- d.Any land which is not within a mapped and designated 100-year flood plain and subject to the provisions of these regulations, but which is nevertheless subject to flooding or in a natural drainage channel, shall not be platted for occupancy until adequate provisions to eliminate or control hazards are made and approved. Protection and maintenance of storm water retention areas should be preserved. These provisions shall be made to protect the health, safety and welfare of the

public, as well as to eliminate any flood hazard resulting from the development of the area. Those areas subject to flooding may be left as open space or such other use as allowed by the Zoning Ordinance.

- e. Any significant natural feature of the site which would enhance the proposed development, i.e., unusual rock formations, ponds, water retention areas, lakes, rivers, streams, major stands of trees and other natural features, should be preserved whenever it is practical and realistic to accomplish.

2. Streets:

- a. Streets shall be aligned to join with existing or planned streets as nearly as practical, and to provide future access to adjacent undeveloped land.
- b. Streets shall be designed to bear a logical relationship to the topography of the site and significant natural or manmade features.
- c. All streets proposed for dedication to the Town shall be in conformance with the specifications and criteria adopted by the Town of Hudson.
- d. Intersections shall be as nearly at right angles as possible.
- e. Local roads leading to cul-de-sacs providing access to lots averaging one acre or less in size shall be not more than five hundred feet (500') in length and shall have a turnaround with a street surface diameter of at least one hundred feet (100'), and a right-of-way diameter of at least one hundred thirty feet (130'). Cul-de-sacs providing access to lots averaging more than one acre in size shall be not more than one thousand five hundred feet (1500') in length and shall have a turnaround with a street surface diameter of at least one hundred feet (100') and a right-of-way diameter of at least one hundred thirty feet (130'). Drainage shall be toward the intersecting street, unless a drainage easement is platted along side lot lines to carry surface runoff safely away from the cul-de-sac.

- f. Dead-end streets (not including cul-de-sacs) shall be prohibited unless they are platted to the boundary of the subdivision and are located to provide logical connection to future streets in adjacent undeveloped land. All dead-end streets shall be provided with a temporary turn-around right-of-way easement having a diameter of at least one hundred thirty feet (130'); dead-end streets extending more than five hundred feet (500') from the nearest intersection street shall be provided with a temporary turn-around having a street surface diameter of at least one hundred feet (100'), and a temporary right-of-way easement having a diameter of at least one hundred thirty feet (130').
- g. Adequate access from existing state, federal, or county highways shall be provided by developers to all projects.
- h. Restriction of access shall be required when a proposed subdivision or portion thereof adjoins a major arterial. In these situations, the Town may request one of the following or a combination thereof: lots adjoining the major thoroughfare to have additional depth; a non-vehicular access reservation adjoining the thoroughfare to preclude additional access to the property other than as approved; or a limited access frontage road to serve the proposed development.
- i. When proposed developments adjoin existing streets, the Town may require the developer to dedicate additional rights-of-way and/or improve that section of the street adjoining the development.
- j. Half streets are not acceptable.
- k. Reverse curves on major arterials shall be joined by a tangent at least two hundred fifty feet (250') in length.
- l. Reserve strips or non-vehicular access easements controlling access to streets may be required by the Town and are permitted only when the control of such strips is given to the Town under conditions approved by the Board of Trustees.

3. Road design standards and specifications:

These specifications shall be in effect until such time as they may be superceded by ordinance:

a. (Right-of-way will vary in width to accommodate necessary cuts and fills)

<u>Classification</u>	<u>Right-of-way Width</u>	<u>Surface Width</u>
Major Arterial	100 feet	48 feet divided
Minor/Arterial Collector	80 feet	40 feet
Local Access	60 feet	32 feet
Cul-de-Sac	130 feet dia.	100 feet dia.

b. See the Weld County Highway Department Manual on Design Standards and Specifications for details.

4. Easements:

a. Utility easements shall be required and provided in the manner needed by the appropriate utility company.

b. Easements (for flood plain management purposes and access to drainage easements where designated) shall be perpetual unless modified by the Town and parties affected. Said easements shall not be encroached upon by any permanent structures or modified in any way without Town approval.

5. Lots:

a. Lot dimensions and sizes shall conform to applicable zoning requirements.

b. Each lot shall have adequate access to a public street.

c. No lots shall be divided by municipal boundaries.

d. Delineation of area(s) for potential building sites (building envelopes) shall be required for those lots significantly affected by any designated or known 100-year flood plain, major drainageway or

areas of excessive slope of twenty percent (20%) or greater.

e. Side lot lines shall be substantially at right angles or radial to street right-of-way lines.

6. Public sites, reservations and dedications:

a. Dedication of rights-of-way for public streets, drainage easements, and utility easements shall be required.

b. Dedication of land to the Town shall be in accordance with applicable Town ordinances.

c. Land designated for public streets shall not be included in the percentages of site area for Town dedicated land.

d. The Board of Trustees shall determine the intended use(s) of Town dedicated land.

e. The location and design of areas for dedication shall be mutually agreed upon by the applicant and the Board of Trustees following recommendations from the Planning Commission and other public or semi-public agencies directly involved in the development and service of such areas.

f. Areas proposed for dedication shall be suitable and usable for the purpose(s) or use(s) intended. Factors to be considered in determining such suitability and usability include, but are not limited to, size and location of existing and projected future population to be served, access, slope, drainage, character of terrain, vegetative cover, and size and shape of the area(s).

g. Dedication of such sites to the Town shall be achieved through deed of property concurrent with or at the time of Final Plat review by the Board of Trustees and consummated prior to recordation of the Final Plat. The applicant shall pay for and provide a title insurance policy for all dedicated land prior to the Final Plat review.

7. Water and sanitation:

Sewer and water systems shall all be designed according to applicable standards within that jurisdiction.

8. Erosion and sediment control plan:

a. An erosion and sediment control plan shall be submitted which addresses the existing and potential erosion and sediment problems created by the proposed development and the conservation measures to be utilized to mitigate these problems or concerns.

(1) A performance bond may be required by the Board of Trustees on a case by case basis in order to enforce the approved erosion and sediment control plan.

(2) The Weld County Soil Conservation District may be consulted in order to obtain assistance and guidelines for the development of the erosion and sediment control plan.

9. Drainage and flood hazard study:

a. A drainage and flood hazard study shall be submitted to the Planning Commission as part of the Preliminary Plan requirements.

(1) This study shall include, but not be limited to, the following items:

(a) 100-year flood plain delineation indication of any flood control dams and their breach flood;

(b) hazard areas;

(c) preliminary grading plan;

(d) storm drainage improvements anticipated to be made;

(e) preliminary drainage map; and

(f) calculations to determine the above.

(2) The Weld County Soil Conservation District may be consulted in order to obtain assistance and guidelines for the development of the drainage and flood hazard study. If the proposed development lies within the jurisdiction of the Urban Drainage and Flood Control District, this District may also be consulted.

(3) There shall be no subdivision of land or development within any designated flood regulatory area, or flood breach hazard areas of flood control dams, without specific engineering considerations and other reasonable constraints imposed by the Board of Trustees and the requirements of Flood Plain Regulations of the Hudson Zoning Ordinance.

10. Encroachments:

- a. No structures, buildings, signs or fences shall be allowed within Town rights-of-way, except when approved by the Board of Trustees.
- b. No fences or walls shall be allowed in drainageways or floodways within designated flood plains which inhibit or alter the flow of water in the channel.

11. Private roads:

- a. Roadways not built to Town standards and not containing adequate rights-of-way shall not be maintained or assumed for maintenance by the Town unless they are brought to Town standards at the applicant's expense.
- b. Minimum surface widths and minimum rights-of-way may be suggested by the Town at the appropriate stages of review of proposals.

**ARTICLE XIII
IMPROVEMENTS**

Section 17-42. Intent:

In each new subdivision, the applicant and the Board of Trustees, subject to recommendation by the Planning Commission, shall agree on the type, location, and extent of necessary improvements depending on the characteristics of the proposed development and its relationship to surrounding areas. Improvement shall be made by the applicant at his expense according to standard specifications prepared by a qualified professional and approved by the Board of Trustees.

1. Surface improvements:

- a. Street, parking areas, and access:

(1) All streets and access shall be paved or surfaced as to the widths and grades required by these regulations and by applicable Town standards.

b. Curbs, gutters, sidewalks and street lights:

(1) All streets shall be provided with concrete curbs and gutters for the pavement edging. Such curbs and gutters shall be designed as an integral part of the pavement and comply with applicable Town standards.

(2) Sidewalks and walkways shall be provided where necessary or appropriate for the safety and convenience of pedestrians, as determined by the Board of Trustees. All such sidewalks and walkways shall conform to applicable Town standards.

(3) Easily legible street name signs shall be installed at street pintersections or as necessary for convenient identification of streets.

(4) Proposed street names shall not conflict with existing street names.

(5) Trees may be planted and are encouraged in all new subdivisions.

(6) Street lights shall be installed at intersections and mid-block locations and/or other appropriate location(s) in accordance with applicable Town standards.

2. Utilities:

a. Water lines shall be designed to connect each lot with mains in accordance with the standards of the water district in which the proposal may be located.

b. Fire hydrants shall be required. Hydrants shall be spaced not more than three hundred feet (300') apart and provided with adequate water pressure for fire fighting purposes. Additional hydrants may be required in the discretion of the Board of Trustees.

c. Storm drainage shall be accomplished according to an approved drainage study.

3. Landscaping:

a. All areas zoned B, C-1, C-2 and PUD shall have a ten percent (10%) minimum landscaped area per tract or parcel in accordance with a general landscape plan submitted to the Planning Commission for review and approval, which may include existing native vegetation on the site. The landscaped area may be comprised of any combination of natural and/or manmade conditions, and be allowed for use as on-site detention of storm water runoff, future development areas, areas to be left in their natural state, or other uses as proposed.

4. Other public improvements:

Other reasonable improvements, not specifically mentioned herein and found appropriate and necessary by the Board of Trustees, shall be constructed at the applicant's expense within such time and in conformance with such specifications as deemed necessary and appropriate.

Section 2. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, ADOPTED AND ORDER PUBLISHED ONCE IN FULL this 24th day of March, 1993.

TOWN OF HUDSON, COLORADO

Robert D. Masden, Mayor

ATTEST:

Kelly Smith, Town Clerk

PASSED ON SECOND AND FINAL READING this _____ day of
_____, 1993.

Robert D. Masden, Mayor

ATTEST:

Kelly Smith, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

EXHIBIT A

SUBDIVISION AGREEMENT

THIS AGREEMENT made this _____ day of _____, 19____, by and between the TOWN OF HUDSON, COLORADO, a municipal corporation ("Town") and _____ ("Developer") and _____, (the "District").

R E C I T A L S

A. Developer is the owner of certain real property located in the Town of Hudson, known as _____, which is more particularly described in Exhibit ____ attached hereto and made a part hereof (the "Property").

B. On _____, the Board of Trustees of the Town of Hudson, after holding all necessary public hearings and having received recommendation of approval from the Hudson Planning Commission, approved the Final Plat for the Property. A copy of the Final Plat is attached hereto as Exhibit ____ and incorporated herein.

C. The approvals cited above are contingent upon the express condition that all duties created by this Agreement are faithfully performed by the Developer and, where provided, the District.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions, and fees to be paid by the Developer upon subdivision of the Property. All conditions contained herein are in addition to any and all requirements of the Town of Hudson Subdivision Ordinance and Zoning Ordinance, the Town of Hudson Charter, any and all state statutes, and any other sections of the Town of Hudson Municipal Code, and are not intended to supersede any requirements contained therein.

2. Agreements and Other Requirements. The Developer hereby agrees to perform any and all requirements of the Annexation Agreement entered into between the Town and _____, which was recorded in Book _____ at Page _____ of the Weld County real estate records. The requirements of the Annexation Agreement are in addition to the requirements of this Agreement and are not intended to supersede any requirements contained herein.

3. Fees. The following fees shall be paid to the Town by the Developer:

A. The Developer hereby agrees to pay the Town the actual cost to the Town for engineering, hydrological, surveying and legal services (the "actual costs") rendered in connection with the review of the subdivision of the Property, including related administrative fees not to exceed one hundred fifteen percent (115%) of the actual costs. In addition, the Developer shall reimburse the Town for the costs of making corrections or additions to the master copy of the official Town map and for the fee for recording the Final Plat and accompanying documents with the Weld County Clerk and Recorder.

B. The Developer shall pay the impact fees as established by Town ordinances in effect at the time this Agreement is executed. The Developer shall pay the foregoing impact fees in effect at the time specified by such ordinances.

4. Specific Conditions. Developer and District hereby agree that:

A.

B.

C.

D.

5. Title Policy. A title commitment for the Property shall be provided to the Town at the time of Final Plat approval. The title commitment shall show that all Property to be dedicated to the Town is or shall be, subsequent to the execution and recording of the plat, free and clear of all liens and encumbrances (other than real estate taxes which are not yet due and payable) which would make the dedication unacceptable as the Town in its sole discretion determines. The title policy evidenced by the title commitment shall be provided thirty (30) days after the recording of the Final Plat.

6. Breach by Developers and/or District; Town's Remedies. In the event of a breach of any of the terms and conditions of this Agreement by the Developer or the District, the Board of Trustees shall be notified immediately, and the Town may take such action as permitted and or authorized by law, this Agreement or the ordinances and Charter of the Town as the Town deems necessary, to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of the Town from hardship and undue risk. These remedies include, but are not limited to:

- A.The refusal to issue any building permit or certificate of occupancy;
- B.The revocation of any such building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;
- C.A demand that the security given for the completion of the public improvements be paid or honored; or
- D.Any other remedy available at law.

Unless necessary to protect the immediate health, safety and welfare of the Town or to protect the Town's interest with regard to security given for the completion of the public improvements, the Town shall provide the Developer thirty (30) days written notice of its intent to take any action under this paragraph during which thirty-day period the Developer may cure the breach described in the notice and prevent further action by the Town.

7. Public Improvements and Warranty. All water lines, sewer lines, fire hydrants, water or sewer distribution facilities, drainage structures, paved streets, including curb and gutter and necessary appurtenances as shown on the subdivision plat and the associated construction documents (the "public improvements") as approved by the Mayor or his designee, shall be installed and completed at the expense of the Developer. The

improvements required by this Agreement and shown on the final subdivision plat submittal as well as associated construction documents approved by the Mayor or his designee and the costs of these improvements are set forth on Exhibit _____, attached hereto and incorporated herein. All public improvements covered by this Agreement shall be made in accordance with the subdivision plat and associated construction documents drawn according to regulations and construction standards for such improvements and approved by the Mayor or his designee.

Developer shall warrant any and all public improvements which are conveyed to the Town pursuant to this Agreement for a period of one (1) year from the date the Mayor or his designee certifies that the same conform with the approved Town specifications. Specifically, but not by way of limitation, Developer shall warrant the following:

- A. That the title conveyed shall be marketable and its transfer rightful;
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- C. Any and all facilities so conveyed shall be free of defects in materials or workmanship for a period of one (1) year as stated above.

The Town will accept for maintenance all public improvements after the warranty period has expired provided all warranty work has been completed. The Town shall accept for snow removal purposes only all dedicated public streets after the warranty period expires or the Town issues the first certificate of occupancy.

8. Observation. The Town shall have the right to make reasonable engineering observations at Developer's expense as the Town may request. Observation, acquiescence in or approval by any engineering inspector of the construction of physical facilities at any particular time shall not constitute the approval by the Town of any portion of the construction of such public improvements. Such approval shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

9. Completion of Public Improvements. The obligations of the Developer provided for in paragraph 7 of this Agreement, including the inspections hereof, shall be performed on or before _____, and proper application for acceptance of the public improvements shall be made on or before such date. Upon completion of construction by the Developer of such public

improvements, the Mayor or his designee shall inspect the improvements and certify with specificity its conformity or lack thereof to the Town's specifications. The Developer shall make all corrections necessary to bring the improvements into conformity with the Town's specifications. Once approved by the Mayor or his designee, the Town shall accept said improvements upon conveyance pursuant to paragraph 11; provided, however, the Town shall not be obligated to accept the public improvements until the actual costs described in paragraphs 3A and B of this Agreement are paid in full by the Developer.

10. Related Costs - Public Improvements. Developer shall provide all necessary engineering designs, surveys, field surveys and incidental services related to the construction of the public improvements, at its sole cost and expense, including reproducible "as built" drawings certified accurate by a professional engineer registered in the State of Colorado.

11. Improvements to be the Property of the Town. All public improvements for roads and trails and drainage improvements accepted by the Town shall be dedicated to the Town and warranted for a period of twelve (12) months following acceptance by the Town, as provided above. Upon completion of construction and conformity with the subdivision plat and associated construction plans, and any properly approved changes, the Developer shall convey to the Town, by bill of sale, all installed physical facilities.

12. Performance Guarantee. In order to secure the construction and installation of the public improvements above-described, for which the Developer is responsible, the Developer shall, prior to commencement of construction of any public or private improvement on the Property including, but not limited to, staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, and prior to the issuance of any permits, building or otherwise, furnish the Town, at the Developer's expense, with an irrevocable letter of credit, in the Town is designated as beneficiary, to secure the performance and completion of the public improvements or the Town may accept at its sole discretion some other form of security from the Developer, in an amount equal to one hundred ten percent (110%) of the estimated costs of the public improvements to be constructed and installed as set forth on Exhibit _____. Letters of credit shall be substantially in the form and content set forth in Exhibit _____, attached hereto and incorporated herein, and shall be subject to the review and approval of the Town Attorney.

The estimated costs of the public improvements shall be a figure mutually agreed upon by the Developer and the Mayor or his designee as set forth on Exhibit _____ attached hereto. If, however, they are unable to agree, the Mayor or his designee's

estimate shall govern after giving consideration to information provided by the Developer including, but not limited to, construction contracts and engineering estimates. The purpose of the cost estimate is solely to determine the amount of security. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual costs of all such public improvements.

The estimated costs of the public improvements may increase in the future. Accordingly, the Town reserves the right to review and adjust the cost estimate on an annual basis. Adjusted cost estimates will be made according to changes in the Construction Costs Index as published by the Engineering News Record. If the Town adjusts cost estimates for the public improvements, the Town shall give written notice to Developer. The Developer shall, within thirty (30) days after receipt of said written notice, provide the Town with a new or amended letter of credit in the amount of the adjusted cost estimates. If the Developer refuses or fails to so provide the Town with a new or amended letter of credit, the Town may exercise the remedies provided for in paragraph 6 of this Agreement. Provided, however, that prior to increasing the amount of additional security required, the Town shall give credit to the Developer for all required public improvements which have actually been completed and properly constructed, so that the amount of security required at any time shall relate to the cost of required public improvements not yet constructed and the cost to correct public improvements not properly constructed.

In the event the public improvements are not constructed or completed within the period of time specified by paragraph 9 of this Agreement or a written extension of time mutually agreed upon by the parties to this Agreement, the Town may draw on the letter of credit to complete the public improvements called for in this Agreement. In the event the letter of credit is to expire within fourteen (14) calendar days and the Developer has not yet provided a satisfactory replacement, the Town may draw on the letter of credit and either hold such funds as security for performance of this Agreement or spend such funds to finish public improvements or correct problems with the public improvements as the Town deems appropriate.

Upon completion or performance of such improvements, conditions and requirements within the required time and the approval of the Town Mayor, ninety percent (90%) of the performance guarantee shall be released to the Developer within ten (10) days of acceptance by the Town. At the end of the warranty period and upon final acceptance by the Town, the remaining security shall be released. If the improvements are not completed within the required time, the monies may be used to complete the improvements. The Mayor may cause a portion of the

improvement guarantee to be released as specific improvements are completed and approved. Such release shall be within thirty (30) days after acceptance by the Town.

13. Homeowner's Association. A Homeowner's Association shall be created by the Developer under the laws of the State of Colorado or the Property shall be included in an existing homeowner's association if possible. The Homeowner's Association must be lawfully established before any properties within the Development are sold to third parties. The Articles of Incorporation shall be reviewed by the Town Attorney to insure that they have met the Town's requirements that the Homeowner's Association maintain and operate that open space identified as _____ on the plat and to assume all responsibilities therefore as shown on the Final Plat.

14. Indemnification. Developer shall indemnify and hold harmless the Town, its officers, employees, agents or servants from any and all suits, actions, and claims of every nature and description caused by, arising from or on account of any act or omission of the Developer, or of any other person or entity for whose act or omission Developer is liable, with respect to construction of the public improvements; and the Developer shall pay any and all judgments rendered against the Town as the result of any suit, action, or claim, together with all reasonable expenses and attorneys fees incurred by the Town in defending any such suit, action or claim.

The Developer shall pay all Property taxes on the Property dedicated to the Town, and shall indemnify and hold harmless the Town for any Property tax liability.

Developer shall require that all contractors and other employees engaged in construction of public improvements shall maintain adequate workmen's compensation insurance and public liability coverage and shall faithfully comply with the provisions of the Federal Occupational Safety and Health Act.

15. Waiver of Defects. In executing this Agreement, Developer and the District waive all objections they may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on Developer and the District as set forth herein, and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

16. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

17. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of

its officers or agents or their designees except in accordance with the Town of Hudson Code of Ordinances and the laws of the State of Colorado.

18. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns as the case may be.

20. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not effect any other provision hereof; all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

21. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Weld County, Colorado.

22. Attorneys Fees. Should this Agreement become the subject of litigation to resolve a claim of default of performance by the Developer and a court of competent jurisdiction determines that the Developer was in default in the performance of the Agreement, the Developer shall pay the Town's attorneys fees, expenses and court costs.

23. Notice. All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

Notice to Town:

557 Ash
Hudson, Colorado 80642

With copy to:

Notice to Developer: _____

Notice to District:

24. Force Majeure. Whenever Developer is required to complete construction, repair or replacement of public improvements by an agreed deadline, Developer shall be entitled to an extension of time equal to a delay in completing the foregoing due to unforeseeable causes beyond the control and without the fault or negligence of the Developer including, but not restricted to, acts of God, weather, fires and strikes.

25. Approvals. Whenever approval or acceptance of the Town is necessary pursuant to any provision of this Agreement, the Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.

26. Assignment or Assignments. There shall be no transfer or assignment of any of the rights or obligations of the Developer under this Agreement without the prior written approval of the Town. The Developer agrees to provide the Town with at least fourteen (14) days advance written notice of the transfer or assignment of any of the rights and obligations of the Developer under this Agreement.

27. Recording of Agreement. This Agreement shall be recorded in the real estate records of Weld County and shall be a covenant running with the Property, in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

28. Title and Authority. The Developer, _____, warrants and represents to the Town that it

is the record owner of the Property constituting the Property and further represents and warrants, together with the undersigned individual(s) that the undersigned individual(s), has or have full power and authority to enter into this Subdivision Agreement. The Developer and the undersigned individual(s) understand that the Town is relying on such representations and warranties in entering into this Agreement.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first above-written.

TOWN OF HUDSON, COLORADO

Robert D. Masden, Mayor

ATTEST:

Kelly Smith, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

By: _____

Title: _____

EXHIBIT B

SUBDIVISION AGREEMENT

THIS AGREEMENT made this _____ day of _____, 19____, by and between the TOWN OF HUDSON, COLORADO, a municipal corporation ("Town") and _____, a Colorado _____ ("Developer").

R E C I T A L S

A. Developer is the owner of certain real property located in the Town of Hudson, known as _____, which is more particularly described in Exhibit _____ attached hereto and made a part hereof (the "Property").

B. On _____, 19__, the Town Council of the Town of Hudson, after holding all necessary public hearings and having received a recommendation of approval from the Hudson Planning Commission, approved the Final Plat for the Property. A copy of the Final Plat is attached hereto as Exhibit _____ and incorporated herein.

C. The approvals cited above are contingent upon the express condition that all duties created by this Agreement are faithfully performed by the Developer.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions, and fees to be paid by the Developer upon subdivision of the Property. All conditions contained herein are in addition to any and all requirements of the Town of Hudson Subdivision Ordinance and Zoning Ordinance, the Town of Hudson Charter, any and all state statutes, and any other sections of the Town of Hudson Municipal Code and are not intended to supersede any requirements contained therein.

2. Agreements and Other Requirements. The Developer hereby agrees to perform any and all requirements of the Annexation Agreement entered into between the Town and Developer on _____, 19__, which was recorded in Book _____ at Page _____ of the Weld County real estate records. The requirements of the Annexation Agreement are in addition to the requirements of this Agreement and are not intended to supersede any requirements contained herein.

3. Fees. The following fees shall be paid to the Town by the Developer:

A. The Developer hereby agrees to pay the Town the actual cost to the Town for engineering, hydrological, surveying and legal services (the "actual costs") rendered in connection with the review of the subdivision of the Property including related administrative fees not to exceed one hundred and fifteen percent (115%) of the actual costs. In addition, the Developer shall reimburse the Town for the costs of making corrections or additions to the master copy of the official Town map and for the fee for recording the Final Plat and accompanying documents with the Weld County Clerk and Recorder.

B. The Developer shall pay the impact fees established by Town ordinances in effect at the time that each phase of public improvements to the Property is approved by the Town and shall pay those amounts at the time specified by such ordinance.

4. Specific Conditions. Developer hereby agrees that:

A.

B. The Developer shall construct and install the public improvements, described in this Agreement, in _____ () phases. The Developer shall not commence construction of any phase until written approval is obtained from the Town. The public improvements to be constructed and installed for each phase are described in Exhibit _____ attached hereto and incorporated herein. The Developer shall construct and install the public improvements in the order and in the manner specified by Exhibit _____. The Developer, upon the substantial completion of construction and installation of the public improvements of any phase of the Property (the "completed phase"), may not proceed to the next phase (the "new phase") until the Town has approved and accepted the completed phase as provided by paragraphs 8 and 9 of this Agreement, or the Town has received the additional security necessary to guarantee the completion of the construction of all public

improvements required on the new phase and the Town has approved the commencement of the new phase. Notwithstanding the above, the Town may allow reasonable modifications of the scope, nature, cost and similar aspects of the public improvements contemplated by this Agreement.

C.

D.

5. Title Policy. A title commitment for the Property shall be provided to the Town at the time of Final Plat approval. The title commitment shall show that all Property to be dedicated to the Town is or shall be, subsequent to the execution and recording of the plat, free and clear of all liens and encumbrances (other than real estate taxes which are not yet due and payable) which would make the dedications unacceptable as the Town in its sole discretion determines. The title policy evidenced by the title commitment shall be provided thirty (30) days after the recording of the Final Plat.

6. Breach by Developers; Town's Remedies. In the event of a breach of any of the terms and conditions of this Agreement by the Developer, the Board of Trustees shall be notified immediately, and the Town may take such action, as permitted and/or authorized by law, this Agreement or the Ordinances and Charter of the Town, as the Town deems necessary to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of the Town from hardship and undue risk. These remedies include, but are not limited to:

A. The refusal to issue any building permit or certificate of occupancy;

B. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;

C.A demand that the security given for the completion of the public improvements be paid or honored; or

D.Any other remedy available at law.

Unless necessary to protect the immediate health, safety and welfare of the Town or to protect the Town's interest with regard to security given for the completion of the public improvements, the Town shall provide the Developer thirty (30) days written notice of its intent to take any action under this paragraph during which thirty-day period the Developer may cure the breach described in the notice and prevent further action by the Town.

7. Public Improvements and Warranty. All water lines, sewer lines, fire hydrants, water or sewer distribution facilities, drainage structures, paved streets, including curb and gutter and necessary appurtenances as shown on the subdivision plat and the associated construction documents (the "public improvements") as approved by the Mayor or his designee, shall be installed and completed at the expense of the Developer. The improvements required by this Agreement and shown on the final subdivision plat submittal as well as associated construction documents approved by the Mayor or his designee and the costs of these improvements are set forth by phase on Exhibit _____, attached hereto and incorporated herein. All public improvements covered by this Agreement shall be made in accordance with the subdivision plat and associated construction documents drawn according to regulations and construction standards for such improvements and approved by the Mayor or his designee.

Developer shall warrant any and all public improvements which are conveyed to the Town pursuant to this Agreement for a period of one (1) year from the date the Mayor or his designee certifies that the same conform with the approved Town specifications. Specifically, but not by way of limitation, Developer shall warrant the following:

A.That the title conveyed shall be marketable and its transfer rightful;

B.Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and

C.Any and all facilities so conveyed shall be free of defects in materials or workmanship for a period of one (1) year as stated above.

The Town will accept for maintenance all public improvements after the warranty period has expired provided all warranty work has been completed. The Town shall accept for snow removal

purposes only all dedicated public streets after the warranty period expires or the Town issues the first certificate of occupancy.

8. Observation. The Town shall have the right to make reasonable engineering observations at Developer's expense as the Town may request. Observation, acquiescence in or approval by any engineering inspector of the construction of physical facilities at any particular time shall not constitute the approval by the Town of any portion of the construction of such public improvements. Such approval shall be made by the Town only after completion of each phase of construction and in the manner hereinafter set forth.

9. Completion of Public Improvements. The Developer shall not start any construction within any phase of any public or private improvement on the Property including, but not limited to, staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, until the Town has approved the construction of such phase as provided by paragraph 4.D. and paragraph 7 of this Agreement. When the Town, at the Developer's request, approves the construction of any phase as provided by paragraph 4.D. of this Agreement, the Developer shall complete the approved phase as provided herein within twelve (12) months after the date of such approval. If any phase is not approved for construction as provided in paragraph 4.D. of this Agreement within three (3) years of the date of this Agreement, the Developer shall comply with the Town's requirements for the subdivision of Property that are applicable at the time the Developer requests Town approval to construct such phase(s).

Upon completion of each phase of construction by the Developer of such public improvements, the Mayor or his designee shall inspect within a reasonable period of time the improvements and certify with specificity its conformity or lack thereof to the Town's specifications in effect at the time of approval of the applicable phase. The Developer shall make all corrections necessary to bring the improvements into conformity with the Town's specifications and shall provide the Mayor or his designee with data establishing payment or satisfaction of all obligations concerning the public improvements, including, but not limited to, lien waivers and receipts before approval of any phase. Once approved by the Mayor or his designee, the Town shall accept said improvements upon conveyance pursuant to paragraph 11; provided, however, the Town shall not be obligated to accept the public improvements until the actual costs described in paragraphs 3A and B of this Agreement are paid in full by the Developer.

10. Related Costs - Public Improvements. Developer shall provide all necessary engineering designs, surveys, field surveys and incidental services related to the construction of the public

improvements at its sole cost and expense; including reproducible "as built" drawings certified accurate by a professional engineer registered in the State of Colorado.

11. Improvements to be the Property of the Town. All public improvements for roads and trails and drainage improvements accepted by the Town shall be dedicated to the Town and warranted for a period of twelve (12) months following acceptance by the Town, as provided above. Upon completion of construction and conformity with the subdivision plat and associated construction plans and any properly approved changes, the Developer shall convey to the Town, by bill of sale, all installed physical facilities.

12. Performance Guarantee. In order to secure the construction, installation and payment of the public improvements above-described for which the Developer is responsible, the Developer shall, prior to commencement of construction within any phase of any public or private improvement on the Property, including, but not limited to, staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, and prior to the issuance of any permits, building or otherwise, with respect to such phase, furnish the Town, at the Developer's expense, with an irrevocable letter of credit, in which the Town is designated as beneficiary, to secure the performance and completion of the public improvements, or the Town may accept at its sole discretion some other form of security from the Developer, in an amount equal to one hundred ten percent (110%) of the estimated costs of the public improvements to be constructed and installed for each phase as set forth in Exhibit _____. Letters of credit shall be substantially in the form and content set forth in Exhibit _____, attached hereto and incorporated herein, and shall be subject to the review and approval of the Town Attorney.

The estimated costs of the public improvements for each phase shall be a figure mutually agreed upon by the Developer and the Mayor or his designee as set forth on Exhibit _____ attached hereto. If, however, they are unable to agree, the Mayor or his designee's estimate shall govern after giving consideration to information provided by the Developer including, but not limited to, construction contracts and engineering estimates. The purpose of the cost estimate is solely to determine the amount of security. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual costs of all such public improvements for each phase.

The estimated costs of the public improvements for each phase may increase in the future. Accordingly, the Town reserves the right to review and adjust the cost estimate on an annual basis. Adjusted cost estimates will be made according to changes in the

Construction Costs Index as published by the Engineering News Record. If the Town adjusts cost estimates for the public improvements, the Town shall give written notice to Developer. The Developer shall, within thirty days after receipt of said written notice, provide the Town with a new or amended letter of credit in the amount of the adjusted cost estimates. If the Developer refuses or fails to so provide the Town with a new or amended letter of credit, the Town may exercise the remedies provided for in paragraph 6 of this Agreement. Provided, however, that prior to increasing the amount of additional security required, the Town shall give credit to the Developer for all required public improvements which have actually been completed and properly constructed, so that the amount of security required shall relate to the cost of required public improvements not yet constructed and the cost to correct public improvements not properly constructed.

In the event the public improvements for any approved phase are not constructed or completed within the period of time specified by paragraph 9 of this Agreement or a written extension of time mutually agreed upon by the parties to this Agreement, the Town may draw on the letter of credit to complete the public improvements called for in this Agreement. In the event the letter of credit is to expire within fourteen (14) calendar days and the Developer has not yet provided a satisfactory replacement, the Town may draw on the letter of credit and either hold such funds as security for performance of this Agreement or spend such funds to finish public improvements or correct problems with the public improvements as the Town deems appropriate.

Upon completion or performance of such improvements, conditions and requirements for any approved phase within the required time and the approval of the Town Mayor, ninety percent (90%) of the performance guarantee shall be released to the Developer within ten (10) days of acceptance by the Town. At the end of the warranty period and upon final acceptance by the Town of any approved phase, the remaining security shall be released. If the improvements for any approved phase are not completed within the required time, the monies may be used to complete the improvements for such phase. The Mayor may cause a portion of the improvement guarantee to be released as specific improvements are completed and approved for such phase. Such release shall be within thirty (30) days after acceptance by the Town for any approved phase.

13. Homeowner's Association. A Homeowner's Association shall be created by the Developer under the laws of the State of Colorado or the Property shall be included in an existing homeowner's association if possible. The Homeowner's Association must be lawfully established before any properties within the Development are sold to third parties. The Articles of

Incorporation shall be reviewed by the Town Attorney to insure that they have met the Town's requirements that the Homeowner's Association maintain and operate that open space identified as _____ on the plat and to assume all responsibilities therefore as shown on the Final Plat.

14. Indemnification. Developer shall indemnify and hold harmless the Town, its officers, employees, agents or servants from any and all suits, actions, and claims of every nature and description caused by, arising from or on account of any act or omission of the Developer, or of any other person or entity for whose act or omission Developer is liable, with respect to construction of the public improvements; and the Developer shall pay any and all judgments rendered against the Town as the result of any suit, action, or claim, together with all reasonable expenses and attorneys fees incurred by the Town in defending any such suit, action or claim.

The Developer shall pay all Property taxes on the Property dedicated to the Town, and shall indemnify and hold harmless the Town for any Property tax liability.

Developer shall require that all contractors and other employees engaged in construction of public improvements maintain adequate workmen's compensation insurance and public liability coverage and shall faithfully comply with the provisions of the Federal Occupational Safety and Health Act.

15. Waiver of Defects. In executing this Agreement, Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on Developer as set forth herein, and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

16. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

17. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Town of Hudson Code of Ordinances and the laws of the State of Colorado.

18. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns as the case may be.

20. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not effect any other provision hereof; all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

21. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Weld County, Colorado.

22. Attorneys Fees. Should this Agreement become the subject of litigation to resolve a claim of default of performance by the Developer and a court of competent jurisdiction determines that the Developer was in default in the performance of the Agreement, the Developer shall pay the Town's attorneys fees, expenses and court costs.

23. Notice. All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

Notice to Town:

 557 Ash
 Hudson, Colorado 80642

With copy to:

Notice to Developer:

24. Force Majeure. Whenever Developer is required to complete construction, repair or replacement of public improvements by an agreed deadline, Developer shall be entitled to an extension of time equal to a delay in completing the foregoing, due to unforeseeable causes beyond the control and without the fault or negligence of the Developer including, but not restricted to, acts of God, weather, fires and strikes.

25. Approvals. Whenever approval or acceptance of the Town is necessary pursuant to any provision of this Agreement, the Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.

26. Assignment or Assignments. There shall be no transfer or assignment of any of the rights or obligations of the Developer under this Agreement without the prior written approval of the Town. The Developer agrees to provide the Town with at least fourteen (14) days advance written notice of the transfer or assignment of any of the rights and obligations of the Developer under this Agreement.

27. Recording of Agreement. This Agreement shall be recorded in the real estate records of Weld County and shall be a covenant running with the Property, in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

28. Title and Authority. Developer, _____, expressly warrants and represents to the Town that it is the record owner of the Property constituting the Property and further represents and warrants, together with the undersigned individual(s), that the undersigned individual(s) has or have full power and authority to enter into this Subdivision Agreement. The Developer and the undersigned individual(s) understand that the Town is relying on such representations and warranties in entering into this Agreement.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first above-written.

TOWN OF HUDSON, COLORADO

Robert D. Masden, Mayor

ATTEST:

Kelly Smith, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

By:

Title: _____