

# **BUTCHER KNIFE CANYON PRE-ANNEXATION AGREEMENT**

This agreement is made and entered into this 26<sup>th</sup> of March 15<sup>th</sup>, 2024, by and between Laura Stout, Manager for: Franklin Holdings, LLC, Concord Partners, LTD, Padgett, LLC, and Northeast 17, LLC, P.O. Box 773131, Steamboat Springs, CO 80477 hereinafter referred to as “Owner” and the City of Steamboat Springs, a Colorado home rule municipal corporation, hereinafter referred to as “City”.

## **WITNESSETH:**

Annexing certain unincorporated lands totaling 24.14 acres, consisting of the following parcels, known collectively as the “Property”

Parcel #1 - Franklin Holdings, LLC – Tract of land located in NW ¼ of the SW ¼ of Section 9, T6N, R84W of the 6<sup>th</sup> PM, Routt County, Colorado – Total 3.32 acres.

Parcel #2 - Concord Partners, LTD – Tract of land located in NW ¼ of SW 1/4 of Section 9, T6N, R84W of the 6<sup>th</sup> PM, Routt County, Colorado – Total 1.18 acres.

Parcel #3 - Padgett, LLC 2.28A Tract of land located in NW ¼ of SW 1/4 of Section 9, T6N, R84W of the 6<sup>th</sup> PM, Routt County, Colorado – Total 2.28 acres.

Parcel #4 Northeast 17, LLC Tract of land located in NW ¼ of SW 1/4 of Section 9, T6N, R84W of the 6<sup>th</sup> PM, Routt County, Colorado - Total of 17.36 acres.

**WHEREAS**, the Owner desires to annex to the City of Steamboat Springs the property more particularly described on Exhibit “A” which is attached hereto, incorporated herein, and made a part hereof (such property is hereinafter referred to as “the Property”); and

**WHEREAS**, Owner has executed a petition to annex the Property, a copy of which petition is attached hereto as Exhibit “B,” and incorporated herein and made a part hereof, and Agreement; and

**WHEREAS**, Owner acknowledges that upon annexation, the Property will be subject to all ordinances, resolutions, and other regulations of the City, as they may be amended from time to time; and

**NOW, THEREFORE**, in consideration of the above premises and the covenants as hereinafter set forth, it is agreed by and between the parties as follows:

- I. ANNEXATION AND ZONING.** The annexation of the Property shall be in conformance with the Colorado Municipal Annexation Act of 1965, as amended, and with applicable City Revised Municipal Code provisions.

The Owner requests that the Property be zoned Residential Neighborhood Three (RN-3), Open Space and Recreation (OR) following those standards, and uses per the Community Development Code upon annexation. Owner acknowledges that the City Council has sole authority to determine the appropriate zone district for the Property upon annexation and that the Owner's request does not bind the Planning Commission or City Council to adopt the RN-3 and OR zone districts for the Property.

**A. Land Use.** All residential construction will be subject to the types and intensities of land use permitted pursuant to the City's Community Development Code in effect on the date when the building or development applications are filed.

**II. ANNEXATION MASTER PLAN FOR PROPERTY.** The Steamboat Springs Community Area Plan, Future Land Use Map, and Urban Growth Boundary includes the entirety of the Property. Through this annexation application, the Applicant will amend the FLUM, changing the current designation of Old Town Residential to be Residential – Medium Density.

**III. LAND DEDICATION.** The dedication of, or easement for open space, is anticipated to be part of this annexation, with the exact extents to be determined.

**IV. AVAILABILITY OF SERVICES.** City agrees to make available to the Property all of the usual municipal services in accordance with the ordinances and policies of the City which services include, but are not limited to, police protection, fire protection, water services, and sewer services.

**V. WATER SERVICE.** City currently provides water service to the existing dwellings located on the property. City shall provide water to the futures uses on the Property.

**A. Extension of Water Services.** Owner shall extend water service lines across the property line(s) in accordance with applicable City regulations. Owner shall install at his sole cost and expense all the water service lines. This will not be performed at this time.

**B. Water Fees.** Water tap fees shall be the current City water tap fees at the time which the applicant requests water taps or additional work. Water tap fees shall be paid when a building permit for a structure is requested from the City.

**VI. WASTEWATER SERVICE.** City currently provides wastewater service to the existing dwellings located on the property. City shall provide wastewater to the futures uses on the Property.

**A. Extension of Wastewater Services.** Owner shall extend wastewater service lines across the property lines in accordance with applicable City regulations. Owner shall install at his sole cost and expense all the water service lines. This will not be performed at this time.

**B. Wastewater Fees.** Wastewater tap fees shall be the current City wastewater tap fees at the time which the applicant requests wastewater taps or additional work. Wastewater tap fees shall be paid when a building permit for a structure is requested from the City.

**VII. CONFORMS WITH CITY REGULATIONS.** Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with City's Community Development Code and any other applicable City regulations including, without limitation, those pertaining to subdivision, zoning, streets, storm drainage, utilities, and flood control.

**VIII. PUBLIC IMPROVEMENTS.** Owner agrees to design, construct, and install in accordance with City approved plans, the following public improvements:

**A.** Owner will grant an easement to the existing soft surface trail that connects the Property to the Public-School property (containing the Strawberry Park Elementary and Steamboat Springs Middle School).

**IX. EXCLUSIVITY OF ANNEXATION PETITION.** Owner agrees to not sign any other petition for annexation of the Property or any petition for annexation election relating to the Property, except upon request of the City.

**X. MISCELLANEOUS PROVISIONS.**

**A. Interpretation.** Nothing in this agreement shall constitute or be interpreted as a repeal of the City's ordinances or resolutions, or as a waiver of the City's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the City and its inhabitants, nor shall this agreement prohibit the enactment or increase by the City or any tax or fee.

**B. Severability.** If any part, section, subsection, sentence, clause or phrase of this Agreement is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Agreement. The parties hereby declare that they would have agreed to the Agreement including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

**C. Amendments to the Agreement.** This Agreement may be amended, at any time, upon agreement of the parties hereto. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Routt County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property subject to the amendment unless otherwise specified in the agreement.

In addition, this Agreement may be amended by the City and any Owner without the consent of any other Owner as long as such amendment affects only that Owner's portion of the Property. Such amendments shall be in writing, shall be recorded with the County Clerk & Recorder of Routt County Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property subject to the amendment unless otherwise specified in the amendment.

**D. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of and be binding upon the parties, their successors in interest, or their legal representatives, including all developers, purchasers and subsequent owners of any lots or parcels within the property, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk & Recorder of Routt County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

**E. Indemnification.** Owner agrees to indemnify and hold harmless the City and the City's officers, employees, agents, and contractors, from and against all liability, claims, and demands.

**F. Termination.** If the annexation of the Property is, for any reason, not completed then this Agreement shall be null and void and of no force and effect whatsoever.

**G. No Right or Remedy of Disconnection.** No right or remedy of disconnection of the Property from the City shall accrue from this Agreement, other than provided by applicable state laws. In the event the Property or any portion thereof is disconnected at Owner's request, the City of Steamboat Springs, shall have no obligation to serve the disconnected property or portion thereof and this Agreement shall be void and of no further force and effect as to such property or portion thereof.

**H. Annexation, Zoning, and Preliminary Plat Subject to Legislative Discretion.** The Owner acknowledges that the annexation, subsequent zoning, FLUM amendment, and preliminary platting of the property are subject to the legislative discretion of the City Council of the City of Steamboat Springs. No assurances of annexation, zoning, or platting have been made or relied upon by the Owner. In the event that the Steamboat Springs City Council, in the exercise of its legislative discretion, does not take any

action with respect to the Property herein contemplated, then the sole and exclusive and exclusive remedy for the breach hereof accompanied by the exercise of such discretion shall be the withdrawal of the petition for annexation by the Owner, or disconnection from the City in accordance with state law, as may be appropriate.

- I. Legal Discretion in the Case of Challenge.** The City reserves the right to not defend any legal challenge to this annexation. In the event such a challenge occurs prior to any expiration of the statute of limitations, the City may, at its discretion choose to contest the challenge or allow the challenge to proceed without defense. This does not restrict the Owner from engaging the City's legal representatives in such a defense, at no cost to the City.
- J. Application of Town Policies.** Upon annexation, all subsequent development of the Property, shall be subject to and bound by the applicable provisions of the City ordinances, as amended, including public land dedications, provided however, that changes or amendments to the code, after the date of this agreement shall in no way limit or impair the City's obligation hereunder, except as specifically set forth in this Agreement.
- K. Amendments to Governing Ordinances, Resolutions, and Policies.** As used in this Agreement, unless otherwise specifically provided herein, any references to any provision of any City ordinance, resolution, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon Owner.
- L. Legal Fees.** In the event that either party finds it necessary to retain an attorney in connection with a default by the other as to any of the provisions contained in this Agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this agreement.
- M. Reimbursement for Other Costs.** The owner shall reimburse the City for any third party costs necessary for the orderly and proper development of the Property, including, but not limited to consultant's fees for planning and engineering, and attorney's fees for legal services beyond the normal document review, which is directly linked to the Property.
- N. Cooperation.** The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the agreement, and will execute such additional documents as necessary to effectuate the same.
- O. Timely Submittal of Materials.** Owner agrees to provide legal documents, surveys, engineering work, newspaper publications, maps, reports and other documents

necessary to accomplish the annexation of the Property and the other provisions of this agreement.

**P. Compliance with State Law.** The Owner shall comply with all applicable State law and regulations.

**XI. COMPLETE AGREEMENT.** This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein this agreement may be enforced in any court of competent jurisdiction.

By this acknowledgment, the undersigned hereby certify that the above Agreement is complete and true and entered into of their own free will and volition.

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Laura Stout, Manager Franklin Holding, LLC	Date
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Laura Stout, Manager, Concord Partners, LTD	Date
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Laura Stout, Manager, Padgett, LLC	Date
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Laura Stout, Manager, Northeast 17, LLC	Date
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Rebecca Bessey, Director of Planning and Community Development	Date
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Gail Garey, City Council President	Date
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