

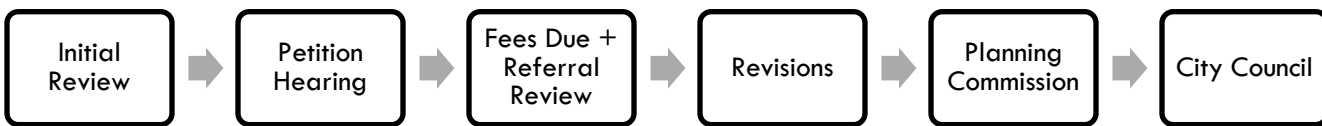


Annexation & Initial Zoning Development Guide

General procedure for development is included in the Community Development Application packet. This guide is intended to supplement the general application with items specific to annexation.

Applicants are advised that this packet is not a complete summary of the City's Municipal Code, Colorado Revised Statutes, all Development Ordinances, etc. Applicants are encouraged to review the requirements of the Municipal Code and the Colorado Revised Statute §31-12-101 et seq., also known as the Municipal Annexation Act of 1965, as approval of a request is based on compliance with those standards.

ANNEXATION AND INITIAL ZONING PROCESS



Annexation and Initial Zoning expected process duration is within 4 months from a complete submittal.

Pre-Application Meeting Required. Annexation to the City of Evans requires a complimentary pre-application meeting. See the Planning Division contact information below to request a meeting.

Survey. The annexation plat requires preparation by a Colorado-licensed surveyor.

Resubmittals. Six (6) months will be granted to applicants to resubmit applications determined to be in need of revision. If an applicant requires more time to revise the application, an extension shall be requested and an extension fee shall be paid. The Director may approve an extension not to exceed an additional six (6) months for a total period not to exceed twelve (12) months upon a finding of excusable neglect. Any application in need of revision that remains inactive for more than six (6) months from the date the revision was requested, and for which no extension is requested, shall be void and any related fees are forfeited.

Public hearings. Four public meetings are required for annexation to the City of Evans:

1. City Council considers substantial compliance of the annexation petition
2. Planning Commission makes recommendation to City Council on the initial zoning request.
3. City Council considers 1st reading of the annexation ordinance and the annexation agreement terms.
4. City Council considers 2nd reading of the annexation ordinance.

Planning Commission meetings are generally held on the 4th Tuesdays; City Council hearings on the 1st and 3rd Tuesdays of the month.

Annexation & Initial Zoning Submittal Checklist

✓	Item (label electronic submittal documents with the number prefix as shown) All documents shall be submitted in “.pdf” format, unless otherwise stated.
	01 COMMUNITY DEVELOPMENT APPLICATION FORM
	02 ANNEXATION PETITION - Annexation petition signed by one hundred percent (100%) of the fee owners of the property being annexed. [included in this packet]
	03 OWNERSHIP INFORMATION - Provide the property deed along with any applicable incorporation or organizational documentation of approved signatories. Note, a “deed of trust” is not a property deed.
	04 LEGAL DESCRIPTION - Provide the legal description of the property in “.docx” format.
	05 PROJECT NARRATIVE - The narrative shall address the following: <ol style="list-style-type: none"> 1. How a community of interest exists between the area proposed for annexation and the City 2. That the area is urban or will be urbanized in the near future 3. The existing and proposed zone district(s) and use(s) of the property 4. How the proposal is in accordance with the goals and objectives of the Master Plan and any other plan, policy or guidance adopted pursuant to that plan. 5. How the proposed zoning will be compatible with the surrounding land uses. 6. That the City or other agencies have the ability to provide services or facilities that may be necessary for the anticipated uses in the proposed zone district. 7. How the proposed zoning will serve a community need, provide an amenity or accommodate the Proposed development. 8. A summary of any non-standard or custom requests within the Annexation Petition.
	06 MINERAL RIGHTS OWNERS LIST - Applicant shall provide notice to all mineral rights owners pursuant to C.R.S. § 24-65.5-103 and provide proof of notice to City prior to public hearing.
	07 WATER INFORMATION - Include information regarding existing water taps, well, and rights associated with the property and how water will be provided to support future development.
	08 DRAFT ANNEXATION AND INITIAL ZONING PLAT - Required to be prepared by a Colorado-licensed professional land surveyor. Please include a minimum of the following information. <ol style="list-style-type: none"> 1. Annexation Title: “[Name] Annexation and Initial Zoning” 2. Legal Description 3. Proposed Zone District(s) 4. Vicinity Map: Clearly show the site location and surrounding uses, zoning, and parcels within one (1) mile of site. Label property owner names, parcel numbers, streets, irrigation ditches and other bodies of water, and municipal boundaries. 5. Boundary with City: Distinction of the boundary that is contiguous to the City and the length of same. 6. Contiguous Boundaries: Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the City of Evans, and the contiguous boundary of any other municipality abutting the area proposed to be annexed. 7. Table of Dimensions: Table of perimeter length of annexation and length contiguous boundaries. 8. Ownership Tracts: The location of each ownership tract in unplatted land, and if part or all of the area is to be platted, then the boundaries and the plat number of plots or of lots and blocks are shown. 9. Ownership of all parcels within and adjacent to the annexation. 10. Certification Blocks: Property Owner, Planning Commission, City Council, & Surveyor
	09 DRAFT ANNEXATION AGREEMENT - updated with applicant information
	10 CHARGE BACK AGREEMENT - executed
	CHARGE BACK DEPOSIT: \$500 minimum, determined at pre-application meeting
	APPLICATION FEE: \$1500

PETITION FOR ANNEXATION TO THE CITY OF EVANS, COLORADO

The undersigned, in accordance with Article 12, Title 31, CRS, as amended, hereby petition for City Council of the City of Evans, Colorado, for annexation to the City of Evans the unincorporated territory more particularly described below, to be known as (insert name of annexation)_____ and in support of said Petition, petitioners allege that:

1. It is desirable and necessary that the following described territory be annexed to the City of Evans (attach legal description as Exhibit "A");
2. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Evans, Colorado;
3. A community of interest exists between the territory proposed to be annexed and the City of Evans, Colorado;
4. The territory proposed to be annexed is urban or will be urbanized in the near future;
5. The territory proposed to be annexed is integrated or is capable of being integrated with the City of Evans, Colorado;
6. The signatures of the Petition comprise one hundred percent (100%) of the landowners of the territory to be included in the area proposed to be annexed and said landowners attesting to the facts and agreeing to the conditions herein contained will negate the necessity of any annexation election;
7. No land held in identical ownership, whether consisting of one tract to parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - a) Is divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a separate dedicated street, road or other public way;
 - b) Comprising twenty (20) acres or more and which, together with the buildings and improvements situated thereon has an assessed value in excess of Two Hundred Thousand Dollars (\$200,000) for ad valorem tax purposes for the year proceeding the annexation, is included within the territory proposed to be annexed without the written consent of the landowner or landowners.
8. No part of the area proposed to be annexed is more than three miles from a point on the municipal boundary, as such was established more than one year before this annexation will take place.
9. The area proposed to be annexed comprises (Check One):
 More than 10 acres and the Board of County Commissioners of Weld County has agreed to waive the requirement of an impact report as provided for in section 31-12-108.5, C.R.S., as amended.
 More than 10 acres and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is required.
 10 acres or fewer and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is not required.

10. The area proposed to be annexed is located within Weld County, and the following special districts:

Water Districts _____

Sanitation District _____

Fire District _____

School District _____

Recreation District _____

Library District _____

Ambulance District _____

Jr. College District _____

Other _____

11. The mailing address of each signer, the legal description of the land owned by each signed and the date of signing of each signature are all shown on this Petition;

12. Accompanying this Petition is the draft annexation and initial zoning plat containing the following information:

- a) A written legal description of the boundaries of the area proposed to be annexed;
- b) A map showing the boundary of the area proposed to be annexed;
- c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land, and if part or all of the area is to be platted, then the boundaries and the plat number of plots or of lots and blocks are shown;
- d) Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the City of Evans, and the contiguous boundary of any other municipality abutting the area proposed to be annexed;
- e) The dimensions of the contiguous boundaries are shown on the map.

13. The territory to be annexed is not presently a part of any incorporated city, city and county, or town;

14. The undersigned agree to the following, which shall be covenants running with the land, and which shall, at the option of the City, appear on the annexation map;

15. Petitioner represents that:

- a) Water rights shall be provided pursuant to City Ordinance;
- b) The owners shall participate in providing drainage plans and improvement and payment of a unit drainage fee as may be required by the City for the area;
- c) The undersigned hereby waives any and all "vested rights" previously created pursuant to Section 24-68-103, CRS, as amended;

___ No part of the property to be annexed is included within any site-specific development plan approved by Weld County, Colorado; OR

___ A site-specific development plan has been approved by Weld County, Colorado, which has

DRAFT ANNEXATION AGREEMENT
(Owner Name *for* Property Address / Legal Description)

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between _____, hereinafter referred to as "Owner," and the CITY OF EVANS, a municipal corporation of the State of Colorado, hereinafter referred to as "Evans" or "City."

WITNESSETH

WHEREAS, Owner desires to annex to Evans the property more particularly described on Exhibit A, which is attached hereto, incorporated herein, and made a part hereof (hereafter referred to as "the Property"); and

WHEREAS, Owner has executed a petition to annex the Property, dated _____, a copy of which is on file with the City Clerk; and

WHEREAS, Owner has prepared an Annexation Statement and Conceptual Development Plan identifying and illustrating requested zoning, proposed land use and intended development of the Property more particularly described on Exhibit B, which is attached hereto, incorporated herein and made a part hereof; and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into the following Agreement regarding annexation of the Property to the City and other matters as set forth herein; and

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

WHEREAS, Owner acknowledges the need for conveyances and dedication of certain property, including but not limited to property for rights-of-ways and easements, to Evans as contemplated in this Agreement, which are directly related to and generated by development intended to occur within the Property.

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:

1. Information of Recitals. The parties confirm and incorporate the foregoing recitals into this Agreement.
2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the City. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Evans Municipal Code, Development Regulations and Comprehensive Plan, and the Municipal Annexation Act of 1965, as amended, C.R.S. §31-12-101 et seq.
3. Further Acts. Owner agrees to execute promptly upon request of Evans any and all surveys and other documents necessary to effect the annexation of the Property and the other provisions of this Agreement. Owner agrees not to sign any other petition for annexation of the Property or any petition for annexation election relating to the Property, except upon request of Evans.
4. Annexation Documents. Owner agrees to provide legal documents, surveys, engineering work, newspaper publications, maps and reports determined by Evans to be necessary to accomplish the annexation.
5. Zoning and Land Use. The parties recognize that it is the intent and desire of Owner to develop the Property in a manner generally consistent with the zoning and land uses presented in paragraph 15 below, and that the granting of such zoning by the City of Evans is a material consideration of the Owner's agreement to annex the Property to the City. Owner shall take all action necessary to permit zoning by Evans of the annexed Property within the time prescribed by state statute. In the event the City does not zone the land in accordance with the uses further described in paragraph 15, then the City agrees not to oppose any disconnection by the Owner, subject to the requirements of state law.

6. **Public Use Land Dedication.** Owner agrees to dedicate, by General Warranty Deed or other appropriate instrument of conveyance acceptable to the City, or, at the request of the City, for a homeowner's association to be created, all of Owner's right, title and interest (subject to exceptions of record permitted by the City), in and to the applicable Property a portion of the territory to be annexed for public open space or other public purposes as directed by the City, in addition to easements and rights-of-way for streets and other public ways and of other public purposes, all as required by City ordinances and resolutions in effect at the time of the dedication. Owner shall have no obligation to dedicate any land for development of public improvements for the following: public school, sewer/water treatment facilities or related facility, power generation plant, library, police station or fire station.
7. **Water and Wastewater Utilities.** On-site and required off-site water and wastewater mains and appurtenances shall be constructed to City standards by Owner at Owner's expense. Owner shall be entitled to reimbursement for oversizing of any additional mains in accordance with the ordinances and policies of the City. The water and sewer mains to be oversized shall be set forth in the Public Improvement Developers Agreement.
8. **Water Rights Dedication.** Owner shall dedicate water rights as required by Title 13.08 of the Evans Municipal Code.
9. **Non-potable Irrigation.** Owner may install and City may require Owner to install a non-potable water system to provide irrigation water to all areas described within Exhibit A. The non-potable water system will become an extension of the Evans water utility enterprise and will be owned, operated, and maintained by the City after acceptance by the City. In consideration of the reduced potable water demand that will be realized by the installation of a non-potable irrigation system, the amount of raw water to be dedicated to the City shall be reduced by an amount as determined by an engineering analysis performed by the City at the expense of Owner, or by City policy.
10. **Municipal Services.** Evans agrees to make available to the Property all of the usual municipal services provided by the City, in accordance with the ordinances and policies of the City. The services provided by the City include, but are not limited to, police protection, fire protection, water, wastewater, and storm water services. Owner acknowledges that City services do not include, as of the date of the execution of this Agreement, emergency medical services.
11. **Public Improvements.** Required public improvements shall be designed and constructed to City standards by Owner at Owner's expense. Owner further agrees to provide financial guarantees for construction of all required improvements as set forth in each phase of the development, and to dedicate to the City any or all of the improvements as required by City ordinances. The public improvements and financial guarantee shall be set forth in the Development Agreement between the City and Owner.
12. **Streets and Arterial Roads.** On-site and required off-site streets shall be dedicated, designed, and constructed to City standards by Owner at Owner's expense. Upon approval of the City, Owner shall dedicate all public right-of-way improvements under warranty with at least a two-year guarantee for maintenance to the City of Evans. A traffic study for the proposed development shall be completed by the Owner in accordance with City requirements. The Traffic Engineer shall consider future signalization and a signal progression analysis. Owner shall be responsible for payment of a portion of the cost related to the design and construction of such future signalization when it is determined that such infrastructure is warranted.
13. **Drainage.** Owner shall provide at Owner's expense a drainage study of the entire annexation territory. Improvements recommended by such study shall be completed at the time of completion of each phase of development. Facilities necessary to address drainage from outside the Property shall be designed for quantities in excess of those amounts historically discharged from the site. Such facilities shall be developed in conformance with the Comprehensive Drainage Study and other City regulations and ordinances.
14. **Reimbursements.** To the extent water, sewer, storm drainage facilities or other public utilities are oversized or extended onto property by Owner or to the extent public improvements are built off-site of the Property by Owner, by any District or by the City (for which Owner/Developer pays), for benefit accruing to other parties, said improvements may be eligible for reimbursement. Per Title 13.28 of the Evans Municipal Code, City agrees to use its best efforts to maximize the opportunity for, and amounts of reimbursement payable to Owner in connection with the development of any other property tapping onto or otherwise making use of any such improvements. The City agrees to coordinate the execution and delivery of necessary reimbursement agreements among the City, the Owner and the owner/developer of any other such property in order to obtain such reimbursements for Owner.

15. Zoning and Land Use.

- (A) Conceptual Plan. Owner and City shall mutually agree upon a conceptual land use plan that is in accordance with the City's Comprehensive Plan. It is Owner's intent to develop and request zoning for the Property in accordance with the conceptual land use plan as shown in Exhibit B. The conceptual plan consists of (add description).
- (B) Owner agrees that the design, improvement, construction, and development of the Property described herein shall be in conformance with the City of Evans Design Guidelines, as those requirements exist at the time of site plan application.
- (C) Rezoning Process. Upon submittal of required materials, Owner's rezoning request shall be processed concurrently with the petition for annexation. This provision does not waive the authority of the Owner or the City of Evans to initiate rezoning of the land in accordance with the Charter and ordinances of the City of Evans. Land use is subject to the police power and legislative authority of the City of Evans.

16. Agricultural Use. The City agrees that Owner may continue the agricultural uses that are presently being conducted on the Property in the same manner as they have historically been performed until the development of the Property. The Owner understands and agrees that upon issuance of the first non-agricultural building permit for the Property, such agricultural activities shall cease, and any livestock, barbed wire, and/or electric fences shall be removed from the Property. The Owner understands that discharge of firearms is strictly prohibited in the City of Evans.

17. Limitation on Fee Impositions by the City. The City agrees that the Property shall be subject to typical development fees similar to those that are imposed on other developments in the City pursuant to the City's regulations and ordinances unless otherwise mutually agreed upon by the Owner and the City.

18. Development Agreement. In a form provided by the City, Owner and the City shall enter into a development agreement. The final form of the development agreement shall be subject to mutual agreement of the parties on the terms and conditions of the same. The development agreement shall be signed prior to or upon approval of the final plat.

19. Conformity with Laws. Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all applicable laws and ordinances and that Owner shall comply with all City ordinances, resolutions and regulations including without limitation, ordinances, resolutions, and regulations pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to City streets, and flood control.

20. No Repeal of Laws. Nothing contained 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 of any tax or fee.

21. Disconnection. No right or remedy of disconnection of the Property from the City shall accrue from this Agreement. In the event the Property or any portion thereof is disconnected, Evans 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.

22. Severability. The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

23. Owner's Association. Owner shall organize a unit owner's association or associations if appropriate for given parcels and/or unit types with the development of the Property. Owner shall form the association(s) pursuant to the Colorado Common Interest Ownership Act ("Act"). C.R.S. §38-33.3-101, *et seq.* The Owner shall also execute and record covenants and instruments of conveyance which comply with the Act and which adequately provide for continuous

ownership, operation, maintenance, repair and replacement of common elements of the development, including but not limited to any private roads, private common areas and private facilities. At least thirty (30) days prior to recording any covenants or instruments of conveyance to the association(s), Owner shall provide such documents to the City Attorney for review and comment.

24. Fire Protection District Exclusion. Owner agrees to petition out of the _____ Fire Protection District and does hereby irrevocably appoint the Fire Chief of the City of Evans, its true and lawful agent, and attorney for the Owner and in the Owner's name and stead to sign and execute any and all petitions, documents and writing pertaining to the lands herein described which shall be necessary and appropriate to petition out of such district.
25. Water Conservancy Municipal Subdistrict Inclusion. Pursuant to CRS 37-45-136(3.6), Owner consents to inclusion of the property into the Municipal Subdistrict, Northern Colorado Water Conservancy District, when the annexation becomes effective.
26. Future Cooperation. The parties agree 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.
27. No Joint Venture or Partnership/No Assumption of Liability. Nothing contained in this Agreement is intended to create a partnership or joint venture between the City and Owner or between the City and any one or more of the individual owners listed above, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function, or service, nor does it create a joint enterprise, nor does it constitute any party hereto as any agent of another party hereto for any purpose whatsoever. Except as specifically otherwise provided in this agreement, no party shall in any way assume any of the liability of any other party for any act or obligations of the other party.
28. Amendment. This Agreement may be amended only by mutual agreement of the City and Owner. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Weld County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property and/or Water Rights subject to the amendment unless otherwise specified in the amendment.
29. Entire Agreement. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written between the parties.
30. Owner. As used in the Agreement, the term "Owner" shall include any of the heirs, transferees, successors, or assigns of Owner, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms of this Agreement, as if they were the original parties thereto. In the event of a transfer of all or any portion of the Property, provided the City approves such transfer, such approval not to be unreasonably withheld, the transferring Owner shall be relieved of any and all obligations under this Agreement that arise after the date of such transfer with respect to the transferred Property.
31. Amendments to Law. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any City ordinance, resolution, regulation, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, regulation, or policy, and the parties agree such amendments or revisions shall be binding upon Owner.
32. Binding Effect. This Agreement shall be binding upon and inure to the benefit of all the heirs, transferees, successors, and assigns hereof, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk and Recorder of Weld County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
33. Failure to Annex. This Agreement shall be null and void if the City fails to approve the annexation of the Property.
34. Breach of Agreement.

(A) Breach by Developer; City's Remedies. In the event of a default or breach by the Owner of any term, condition, covenant, or obligation under this Agreement, the City may take action, as it deems necessary to protect the public health, safety, and welfare; to protect lot buyers and builders; and to protect the citizens of the City from hardship. The City's remedies include:

- (1) The refusal to issue to the Owner any development permit, building permit, or certificate of occupancy. This remedy shall not affect sales to bona fide purchasers nor be applied to bona fide purchasers (i.e. purchasers of individual lots by persons unrelated to Owner);
- (2) A demand that the security given for the completion of the public improvements be paid or honored;
- (3) The refusal to consider further development plans within the Property; and /or
- (4) Any other remedy available at law.

Unless necessary to protect the immediate health, safety, and welfare of the City or City residents, the City shall provide the Owner ten (10) days written notice of its intent to take any action under this Paragraph during which ten-day period the Owner may cure the breach described in said notice and prevent further action the City.

- (B) Breach by City. Parties agree that in the event of a breach by the City, Owner will have the right to seek all remedies provided by law.
- (C) Attorney's Fees. If any party breaches this Agreement, the breaching party shall pay the non-breaching parties reasonable costs and attorney fees incurred in the enforcement of the terms and conditions of this Agreement.

35. General Provisions. City shall:

- (A) Cause its staff to timely and promptly approve or disapprove written submittal by Owner of any plans, specifications, drawings, details or other pertinent data required in connection with any water line, sanitary sewer line, storm drainage or other utility serving the Property or any improvements within any dedicated right-of-way on the Property. Any disapproval shall set forth the items disapproved together with the reasons for such disapproval.
- (B) Use its best efforts securing, at Owner's expense, construction and maintenance agreements from governmental or private entities in order to allow Owner to fulfill its obligations under this Agreement and to proceed with development of the Property.
- (C) Cooperate with Owner with any filings, applications, approvals, or other administrative procedures with governmental entities other than the City, which is necessary to allow Owner to fulfill its obligations under this Agreement and to develop the Property in a timely manner.
- (D) Provide police and other municipal services to the Property to the same extent as those services are provided by City throughout the balance of the City, pursuant to the City's uniform applied policies.
- (E) Not unreasonably withhold its consent or approval when any consent or approval is required.

Owner shall notify the City of assignments and the name of the assignee(s) upon the sale or other transfer of any portion of the Property. The transferor of such portion shall be released from all liability and obligation under this Agreement relating to such portion and all such liabilities and obligations shall be assumed by the transferee (unless transferee is a member of the home buying public or governmental entity).

Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing codes, ordinances or as a waiver of the City's legislative, governmental or police powers to promote and protect the health, safety, and general welfare of the City or its inhabitants; nor shall this agreement prohibit the enactment by the City of any fee which is of uniform or general application.

It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is by a court determined to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain that particular part, term, or provision held to be invalid. This Agreement may be enforced in any court of competent jurisdiction.

36. Notice. All notices required under this Agreement shall be in writing and shall be hand delivered, sent by facsimile transmission, or sent via registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices by hand delivery shall be effective upon receipt. All facsimile transmissions shall be effective upon transmission receipt, provided a hard copy is mailed the same date. All notices by mail 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 City: City of Evans
 Attn: City Manager
 1100 37th Street
 Evans, CO 80620

With copy to: City Attorney
 City of Evans
 1100 37th Street
 Evans, CO 80620

Notice to Owner:

37. Election. Owner agrees that he/she/it is voluntarily entering into this Agreement. Owner represents and submits that to the extent an election would be required pursuant to C.R.S. §31-12-112, as amended, to approve the annexation or to impose terms and conditions upon the Property to be annexed, Owner owns 100 percent of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein. Thus, any election would necessarily result in a majority of the electors' approval to the annexation and the terms and conditions.

38. Legislative Discretion. The Owner acknowledges that the annexation and zoning of the Property are subject to the legislative discretion of the City Council of the City of Evans. No assurances of annexation, zoning, or special use permit approval have been made or relied upon by the Owner. In the event that, in the exercise of its legislative discretion, any action with respect to the annexation, zoning or special use approval for the Property, as contemplated herein and in the proposed Conceptual Development Plan for the Property, is not taken or if once taken and Owner is in full compliance with such annexation, zoning or special use approvals is not maintained, then the Owner may withdraw the petition for annexation and seek disconnection from the City in accordance with state law, as may be appropriate and City agrees not to oppose.

39. No Third-Party Rights. This Agreement is made solely for the benefit of the parties hereto and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

40. 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 the venue of such suit or action shall be in Weld County, Colorado.

41. Headings. The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

42. No Warranties by the City. The City is entering into this Agreement in good faith and with the present intention, on the part of the present City Council, that this Agreement will be complied with. However, because some of the provisions of this Agreement may involve areas of legal uncertainty, the City makes no representation as to the validity or enforceability of this Agreement and that no such warranty is made on the part of the City.

43. Attorney's Fees. If any Party breaches this Agreement, the breaching party shall pay the non-breaching party's reasonable costs and attorney's fees incurred in the enforcement of the terms and conditions of this Agreement. In the event that any person, corporation, special district, municipal or county government, or any other entity asserts any claim or appeal against the City, its officials, or employees pursuant to the provisions of the Colorado Municipal Annexation Act, C.R.S., Section 31-12-101, et seq., the Owner agrees to reimburse the City for all reasonable costs and attorney's fees incurred by the City in defense of such claims whether or not such defense is successful. The City shall, at all times, have control over the defense of the City in such matters and nothing herein shall be construed to require the City to assert any position which is inappropriate, in the sole judgment of the City. The City and Owners/Developers shall confer with each other concerning the defense and/or settlement of any such action.

44. Cost Reimbursement to City. Developer shall reimburse City for outside professional consultants such as engineers, testing companies, and attorneys necessitated by processing and completion of this development.

ATTEST:

CITY OF EVANS, COLORADO
A Municipal Corporation

By: _____
City Clerk

By: _____
Mayor

LANDOWNER

By: _____
Signature Title Date

STATE OF COLORADO)
) ss.
_____ COUNTY)

SUBSCRIBED AND SWORN to before me this _____, day of _____, 20____, by

_____.

WITNESS my hand and official seal.

(SEAL)

Notary Public in and for the State of Colorado;
My commission expires: _____

**ANNEXATION AGREEMENT
EXHIBITS**

- A. Legal Description
- B. Annexation Statement and Conceptual Development Plan