

SEWER SERVICES AGREEMENT

THIS SEWER SERVICES AGREEMENT ("Agreement") is entered into this ____ day of _____, 2008, by and between the CITY OF HAILEY, IDAHO, a municipal corporation and political subdivision of the State of Idaho ("Hailey"), and SPRING CANYON RANCH, LLC, a Delaware limited liability company authorized to do business in Idaho, ("Spring Canyon") (collectively, Hailey and Spring Canyon are referred to as the "Parties"), in contemplation of the following:

RECITALS

A. Hailey is a municipal corporation and political subdivision of the State of Idaho, and has authority to enter into this Agreement. The Hailey City Council has duly authorized the execution of this Agreement.

B. Hailey has the power to contract and to exercise all powers not specifically prohibited by or in conflict with the general laws or constitution of the State of Idaho.

C. Spring Canyon is the owner of real property located outside of the municipal boundaries of Hailey, more particularly described in attached Exhibit "A" (the "Development"). Spring Canyon intends to obtain subdivision approval for the Development of approximately one hundred fifteen (115) residential lots from Blaine County, Idaho.

D. Spring Canyon desires to donate financial and other assistance to the Croy Canyon Ranch Foundation, the Blaine County School District, Croy Canyon Ranch Subdivision No. 2, and Spring Canyon desires to develop Development as a residential Planned Unit Development. Currently, the Development, the adjoining Croy Canyon Ranch Foundation, Croy Canyon Ranch Subdivision No. 2, and the Blaine County School District properties are undeveloped and not served by any municipal or other sewer system. Spring Canyon has asked to connect the Development, and provide the sewer main for use by the Croy Canyon Ranch Foundation Property, more particularly described in attached Exhibit "B" ("Foundation Property"), the Blaine County School District Property, more particularly described in attached Exhibit "C" ("School Property") and Croy Canyon Ranch Subdivision No. 2, more particularly described in attached Exhibit "D" ("Simons' Property") into the Hailey municipal sewer system.

E. Subject to the terms and conditions set forth herein, Hailey is willing and agrees to allow Spring Canyon to connect into the Hailey municipal sewer system.

NOW, THEREFORE, IN CONSIDERATION of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Right to Connection. Provided there is full compliance with this Agreement, Spring Canyon shall have the right to connect into and use Hailey's municipal sewer system at such location(s) deemed acceptable by Hailey subject to the terms and conditions set forth herein. The Parties agree and acknowledge that the Foundation Property, School Property,

Simons' Property and any other property outside of the municipal limits of Hailey do not have the right to connect into and use Hailey's municipal sewer system, unless and until Hailey agrees to such a connection and use under terms and conditions acceptable to Hailey, in its sole and absolute discretion, which may or may not be consistent with the terms and conditions of this Agreement.

2. Bridge to be Constructed by Spring Canyon. In the event that Blaine County, Idaho approves the Development in substantially the same form as shown on the site plan as shown on attached Exhibit "E", Spring Canyon, at its sole cost and expense, shall construct on or before Spring Canyon connects to Hailey's municipal sewer system a one-lane bridge across the Big Wood River immediately adjacent to the existing Bullion Street bridge for emergency access and for non-vehicular access connecting Hailey to the bike path. Hailey shall have the right to review the engineering plans and the final construction of the bridge.

3. Community Housing. It is Spring Canyon's desire to satisfy its community housing obligation by donating a ten acre parcel as shown on the map attached as Exhibit "F" ("Donated Property") and the sum of One Million and no/100 Dollars (\$1,000,000.00) to the Croy Canyon Ranch Foundation. In the event that Blaine County approves Spring Canyon's community housing plan, Spring Canyon shall donate the Donated Property and pay the One Million and no/100 Dollars before Spring Canyon connects to Hailey's municipal sewer system.

4. Consideration for Connection. Subject to the terms and conditions hereof, Spring Canyon agrees to pay to Hailey as consideration for the right to connect into Hailey's municipal sewer system the sum of Seven Hundred Fifty Thousand and no/100 Dollars (\$750,000.00), adjusted pursuant to paragraph 6.2.1, below ("Development Connection Fee"), payable in cash and in accordance with the schedule described herein. Before connection to Hailey's municipal sewer system, Spring Canyon will pay Hailey Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00), plus any adjustment on the entire Development Connection Fee calculated in accordance with paragraph 6.2.1, below, in cash for partial payment of the Development Connection Fee. The remainder of the Development Connection Fee in the amount of Five Hundred Thousand Dollars (\$500,000.00), as adjusted in accordance with paragraph 6.2.1, below, shall be paid to Hailey in a pro rata amount for each lot at the time of connection.

5. Creation of Sewer District or Establishment of Owner's Association. Spring Canyon shall either initiate and cause to be established a sewer district ("District") in accordance with Idaho Code §§42-3201 *et seq.*, or if a District is not legally possible to establish, a Spring Canyon Ranch Property Owner's Association ("Association") that will be responsible to pay the fees described in paragraph 6 of this Agreement.

6. Fees for Hookup and Connection.

6.1 Connection Fees. Either the District or the Association, as the case may be, shall be responsible for the collection and payment of connection fees (equivalent to the rates charged to Hailey residents).

6.2 Expansion Costs. For the Development, the District or the Association, as the case may be, shall pay the sum of Three Thousand Five Hundred Dollars (\$3,500) per lot,

adjusted pursuant to paragraph 6.2.1, below, which represents its fair share of sewer expansion costs of the Hailey Sewer Treatment System attributable to the Development ("Development Expansion Costs"). The payment of the Development Expansion Costs, as adjusted herein, shall be paid for each lot at the time of connection. The District or the Association, as the case may be, shall also be responsible for the payment of the pro rata share of all costs and expenses for expansion or upgrades as a result of future regulatory permitting or similar requirements for each lot at the time of connection, which, in no event, shall exceed amounts paid by all other users of the Hailey municipal sewer system

6.2.1 Adjustment of Fee for Development Connection Fee and Development Expansion Costs. The Development Connection Fee and Development Expansion Costs shall be adjusted annually for inflation as set forth below. The computation of the adjustment of the fee shall be based upon the cost-of-living index as shown by the column in the "Consumer Price Index, All Items Index" for the Pacific Cities and United States City Average for all urban consumers, Class West-C, published monthly in the "Monthly Labor Review" of the United States Department of Labor, and as also found in the "Economic Indicators" published by the United States Government Printing office for the Joint Economic Committee by the Council of Economic Advisors, or if this Index is discontinued, a successor index. The basic index number shall be that index number for January 1, 2008. The sums set forth in Paragraph 6.2, above, shall be increased annually by the percentage increase shown by the index at December of each year as compared to the basic index as set forth above.

6.3 User Fees. Either the District or the Association, as the case may be, will pay monthly user fees charged to Hailey residents, plus ten percent (10%). The wastewater user fee shall be calculated in accordance with Chapter 13.04 of the Hailey Municipal Code, as adopted and subsequently amended. Spring Canyon shall install water meters for each residential use in the Development that are compatible with Hailey's water meters and water monitoring system. The District or Association, as the case may be, shall provide monthly water readings that can be utilized by Hailey's metering and billing system on the same billing cycle used by Hailey.

7. Final Plat Approval and Connection. Upon final approval of the Development by Blaine County, Hailey shall grant Spring Canyon the right to connect to and use the Hailey municipal sewer system in accordance with the provisions of this Agreement. As a result of Hailey's provision of sewer services, Spring Canyon shall not apply for an increase of the base density for the Development than is currently authorized by Blaine County's Ordinances

8. Termination. Notwithstanding anything to the contrary set forth in the foregoing, in the event Spring Canyon is not successful in recording a final plat of the Development within six (6) years of the date of this Agreement, or Spring Canyon is in material breach of the covenants of this Agreement, or Spring Canyon provides notice of an intent to terminate this Agreement before the expiration of the six year term following the date of this Agreement, this Agreement shall terminate and be of no further force and effect.

9. Infrastructure. Spring Canyon shall construct, at Spring Canyon's sole expense, all sewer main lines and related sewer improvements, such as any necessary lift stations, needed to connect to the Hailey municipal sewer system, all in accordance with applicable federal, state and Hailey regulations and ordinances in existence at the time of the construction. The location of the sewer main lines and related sewer improvements ("Sewer Infrastructure") and the points of connection to the Hailey municipal sewer system shall be approved by Hailey following consultation with Spring Canyon's engineer(s). Upon completion of the Sewer Infrastructure and approval by Hailey, Spring Canyon shall dedicate the Sewer Infrastructure to Hailey. The Sewer Infrastructure shall consist of wastewater mainlines and manholes, and lift stations, but shall not consist of individual service lines to each residential use in the Development. Upon platting of the Development, Spring Canyon shall grant an easement to access, repair, maintain and replace the Sewer Infrastructure.

10. Release of Encumbrances. The obligation of each lot of the Development to pay a portion of the Development Connection Fee, Development Expansion Costs and any other cost established by this Agreement shall constitute a lien on the Development and upon each lot shown on a final plat for the Development. Upon payment of any portion of the Development Connection Fee, Development Expansion Costs and any other cost established by this Agreement, Hailey shall execute and record a release of the lien which has been satisfied by the payment.

11. General Provisions.

11.1 Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both Parties hereto and as evidenced by appropriate application.

11.2 Mediation/Arbitration. Any controversy or claim arising out of or relating to this Agreement or breach thereof, shall first be submitted to mediation in accordance with the American Arbitration Association Commercial Mediation Rules. Mediation shall be held in Blaine County. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of Idaho. Initially, the Parties shall split equally the cost and expenses of the mediator. In the event mediation proves unsuccessful, all controversies or claims arising out of, or relating to, this Agreement or the breach thereof shall be decided by arbitration. Such arbitration shall be final and binding, and conducted by one (1) neutral arbitrator, and shall proceed in accordance with the American Arbitration Association Commercial Arbitration Rules unless the parties mutually agree otherwise. Judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law of the State of Idaho. Arbitration shall take place in Blaine County, Idaho. In the event of any controversy or claim arising out of or relating to this Agreement or breach thereof, the prevailing party shall be entitled to recover its reasonable costs, including arbitration costs and attorney's fees incurred in the arbitration or on any proceeding in district court to compel arbitration or confirm an arbitration award or on appeal thereof.

11.3 No Waiver. In the event that Hailey or Spring Canyon, or its successors or assigns, do not strictly comply with any of the obligations and duties set forth herein, thereby

causing a default under this Agreement, any forbearance of any kind that may be granted or allowed by Spring Canyon, or its successors in interest, or by Hailey, to the other party under this Agreement shall not in any manner be deemed or construed as waiving or surrendering any of the conditions or covenants of this Agreement with regard to any subsequent default or breach.

11.4 Partial Invalidity. In the event any portion of this Agreement shall be determined by any court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions of this Agreement, or parts hereof, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, it being understood that such remaining provisions shall be construed in a manner most closely approximating the intention of the Parties with respect to the invalid, void, or unenforceable provision or part hereof.

11.5 Entire Agreement. This Agreement constitutes the full and complete agreement and understanding between the Parties hereto. No representations or covenants made by either party shall be binding unless contained in this Agreement or subsequent written amendments hereto.

11.6 Notices. Any and all notices, demands, requests, and other communications required to be given hereunder by either of the Parties hereto shall be in writing and be deemed properly served or delivered, if delivered by hand to the party to whose attention it is directed, or when sent, two (2) days after deposit in the U.S. mail, postage prepaid, or upon the sending of a facsimile, followed by a copy sent by U.S. mail as provided herein, addressed as follows:

To Hailey:

The City of Hailey
115 Main Street South, Suite H
Hailey, Idaho 83333
208/788-4221 (telephone)
208/788-2924 (facsimile)

To Spring Canyon:

Spring Canyon Ranch, LLC
395 Oyster Point, Ste. 309
So. San Francisco, CA 94080

or at such other address, or facsimile number, or to such other party which any party entitled to receive notice hereunder designates to the other in writing as provided above.

11.7 Rights and Remedies are Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise. In addition to all other remedies at law or in equity, the Parties

specifically agree that this Agreement shall be enforceable by specific performance by either party hereto.

11.8 Successors and Assigns; Covenant Running with the Land. This Agreement shall inure to the benefit of and be binding upon Spring Canyon and Hailey, and their successors and assigns. This Agreement shall be a covenant running with the Development and with any portion thereof.

11.9 Paragraph Headings. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of the provisions of the Agreement.

11.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Idaho.

11.11 Preparation of Agreement. No presumption shall exist in favor of or against any party to this Agreement as a result of the drafting and preparation of this document.

11.12 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.13 Force Majeure. Neither Party shall be liable for failure to perform hereunder, in whole or in part, due to contingencies beyond the party's reasonable control, including but not necessarily limited to acts of God, the public enemy, fire, floods, epidemics, earthquakes, quarantine restrictions, and strikes not created by the Parties, whether now existing or hereafter created.

11.14 No Third Party Beneficiary Rights Created. Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.

11.15 Consent to Annexation. The Parties agree that the provisions of this Agreement shall constitute a consent to annexation under Idaho Code §50-222, as amended. This written consent to annex lands shall be binding, at time of connection, upon subsequent purchasers, heirs or assigns of the Development; provided, however, that if there is a termination of this Agreement under paragraph 8, this paragraph 11.15 shall be null and void, and without further force or effect, and the Parties shall immediately execute and record a notice to that effect. Upon recordation of such notice, no consent to annexation shall exist or be binding upon subsequent purchasers, heirs or assigns.

IN WITNESS WHEREOF, the Parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

SPRING CANYON RANCH, LLC