

# Native Sun Construction Property

## Annexation Impact Report

### Background

This Annexation Impact Report (AIR) is prepared for the Native Sun Construction Property, a 10.68 acre parcel currently located within El Paso County on Woodcarver Road and as further depicted in Exhibits attached to this AIR. The Applicant, Native Sun Construction, Inc. a Colorado corporation, (“NSC”) is requesting annexation into the Town of Monument (TOM). The AIR follows the requirements found in Colorado State Statutes.

### Annexation Impact Report Criteria and Responses

The Applicant’s responses are found in *italics below each criteria or requirement.*

- (1) The municipality shall prepare an impact report concerning the proposed annexation at least twenty-five days before the date of the hearing established pursuant to section 31-12-108 and shall file one copy with the board of county commissioners governing the area proposed to be annexed within five days thereafter. Such report shall not be required for annexations of ten acres or less in total area or when the municipality and the board of county commissioners governing the area proposed to be annexed agree that the report may be waived. Such report shall include, as a minimum:

*This AIR will be submitted to the TOM prior to the 25 day requirement. It will then be the TOM’s responsibility to file a copy with the El Paso County Board of County Commissioners within 5 days of submittal.*

- (a) A map or maps of the municipality and adjacent territory to show the following information:

- (I) The present and proposed boundaries of the municipality in the vicinity of the proposed annexation;

*See Exhibit A.*

- (II) The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and

*Existing “streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches” are shown in Exhibit B-1: Improvement Survey Plat/Sheet 3. Proposed extension of streets and utility lines are shown in Exhibit B-2.*

- (III) The existing and proposed land use pattern in the areas to be annexed;

*See Exhibit C-1 Existing Land Use Pattern and Exhibit C-2 Proposed Land Use Pattern*

(b) A copy of any draft or final preannexation agreement, if available;

*See Exhibit D – Draft Annexation Agreement*

(c) A statement setting forth the plans of the municipality for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation;

*The Town of Monument will have no obligation for providing municipal services to the property following annexation with the exception of police and municipal court services. Tri-lakes Monument Fire Protection District will provide fire and emergency services. The Fiscal Impact Report for the proposed annexation indicates a net overall fiscal benefit to the TOM.*

(d) A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed;

*No extension of municipal services will be required. It is not expected that financing of potential future road improvements would be performed by the TOM.*

(e) A statement identifying existing districts within the area to be annexed; and

*The only existing district within the area to be annexed is Tri-Lakes Monument Fire Protection District. The annexed property will be served with wastewater through an Outside District arrangement with the Forest Lakes Metro District (FLMD). A similar arrangement with FLMD for water service may be made in the future.*

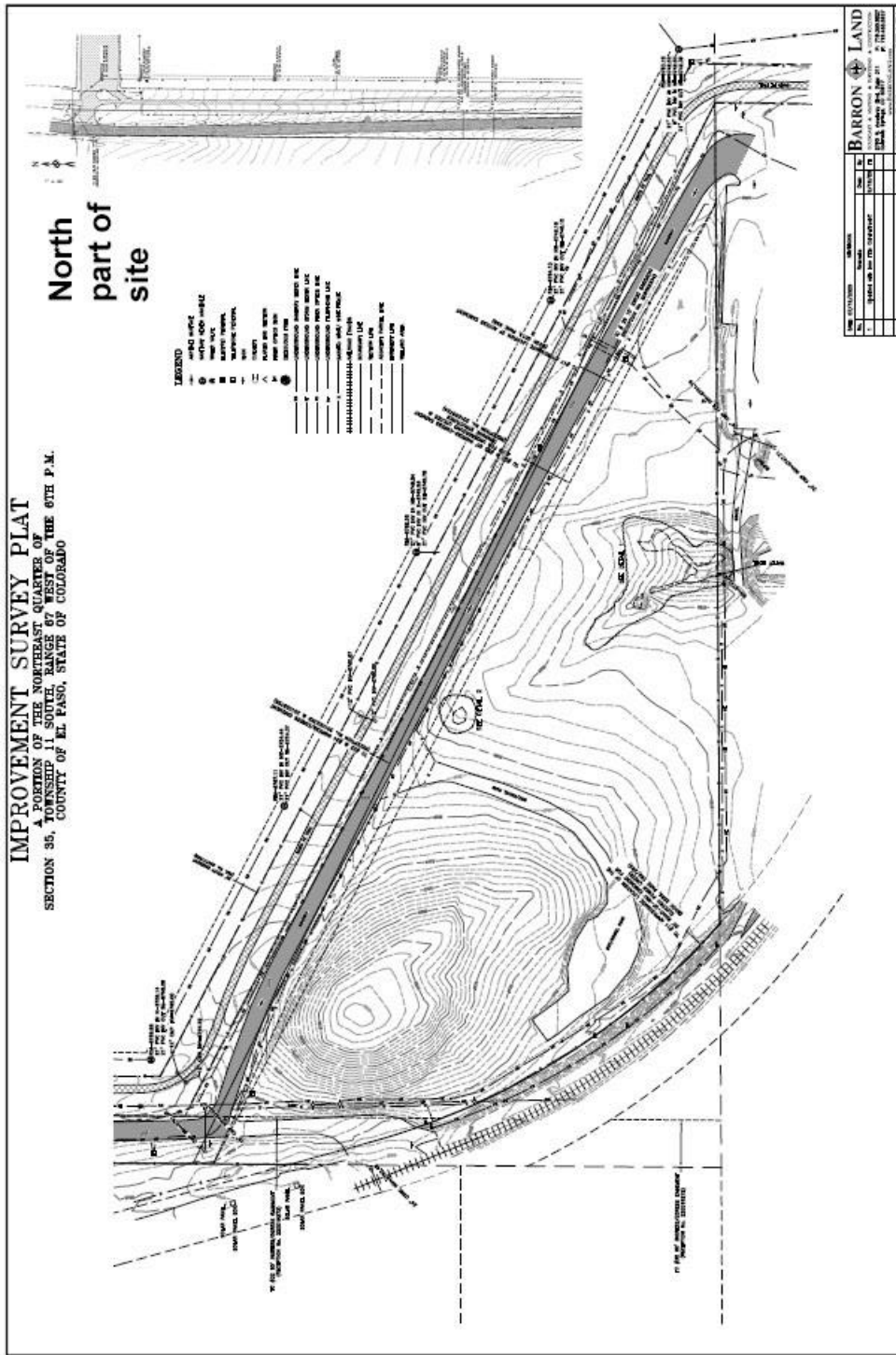
(f) A statement on the effect of annexation upon local-public school district systems, including the estimated number of students generated and the capital construction required to educate such students.

*There will continue to be a net benefit to Lewis-Palmer School District 38 because the property taxes going to the school district will continue to be generated without any students attending the schools due to the commercial use.*

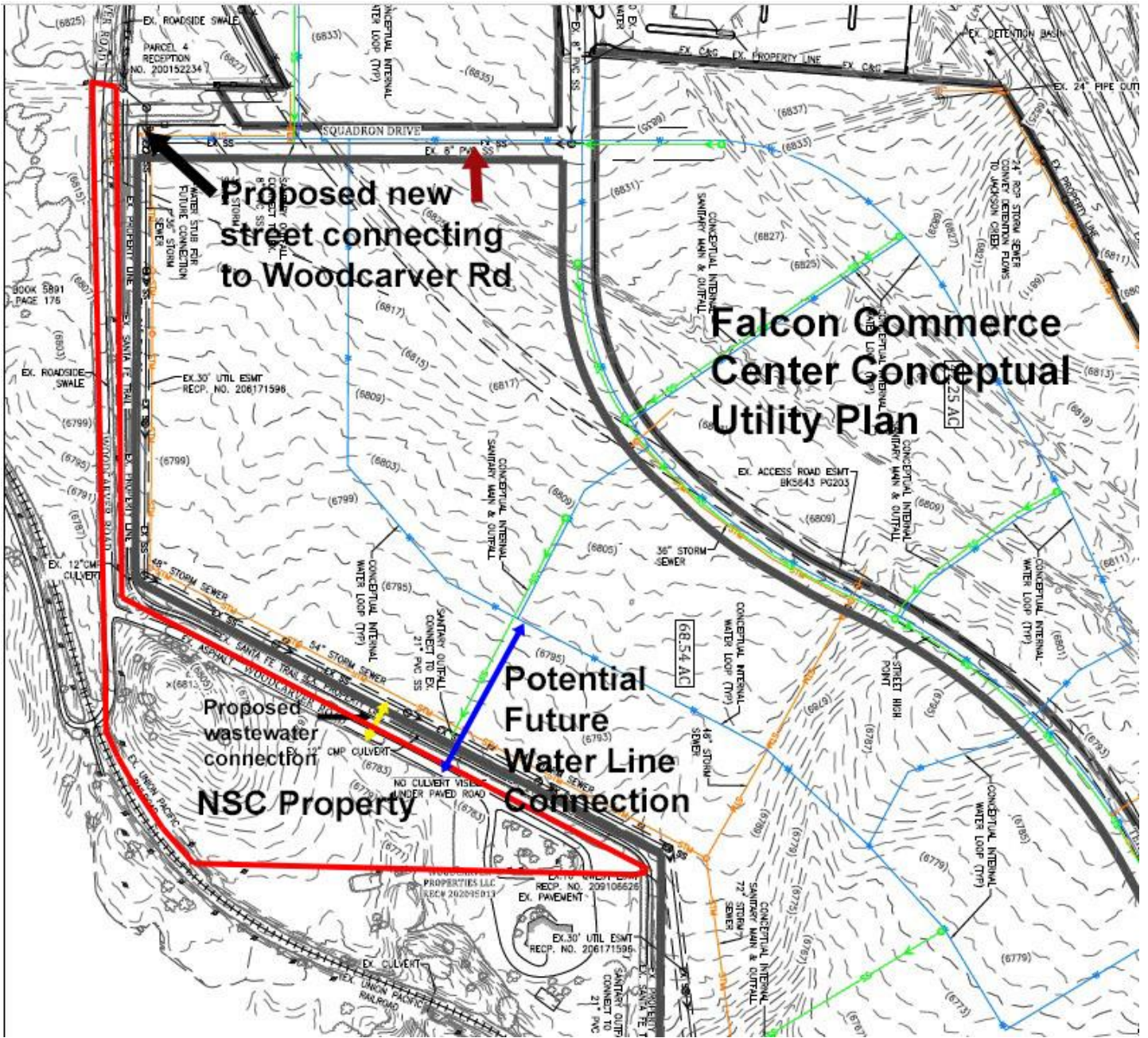


# EXHIBIT B-1

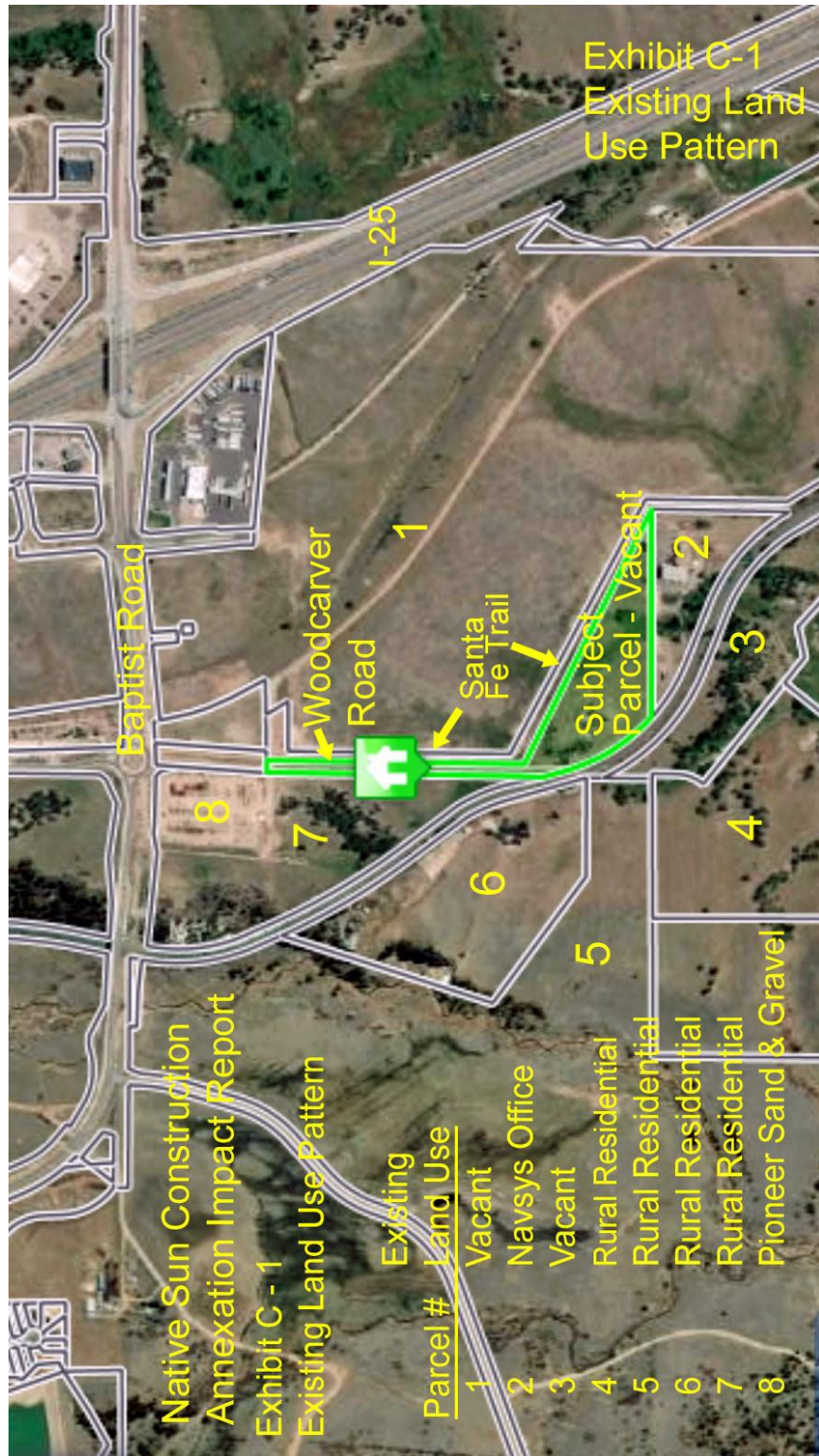
Existing streets/major trunk water mains/sewer interceptors and outfalls/other utility lines and ditches



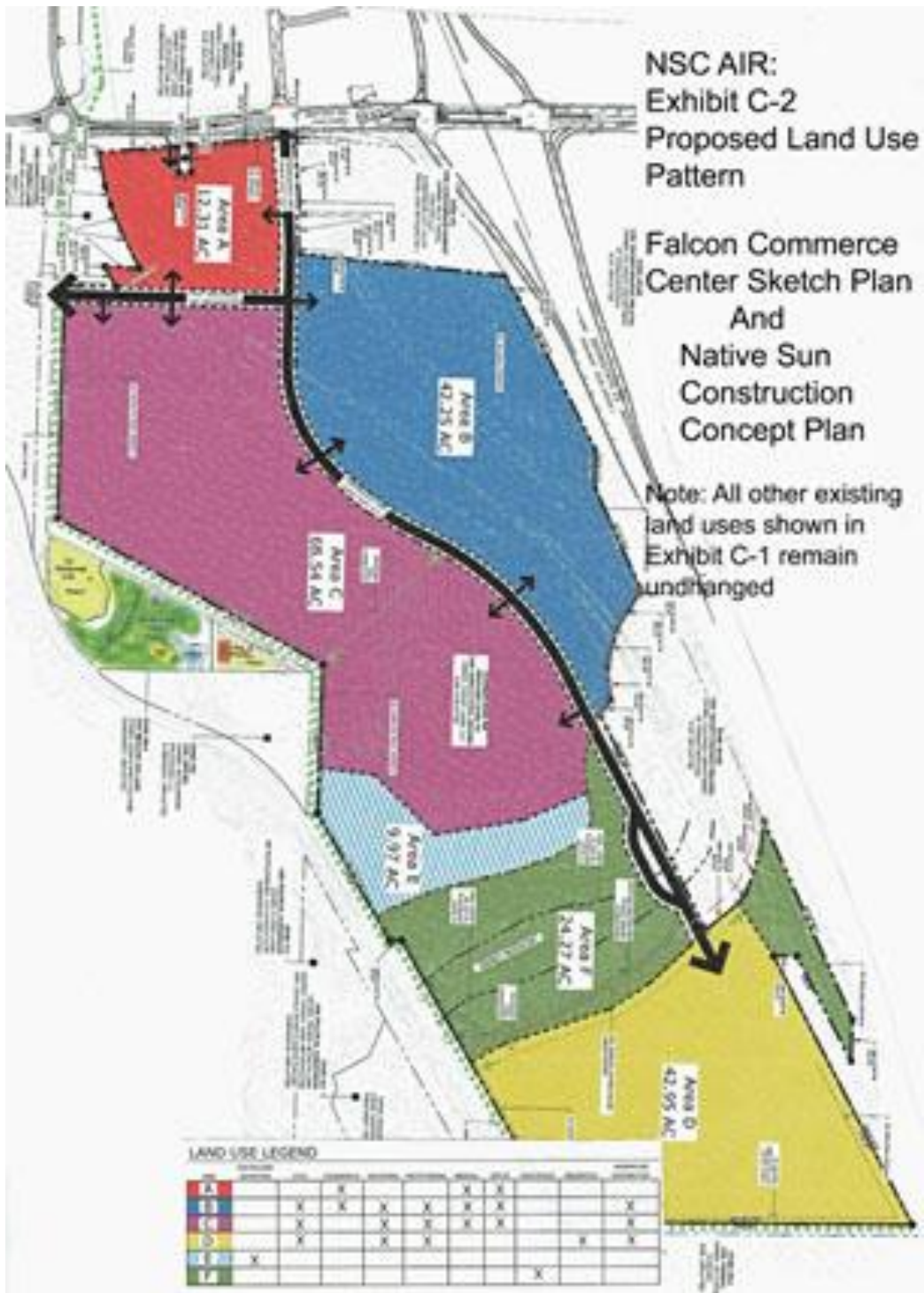
**EXHIBIT B-2**  
**Proposed extension of streets and utility lines**



**EXHIBIT C-1**



## EXHIBIT C-2



**EXHIBIT D  
ANNEXATION AGREEMENT**

**(Begins on next page)**



**ANNEXATION & DEVELOPMENT AGREEMENT  
NATIVE SUN MATERIALS, INC. PROPERTY**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_  
2020, by and between Native Sun Materials Inc., a Colorado corporation, hereinafter  
referred to as "ANNEXOR, " and the TOWN OF MONUMENT, a municipal corporation  
of the County of El Paso, hereinafter referred to as "TOWN."

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**Exhibit B: Legal Description**

**Exhibit C: Development Agreement**

**Exhibit D: Forest Lakes Metro District Wastewater Commitment Letter**

**RECITALS**

1. ANNEXOR is the owner of the property described in Exhibit "A", attached hereto (the "Property") and has filed a petition to annex said property the TOWN; and
2. The parties mutually agree that pursuant to Town Code and Policies that the annexation of the Property to the Town shall not create any additional cost or impose additional burden on the existing residents of the Town to provide public facilities and services to the Property after annexation. If the proposed development will result in new burdens on the Town 's existing public facilities and services, the development shall be responsible for mitigating such impacts through compliance with standards adopted by the Board of Trustees. The standards will include fees calculated and imposed to provide adequate public facilities and services based on the objective criteria.

In consideration of the foregoing premises and the covenants, promises, and agreements of each of the parties hereto, to be kept and performed by each of them, IT IS AGREED:

**1.0 DEFINITIONS**

- 1.1 "ANNEXOR" shall mean and refer to the Annexor and its heirs, successors, assigns, and designees.
- 1.2 "Crossings" shall mean and refer to all bridges, culverts, or other types of facilities or structures used to cross roadways, drainageways, or storm drainage areas .
- 1.3 "Development " shall mean the project shown and described in the approved Planned Development Sketch Plan attached as Exhibit B.
- 1.4 "Drainage Impact Fee" shall mean the Town's fee listed in the Ordinances of the Town Code for the basin or basins in which the Property is located, as such amount may be adjusted from time to time by the Board of Trustees. The purpose of the fee is to fund the planning, construction, and installation of major facilities in accordance with the Drainage Master Plan. For improvements on public land, public right-of-way or private property, the fee shall be payable at the time of issuance of a Land Use Permit.
- 1.5 "Fire District" shall mean the Tri Lakes Monument Fire Protection District.
- 1.6 "Land Use Permit" shall mean the permit issued by the TOWN for each individual structure that is a condition precedent to issuance of a Building Permit from Pikes Peak Regional Building Department.
- 1.7 "Park Fee" shall mean the cash in lieu of land dedication fee established by the TOWN Board of Trustees, as such amount may subsequently be adjusted by the Board of Trustees, payable at the time of issuance of a Land Use Permit for each individual home ,if any.
- 1.8 "Sanitation District" shall mean the Forest Lakes Metropolitan District.

- 1.9 "Streets" shall mean and refer to residential, commercial, collector , minor, and principal arterial streets, highways , expressways, and roads.
- 1.10 "Town Code" shall mean the Municipal Code of the Town of Monument, including but not limited to the Zoning Ordinance and the Subdivision Ordinance.
- 1.11 "Traffic Impact Fee" shall mean the Town's fee listed in Town ordinances for the use or uses in the proposed development. The fee is payable at the time of the issuance of a land use permit. The purpose of the fee is to offset the proportionate share of the cost of Town wide road facilities required to address traffic impacts.

**2.0 STREETS**

- 2.1 ANNEXOR has agreed to dedicate to the TOWN, free and clear of all liens and encumbrances of any kind, an approximate 60 foot wide by 200 foot long parcel of land commonly known as a portion of Woodcarver Road, for a public street for the full width thereof, as required by the TOWN. A Development Agreement between the ANNEXOR, Forest Lakes, LLC, and the TOWN regarding the dedicated street is attached as Exhibit C.
- 2.2 Upon any requirement from the TOWN based upon traffic studies related to future development of Phases 2 and/or 3 on the Property, ANNEXOR shall improve Woodcarver Road to a standard agreed upon by the TOWN and ANNEXOR. In addition, if requested by the TOWN, ANNEXOR shall dedicate the improved right-of-way to the Town.
- 2.3 ANNEXOR shall pay a Traffic Impact Fee per Section 1.11 above in accordance with TOWN ordinances

**3.0 WATER AND SEWER**

3.1 The TOWN acknowledges sanitary sewer service from the Property will be provided by the Forest Lakes Metro District (FLMD). FLMD has written a Commitment Letter for this service (see Exhibit D).

3.2 ANNEXOR shall install a potable water well on-site until such time that FLMD constructs a water transmission line within 400 feet of the Property boundary and agrees to allow ANNEXOR to connect to the water transmission line. The TOWN acknowledges that the potable water well is sufficient for Phase 1 of the Development (a construction yard).

At such time future phases of the Development will require a connection to a municipal water service, ANNEXOR will deed sufficient water to the water provider (the TOWN or FLMD) in accordance with the provider's regulations.

3.3 ANNEXOR will pay service tap fees as required by the FLMD.

#### 4.0 STORM DRAINAGE

4.1 ANNEXOR shall pay the drainage fee established by Town Code for the basin or basins in which the annexed lands are located. For development on public land, public right-of-way, or common private land, the fee shall be payable at the time of TOWN approval of a final plat, final plan, or improvement agreement for the Development. For development on a lot, the fee shall be payable at time of TOWN approval of a Land Use Permit for construction on the lot.

4.2 ANNEXOR shall be responsible for design and construction of drainage improvements, other than basin-wide improvements described in Section 4.1, as required by TOWN to permit development of the Property.

#### 5.0 PUBLIC LAND DEDICATION

5.1 Pursuant to Article 2.0 above, ANNEXOR shall dedicate a portion of Woodcarver Road to the TOWN in accordance with the Development Agreement (Exhibit C)

#### 6.0 FEES

6.1 The proposed development may be subject to TOWN fees, including but not limited to the following.

- Application fees and special review fees
- Permit fees and special review fees
- School land fees in-lieu of public land dedication
- Traffic impact fees
- Drainage impact fees
- Park Land Dedication Fees
- Other impact fees as may be established by the TOWN

The Town may revise the fees from time to time to reflect changes in the cost to the TOWN associated with the fees.

#### 7.0 URBAN SERVICES

7.1 The Town will provide Police protection to the Property in a manner as it does uniformly across the Town.

7.2 It is expressly understood that development of the annexed land is subject to a determination by the Fire District that there are available adequate fire protection facilities, including but not limited to fire hydrants, access for fire vehicles, and a looped water system. ANNEXOR shall confer with the Fire District to confirm provisions of fire protection services in compliance with established Fire District requirements.

7.3 If the area of the herein described annexation lies wholly or partially within a legally constituted water, sanitation, or water and sanitation district, there shall be no obligation on the part of

the TOWN to provide such utilities services to the areas within any such district, unless it be done by mutual agreement between the TOWN and such district.

## **8.0 PUBLIC FACILITY EXTENSION**

**8.1** Extension of water and sewer line, streets, storm drainage, street lighting, traffic control devices, and other public improvements from the developed areas of the TOWN to the Property may be pursuant to reimbursement as provided in the Town Code to reimburse ANNEXOR from lands abutting such facilities for ANNEXOR'S costs to extend public facilities which benefit such intervening lands.

## **9.0 LAND USES**

**9.1** ANNEXOR has submitted a completed application to the TOWN for zoning the Property as Planned Development (PD). Such zoning is not guaranteed, and the Board of Trustees retains its full discretion with respect to such zoning. Nothing contained in this section shall be construed to limit the power of the Board of Trustees to rezone the Property or any part thereof after approval of the initial zoning of the Property after annexation. The attached Sketch Plan, required for approval of the PD Zoning District, provides for a construction yard, office building, potential residential and accessory uses.

**9.2** The TOWN agrees that if the Board of Trustees approval of the PD Zoning and the Sketch Plan is not in accordance with the submitted documents, or other form acceptable to the ANNEXOR, this Agreement becomes null and void.

## **10.0 GENERAL PROVISIONS**

**10.1** This Agreement shall be recorded with the Clerk and Recorder in El Paso County, Colorado, shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties. ANNEXOR shall notify TOWN of assignments and the names of assignees. Every part of the Property shall at all times remain subject to all the obligations of this agreement with respect to each and every part of the Property.

**10.2** ANNEXOR acknowledges and agrees that neither this Annexation Agreement nor any provision hereof, nor the annexation of the Property to the TOWN, nor the approval of a Sketch Plan, zoning or subdivision, either separately or jointly (a) creates or establishes a vested property right in or for the benefit of ANNEXOR or its successors or assigns, or with respect to the PROPERTY; or (b) constitutes a site-specific development plan. The terms "vested property right" and "site-specific development plan" shall have the same meaning as set forth in the TOWN Code and §24-68-101, et seq., C.R.S.

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

**10.4** No right or remedy of disconnection of the described Property from the TOWN shall accrue from this Agreement, other than that provided by Section 31-12-119, C.R.S., as amended. In the event the Property or any portion thereof is disconnected at ANNEXOR'S request, TOWN shall have no obligation to serve the disconnected Property and this Agreement shall be void and of no further force and effect as to such Property.

**10.5** If the annexation of the Property or any portion thereof is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the referendum election. If the referendum challenge to the annexation results in disconnection of the Property from the TOWN, then this Agreement and all provisions contained herein shall be null and void and of no further effect. If the referendum challenge fails, then ANNEXOR and TOWN shall continue to be bound by all the terms and provisions of this Agreement.

**10.6** In the event that the annexation of the Property or any portion thereof is voided by final action of any court, TOWN and ANNEXOR shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this annexation agreement shall be deemed to be an agreement to annex the Property to TOWN pursuant to Section 31-12-121 of the Colorado Revised Statutes, 1973 , and the Town Code. ANNEXOR shall reapply for annexation as when the Property becomes eligible for annexation as determined by TOWN.

**10.7** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held 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 the particular part, term , or provision held to be invalid.

**10.8** All fees recited in this agreement shall be subject to amendment by the Board of Trustees. Any amendment to fees shall be incorporated into this agreement as if originally set forth herein. Nothing in this agreement shall prevent, prohibit, diminish, or impair the TOWN'S governmental authority to adopt fees or regulations to address the impacts of development.

**10.9** ANNEXOR agrees to include the Property in public improvement districts as may be organized by the TOWN pursuant to the provisions of Title 31, Article 25, Part 6, of the Colorado Revised Statutes.

**10.10** 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. There shall be no modification 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.

**10.11** This Agreement shall terminate and expire upon the completion of the development of the Property and satisfaction of all the obligations herein. Thereafter, so long as the Property is located within the municipal boundaries of TOWN, it shall continue to be subject to the charter,

ordinances, and rules and regulations of the TOWN.

**10.12** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, their successors and assigns, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties that any person other than the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**10.13** Any and all obligations of the TOWN for water and drainage improvements shall be the sole obligation of the TOWN'S Utility Enterprise and as such, shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the TOWN within the meaning of any constitutional, statutory, or charter limitation. Any and all obligations of the TOWN for public improvements other than water and storm drainage improvements shall be subject to annual appropriation by the Board of Trustees.

**10.14** In the event of breach or default by the TOWN, the sole remedies hereunder shall be the equitable remedies of specific performance or injunction. ANNEXOR, its successors and assigns, hereby waive any rights to money damages for any such breach or default.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

**Native Sun Materials Inc., ANNEXOR**

By: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_

State of Colorado  
County of El Paso

Subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2020,

By: \_\_\_\_\_

My commission expires:

Notary Public

**TOWN OF MONUMENT, COLORADO**

By: \_\_\_\_\_  
Don Wilson, Mayor

**ANNEXATION AGREEMENT  
EXHIBIT A**

**LEGAL DESCRIPTION/NATIVE SUN CONSTRUCTION, INC. PROPERTY**

**PARCEL A:**

A STRIP OF LAND 60 FEET IN WIDTH OVER AND ACROSS THAT PORTION OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35, (ALL BEARINGS ARE ON THE COLORADO COORDINATE SYSTEM, CENTRAL ZONE); THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 670.00 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE SOUTH 63 DEGREES 49 MINUTES 34 SECONDS EAST, 66.62 FEET; THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST ALONG A LINE THAT IS 60.00 FEET EASTERLY FROM AND PARALLEL WITH THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 1987.16 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID NORTHEAST ONE-QUARTER; THENCE WESTERLY, ALONG SAID NORTH LINE, 60.00 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST ONE-QUARTER; THENCE SOUTH 00 DEGREES 25 MINUTES 10 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 1958.22 FEET TO THE POINT OF BEGINNING AND EXCEPTING HEREFROM, ANY PORTION LYING WITHIN THAT TRACT OF LAND CONVEYED ON JANUARY 13, 1915, IN BOOK 534, AT PAGE 571 IN THE RECORDS OF THE CLERK AND RECORDER OF THE COUNTY OF COUNTY OF EL PASO, STATE OF COLORADO.

**PARCEL B:**

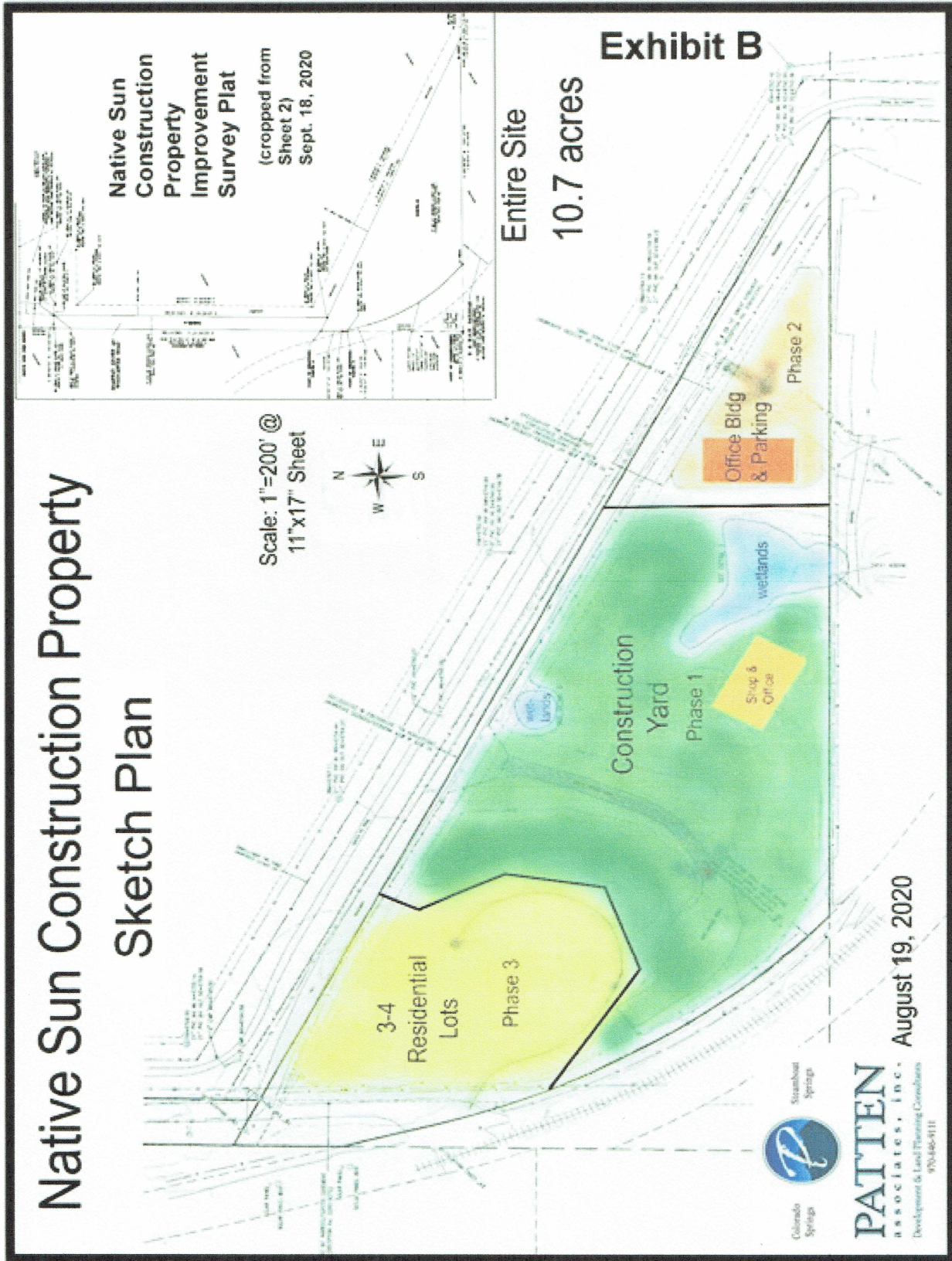
THAT PART OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35; (ALL BEARINGS ARE ON THE COLORADO COORDINATE SYSTEM, CENTRAL ZONE); THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 549.76 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE WESTERN RAILROAD, AND THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE CONTINUE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST, ALONG SAID WEST LINE, 120.24 FEET; THENCE SOUTH 63 DEGREES 49 MINUTES 34 SECONDS EAST, 1499.79 FEET TO THE SOUTHEAST CORNER OF THE WEST ONE HALF OF SAID NORTHEAST ONE-QUARTER; THENCE SOUTH 89 DEGREES 38 MINUTES 33 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35, 1041.65 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID DENVER AND RIO GRANDE WESTERN RAILROAD; THENCE NORTH 48 DEGREES 25 MINUTES 42 SECONDS WEST TO THE TANGENT OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, WHICH CURVE HAS A CENTRAL ANGLE OF 33 DEGREES 02 MINUTES 35 SECONDS, A RADIUS OF 921.12 FEET, AN ARC DISTANCE OF 531.22 FEET, AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE WESTERN RAILROAD; THENCE NORTH 15 DEGREES 23 MINUTES 07 SECONDS WEST, TANGENT TO THE LAST DESCRIBED CURVE, AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THE SAID DENVER AND RIO GRANDE WESTERN RAILROAD 106.91 FEET TO THE POINT OF BEGINNING.

9/18/2020



ANNEXATION AGREEMENT  
EXHIBIT B



**ANNEXATION AGREEMENT  
EXHIBIT C  
DEVELOPMENT AGREEMENT  
(Woodcarver Road)**

This Development Agreement ( “Agreement”) is entered into and made effective this \_\_\_\_ day of \_\_\_\_\_, 2020 between Native Sun Construction, Inc. a Colorado corporation, (“NSC”), Forest Lakes, LLC, a \_\_\_\_\_ limited liability company (“Forest Lakes”) and the Town of Monument, a \_\_\_\_\_. (the “Town”).

**BACKGROUND AND PURPOSE**

A. NSC is the owner of approximately 10.68 acres of land in El Paso County, Colorado legally described in the attached **Exhibit A** incorporated by this reference (the “NSC Property”).

B. Forest Lakes LLC is the owner of land adjacent to the NSC Property in the Town of Monument and commonly known as the Falcon Commerce Center (the “FCC Property”). The FCC Property is legally described in the attached **Exhibit B** incorporated by this reference.

C. Forest Lakes is in the process of obtaining Town approval for development of the FCC Property that will, as a condition of development approval, require Forest Lakes to make road improvements to i) that portion of the road known as Woodcarver Road commencing at Baptist Road and ending at the location it adjoins the NSC Property (approximately 550 feet long) as depicted on the attached **Exhibit C** incorporated by this reference; and (ii) the 60’ wide roadway area within the NSC Property commencing at the point the NSC Property adjoins Woodcarver Road and ending at the southern boundary of proposed Squadron Drive within the FCC Property (approximately 200 feet long), as legally described and depicted on the attached **Exhibit D** incorporated by this reference (“NSC Woodcarver Road Parcel”). For purposes of this Agreement, the NSC Woodcarver Road Parcel and the approximate 550’ length of Woodcarver Road north of the NSC Woodcarver Road Parcel will be collectively referred to as “Woodcarver Road- Public”.

D. NSC has submitted to the Town a petition for annexation and zoning of the NSC Property. Following approval of its petition for annexation and zoning, NSC will submit its PD Site Plan and Preliminary Plat for a construction yard, which will be the first phase of NSC’s planned development of the NSC Property.

E. Subject to the terms of this Agreement, NSC has agreed to dedicate the NSC Woodcarver Road Parcel to the Town, as a condition of the Town’s approval and acceptance of the annexation and zoning of the NSC Property.

F. Subject to the terms of this Agreement, Forest Lakes has agreed to assume full responsibility and cost for the construction, maintenance and repair of common access road improvements and utilities within, on, under and over Woodcarver Road- Public for the purpose of providing common access to the FCC Property to and from proposed Squadron

Drive, the planned right of way within the FCC Property (the “Woodcarver Road-Public Improvements”).

E. This Agreement is executed in conformance with \_\_\_\_\_ of the Town of Monument Municipal Code, Section \_\_\_\_\_

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Land Subject to this Agreement. The land subject to this Agreement is legally described in the attached **Exhibit A** (NSC Property) and **Exhibit B** (FCC Property).
2. Dedication of NSC Woodcarver Road Parcel to the Town. Within \_\_\_\_\_ days of the Town’s final approval of NSC’s annexation and zoning petition, NSC shall convey the NSC Woodcarver Road Parcel to the Town by bargain and sale deed.
3. Woodcarver Road-Public Improvements. Forest Lakes agrees to design, engineer, finance and construct a roadway to Town standards on, over through and across Woodcarver Road-Public, beginning from Woodcarver Road’s current intersection with Baptist Road, south to the southern boundary of the proposed Squadron Road.
4. Construction Timing. Forest Lakes will construct, at its sole expense, the Woodcarver Road-Public Improvements in conjunction with its development and improvement of Squadron Drive. Forest Lakes and NSC acknowledge that the development process and timing of the Woodcarver Road-Public Improvements are within the sole discretion of Forest Lakes and the Town; however, at all times before Forest Lakes commences the Woodcarver Road-Public Improvements, full vehicular and pedestrian access on, over and along Woodcarver Road-Public shall remain open and not obstructed by any activity conducted by or for the benefit of Forest Lakes or the FCC Property.
5. Compliance with Town Standards and Specifications. Unless granted variances from the Town, Forest Lakes will construct the Woodcarver Road-Public Improvements in compliance with all applicable Town regulations, ordinances and standards. Upon completion of construction and a finding that the Woodcarver Road-Public Improvements were constructed in conformance with Town standards, the Town shall accept all public road improvements completed under this Agreement into its road system and assume all ownership and maintenance responsibilities for the Woodcarver Road-Public Improvements, subject to a \_\_\_\_-year warranty period.
6. Financial Assurance by Forest Lakes. Forest Lakes shall be solely responsible for posting all required financial assurance required by the Town for the Woodcarver Road-Public Improvements.
7. Woodcarver Road-Public Improvements Cost Recoveries. Forest Lakes and the Town hereby waive all right to seek or obtain any cost recovery from NSC or any

owner of all or a portion of the NSC Property, or from other individuals with the legal right to use Woodcarver Road in connection with the Woodcarver Road-Public Improvements.

8. Woodcarver Road Continuous Access. Forest Lakes shall provide safe vehicular access to the NSC Property during the construction of the Woodcarver Road-Public Improvements. Forest Lakes acknowledges the nature of NSC's business, which includes the transportation of heavy equipment and materials by large semi-tractor trailers and similar vehicles, which must be accommodated during construction. NSC acknowledges and agrees, subject to NSC approval, that alternative routes, detours and dirt and/or gravel drive areas are all acceptable methods of providing access to the NSC Property during construction of the Woodcarver Road-Public Improvements. During construction of the Woodcarver Road-Public Improvements, Forest Lakes shall ensure that access over Woodcarver Road during construction of the Woodcarver Road-Public Improvements shall be maintained for all parties with the legal right to use Woodcarver Drive in the same manner as Forest Lakes provides access to NSC under this paragraph 7. Forest Lakes shall provide at least ten (10) days advance written notice to NSC of its intention to commence construction of the Woodcarver Road-Public Improvements and shall provide a project schedule so that NSC may schedule its ongoing activities on the NSC Property.

9. Maintenance of Woodcarver Road-Public Improvements. Until such time as the Town finally accepts the Woodcarver Road-Public Improvements, Forest Lakes shall solely be responsible for maintaining and repairing the Woodcarver Road-Public Improvements following completion of construction. NSC shall have no obligation for any maintenance or repair costs for Woodcarver Road- Public.

10. Non-Public Woodcarver Road. The Parties agree that the portion of Woodcarver Road within the NSC Property south of the southern boundary of Woodcarver Road-Public shall remain as a private road ("Woodcarver Road-Private"). Woodcarver Road-Private is depicted in the attached **Exhibit E** incorporated by this reference. The Parties acknowledge and agree the Town shall not be responsible for improvement and maintenance of Woodcarver Road-Private. The Town reserves the right to require roadway dedication to the Town and/or improvements to Woodcarver Road-Private to be made at such time as future development activity on the NSC Property (shown as Phase 2 and/or Phase 3 on the NSC Sketch Plan attached as **Exhibit F** incorporated by this reference) or development activity on other property legally accessed by Woodcarver Road-Private necessitates such improvements and/or right of way dedication based upon Town ordinances and regulations. Nothing in this Agreement authorizes Forest Lakes, the Town or any third party to the use of Woodcarver Road-Private without NSC's prior consent.

11. Duration of Agreement. This Agreement shall remain in full force and effect until the earlier of: i) completion of the construction obligations set forth in Paragraphs \_\_\_\_\_ of this Agreement and final acceptance thereof by the Town and expiration of all warranty periods; or ii) **ten (10) years**, unless extended by the mutual agreement of the Parties, their successors or assigns and recorded in a written instrument in the records of El Paso County.

12. Miscellaneous.

A. No amendments to this Agreement shall be permitted except upon a signed writing approved by all Parties.

B. This Agreement shall not constitute a waiver or exemption from any other provision of the Town Code or other applicable Town regulations.

C. This Agreement may be recorded in the real property records of El Paso County.

D. This Agreement does not and shall not be deemed to confer on any third party (except subsequent developers of the NSC Property and/or the FCC Property and/or their successors or assigns) the right to enforce the performance under this Agreement, the right to claim any damages, or the right to bring an action against the Town for any breach or other failure to perform this Agreement.

E. This Agreement shall be binding on and inure to the benefit of the Parties and their heirs, successors and assigns.

F. This Agreement may be assigned by a party upon the written consent of the other Parties, which consent shall not be unreasonably withheld.

Made and entered into on the effective date set forth above.

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**TOWN OF MONUMENT**

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**FOREST LAKES LLC**

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**NATIVE SUN CONSTRUCTION**

**Exhibits**

- A Legal Description of the NSC Property**
- B Legal Description of the FCC Property**
- C Diagram of Woodcarver Road – Public**
- D Legal Description and diagram of NSC Woodcarver Road Parcel**
- E Diagram of Woodcarver Road Private**
- F Native Sun Construction Property Sketch Plan**

**DEVELOPMENT AGREEMENT  
EXHIBIT A**

**LEGAL DESCRIPTION/NATIVE SUN CONSTRUCTION, INC. PROPERTY**

PARCEL A:

A STRIP OF LAND 60 FEET IN WIDTH OVER AND ACROSS THAT PORTION OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35, (ALL BEARINGS ARE ON THE COLORADO COORDINATE SYSTEM, CENTRAL ZONE); THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 670.00 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE SOUTH 63 DEGREES 49 MINUTES 34 SECONDS EAST, 66.62 FEET; THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST ALONG A LINE THAT IS 60.00 FEET EASTERLY FROM AND PARALLEL WITH THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 1987.16 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID NORTHEAST ONE-QUARTER; THENCE WESTERLY, ALONG SAID NORTH LINE, 60.00 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST ONE-QUARTER; THENCE SOUTH 00 DEGREES 25 MINUTES 10 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 1958.22 FEET TO THE POINT OF BEGINNING AND EXCEPTING HEREFROM, ANY PORTION LYING WITHIN THAT TRACT OF LAND CONVEYED ON JANUARY 13, 1915, IN BOOK 534, AT PAGE 571 IN THE RECORDS OF THE CLERK AND RECORDER OF THE COUNTY OF COUNTY OF EL PASO, STATE OF COLORADO.

PARCEL B:

THAT PART OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35; (ALL BEARINGS ARE ON THE COLORADO COORDINATE SYSTEM, CENTRAL ZONE); THENCE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHEAST ONE-QUARTER, 549.76 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE WESTERN RAILROAD, AND THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE CONTINUE NORTH 00 DEGREES 25 MINUTES 10 SECONDS EAST, ALONG SAID WEST LINE, 120.24 FEET; THENCE SOUTH 63 DEGREES 49 MINUTES 34 SECONDS EAST, 1499.79 FEET TO THE SOUTHEAST CORNER OF THE WEST ONE HALF OF SAID NORTHEAST ONE-QUARTER; THENCE SOUTH 89 DEGREES 38 MINUTES 33 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 35, 1041.65 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID DENVER AND RIO GRANDE WESTERN RAILROAD; THENCE NORTH 48 DEGREES 25 MINUTES 42 SECONDS WEST TO THE TANGENT OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, WHICH CURVE HAS A CENTRAL ANGLE OF 33 DEGREES 02 MINUTES 35 SECONDS, A RADIUS OF 921.12 FEET, AN ARC DISTANCE OF 531.22 FEET, AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE WESTERN RAILROAD; THENCE NORTH 15 DEGREES 23 MINUTES 07 SECONDS WEST, TANGENT TO THE LAST DESCRIBED CURVE, AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THE SAID DENVER AND RIO GRANDE WESTERN RAILROAD 106.91 FEET TO THE POINT OF BEGINNING.

9/18/2020

# DEVELOPMENT AGREEMENT

## Exhibit B

### Falcon Commerce Center Phase 1

#### LEGAL DESCRIPTION:

A TRACT OF LAND BEING A PORTION OF NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL

PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: A PORTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF BAPTIST ROAD AS DESCRIBED AS PARCEL NO: 2B Rev., IN THE DOCUMENT

RECORDED UNDER RECEPTION NUMBER 208093631, RECORDS OF EL PASO COUNTY, BEING MONUMENTED ON THE WESTERLY END BY

A 3-1/2" ALUMINUM CDOT ROW CAP STAMPED "PLS 26968 AND AT THE EASTERLY END BY A 1-1/2" ALUMINUM CAP STAMPED "CCES

PLS 30118" FOUND .2' BELOW GROUND, ASSUMED TO BEAR N83°54'13" A DISTANCE OF 377.02 FEET. BEARINGS ARE BASED FROM THE SURVEY

RECORDED UNDER RECEPTION NUMBER 217900186, RECORDS OF EL PASO COUNTY, COLORADO.

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO

COUNTY, COLORADO, THENCE S58°07'07"E, A DISTANCE OF 301.50 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BAPTIST ROAD, AS DESCRIBED AS PARCEL

NO: 2B Rev. IN THE DOCUMENT RECORDED UNDER RECEPTION NUMBER 208093631, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF

BEGINNING;

THENCE N83°54'13"E, ON SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 377.02 FEET TO A POINT ON THE WESTERLY LINE OF THE DILLON WELL TRACT AS DESCRIBED

IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 207009613, THENCE ON THE WESTERLY, SOUTHERLY AND EASTERLY LINE OF SAID DILLON WELL TRACT, THE

FOLLOWING THREE (3) COURSES:

1. S04°46'04"E, A DISTANCE OF 128.11 FEET;

2. N85°13'56"E, A DISTANCE OF 60.00 FEET;

3. N04°46'04"W, A DISTANCE OF 129.50 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BAPTIST ROAD AS DESCRIBED AS PARCEL NO: 2 Rev.2, IN THE

DOCUMENT RECORDED UNDER RECEPTION NO. 208093631;

THENCE N83°54'13"E ON SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 401.22 FEET, TO THE NORTHWEST CORNER OF PILOT TRAVEL CENTER FILING

NO. 1, RECORDED UNDER RECEPTION NUMBER 217714044; THENCE ON THE WESTERLY AND SOUTHERLY BOUNDARY OF SAID PILOT TRAVEL CENTER THE FOLLOWING FOUR

(4) COURSES:

1. S05°56'18"E, A DISTANCE OF 501.23 FEET;

2. S00°10'39"W, A DISTANCE OF 53.97 FEET;

3. S89°49'25"E, A DISTANCE OF 83.15 FEET;

4. S85°12'25"E, A DISTANCE OF 6.87 FEET;

THENCE S00°10'39"W, A DISTANCE OF 319.69 FEET; THENCE N89°49'21"W, A DISTANCE OF 90.00 FEET; THENCE N00°10'39"E, A DISTANCE OF 28.55 FEET; THENCE N29°49'21"W, A

DISTANCE OF 9.70 FEET; THENCE N59°49'21"W, A DISTANCE OF 26.09 FEET; THENCE N89°49'19"W, A DISTANCE OF 386.90 FEET; THENCE S00°18'03"W, A DISTANCE

OF 1,347.61 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF THE TRACT OF LAND DESCRIBED IN THE DOCUMENT RECORDED IN BOOK 5891 AT PAGE 176; THENCE

ON THE BOUNDARY LINE OF SAID TRACT THE FOLLOWING FOUR (4) COURSES: SAID COURSES BEING THE SAME AS DESCRIBED AS IN THE DOCUMENT AS RECORDED UNDER

RECEPTION NUMBER 217900186;

1. N62°28'53"W, A DISTANCE OF 698.3 FEET;

2. N00°18'03"E, A DISTANCE OF 1,113.12 FEET;

3. N89°19'15"E, A DISTANCE OF 251.51 FEET TO A POINT ON CURVE;

4. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N55°59'03"E, HAVING A DELTA OF 03°53'26", A RADIUS OF 1,632.69 FEET AND A DISTANCE

OF 110.86 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE SOUTHERLY LINE OF PARCEL 4, AS DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION

NUMBER 200152234;

THENCE ON THE SOUTHERLY AND EASTERLY LINE OF SAID PARCEL 4, THE FOLLOWING FIVE (5) COURSES: SAID COURSES BEING THE SAME AS DESCRIBED AS IN THE

DOCUMENT AS RECORDED UNDER RECEPTION NUMBER 217900186;

1. S88°32'05"E, A DISTANCE OF 166.19 FEET;

2. N27°21'09"W, A DISTANCE OF 197.73 FEET;

3. N23°23'15"W, A DISTANCE OF 134.29 FEET;

4. N17°33'18"W, A DISTANCE OF 98.08 FEET;

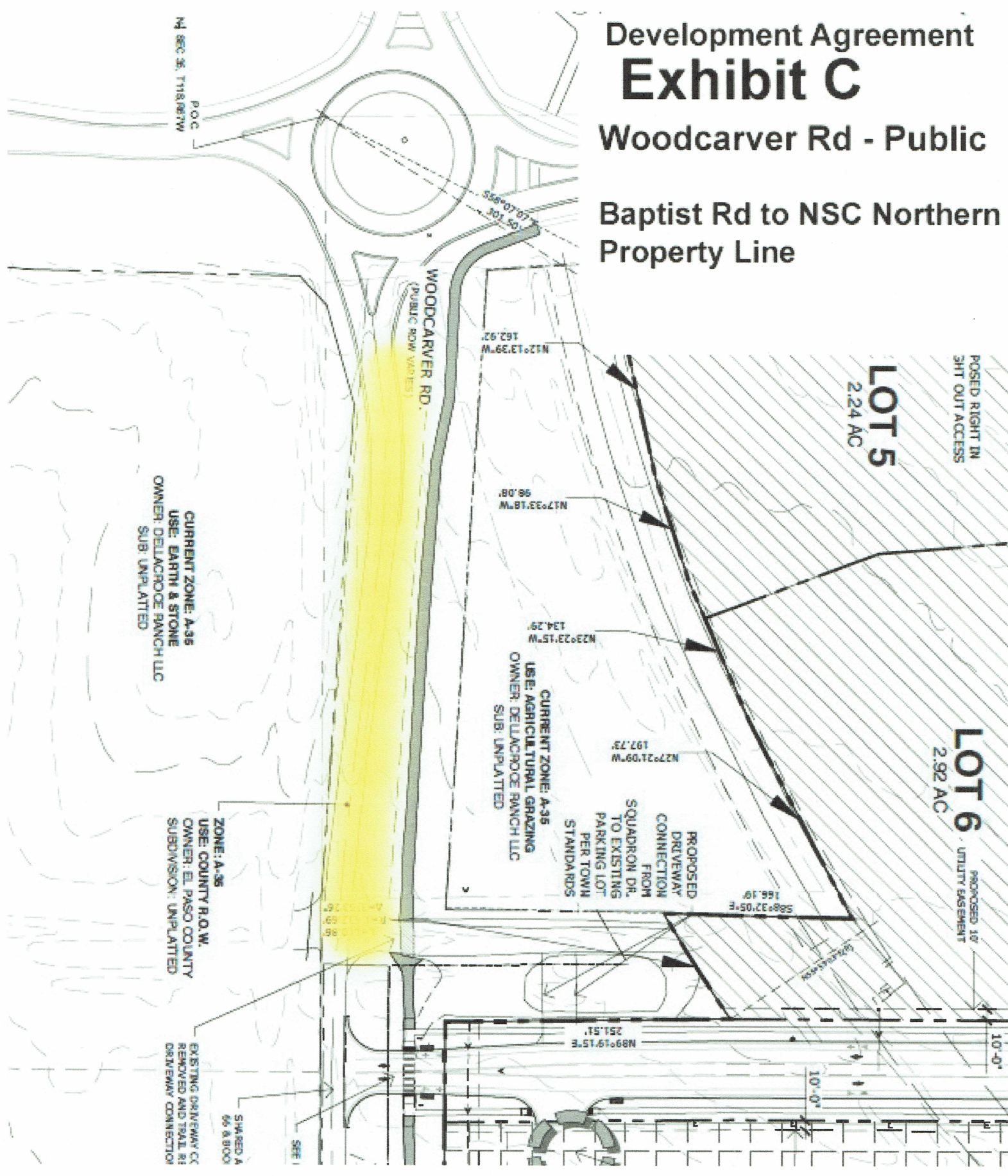
5. N12°13'39"W, A DISTANCE OF 162.92; FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,395,477 SQUARE FEET OR 32.036 ACRES.

# Development Agreement **Exhibit C**

## Woodcarver Rd - Public

### Baptist Rd to NSC Northern Property Line



**CURRENT ZONE: A-35**  
**USE: EARTH & STONE**  
**OWNER: DELLACROCE RANCH LLC**  
**SUB: UNPLATTED**

**ZONE: A-35**  
**USE: COUNTY R.O.W.**  
**OWNER: EL PASO COUNTY**  
**SUBDIVISION: UNPLATTED**

**EXISTING DRIVEWAY CONNECTION REMOVED AND TAIL RE DRIVEWAY CONNECTION**

**LOT 5**  
2.24 AC

**LOT 6**  
2.92 AC

POSED RIGHT IN SHIT OUT ACCESS

PROPOSED 10' UTILITY EASEMENT

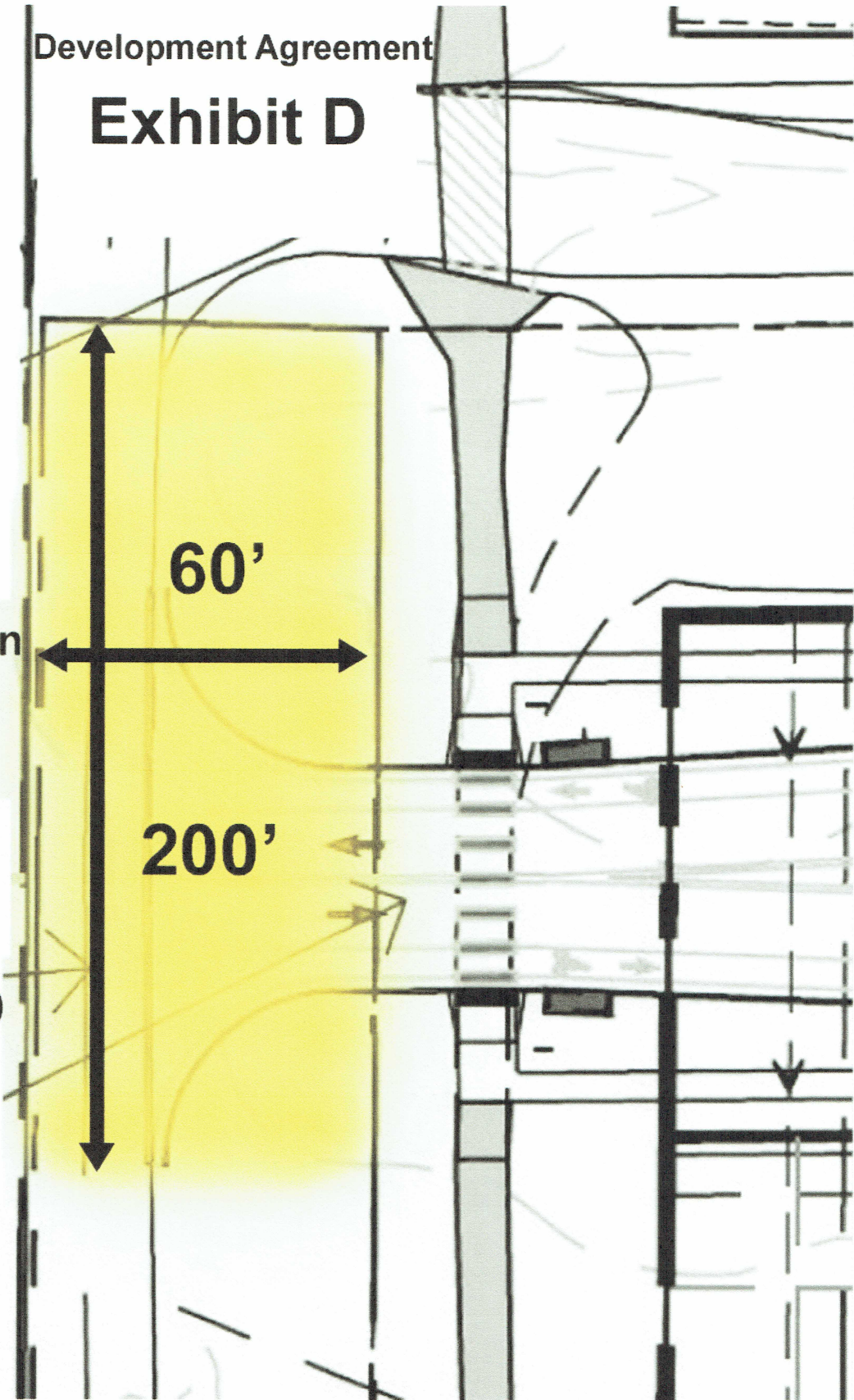


**Native Sun  
Construction Parcel  
to be Dedicated to  
Town of Monument  
for Public Roadway**

**Note: This is Sketch  
Plan only to be  
replaced by a  
surveyed parcel  
upon Development  
Agreement Execution  
Dimensions are  
approximate.**

Development Agreement

**Exhibit D**



**NTS Sept. 17, 2020**



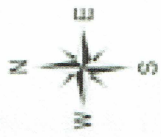
**PATTEN**  
associates, inc.  
Development & Land Planning Consultants  
970-846-9111



# Native Sun Construction Property

## Sketch Plan

Scale: 1"=200' @  
11"x17" Sheet



Native Sun  
Construction  
Property  
Improvement  
Survey Plat

(cropped from  
Sheet 2)  
Sept. 18, 2020

Entire Site  
10.7 acres  
Exhibit F  
Development  
Agreement



Colorado Springs  
Steamboat Springs

**PATIEN**  
associates, inc.  
Development & Land Planning Consultants  
970-486-4111

August 19, 2020

## Exhibit D to Annexation Agreement

Forest Lakes Metropolitan District  
2 North Cascade Avenue, Suite 1280  
Colorado Springs, Colorado 80903  
Telephone: (719) 633-4500  
Fax: (719) 633-6258

September 16, 2020

Native Sun Construction  
3107 W. Colorado Avenue, #312  
Colorado Springs, CO 80904

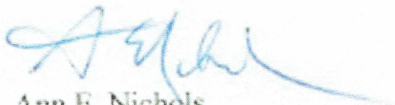
RE: Wastewater Service Commitment – Parcel # 7135000004

Dear Sirs:

The purpose of this letter is to provide you assurance that the Forest Lakes Metropolitan District is prepared to provide wastewater service to the property referenced above. It will be your responsibility to complete the wastewater tap and service line in accordance with Forest Lakes Metropolitan District construction standards and specifications. You will also be required to pay the appropriate wastewater development fee for an outside District customer and appropriate new tap and inspection charges. Once you have connected to our wastewater collection system, you will be charged monthly at the current wastewater services charges for an outside customer.

Please contact me if you need additional information on this matter.

Sincerely,



Ann E. Nichols  
District Manager

cc: Board of Directors  
Tom Blunk