

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement is made and entered into by and between the Town of Calhan, a Colorado municipal corporation, (“**Town**”), and Smith Land Development & Co., LLC, a Colorado limited liability company (“**Petitioner**”), each a “**Party**” and together the “**Parties**.” This Pre-Annexation Agreement shall be effective as of the date of the latest signature appearing below (the “**Effective Date**”).

Section 1 - Recitals

1.1 The Petitioner is the fee title owner of the property described as follows:

All that portion of the Northwest Quarter of Section 2, lying North of the center of track of the Old Chicago, Rock Island and Pacific Railroad Right of Way, all in the Township 12 South, Range 62 West, County of El Paso, State of Colorado (hereafter, “**Property**”).

1.2 The Property is contiguous to the current municipal boundaries of the Town and contains approximately 95.9989 total acres, more or less, in unincorporated El Paso County, Colorado.

1.3 On or about August 25, 2025, the Petitioner filed with the Town a petition for annexation of the Property (“**Annexation Petition**”).

1.4 The Petitioner desires, potentially, to have the Property annexed to the Town, and the Town desires to review and consider the Annexation Petition and, potentially, to annex the Property—all subject to the Parties’ respective legal review, the Parties’ respective due diligence, and, ultimately, final approval of the proposed annexation by the Parties, such final approval to be negotiated, agreed, and memorialized by the Parties in a subsequent, fully executed Annexation Agreement.

1.5 The Municipal Code of the Town of Calhan, Colorado (hereinafter, the “**Town Code**”) contemplates that a party submitting a petition for annexation will enter into an agreement with the Town “to establish the amount of deposit fees required to process the annexation petition, annexation agreement and General Development Plan review.” (Town Code § 15.11.020.) The purpose of this Pre-Annexation Agreement is, in part, to satisfy that code requirement.

1.6 The Town Code also states: “No petition for annexation shall be deemed complete until such time as petitioner has deposited an amount of money as determined by the Board of Trustees and petitioner has agreed to pay such additional sums to the Town as may be required to cover unexpected costs.” (Town Code § 15.11.040(H).)

1.7 The Town Code further contemplates that a party submitting a petition for annexation will engage in negotiations with the Town “to develop a formal Annexation Agreement that addresses timing and requirements of dedications outlined in Section 15.11.080 of this Code and tied to the General Development Plan requirements of Section 15.11.150 of this Code.” (Town

Code § 15.11.020.) The Town Code states that “[t]he Town will begin this process using a model annexation agreement of its own making.” (*Id.*)

Section 2 - Agreement

2.1 The Recitals set forth above are incorporated herein by reference.

2.2 Within seven days of the Effective Date, Petitioner shall pay to the Town the sum of \$2,500 (the “**Deposit**”), which Deposit shall constitute the “deposit” contemplated by Town Code section 15.11.020, to enable the Town “to process the annexation petition, annexation agreement and General Development Plan review.”

2.3 Upon reasonable written notice to Petitioner (which notice shall not be less than 14 days’ notice), the Town may require Petitioner to pay additional sums to the Town as may be required to cover unexpected costs, which additional sums will also be deemed to constitute the “Deposit” for purposes of this Pre-Annexation Agreement.

2.4 The Town shall use the Deposit exclusively for the purpose of paying the Town’s necessary and reasonable legal, administrative, and engineering expenses, and any other necessary expenses, incurred by the Town in processing, reviewing, and assessing the Annexation Petition, negotiating and drafting the Annexation Agreement, and undertaking General Development Plan review. The Town shall provide Petitioner with monthly accountings of any expenditures of the funds constituting the Deposit and, upon completion or termination of the annexation process, shall return to Petitioner the remaining, unused balance of the funds.

2.5 Within ~~60 days, not to exceed 80 or 90 days~~, of the Town’s receipt of the Deposit, the Town shall draft a formal, proposed Annexation Agreement and shall deliver the same to Petitioner for review. The Town’s draft proposed Annexation Agreement shall address the timing and requirements of dedications outlined in Section 15.11.080 of the Town Code and shall be tied to the General Development Plan requirements of Section 15.11.150 of the Town Code. Upon receipt of the draft proposed Annexation Agreement from the Town, Petitioner shall have the opportunity to propose edits, additions, or deletions to the same. The Parties shall continue in good faith to engage in discussions and negotiations regarding the same until: (1) a formal, written Annexation Agreement is agreed upon and signed by the Parties; (2) Petitioner withdraws the Annexation Petition; or (3) the Town rejects the Annexation Petition. No Party shall be bound by any such negotiations unless and until a formal, written Annexation Agreement is agreed upon and signed by the Parties.

2.6 Petitioner may withdraw the Annexation Petition at any time, and for any reason, before a formal, written Annexation Agreement has been agreed upon and signed by the Parties.

2.7 All notices required or permitted under this Pre-Annexation Agreement must be in writing and must be delivered to the Parties at the addresses set forth below. Delivery by email is mandatory to satisfy this notice requirement, unless the documents being delivered cannot reasonably be delivered by email. Delivery of paper documents to the physical addresses set forth below is optional unless the documents being delivered cannot reasonably be delivered in any

other manner.

Notice to the Town:

Town of Calhan
Attention: Cindy Tompkins, Town Clerk
556 Colorado Avenue
Calhan, Colorado 80808
townclerk@calhan.co

With a copy to:

Hoffmann, Parker, Wilson & Carberry, P.C.
Attention: Jeff Parker
511 16th Street, Suite 610
Denver, Colorado 80202
jhparker@hpwclaw.com

Notice to Petitioner:

Smith Land Development & Co., LLC
Attention: Will Vandergriff
29415 Calhan Place
Calhan, Colorado 80808
will@vandergriffcontractors.com

With a copy to:

Cambridge Law LLC
Attention: Jared Haynie
4610 S. Ulster Street, Suite 150
Denver, Colorado 80237
jared@cambridgelaw.com

2.8 Nothing in this Pre-Annexation Agreement, express or implied, confers or is intended to confer any rights or remedies whatsoever upon any person or entity other than the Town and the Petitioner.

2.9 This Pre-Annexation Agreement is a binding legal agreement. By signing below, the Parties agree and understand that they are bound to the terms set forth herein. Each Party represents and warrants that it has obtained all requisite approvals and consents to enter into this Pre-Annexation Agreement.

2.10 Each individual signing below on behalf of a Party represents and warrants that he or she is fully authorized to sign this Pre-Annexation Agreement and to bind the Party on whose behalf he or she is signing to the terms set forth herein.

Wherefore, intending to be legally bound, the Parties have executed this Pre-Annexation Agreement as set forth below.

Town:

Town of Calhan,
a Colorado municipal corporation

By: 
Name: Roger Lemesany
Title: Mayor
Date: 9-8-25

Petitioner:

Smith Land Development & Co., LLC,
a Colorado limited liability company

By: 
Name: WILLIAM VANDERBIEF
Title: SENIOR MANAGER
Date: 9/8/2025