

EXHIBIT "E"
COST SHARING AGREEMENT

This Cost Sharing Agreement is made this ___ day of September, 1999, by and between Studio 3 Land Company, LLC, a Colorado limited liability company ("Studio 3"), Park East Development Company, LLC, a Colorado limited liability company ("PEDC"), and the City of Glenwood Springs, Colorado, a Colorado home rule municipality (the "City") for the purposes recited herein. (Studio 3 and PEDC may sometimes be referred to collectively within this Agreement as the "Developers.")

RECITALS

- A. Studio 3 is the owner of real property for which it received approval from the City for a site specific development plan. The plan was memorialized by the execution and recording in the real property records of Garfield County, Colorado, of certain documents. These included the Final Plat for Cardiff Glen Subdivision, recorded June 24, 1999, at Book 1136, Page 905, as Reception No. 547815, the Declaration of Protective Covenants for Cardiff Glen Subdivision recorded June 24, 1999, at Reception No. 547816, and that certain Subdivision Improvements Agreement recorded June 24, 1999, at Reception No. 547817. Studio 3's property, which is related to the subject matter of this Cost Sharing Agreement, shall be referred to herein as "Cardiff Glen". The documents, which memorialize the City's approval of the Cardiff Glen development plan, shall be referred to in this Cost Sharing Agreement as the "Cardiff Glen Approval Documents".
- B. PEDC is the owner of real property for which it received approval from the City for a site specific development plan. The plan was memorialized by the execution and recording in the real property records of Garfield County, Colorado, of certain documents. These included the Final Plat for Park East Subdivision, recorded ~~August 8~~ ^{SEPT. 8}, 1999, at ~~Book~~ ^{Reception No. 551751}, Page ~~---~~, as Reception No. 551751, the Declaration of Protective Covenants for Park East Subdivision recorded ~~August 8~~ ^{SEPT. 8}, 1999, at Reception No. 551752, and that certain Subdivision Improvements Agreement recorded ~~August 8~~ ^{SEPT. 8}, 1999, at Reception No. 551748. Park East's property, which is related to the subject matter of this Cost Sharing Agreement shall be referred to herein as "Park East". The documents, which memorialize the City's approval of the Park East development plan, shall be referred to in this Cost Sharing Agreement as the "Park East Approval Documents".
- C. The City has found that certain improvements, including a 500,000 gallon water storage facility and improvement of the City's sanitary sewer system are necessary to promote the health, welfare and safety of local residents in light of the anticipated development of Cardiff Glen, Park East and other areas located in the southern section of the City.
- D. The City is the beneficiary of an easement (the "Water Facilities Easement") granted by the Glenwood Land Company, LLC, a Colorado limited liability

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RETURN TO:
CHAFFIN/LIGHT ASSOCIATES, INC.
P.O. BOX 620

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(28)

company, pursuant to that certain Water Facilities Easement Agreement dated June 24, 1999, and recorded at Book 1136, Page 826 as Reception No. 547812 in the real property records of Garfield County, Colorado. A copy of the Water Facility Easement Agreement is attached hereto as Exhibit A. The Water Facilities Easement is intended to allow the construction and maintenance of water storage improvements deemed necessary by the City as implemented (in part) by this agreement. Studio 3 was designated in Section 6 of the Water Facilities Easement agreement as the City's representative for construction of the water storage facility on the Water Facilities Easement.

- E. The City has identified certain improvements, which need to be made to the City's sewer system to facilitate development of Cardiff Glen and Park East, among other areas. These improvements have been segregated geographically and delimited Priority 1 through 5. (See "Central Valley Interceptor Upgrade Needs 9/17/97", attached hereto as Exhibit B). Of the \$795,000 estimated cost of these upgrades and improvements, a source of funding for all but \$335,000 has been established. This \$335,000 amount shall be referred to herein as the "Sewer Improvement Requirement". The Developers will fund the Sewer Improvement Requirement under the terms and conditions set forth in this Cost Sharing Agreement.
- F. The City's approval of the Cardiff Glen and Park East development plans was conditioned on the drafting and execution of an agreement by and between Cardiff Glen, Park East and the City incorporating the terms, conditions and basic assumptions set forth in that certain Project Memo from Tom Stevens of Studio 3 to representatives of the City, Studio 3 and PEDC dated May 24, 1999 (the "Stevens Memo"). A copy of the Stevens Memo is attached hereto as Exhibit C. This Cost Sharing Agreement is intended to fulfill the requirements and satisfy the purposes of the parties for such an agreement.

WHEREFORE, in exchange for the promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties covenant as follows:

1. Construction of a Water Storage Facility. Studio 3 and PEDC (jointly referred to herein as the "Developers") will erect and fully complete a water storage facility with capacity to store no less than 500,000 gallons of water on the real property described in Exhibit C of the Water Facilities Easement Agreement (such land to be referred to herein as the "Storage Facility Site"), with appurtenant equipment and piping to be located on the Storage Facility Site and within the Access and Utility Easement identified in the Water Facilities Easement Agreement.
 - 1.1 Special Use Permit. Studio 3 shall be responsible for preparing and submitting to the City an application from Studio 3 and the City (as co-applicants) for a Special Use Permit allowing construction of the water storage facility. The City shall be the "System Owner/Operator" and the Developers will be the

"developers" under the application. The costs of preparing the Special Use Permit shall be credited against the amount required to be paid by Studio 3 as defined in Section 1.6, below.

1.2 Amendment to Water Facilities Easement Agreement. The City shall request that the Water Facilities Easement Agreement be amended so that both Studio 3 and PEDC are designated as the City's representatives under Section 6 of that agreement, and are fully authorized under the Water Facilities Easement Agreement to carry out the purposes of this Cost Sharing Agreement.

1.3 Use of Water Facility Easement. The City hereby grants to Developers a license to utilize the Water Facilities Easement for all purposes reasonably necessary for the construction of the water storage facility and all appurtenant pipes, equipment and related improvements. Developers shall indemnify and hold the City harmless from any and all liability, loss or damage that it may suffer as a result of claims, demands, costs including attorney's fees, or judgments or other action taken against it for Developers' acts or omissions in pursuing the purposes of this agreement. Developers shall be responsible for any liability arising under the preceding sentence in the same percentages they are each responsible for the cost of construction as set forth in Section 1.7, below.

1.4 Construction Contract. The Developers shall receive bids from at least three (3) general contractors experienced in the construction of water storage facilities acceptable to both Developers seeking a fixed price contract for construction of this project. If the Developers cannot otherwise agree on which bid to accept, the lowest qualified bidder will be accepted. In the event that a fixed price contract cannot be secured, a "cost plus profit and overhead" contract shall be secured, subject to a maximum contract price. The contractor shall be required to post a performance bond insuring its completion of the water storage facility and all appurtenances within the contract parameters. Such bond shall be from an insurance company acceptable to the Developers in their mutual sole discretion. Provided the City is a named beneficiary, the amount of the bond posted by the general contractor shall serve to reduce the amount of the letters of credit posted with the City by each Developer as required by Section 1.7, below.

1.5 Project Manager. Developers shall enter into a contract with the general contractor identified through the provisions of Section 1.4, above, who shall act as Project Manager and be responsible for all aspects of the construction of the water storage facility. The Project Manager shall be approved by the City, which approval shall not be unreasonably withheld. Construction of the water storage facility shall meet the building requirements of the City, including any special requirements for water storage improvements.

1.6 Cost Sharing. Although the Developers shall be initially responsible for the cost of constructing the water storage facility, the City shall reimburse

Developers for a portion of this cost based on the formula set forth in Section 1.9 below. Studio 3 shall pay 70.1% of the cost of constructing the water storage facility and PEDC shall pay the remaining 29.9% of those costs. No more than once each month, the Project Manager shall provide both Developers a "draw request" which includes: (1) copies of all current invoices, (2) a detailed accounting of all costs incurred to date indicating for each line item the amount budgeted, the amount actually expended and the amount of any surplus or deficit, (3) the total paid to date by each party, and (4) the current amount due from each Developer. Within thirty (30) days of its receipt of such accounting, each Developer shall remit to the Project Manager the amount due.

1.7 Estimated Cost/Letters of Credit. Each Developer shall provide the City with a letter of credit in the amount of its obligation to pay under this Agreement. The anticipated cost to construct the water storage facility is \$495,000 as set forth in the Engineers Opinion of Probable Construction Cost included in Exhibit D. Studio 3 will provide a letter of credit in the amount of \$346,995 (70.1% of the estimated cost of \$495,000) and PEDC will provide a letter of credit in the amount of \$148,005 (29.9% of the estimated cost of \$495,000). The form and substance of each letter of credit will conform with those required in that Developer's subdivision improvements agreement. Notwithstanding the previous provisions of this Section 1.7, the amount of each Developer's bond shall be reduced by its pro rata share (70.1% to Studio 3 and 29.9% to PEDC) of any bond posted by the Project Manager pursuant to Section 1.4, above. On a monthly basis, each Developer may request that the amount of its (or the Project Manager's) letter of credit be reduced so that the cumulative percentage of the letter of credit released (after satisfaction of the current request) is equal to the percentage of corresponding work completed. The City shall confirm the amount of the reduction with the Developers and the issuer of the letter of credit within five (5) days of the inspection, approval and acceptance of the work by the City Engineer or utility company, as applicable. Each letter of credit shall be terminated when the proposed improvements or performance secured by that letter of credit is completed and approved by the City Engineer (based on notices of completion and acceptance by utility companies, as and if applicable) or other representative of the City.

1.8 Developers To Dedicate and City to Accept Water Facility. At the completion of construction, and the acceptance of the construction work by representatives of the City's Water and Building Departments, the Developers shall dedicate, and the City shall accept, the water storage facility, including all appurtenant pipes, machinery and other equipment. After dedication, subject to the contractor's one-year warranty, the City shall be solely responsible for maintenance and improvement of the water storage facility, including the cost of insuring the facility and related real property for and against all losses, claims and such other risks as the City may require in such amounts and by such companies as the City deems satisfactory.

1.9 Partial Credit for Costs Incurred. The Developers shall receive up to 42.4% of the cost of constructing the water storage facility as a credit against the cost of water system improvement fees. The amount of the credit will be calculated at the time the facility is dedicated to the City as follows:

1.9.1 At the dedication of the water storage facility to the City, an amount equal to (24%) of the total cost of constructing the water storage facility shall be available as a credit against future water system improvement fees.

1.9.2 In the event that: (1) a raw water irrigation system has been provided to owners of property within Cardiff Glen and Park East by the completion of Phase 2 of Cardiff Glen and Studio 3 provides notice thereof to both the City and PEDC, or (2) Studio 3 and PEDC provide joint notice to the City that they will install a raw water irrigation system to serve both Cardiff Glen and Park East, an additional 18.4% of the total cost of constructing the water storage facility shall be available as a credit against future water system improvement fees.

1.9.3 The number of water system improvement fees shall be determined by dividing the amount of the credit by the cost of an "EQR" as offered by the City at the time this Agreement is executed by all parties.

1.9.4 Upon request, the City shall issue the water system improvement fee credits, which have been paid by the Developers through the reimbursement mechanism described in this Section 1.9 in the normal course of business

1.9.5 Studio 3 shall be entitled to 70.1% and PEDC shall be entitled to 29.9% of the water system improvement fees paid through the reimbursement mechanism described in this Section 1.9. Any partial water system improvement fee established through the allocation mechanism described here shall become the property of the Developer which was apportioned more than 50% of the final water system improvement fee. The Developer taking the final water system improvement fee under this subsection 1.9.5 shall pay the other an amount equal to the fractional water system improvement fee allocated to the non-taking Developer multiplied by the cost of an "EQR" at the time this Agreement was executed by all parties.

1.10 The City shall collect the then-current cost of system improvement fees from individual owners within Park East and Cardiff Glen without consideration for the credit earned by or due to the Developers. Until a Developer's credits have been exhausted, the City shall pay each Developer from System

improvement fees collected for homes connected to the city system within that Developer's subdivision an amount equal to the cost of a system improvement fee actually collected by the City. In addition, each Developer shall be entitled, upon request to the City, to use its system improvement fee credits to connect homes it is constructing within its subdivision to the City water system without cost. For each home connected to the City's system pursuant to terms of the previous sentence or for each home connected by a third party to the City water system for which the Developer receives the then-current system improvement fees, the number of credits available to such Developer shall be reduced by one.

2 Sanitary Sewer System Improvements. The Sewer Improvement Requirement, as defined in Recital E, above, shall be paid as follows:

2.1 If by the time the City begins construction of the work identified as Priority 5 in Exhibit B hereof, it has not received sewer system improvement fees from the construction of homes in Cardiff Glen and Park East in a gross amount sufficient to fund the Sewer Improvement Requirement, the Developers shall pay upon request the difference between their pro-rata share of the Sewer Improvement Requirement (discussed in Section 2.2, immediately below) and the amounts collected by the City for sewer tap fees within Cardiff Glen and Park East, up to a maximum of \$335,000.

2.2 The amount paid to the City pursuant to the Section 2.1, immediately above, shall be allocated pro-rata between the Developers based on the number of sewer system improvement fees needed in Cardiff Glen and in Park East. It is currently anticipated that Cardiff Glen will require 175.1 "EQR's" and Park East will require 83 "EQR's". Based upon these estimated requirements, Studio 3 shall be responsible for up to \$227,130 (67.8% of the payment due to the City under Section 2.1), and PEDC shall be obligated for up to \$107,870 (32.2% of said payment).

2.3 Any payment made to the City under this Section 2 shall be deemed a prepayment of sewer system improvement fees, which each Developer shall be entitled to recover from sewer system improvement fees paid by future buyers within its respective subdivision.

2.4 The Developers shall be entitled to the benefit of the sewer system improvement fee credits created under this Section 2 through the mechanism described in Section 1.10, above, except that the amount to be paid to each Developer shall be calculated as the published price of a sanitary sewer system improvement fee published by the City on the date payment is made to the City according to the terms of Section 2.1 above.

2.5 Each developer shall provide the City with a letter of credit in the amount of its obligation to pay under this Agreement. Studio 3 will provide a letter of



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credit in the amount of \$227,130 and PEDC will provide a letter of credit in the amount of \$107,870. The form and substance of each letter of credit will conform with those required in that Developer's subdivision improvements agreement. On a monthly basis, each developer may request that the amount of its letter be reduced by the amount of the sewer system improvement fees collected that month within Cardiff Glen and Park East. The City shall confirm the amount of the reduction with the Developers and the issuer of the letter of credit within five (5) days of the request for reduction. Each letter of credit shall be terminated when the City has received the total amount of the letter of credit either through payment of sewer system improvement fees collected within Cardiff Glen or Park East or through the payment required under Section 2.1 above.

- 3 Decision Making. The Developers will attempt to reach unanimity concerning all decisions necessary in the constructing of the water storage facility. If a deadlock is ever reached which cannot be resolved after a reasonable amount of discussion, the matter shall be submitted to the City for determination. The City Manager shall then decide the issue, which decision shall be binding and may not be appealed by either Developer.

4 General Provisions.

4.1 Notices. Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein, shall be given, in writing by facsimile transmission, overnight delivery by a nationally-recognized delivery service, prepaid certified mail, return receipt requested, or by hand delivery, addressed or sent as follows:

If to Studio 3: Studio 3 Land Company, LLC

Attn: John R. Baker
1001 Grand Avenue, Suite 211
Glenwood, Colorado 81601
Fax (970) 928-9709

and to: Studio 3 Land Company, LLC
Attn: Tom Stevens
580 Main Street, Suite 220
Carbondale, Colorado 81623
Fax (970) 963-

If to PEDC: Park East Development Company, LLC

Attn: James A. Horn
181 Basalt Center Circle, Suite 201
P.O. Box 620
Basalt, Colorado 81621
Fax (970) 923-3129

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If to the City: City of Glenwood Springs
Attn: City Manager
806 Cooper Avenue
Glenwood Springs, Colorado 81601
Fax (970) 945-2597

Notice shall be considered to have been delivered on the date hand delivered or sent by facsimile transmission, on the next business day if sent by overnight delivery service (provided oral or written acknowledgment of receipt has been received from the delivery service) and on the third day after being deposited in the mails of the United States.

4.2 Invalid Provision. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provision had been committed.

4.3 Integration. It is understood between the parties that this Agreement: (a) supercedes all prior agreements whether written or oral, (b) contains the entire understanding of the parties, and (c) no change or modification of this Agreement shall be valid unless the same be in writing and signed by all the parties hereto.

4.4 Binding Effect. The terms and provisions contained herein shall run with the land and be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns. This Agreement shall be recorded in the office of the Garfield County Clerk and Recorder.

4.5 Termination of Agreement. This Agreement shall terminate only upon the dedication and acceptance of the improvements as contemplated by this Agreement.

4.6 Attorney Fees. In the event either party institutes litigation against the other party hereto for a breach of any provision of this Agreement, the prevailing party shall be reimbursed by the other party for all costs related thereto, including reasonable attorney fees.

4.7 Authority. By signing this Agreement, the parties acknowledge and represent that all procedures necessary to validly contract and execute this Agreement have been performed and that the persons signing for each party have been duly authorized so to do.

4.8 Counterparts/Facsimile. The Agreement may be executed 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. A facsimile signature shall have the



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same effect as an original signature.

Exhibit List

- A. Water Facilities Easement Agreement
- B. Central Valley Interceptor Upgrade Needs 9/17/99
- C. Stevens Memo
- D. Engineers Opinion of Probable Construction Cost

IN WITNESS WHEREOF, the parties have set their hands and seals on the date first written above.

STUDIO 3 LAND COMPANY, LLC,
a Colorado limited liability company

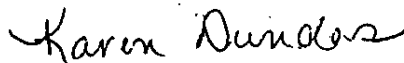
BY: 
Name:
Member - Manager

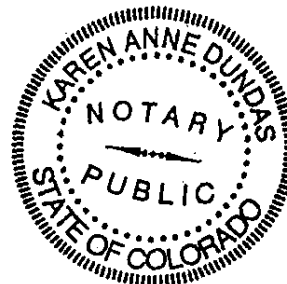
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

This document was acknowledged before me on August 31, 1999, by Thomas G. Stevens, Member-Manager of Studio 3 Land Company, LLC, a Colorado limited liability company.

My Commission expires: **MY COMMISSION EXPIRES 6/10/2002**

(SEAL)



Notary Public





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Park East Development Company, LLC,
a Colorado limited liability company

BY: 
Name:
Member - Manager

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)


This document was acknowledged before me on September 1, 1999, by
James A. Horn, Member-Manager of Park East Development Company, LLC, a
Colorado limited liability company.

My Commission expires January 30, 2003

(SEAL)



MY COMMISSION EXPIRES:
January 30, 2003


Notary Public

CITY OF GLENWOOD SPRINGS, COLORADO,
a Colorado Home Rule Municipality

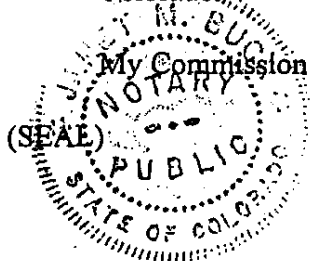
BY: 
Name:
Title

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

This document was acknowledged before me on 9-7-99, 1999, by
Sam Skramstad, as Mayor of the City of Glenwood Springs,
Colorado.

My Commission expires: 3-14-2000

(SEAL)




Notary Public



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EXHIBIT A

WATER FACILITIES EASEMENT AGREEMENT

This Water Facilities Easement Agreement ("Agreement") is executed this 22 day of June 1999, by and between GLENWOOD LAND COMPANY, LLC, a Colorado limited liability company ("Grantor"), whose address is 525 East Cooper Street, Aspen, Colorado 81611, and the CITY OF GLENWOOD SPRINGS ("City"), whose address is 806 Cooper Avenue, Glenwood Springs, CO 81601.

A. By that certain General Warranty Deed of even date herewith, Grantor has conveyed to Studio 3 Land Company, LLC, a Colorado limited liability company ("Developer") the real property in Garfield County, Colorado, known as Parcel 1, Second Amended Plat of Glenwood Limited Subdivision, Garfield County, Colorado ("Parcel 1"). Developer intends to develop Parcel 1 as a mixed-use development to be known as Cardiff Glen.

B. Grantor is the owner of the real property in Garfield County, Colorado located across County Road 116 from and to the south of Parcel 1 ("Property").

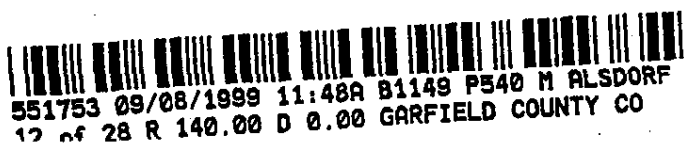
C. As a condition to the approval of the development of Cardiff Glen on Parcel 1, the City has required that Developer, in order to provide water service to Parcel 1 and to existing and future developments including those currently owned by Grantor within the City, (i) construct one 500,000-gallon water storage tank for treated water, one water storage tank of approximately 30,000 gallons for raw water, separate water pipelines for treated water and for raw water, and associated improvements on the Property ("Water Facilities") and (ii) obtain the right for the City to build two additional 500,000-gallon water storage tanks, water pipelines and associated improvements on the Property ("Additional Water Facilities").

D. After construction of the Water Facilities, the City will accept the Water Facilities and will own and operate the Water Facilities and construct, own and operate the Additional Water Facilities.

E. Grantor now desires to grant to City, and City desires to receive from Grantor, a non-exclusive easement for the Water Facilities and the Additional Water Facilities on a portion of the Property, subject to the terms, conditions, and covenants contained herein.

NOW, THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easement. Grantor hereby grants, transfers, and conveys unto the City, its successors and assigns forever, a perpetual, non-exclusive easement over, across, under, and through those portions of the Property owned by Grantor and described in Exhibits A, B, and C and shown on Exhibits D and E attached hereto (collectively, "Easement Area") for the purpose of constructing, operating, maintaining, repairing, and reconstructing and for access to the Water Facilities and the Additional Water Facilities. The four water storage tanks shall be located within the portion of the Easement Area described in Exhibit C and shown on Exhibit E as the Water Tank Easement ("Water Tank Easement"). All Water Facilities and Additional Water



Facilities, except for the water storage tanks, may be located in the Water Tank Easement and the portion of the Easement Area described in Exhibits A and B and shown on Exhibit D as the 40' Utility and Access Easements A and B ("Utility and Access Easement"). Except for the water storage tanks, all Water Facilities and Additional Water Facilities shall be underground.

2. Reservation. Grantor hereby reserves all rights to the use and enjoyment of the Property and the Easement Area, so long as such use and enjoyment do not unreasonably interfere with the City's rights hereunder, provided that Grantor shall not construct or install any structure, improvement, or obstruction, other than roads providing reasonable access to the Property, within the Easement Area, and Grantor shall not obstruct the City's access to the Easement Area.

3. Release of Excess Easement Area. The Easement Area established by this Agreement is larger than necessary for the development of the Water Facilities and the Additional Water Facilities because of uncertainty regarding the precise location where such improvements will be constructed. Following the issuance by the City of a special use permit approval for the construction of the Water Facilities, the City shall (i) determine the portion of the Easement Area that is not required for the purposes established in Paragraph One of this Agreement ("Excess Easement Area") and (ii) release from the burden of this Agreement the Excess Easement Area by delivering to Grantor a quit claim deed for the Excess Easement Area. Grantor and the City shall then promptly execute and record an amendment to this Agreement revising the legal description of the Easement Area.

4. Location and Relocation of Improvements and Easement Area. In order to allow construction of the water storage tanks, the City shall be allowed at the City's expense and sole liability, to relocate the existing road which crosses the Water Tank Easement to a new location either within or without the Water Tank Easement, provided Grantor shall reasonably approve such relocation. Grantor shall have the right to relocate the existing roads within the Access and Utility Easement, provided that the Access and Utility Easement shall also be relocated to follow the path of the roads as relocated and provided that Grantor pays for the cost of relocating the water pipelines and associated improvements to the relocated Access and Utility Easement.

5. City's Use of Easement Area. City's agents, employees, contractors, and other designated persons may go upon the Easement Area at all reasonable times to undertake construction, routine use, operation, maintenance and repairs of Water Facilities and Additional Water Facilities. Prior to construction, major repairs, or replacement of the Water Facilities and Additional Water Facilities, the City shall provide Grantor with reasonable advance notice of the work to be undertaken and the estimated time of completion. Notwithstanding the foregoing, the City may go upon the Easement Area at any time in the event of any emergency. If the City alters or disturbs any portion of the Easement Area in exercising its rights hereunder, the City shall promptly restore such portion of the Easement Area, as nearly as possible, to the condition it was in prior to such alteration or disturbance at City's sole cost and expense.

6. Construction and Transfer of Water Facilities. For the purpose of construction of the Water Facilities, Developer or Developer's successor in interest shall be a designated representative of the City and shall have all of the rights of access to and use of the Easement

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Area reasonably necessary for such construction. Upon completion of construction of the Water Facilities, the City shall accept in writing from Developer the Water Facilities, and following the one-year warranty period of Developer, Developer shall be released from all liability relating to the construction and operation of the Water Facilities. Grantor shall not be responsible for any of the cost of development or construction of the Additional Water Facilities, nor shall Grantor be liable for operation of the Water Facilities or the Additional Water Facilities. Additionally, Grantor shall not be liable for any personal injury or property damage arising from the development, construction, or operation of the Water Facilities or Additional Water Facilities.

7. Dedication of Easement Area. Upon the City's written request, Grantor shall promptly dedicate the Easement Area to the City as a public right of way and for the purposes set forth in paragraph 1, provided that the Easement Area so dedicated will not include any Excess Easement Area released by Grantee as provided in paragraph 3 and shall be as relocated pursuant to paragraph 4. The obligation to dedicate the Easement Area shall run with the Easement Area. The City shall be responsible for obtaining and paying all costs of any minor subdivision of or boundary adjustment to the Property that is required as a result of such dedication.

8. Support. The City shall have and exercise the right to reasonable subjacent and lateral support to whatever extent is necessary or desirable for the full, complete and unmolested enjoyment of its rights under this Agreement. It is specifically agreed between the parties that the Grantor shall take no action which would permanently and irreparably impair the earth cover over, or the lateral or subjacent support for any water pipeline or lines, and appurtenances within the Easement Area, provided, however, that upon obtaining the written permission of the City, the earth cover over any water pipeline or lines may be modified, but normally permission will not be granted for a modification involving a cover of less than five feet six inches nor greater than ten feet measured vertically from the top of any water pipeline or lines, and any modification undertaken by Grantor shall be upon terms which provide for reimbursement to the City of the cost of any alterations to any of the Water Facilities or Additional Water Facilities made necessary by the change.

9. Due Authority. Grantor and the City each represents to the other party that it has due authority to execute, deliver, and perform under this Agreement.

10. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective legal representatives, successors and assigns, as well as any and all successors in title to the Property.

11. Governing Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

12. Headings. The headings in this Agreement are inserted for convenience of reference only and are not intended to be part of or limit or affect the meaning or interpretation of this Agreement.

13. Counterparts. This Agreement may be executed in counterparts which together shall constitute but one and the same document.



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Date/Time of Last Edit
June 18, 1999 5:26 pm

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

GLENWOOD LAND COMPANY, LLC, a Colorado
limited liability company

By:

Its:

CITY OF GLENWOOD SPRINGS

By:

Its:

[illegible]

The foregoing instrument was acknowledged before me this ____ day of June, 1999, by _____, as _____ of Glenwood Land Company, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

Notary Public

My commission expires:

[SEAL]

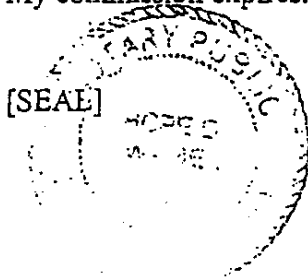
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 23rd day of June, 1999, by Sam Skramstad as mayor of the City of Glenwood Springs.

WITNESS my hand and official seal.

Step D. Uibel
Notary Public

My commission expires: 2/24/2003



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EXHIBIT - A

Description of 40' Access and Utility Easement - A

A strip of land situated in the NW1/4 of Section 27, Township 6 South, Range 89 West, 6th P.M., Garfield County, Colorado said strip of land being 40 feet in width lying 20 feet each side of the following described center line:

Beginning at the northeasterly end of said center line being on the southwesterly Right-of-Way of Midland Avenue whence the witness corner for the N1/4 corner of said Section 27, a BLM brass cap bears N 14° 25' 28" E, 1292.51 feet and from which said witness corner the True N1/4 corner bears S 88° 39' 27" E, 303.08 feet;

1. Thence S 29° 54' 15" W, 31.65 feet;
2. Thence S 70° 39' 39" W, 61.49 feet;
3. Thence N 86° 08' 29" W, 83.37 feet;
4. Thence N 80° 26' 19" W, 111.27 feet;
5. Thence N 71° 01' 39" W, 169.55 feet;
6. Thence N 79° 30' 38" W, 60.44 feet;
7. Thence N 90° 00' 00" W, 45.12 feet;
8. Thence S 73° 28' 06" W, 146.93 feet;
9. Thence S 60° 50' 15" W, 54.19 feet;
10. Thence S 40° 58' 40" W, 55.38 feet;
11. Thence S 19° 21' 46" W, 43.15 feet;
12. Thence S 00° 52' 06" W, 72.62 feet;
13. Thence S 14° 25' 25" E, 159.05 feet;
14. Thence S 05° 58' 55" E, 116.16 feet;
15. Thence S 04° 27' 36" E, 240.58 feet;
16. Thence S 03° 51' 59" E, 96.29 feet to the southerly end of 40' Access and Utility Easement - B described hereinafter in EXHIBIT - B;
17. Thence continuing along said center line S 03° 51' 59" E, 66.92 feet;
18. Thence S 07° 46' 00" W, 36.44 feet to the intersection of the easterly Right-of-Way of Four Mile Road;
19. Thence continuing along said center line S 07° 46' 00" W, 12.42 feet;
20. Thence S 30° 28' 15" W, 21.70 feet to the southerly end of said center line

This strip of land as described above contains 1.490 acres more or less. Also, the sidelines of said strip of land shall be lengthened or shortened to terminate on the southwesterly Right-of-Way of Midland Avenue and the easterly Right-of-Way of Four Mile Road.

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EXHIBIT - B

Description of 40' Access and Utility Easement - B

A strip of land situated in the NW1/4 of Section 27, Township 6 South, Range 89 West, 6th P.M., Garfield County, Colorado said strip of land being 40 feet in width lying 20 feet each side of the following described center line:

Beginning at the northerly end of said center line being on the southerly line of the Water Tank Easement hereinafter described in EXHIBIT - C whence the witness corner for the N1/4 corner of said Section 27, a BLM brass cap bears N 31° 30' 30" E, 1858.76 feet and from which said witness corner said N1/4 corner bears S 88° 39' 27" E, 303.08 feet;

1. Thence S 03° 07' 38" W, 29.37 feet;
2. Thence S 00° 00' 00" W, 93.07 feet;
3. Thence S 02° 09' 42" W, 133.41 feet;
4. Thence S 00° 00' 00" W, 45.28 feet;
5. Thence S 05° 49' 04" E, 154.80 feet to the center line of 40' Access and Utility Easement - A heretofore described in EXHIBIT - A;

This strip of land as described above contains 0.304 acres more or less. Also, the sidelines of said strip of land shall be lengthened or shortened to terminate on the southerly line of said Water Tank Easement and the easterly sideline of said 40' Access and Utility Easement - A.

EXHIBIT - C

Water Tank Easement

A parcel of land situated in the NW1/4 of Section 27, Township 6 South, Range 89 West, 6th P.M., Garfield County, Colorado being more particularly described as follows:

Beginning at the northeasterly corner of said parcel, being an angle point on the southerly line of 40' Access and Utility Easement - A heretofore described in EXHIBIT - A, whence the witness corner for the N1/4 corner of said Section 27, a BLM brass cap bears N 32° 36' 36" E, 1461.24 feet and from which said witness corner said N1/4 corner bears S 88° 39' 27" E, 303.08 feet;

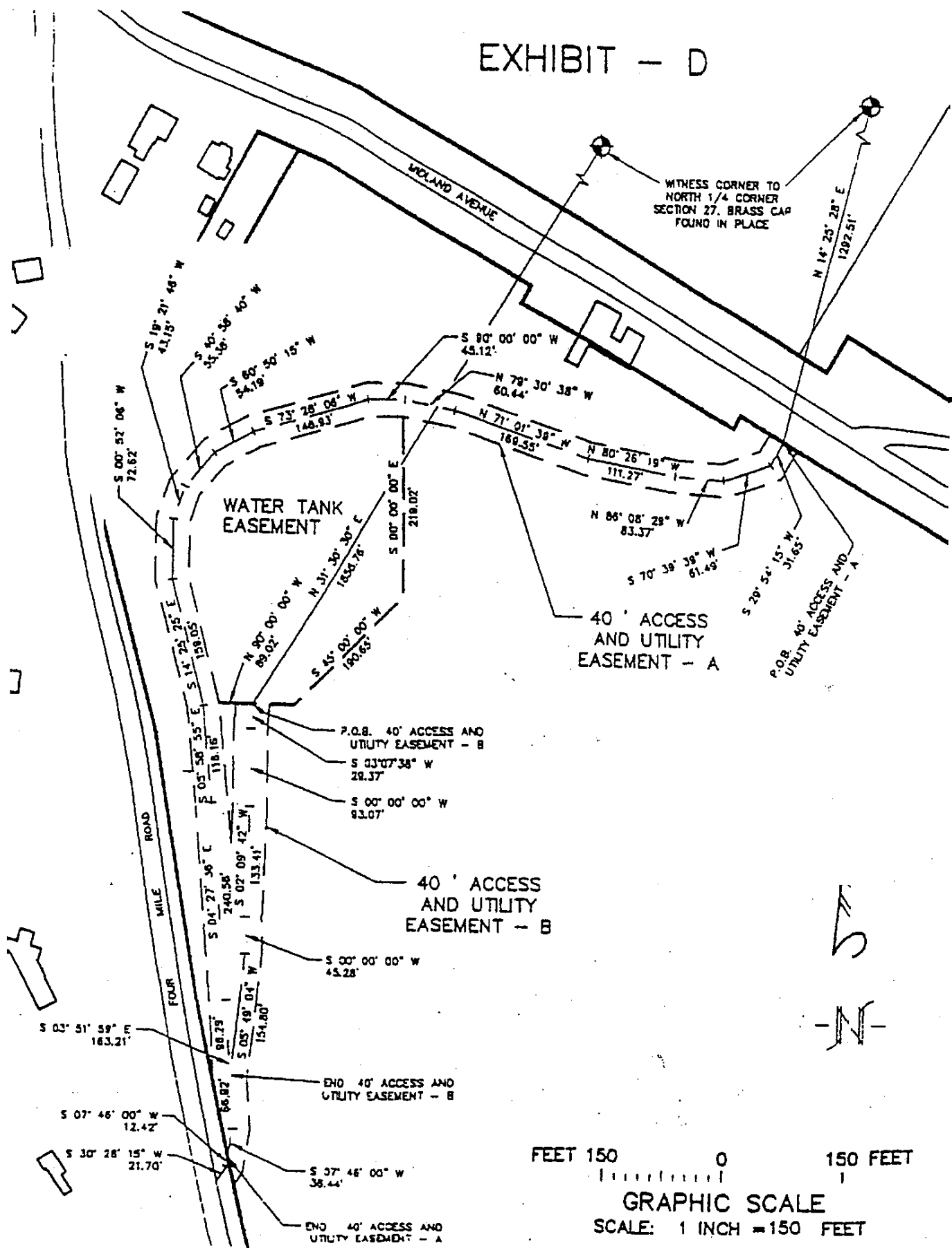
1. Thence S 00° 00' 00" E, 219.02 feet;
2. Thence S 45° 00' 00" W, 190.65 feet;
3. Thence N 90° 00' 00" W, 49.13 feet to the northerly end of 40' Access and Utility Easement - B heretofore described in EXHIBIT - B;
4. Thence N 90° 00' 00" W, 39.89 feet;
5. Thence N 14° 25' 25" W, 157.84 feet;
6. Thence N 00° 52' 06" E, 66.68 feet;
7. Thence N 19° 21' 46" E, 36.08 feet;
8. Thence N 40° 58' 40" E, 48.06 feet;
9. Thence N 60° 50' 15" E, 48.47 feet;
10. Thence N 75° 28' 06" E, 141.82 feet;
11. Thence S 90° 00' 00" E, 40.38 feet to the point of beginning.

This parcel of land as described above contains 1.651 acres more or less.



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EXHIBIT - D





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EXHIBIT - E

WATER TANK EASEMENT

40' ACCESS
AND UTILITY
EASEMENT - A

WITNESS CORNER TO
NORTH 1/4 CORNER
SECTION 27, BRASS CAP
FOUND IN PLACE

P.O.B. WATER
TANK EASEMENT

WATER TANK EASEMENT

71,907 sq.ft.
1.651 acres

FEET 50 0 50 FEET

GRAPHIC SCALE

SCALE: 1 INCH = 50 FEET

40' ACCESS
AND UTILITY
EASEMENT - B

5
-N-



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EXHIBIT B

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Studio 3

LAND COMPANY, LLC

May 24, 1999

PROJECT MEMO: Cardiff Glen Subdivision

TO: Mike Copp, Andrew McGregor, Larry Thompson (City of Glenwood Springs)
John Baker (Studio 3 Land Company)
Jim Horn, Bruce McKinnon (Park East)

FROM: Tom Stevens (Studio 3 Land Company, LLC.)

RE: Memorandum of Understanding
Domestic Water Storage, Raw Water Irrigation, Sewer Improvements Fees

Based upon meeting with City staff on Thursday May 20th and Monday May 24th, the following represents a summary of understanding of the negotiations for construction and financing of water and sewer improvements as they pertain to the Cardiff Glen and Park East developments. Due to the timing of the approval process, it is assumed that the Park East Subdivision will receive final approvals after Cardiff Glen. However, Park East shall, upon its approvals, become a party to this agreement.

Domestic Water Storage

1. Cardiff Glen/Park East 3 will finance and construct a 500,000 gallon storage facility to be located on land owned by Glenwood Land Company and available via easement.
2. The City shall be responsible, as a pro rata member, for the cost associated with 42% of the total cost of construction of the 500,000 gallon storage facility. This 42% represents 120,000 gallons of fire flow storage capacity (24%) and 92,000 gallons of excess storage capacity (18%).
3. As compensation for financing the City's pro rata share (42%), Cardiff Glen/Park East shall receive credits towards future tap fees. To establish the actual amount of credit, the actual cost of the storage facility will be multiplied by 42%. This will establish the dollar value which will have been paid for (financed) by Cardiff Glen/Park East. This dollar figure will then be converted into EQRs based on the current dollar value of EQRs. This quantity of EQRs will then represent the quantity of EQR credit due Cardiff Glen/Park East.
4. It is anticipated that raw water will be provided for the Cardiff Glen Subdivision and Park East Subdivision irrigation purposes. However, if raw water is unavailable, and domestic water must be used, the 92,000 gallons of excess storage may be used. In this circumstance, this 92,000 gallons, or 18% shall not be available for credits towards tap fees and shall be the financial responsibility of Cardiff Glen/Park East. The City shall not appropriate this 92,000 gallons of domestic water to other entities until it has received written conformation from Cardiff Glen/Park East that raw water has been obtained and it has no need for the 92,000 gallons of excess storage water. Under no circumstance shall notification to the City happen later than the completion of Phase 2 of the Cardiff Glen Subdivision. Furthermore, it is anticipated that, due to the prior commitment by the City, Cardiff Glen and Park East, the final parameters associated with the development of the raw water irrigation system shall be finalized during the summer of 1999. Once this is finalized, Cardiff Glen/Park East shall provide the City the written notification that the 92,000 gallons is no longer required.

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5. Cardiff Glen/Park East shall negotiate an easement for the purpose of the storage facility, not to exceed 1 million gallons, plus associated irrigation storage, access and maintenance from Glenwood Land Company (Owner) to the benefit of the City.
6. Studio 3 (Cardiff Glen) shall prepare and submit an application for Special Review permit for the construction of the storage facility. The application will be drafted with the Glenwood Land Company as "Land Owner", Cardiff Glen/Park East as "Developer" and the City as "System Owner/Operator".

The attached "*Cardiff Glen P.U.D. - Park East Subdivision Water Storage Tank cost Sharing Calculation*" has been provided as an exhibit to this memo.

Raw Water Irrigation

Based on prior commitments by the City of Glenwood Springs, Park East and Cardiff Glen, RE-1 School District as well as anticipated interest by Mountain Valley Development, Red Cliff condominiums and Lewis, a raw water irrigation system will be developed to service these properties (see attached South Glenwood Springs Raw Water Irrigation System Cost Sharing Calculation). As such any unit for which raw water irrigation is provided shall be the beneficiary of a 25% reduction in tap fees.

It is currently a condition of approval that Cardiff Glen provide raw water irrigation prior to the completion of Phase two of its development or four years from development commencement. Given this condition and the fact that raw water supply is not a condition for the completion of Phase One of the Cardiff Glen development, Phase One will have the ability to use domestic water until raw water is available.

Sewer Improvements Fees

Studio 3 shall agree to pre pay sewer improvements fees to the City of Glenwood Springs on an as needed basis as outlined in the attached April 19, 1999 memo from Jim Horn and attached hereto (see Section 2, Sewer Bottlenecks).

All parties should review this memorandum of understanding carefully. If you have any comments, questions or corrections please contact me immediately.



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EXHIBIT C



9/17/97



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EXHIBIT D

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
PARK EAST/CARDIFF GLEN
500,000 GALLON WATER TANK
SE JOB NO. 98082.01
8/24/99
PAGE 1 OF 1

ITEM	QUANTITY	COST
EXCAVATION TANK SITE	LUMP SUM	35,000.00
500,000 GALLON TANK AND FOUNDATION	LUMP SUM	310,000.00
WATER MAIN	LUMP SUM	50,000.00
BUILDING	LUMP SUM	15,000.00
LANDSCAPING	LUMP SUM	40,000.00
SUBTOTAL		450,000.00
10% CONTINGENCY		45,000.00
TOTAL		495,000.00



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This opinion of probable cost was prepared for budgeting purposes only. Sopris Engineering, LLC cannot be held responsible for variances from this estimate as actual costs may vary due to bid and market fluctuations.