

**DEVELOPMENT AGREEMENT**  
(Superior Town Center)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of March 11, 2013 by and among the TOWN OF SUPERIOR, COLORADO (the "Town"), the SUPERIOR METROPOLITAN DISTRICT NO.1 ("SMD1"), the SUPERIOR URBAN RENEWAL AUTHORITY ("SURA") and RC SUPERIOR, LLC, a Delaware limited liability company, or its assignee ("Developer") (each individually a "Party" and collectively the "Parties").

**RECITALS**

A. Developer has a contract to acquire and/or may acquire and develop up to one hundred eighty-five (185) acres of real property located at the southeast corner of McCaslin Boulevard and U.S. 36 in the Town, which property is referred to in Section 1.3 of the Superior Town Center Design Guidelines (30 November 2012) as Phase 1 and Phase 2 and is more particularly described in **Exhibit A** attached hereto (the "Property").

B. The Property is located within the Town and the Superior Urban Renewal Area and the boundaries of the Superior McCaslin Interchange Metropolitan District ("SMID"), and is served by SMD1.

C. Developer intends to develop the Property as a mixed-use project consistent with the terms of the Planned Development Plan/Zone District Plan (the "PD Plan") approved by the Board of Trustees in Ordinance No. O-3 Series 2012 adopted October 22, 2012 (which Zone District is referred to herein as the "Planned Development Zone District" and which ordinance is referred to as the "Zoning Ordinance").

D. The remainder of the Property (the "B-O Property") is currently in the B-O Business Office Zone District, as reflected on the Official 2013 Zoning Map (February 2013) for the Town. Promptly after the execution of this Agreement, Developer intends to apply for rezoning of the B-O Property to a Planned Development Zone District which provides for single-family and multi-family residential uses, in accordance with the procedures in the Town Code.

E. The development of the Property is known as the Superior Town Center Development and is sometimes referred to in this Agreement as the "Project."

F. Substantial public infrastructure improvements and public facilities are required to serve the proposed Project (which may include offsite improvements), including roads, drainage facilities, water and sewer facilities, parks and recreation facilities that will serve the needs of the Project and the Town. The completion of these improvements and facilities will require substantial investments by Developer, Successor Developers or the Districts (as defined herein), which investments can be supported only if there are assurances that development of the Project, as approved by the Town, will be allowed to proceed to ultimate completion as provided in this Agreement.

G. The Town has plans to build certain public improvements, which may include but are not limited to a civic space comprised of a Town Hall, a community/recreation center, a library, and one or more multi-purpose athletic fields ("Civic Space") within the Project.

H. The Town is willing to assist Developer with financing the public infrastructure necessary to serve the Project through the implementation of a property tax increment on the Property, a sales tax increment on a portion of the Property, and certain other agreements.

I. SURA has indicated a willingness to assist Developer and the Town with financing the public infrastructure necessary to serve the Project through the implementation of a property tax increment and a sales tax increment on the Property and certain other agreements.

J. Developer may form one or more metropolitan districts to finance a portion of the Public Improvements to serve the Property, which districts are more fully defined in this Agreement as the "Districts."

K. The Parties have determined that it is in their mutual interests to establish a framework which will allow for the Property to be developed, including identification of public improvements and potential financing mechanisms for the Project.

L. The Parties desire to: (1) set forth the terms and conditions under which the public improvements necessary to serve the Project will be financed through various agreements by and among Developer and the Town, SURA, SMD1, SMID and the Districts; (2) set forth the terms and conditions upon which the public improvements will be constructed; (3) confirm the status of the vested property rights of Developer with respect to the Property; and (4) set forth certain other rights and obligations of the Parties relating to the Project, all on the terms and conditions set forth in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS.

For purposes of this Agreement, the following terms shall have the following meanings:

1.1 "Development" means all work on the Property required to transform the Property into a mixed use development, including the demolition of existing structures and grading, construction of new structures and improvements, including surface parking lots (both temporary and permanent), parking structures, signage, landscaping, drainage, sidewalks, utilities and public improvements. When the context so dictates, the verb "Develop" may be used in place of "Development".

1.2 "Development Area" means a group of Lots under the control of a single owner (which may include Developer or a Successor Developer) for which construction plans are reviewed or approved at one time.

1.3 "District" means any special district organized by Developer or any Successor Developer pursuant to Title 31 or 32, Colorado Revised Statutes, as amended, to provide facilities or services to all or any part of the Property.

1.4 "Effective Date" means the date upon which this Agreement has been executed by all of the Parties.

1.5 "Final Development Plan" means a Final Development Plan, as that term is defined in the Town Code, as amended, for all or any portion of the Property. All references to a Final Development Plan in this Agreement refer to only those portions of the Property for which a Final Development Plan is required under the Town Code or for which a Final Development Plan is hereafter approved.

1.6 "First Phase of Development" means the Development contemplated by the first Final Development Plan approved by the Town and Developer.

1.7 "Force Majeure" means acts of God, fire, abnormal weather, explosion, riot, war, labor disputes, governmental restrictions (other than those adopted by the Town, SMID or SMD1), terrorism, Legal Challenge, or any other cause beyond the applicable Person's reasonable control. The inability to obtain financing or lack of money shall not constitute Force Majeure.

1.8 "Legal Challenge" means either of the following: (1) any third party unrelated to any Parties commences any legal proceeding, request for reconsideration or other action that directly or indirectly challenges this Agreement, the zoning or platting of the Property, or any of the Town's resolutions or ordinances approving the zoning of the Property or this Agreement; or (2) any third party submits a petition for a referendum seeking to reverse or nullify any of such ordinances or agreements.

1.9 "Lot" means a legally distinct portion of the Property that is created by a recorded final subdivision plat for any of the Property and is intended for separate ownership.

1.10 "Street" means any collector, minor, and principal arterial street, highway, expressways or roadway within the Town's municipal boundaries, including the Property.

1.11 "Successor Developer" means that person or entity, other than Developer that undertakes to Develop one or more Lots or Development Area in the Property.

1.12 "Town Board" means the Board of Trustees of the Town.

1.13 "Town Center Plat" means the Final Plat Superior Town Center Filing No. 1 recorded in the real estate records of Boulder County, Colorado on February 4, 2013 at Reception No. 3287103.

1.14 "Town Code" means the Superior Municipal Code, as amended from time to time.

1.15 "Vested Property Rights Statute" means C.R.S. § 24-68-101, *et seq.*, as amended.

## 2. CONDITIONS PRECEDENT.

The Parties' rights and obligations under this Agreement shall be subject to the following conditions precedent:

2.1 Property Acquisition. The Parties' rights and obligations under this Agreement shall be conditioned upon, the acquisition of all or any portion of the Property by Developer or its assigns, and shall be recorded upon the deed for any such portion being recorded. If, from time to time during the term of the Agreement, Developer, or its assignee, acquires some, but not all of the Property, this Agreement shall apply to and affect such portion or portions of the Property if and when such portions are so acquired. This Agreement shall not affect any portion of the Property that is not acquired by Developer or its assigns unless and until it is acquired by Developer or its assigns.

2.2 Public Finance Agreement. Developer shall have entered into a Public Finance Agreement with the Town, SURA and SMID.

## 3. DEVELOPER OBLIGATIONS.

3.1 Plans. With input from the Town, Developer and any Successor Developer shall prepare all applications and related plans for the Development at Developer's or Successor Developer's sole cost, including the Final Development Plan for each phase of Development, which applications and related plans, unless otherwise approved by the Town Board, shall comply with the approved PD Plan.

3.2 Phased Development Schedule. The Project will be Developed in phases as approved by the Town and Developer in the respective Final Development Plans.

3.3 Common Area Maintenance. Upon the Town's request made as a part of the approval of the Final Development Plan for a particular phase of Development, Developer shall subject the portion of the Project that is subject to the Final Development Plan to one or more common area maintenance agreements (each "CAM") setting forth the maintenance standards for such portion of the Project, which shall be designed keep the Project clean, attractive, well-lit, safe and secure. Upon its execution, Developer shall cause the CAM to be recorded against all real property in the Project that is subject to the CAM. The owner of any Lot shall be entitled to require any of its tenants to perform the owner's obligations under the CAM with respect to the premises occupied by the tenants.

3.4 Applicable Law. Developer shall comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including (without limitation) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15

U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

3.5 Construction of Public Improvements. In consideration for the Town's approval of each Final Development Plan, Developer shall construct and install the public improvements described in the approved PD Plan (the "Public Improvements"), all of which shall be constructed and installed in accordance with the applicable Final Development Plan, and the Town's applicable ordinances, codes and regulations. A list of some of the prominent Public Improvements contemplated by the PD Plan is attached hereto as Exhibit B, it being understood, however, that the Public Improvements to be constructed and installed by Developer will be those described in the applicable Final Development Plan. All references in this Section 3 to Developer maintaining any Public Improvements shall mean maintaining such public improvement until such time as it is dedicated or conveyed to the Town or a District.

3.6 Street Improvements. Developer shall construct the following Street and trail improvements:

(a) Developer shall construct Street improvements as described in the PD Plan including a minimum of two (2) access points from McCaslin Boulevard to the Project in accordance with the applicable Final Development Plan.

(b) Developer shall construct and thereafter maintain pedestrian/bikeway trails throughout the Project as required by the PD Plan.

(c) To the extent an easement has not already been granted, Developer shall grant the Colorado Department of Transportation an easement along that portion of the Project abutting U.S. 36 to allow a bike path to be incorporated with the planned U.S. 36 improvements.

3.7 Water and Sanitary Sewer Improvements. Developer shall construct water and sanitary sewer facilities, in accordance with the rules and regulations of SMD1. All lines shall be dedicated, constructed, and maintained in accordance with SMD1's rules and regulations and subject to any agreements between Developer and SMD1. Developer shall be responsible for all fees in accordance with the rules and regulations of SMD1.

3.8 Drainage Improvements. Developer shall construct drainage improvements in accordance with the rules and regulations of the Town taking all floodplain issues into consideration. All drainage improvements within the public rights-of-way shall be dedicated to the Town upon acceptance by the Town and thereafter maintained by the Town. All drainage improvements on private property (including the private streets) shall be maintained by Developer, subject to drainage facilities access easements to allow the Town to enter the property in the case that Developer fails to adequately maintain such drainage facilities.

3.9 Street Lighting. All street lighting and pedestrian lighting required for the Project shall be installed by Developer.

3.10 Landscaping. All street trees and other landscaping on the Property, whether on private property or within public rights-of-way, shall be installed and maintained by Developer at Developer's expense in accordance with applicable Town regulations.

3.11 Street Furniture. All street furniture shall be installed and maintained by Developer at Developer's expense in accordance with applicable Town regulations.

3.12 Public Parking Garage. Developer shall construct one or more public parking garage(s) within the Project in accordance with applicable Town regulations, with a sufficient number of spaces, together with other any parking in the Project, to cover the required parking under the PD Plan.

3.13 Civic Space. The Civic Space within the Project will consist of up to one hundred thousand (100,000) square feet for the Town Hall, a community/recreation center, a library, and one or more multi-purpose athletic fields as provided in the PD Plan and the Final Development Plan approved by the Town Board. Developer shall provide one and one-half (1.5) acres of the Property to the Town for the Town Hall.

3.14 Construction. Except as provided in Section 4, Developer shall construct all improvements for the Project including the Public Improvements, all of which shall be constructed in accordance with the PD Plan, the approved Final Development Plans, this Agreement and applicable Town regulations. Developer shall be solely responsible for all costs associated with such construction except as otherwise expressly provided in this Agreement or some other written agreement with the Town.

3.15 Subdivision Improvement Agreements. As a condition of the approval by the Town of a subdivision improvement agreement related to a proposed Final Development Agreement for a portion of the Property, a named person or entity must represent to the Town, in writing, that it is serving as Developer or a Successor Developer of the Lots or Development Area for which the approval is requested.

3.16 No Oversized Facilities. Developer shall not be required to construct any oversized facilities for any property west of McCaslin Boulevard. Oversized facilities means any public improvement (including the Public Improvements as defined herein) required by the Town to be larger than that required to serve the Project.

#### 4. TOWN OBLIGATIONS.

4.1 Civic Space. The Town shall design the Civic Space in consultation and cooperation with Developer. The Town shall be responsible for all costs associated with the design and construction of the Civic Space. Notwithstanding that the design may be reviewed and commented upon by Developer and notwithstanding any other input Developer may have with respect to the Civic Space, the Town will be solely responsible for the design, function and maintenance of the Civic Space. Further, such review and comments shall not constitute any representation or warranty by Developer or its architects or other contractors and consultants as to

the improvements, drawings or design comply with applicable laws, ordinances and codes or as to the adequacy, efficiency, performance or desirability of any design.

4.2 Exchange of Land. Upon agreement of the Parties, the Town shall contribute approximately ten and one-half (10.5) acres of land that are generally contiguous to the Property to Developer (the "Town Parcel") and in exchange, Developer will provide sufficient land within the Property, which is estimated to be a maximum of four and one-half (4.5) acres (the "Exchange Parcel"), for use solely as a hockey facility planned to be constructed by the Boulder Valley Hockey Foundation, the nonprofit corporation that currently operates the ice rink on the Town Parcel. Developer will not be required to construct any of the improvements for such hockey facility. The location of such properties is described on Exhibit D attached hereto, which minor variation in the locations shall be made upon the request of Developer provided the net acreage remains the same. The timing for finalizing the description and conveyance of these properties shall be determined at the time of the approval of the Final Development Plan for the affected properties. Developer or a District will provide the public infrastructure and parking facilities for use in connection with the hockey facility: twenty (20) parking spaces to be located on-site, two hundred fifty (250) parking spaces to be located within one thousand (1,000) feet of the hockey facility and two hundred fifty (250) additional spaces to be located within the Project. If the Boulder Valley Hockey Foundation does not have a binding obligation to construct its hockey facility within the Project by May 1, 2013, then the Town and Developer will identify alternative users of the Exchange Parcel for public recreational purposes. Developer and the District will not be required to construct any of the improvements for any such facility.

4.3 Town Approval. Any time Developer or any Successor Developer is required to submit to the Town any Public Improvements to the Town for conditional or final acceptance of any Public Improvement, the Town will administratively approve or disapprove such Public Improvements, as a ministerial act, without approval of the Planning Commission or the Town Board being required.

4.4 Right-of-Way Acquisition. The Town will, under the terms set forth in this Agreement and as permitted by law, use its best efforts to secure, at no cost to Developer, required right-of-way, construction and maintenance easements from governmental or private entities in order to allow Developer to fulfill its obligations under this Agreement and to proceed with Development of the Project, provided that this Section shall not impose any fiscal obligation on the Town.

## 5. **CONSTRUCTION AND WARRANTY.**

5.1 Security. In addition to cash deposits and any other forms of security acceptable under the Town Code, the form of construction completion guarantees for Public Improvements (including for warranties) accepted by the Town shall include options for letters of credit and the escrow of District bond proceeds. On or before May 13, 2013, the Town Board shall consider an amendment to the Town Code to allow for deviations from the security requirements of the Town Code on a case-by-case basis upon the submission of written justification to the Town Board.

5.2 Construction Standards. Developer shall ensure that all construction and improvements are performed in a workmanlike manner in accordance with Town rules, regulations, requirements, criteria, and codes governing such construction and this Agreement. The Town shall have no duty to accept the dedication of any Public Improvement that is not constructed in compliance with this paragraph.

5.3 Public Improvements Warranty. Developer or the applicable Successor Developer or District that constructs any Public Improvements will: (a) warrant and guarantee that the Public Improvements that it constructs will not fail, and that the Public Improvements will be constructed and installed in a workmanlike manner suitable for their intended uses and in accordance with any applicable federal, state, municipal, and special district statutes, ordinances, regulations, rules and codes; (b) notify the Town when it deems such Public Improvements that it constructs to be complete and thereafter the Town will promptly review the same and deliver a written conditional acceptance of such improvements that are acceptable, or, for any that are not acceptable, specify in writing in reasonable detail which improvements are not acceptable and the reasons they are unacceptable; and (c) will provide or assign to the Town a warranty against defective materials or workmanship in Public Improvements designed and constructed pursuant to this Agreement following delivery by the Town of a conditional approval letter for such improvements. The duration of this warranty shall be for a period of two (2) years from the date of conditional acceptance by the Town, and any warranty from a private party shall be subject to Section 16-15-30 of the Town Code, subject to such modifications that may be made in the Final Development Plan approved by the Town.

5.4 Final Acceptance. Upon the expiration of the warranty period for any particular Public Improvement, and provided any breaches of warranty have been cured, the Town shall issue final acceptance of such Public Improvement and, thereafter, the Town will accept and maintain such improvements. Upon Developer's request, the Town shall confirm in writing the acceptance of such Public Improvement.

## 6. OPERATION AND MAINTENANCE OF PUBLIC IMPROVEMENTS.

6.1 Dedication. The Public Improvements constructed by or on behalf of Developer shall be conveyed or dedicated to the Town and other entities for ownership, operation and maintenance subject to the Final Acceptance by the Town pursuant to Section 5.4 hereof.

6.2 District Improvements. With respect to Public Improvements required to be owned, operated and maintained by a District, the District shall have the option, but shall not be required, to enter into an agreements with an Owners Association providing for performance of all or some of such operation and maintenance functions; provided, however, that ownership of the Public Improvements shall be retained by the District and the ultimate responsibility for maintenance of such Public Improvements will remain with the District.

## 7. ZONING AND DEVELOPMENT.

7.1 Zoning. For the portion of the Property that has been zoned Planned Development in accordance with the Zoning Ordinance, the Town Code and the applicable PD Plan for such Property shall govern the Development of the Project.

## 8. SERVICES.

8.1 Municipal Services. The District, Developer or any Successor Developer shall not be required to provide any municipal services.

8.2 Special Districts. The Town acknowledges that Developer may form one or more Districts for the purpose of providing facilities or services to the Property, either independently or as Developer's designee or assignee under this Agreement. The Districts may facilitate financing, construction, and maintenance of the public infrastructure improvements and other public facilities of the Project for which Developer are or may become obligated under the terms in this Agreement, including construction of streets, parks, water lines, sanitary sewer lines, storm drainage facilities, and other utilities and Public Improvements serving the Property. The Town will not unreasonably withhold its approval of the service plan for any new such Districts or for any subsequent proceedings to consolidate the Districts. Further, the Town agrees that such Districts may exercise any and all powers and functions permitted by law in accordance with their service plans, including the provision of facilities and services to the Property.

8.3 Assignment. Developer reserves the right to assign to one or more Successor Developers or Districts all or any part of its obligations and rights under this Agreement in accordance with the terms and conditions of this Agreement, the service plan for the Districts, and applicable law, subject to the prior approval of the Town and SURA, which shall not be unreasonably withheld. Accordingly, references to "Developer" in the context of public infrastructure improvement obligations addressed in this Agreement will be construed to include by reference the Successor Developer or District, to the extent such entities subsequently are assigned and assume the obligations of Developer accruing after the Assignment pursuant to the terms of this Agreement, and upon such assignment and assumption, such obligations will become the sole responsibility of the Successor Developer or District assuming the same. Developer shall remain responsible for such obligations that accrued prior to the Assignment unless otherwise agreed by the Town.

8.4 District Fees, Charges and Taxes. Nothing in this Agreement will be construed to prohibit or preclude the Districts from establishing, fixing, levying, charging or collecting any rate, toll, fee, charge, or tax which it is authorized by law to collect from persons or entities within the Districts, in addition to the rates, tolls, fees, charges, and taxes collected by the Town, and the Town will assist the District in the collection of the same in connection with the Town's approval of any individual water or sewer tap, or issuance of building permits or certificates of occupancy, to the applicant therefor.

## 9. FEES.

9.1 General. The Town shall impose and except as provided in this Agreement, Developer shall pay the building permit, plan review, SMD1 system and development fees and all other similar fees as set forth in Exhibit C (the "Project Fee Schedule") in connection with Development of the Project.

9.2 School Impact Fees. The school impact fees shall apply only to the residential acreage based upon a value mutually agreeable to the Town and Developer.

9.3 Rebate For Amounts in Excess of Base Fee Amount. The fees and charges listed in the Project Fee Schedule (the "New Construction Fees") shall be the only development or impact fees imposed by the Town in connection with new construction in the Development of the Project. The Town may increase the New Construction Fees and adopt additional fees for new construction in accordance with the procedures set forth in the Town Code, which increases and additional fees will also be deemed to be New Construction Fees to be paid by Developer, provided that the Town shall rebate any amount for which such fees and charges paid exceed the Base Fee Amount. The Base Fee Amount shall mean the fees and charges for the New Construction Fees included in the Project Fee Schedule, without regard to any increases or new fees, but subject to increase for the rate of inflation as follows:

(a) For the first five (5) years after the Effective Date, the Base Fee Amount shall be fixed at the amounts of the New Construction Fees in the Project Fee Schedule without any increase;

(b) For the first twelve (12) months thereafter, the Base Fee Amount shall be the amounts the New Construction Fees in the Project Fee Schedule, as increased by an amount not to exceed the inflation rate from the Effective Date through the last day of the preceding 5-year period, based upon the Engineering News Record Building Cost Index, Denver, Colorado; and

(c) For each twelve (12) months thereafter, the Base Fee Amount shall be the Base Fee Amount for the prior twelve (12) months, as increased by an amount not to exceed the inflation rate for such prior 12-month period, based upon the Engineering News Record Building Cost Index, Denver, Colorado.

Such rebate payment shall be made periodically, but in any event, no later than the end of each calendar following the month in which such excess amount has been paid. The payment shall be made to the party who paid such excess amounts.

9.4 Rebate for Cost Reductions. For the purpose of reducing Development and Public Improvement costs, the Town agrees to rebate thirty percent (30%) of fees paid for building permits and plan checks and one hundred percent (100%) of building use taxes paid for the first five (5) years after the first payment of such taxes, and fifty percent (50%) thereafter. Developer shall not be entitled to any waiver, rebate or credit for any fees imposed by SMD1.

## 10. VESTED PROPERTY RIGHTS.

10.1 Property Rights Vested. The PD Plan and the Town Center Plat each constitute a site specific development plan as defined in C.R.S. § 24-68-101, *et seq.*, and Chapter 16 of the Town Code, and shall create vested property rights for five (5) years from the Effective Date, which vested property rights may be extended pursuant to Section 10.4. On or before June 15, 2013, the PD Plan and the Town Center Plat shall be modified to include the language required by C.R.S. § 24-68-102(4)(a) and Section 16-12-50 of the Town Code. The vested property rights include the rights identified below:

(a) The right to Develop, plan and engage in land uses within the Property in the order as set forth in the Town Center Plat and the PD Plan and the B-O Zone District

for the B-O Property, if applicable, and upon approval by the Town, any Final Development Plan or rezoning, including the uses, density and intensity of use.

(b) The right to have the PD Plan and existing zoning and approved rezoning to remain valid for the term of the vested property rights established by this Agreement.

(c) The right to apply for and, upon compliance with the terms and conditions of the PD Plan and any Final Development Plan and any terms of the Town Code or other applicable regulations adopted by the Town or SMD1, as amended, to receive grading permits, building permits, water taps, sewer taps, certificates of occupancy, and other permits necessary for Development, construction and occupancy of improvements within the Project.

10.2 Extension of Vested Property Rights. In recognition of the benefits the Town will derive from development of the Project, the size of the development contemplated under this Agreement, the substantial investment and time required to complete the development of the Project and related infrastructure and public facilities, the anticipated phased development of the Project over an extended period under current market conditions, and the possible impact of economic cycles and varying market conditions during the course of Development that might further extend the build-out period, the vested property rights contemplated by this Section 10 shall be extended for an additional fifteen (15) years if Developer completes the Public Improvements for the First Phase of Development within five (5) years from the Effective Date. Such Public Improvements shall be deemed complete when all of the Public Improvements required by the Final Development Plan for the First Phase of Development have been conditionally accepted by the Town in accordance with the terms of this Agreement. If the Town determines that the Public Improvements for the First Phase of Development are not complete within such 5-year period, the Town shall provide at least one hundred twenty (120) days prior written notice to Developer, during which time Developer may complete such Public Improvements; provided that, if such Public Improvements are completed within such one hundred twenty (120) days, the extension shall be granted.

10.3 Site Specific Development Plans. Each subdivision plat, Final Development Plan and application for rezoning of the Property that Developer or any Successor Developer submits to the Town subsequent to the Effective Date will be eligible for vested property rights for the remaining amount of the vested rights term.

10.4 No Obligation to Develop. Notwithstanding anything to the contrary in this Agreement, Developer will have no obligation to Develop all or any portion of the Project and will have no liability under this Agreement to the Town or to any other Party for its failure to Develop all or any part of the Project unless provided for in a Final Development Plan or any other agreement executed by the Town and Developer and then only to the extent and with respect to the applicable property that is subject to the Final Development Plan or other any other agreement.

## 11. LEGAL CHALLENGES.

11.1 Expiration or Termination During Pendency of Legal Challenge. If a Legal Challenge occurs, this Agreement will remain in full force and effect through and until the thirty-first (31<sup>st</sup>) day following entry of a final, non-appealable order resolving such Legal Challenge, unless earlier terminated or modified by a written amendment signed by all Parties.

11.2 Successful Legal Challenge Contingency. If any Legal Challenge successfully voids, enjoins, or otherwise invalidates this Agreement, the Town and Developer will cooperate to cure the legal defect in a manner that most fully implements the intent and purpose of this Agreement; provided, however, that if the Parties do not enter into a written agreement to cure the defect, Developer or the Town shall have the right to terminate this Agreement.

## 12. DEFAULT; REMEDIES; TERMINATION.

12.1 Notices of Breach and Right to Cure. In the event of a breach by any Party under this Agreement, such Party shall not be in default under this Agreement unless the breaching Party is given notice of the breach and fails to cure such breach in the manner and within the time periods provided in this Section. A non-breaching Party shall deliver written notice to the breaching Party of the breach, and the breaching Party will have thirty (30) days from and after receipt of the notice to cure the breach, failing which, the breaching Party will be in default under this Agreement. If the breach is of a type that is not capable of being cured within the 30-day period and the breaching Party gives written notice to the non-breaching Party within the 30-day period that it is actively and diligently pursuing the cure, the breaching Party will have a reasonable period of time given the nature of the breach following the end of such 30-day period, but not to exceed one hundred twenty (120) days, to cure the breach, provided that the breaching Party is at all times actively and diligently pursuing the cure, failing which, the breaching Party will be in default under this Agreement.

12.2 Remedies. Upon a Party being in default after notice and expiration of the applicable cure period, the non-breaching Party will have the right to enforce the obligations of the defaulting Party hereunder by an action for any remedy available at law or in equity including injunction or specific performance; provided that specific performance is not an available remedy against the Town or SMD1.

12.3 Remedies Cumulative. Each remedy provided for in this Agreement is cumulative and is in addition to every other remedy provided for in this Agreement or otherwise existing at law, in equity or by statute.

## 13. REPRESENTATIONS AND WARRANTIES.

13.1 Developer. Developer hereby represents and warrants to the Town that the following are true and correct as the date of its execution of this Agreement and will be true and correct as of the Effective Date:

(a) Authority. This Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms.

(b) Authorized Signatory. The person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer.

(c) No Litigation or Adverse Condition. To the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to Develop the Property as contemplated under the PD Plan.

(d) No Conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

13.2 Town. The Town hereby represents and warrants to Developer and its assigns that the following are true and correct as the date of its execution of this Agreement and will be true and correct as of the Effective Date:

(a) Authority. Upon execution, this Agreement will have been duly authorized the Town Board as the legal, valid and binding obligation of the Town, and is enforceable as to the Town in accordance with its terms, other than Section 14.20, for which the Town makes no warranty regarding its enforceability.

(b) Authorized Signatory. The person executing this Agreement on behalf of the Town is duly authorized and empowered to execute this Agreement on behalf of the Town.

(c) No Litigation or Adverse Condition. To the best of the Town's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against the Town which, if decided or determined adversely, would have a material adverse effect on the ability of the Town to undertake its obligations under this Agreement nor is there any fact or condition of the Property known to the Town that may have a material adverse effect on Developer's ability to Develop the Property as contemplated under the PD Plan.

(d) No Conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which the Town is a party or by which the Town is bound or affected.

(e) Zoning. The portion of the Property that is subject to the Final Plat or the PD Plan is zoned Planned Development Zone District, as adopted by the Zoning Ordinance; the PD Plan and the Zoning Ordinance remain in full force and effect without any modification; and no amendment, modification or challenge to the PD Plan or Zoning Ordinance currently exists or, to the knowledge of the Town, is threatened.

(f) B-O Zoning. The B-O Property is zoned B-O Office Business Zone District and no amendment, modification or challenge to that zoning currently exists or, to the knowledge of the Town, is threatened.

#### 14. GENERAL PROVISIONS.

14.1 Binding Affect. This Agreement shall be binding upon the Parties, their officers, employees, agents and assigns.

14.2 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will, unless amended or modified by mutual consent of the Parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining.

14.3 No Third Party Beneficiaries. No third parties are intended to benefit by the covenants, agreements, representations, warranties or any other terms or conditions of this Agreement. It is the express intent of the Parties that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, will be strictly reserved to the Parties hereto, their successors and assigns.

14.4 Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year. To the extent that any of the Town's obligations under this Agreement are deemed to constitute a multiple fiscal year financial obligation pursuant to Article X, § 20 of the Colorado Constitution, the Town's performance will be conditioned upon annual appropriation by the Town Board, in its sole discretion.

14.5 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

14.6 No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

14.7 Governmental Immunity. The Town and each District and their respective, officers, directors and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers or employees.

14.8 Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this

Agreement shall in no way limit any Party's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

14.9 Amendment. Except as otherwise set forth in this Agreement, this Agreement may be amended or terminated only by mutual consent in writing of the Parties.

14.10 Force Majeure. Whenever Developer, a Successor Developer or a District is required to complete construction, maintenance, repair or replacement of any improvements by a date certain, if the time for completion cannot be completed in a timely manner due to Force Majeure, the time for completion shall be extended for a reasonable period of time.

14.11 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties, integrates all of the terms and conditions mentioned therein and incidental thereto, and supersedes all negotiation or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

14.12 Waivers. All waivers of this Agreement must be made in writing and signed by the appropriate authorities of the Town, SURA, SMD1 or Developer. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.

14.13 Expenses. Except as otherwise provided in this Agreement or other expense agreements entered into by the Parties, each Party will bear its respective costs and expenses associated with entering into, implementing and enforcing the terms of this Agreement.

14.14 Further Assurances. Upon reasonable request from a Party hereto, from time to time, each Party will execute and deliver to the other such further instruments and documents as may be reasonably necessary to carry out the intents and purposes of this Agreement in order to provide and secure to the requesting Party the full and complete enjoyment of its rights and privileges under this Agreement, provided that this Section shall impose no fiscal obligation on any of the Parties.

14.15 Headings. The headings used in this Agreement are included for purposes of convenience of reference only, and shall not affect the construction or interpretation of any of its terms.

14.16 Notices. All notices required or permitted by this Agreement shall be in writing and shall be given by personal delivery or sent to the address of the Party set forth below by certified mail, postage prepaid, return receipt requested, or by reputable overnight courier for next business day delivery, prepaid, receipt acknowledged. Notices shall be deemed received on the earlier of the date of actual receipt or, in the case of notice by mail or overnight courier, the date of receipt marked on the acknowledgment of receipt. Rejection or refusal to accept or the inability to deliver because of change of address of which no notice was given shall be deemed to be received as of the date such notice was deposited in the mail or delivered to the courier.

If to the Town:

Town of Superior  
124 E. Coal Creek Drive  
Superior, CO 80027

If to SMD1: Superior Metropolitan District No. 1  
124 E. Coal Creek Drive  
Superior, CO 80027

If to SURA: Superior Urban Renewal Authority  
124 E. Coal Creek Drive  
Superior, CO 80027

If to Developer: Ranch Capital, LLC  
12275 El Camino Real, Suite 110  
San Diego, CA 92130  
Attention: Larry Hirschfield

and

The Accretive Investments, Inc.  
12275 El Camino Real, Suite 110  
San Diego, CA 92130  
Attention: Randy Goodson

Any Party may change its address to which notices should be sent to it by giving the other Parties written notice of the new address in the manner set forth in this paragraph. A Party may give any notice, instruction or communication in connection with this Agreement using any other means (including facsimile, e-mail or first class mail), but no such notice, instruction or communication shall be deemed to have been delivered unless and until it is actually received by the Party to whom it was sent and such Party acknowledges such receipt.

14.17 Construction. Throughout this Agreement, the singular shall include the plural and the plural shall include the singular, all genders shall be deemed to include other genders, wherever the context so requires, and the terms “including,” “include” or derivatives thereof, unless otherwise specified, shall be interpreted in as broad a sense as possible to mean “including, but not limited to,” or “including, by way of example and not limitation.”

14.18 Joint Drafting. The Parties hereby acknowledge that this Agreement represents the negotiated terms, covenants and conditions of the Parties, and the Party responsible for drafting any such term, covenant or condition shall not be prejudiced by any presumption, canon of construction, implication or rule requiring construction or interpretation against the Party drafting the same.

14.19 Exhibits. All schedules, exhibits and addenda attached to this Agreement and referred to herein shall for all purposes be deemed to be incorporated in this Agreement by this reference and made a part of this Agreement.

14.20 Counterparts. This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same document.

The Parties have executed this Agreement as of the date first written above.

RC SUPERIOR, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Its: Managing Member

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(SEAL)

\_\_\_\_\_  
Notary Public

TOWN OF SUPERIOR, COLORADO

Andrew Muckle  
Andrew Muckle, Mayor

ATTEST: SEAL

Phyllis L. Hardin  
Phyllis L. Hardin, Town Clerk

SUPERIOR METROPOLITAN DISTRICT NO.  
1

Andrew Muckle  
Andrew Muckle, President

ATTEST:

SEAL  
Phyllis L. Hardin  
Phyllis L. Hardin, Secretary

SUPERIOR URBAN RENEWAL AUTHORITY

Andrew Muckle  
Andrew Muckle, President

ATTEST:

SEAL  
Matthew G. Magley  
Matthew G. Magley, Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Diego

On 3.15.13 before me, Alexis Albersson, Notary Public

personally appeared Lawrence Hershfield, Manager

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Alexis Albersson



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Development Agreement

Document Date: March 14, 2013 Number of Pages: 27

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Lawrence Hershfield

- Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, Other



Signer Is Representing:

Signer's Name:

- Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, Other



Signer Is Representing:

## **LIST OF EXHIBITS**

- Exhibit A Property Legal Description
- Exhibit B List of Prominent Public Improvements
- Exhibit C Project Fee Schedule
- Exhibit D Location of Exchange Parcel and Town Parcel

**Exhibit A**  
**Property Legal Description**

**Superior Town Center Filing No. 1**

A parcel of land inclusive of Lot 1 and Lot 2 of the Biella Minor Subdivision recorded September 14, 2005 as Reception No. 2722091 of the Records of Boulder County and inclusive of Tract A, Lot 1 and Lot 2 of the Ice House Subdivision Filing No. 2 recorded July 15, 2011 as Reception No. 03159229 of the Records of Boulder County and also inclusive of that real property described in a Quit Claim Deed From the County of Boulder to the Town of Superior recorded August 1, 1997 as Reception No. 1719035 of the Records of Boulder County, all being situate in portions of the Southeast Quarter, Southwest Quarter and Northwest Quarter of Section Nineteen (19), Township One South (T.1S.), Range Sixty-nine West (R.69W.), Sixth Principal Meridian (6<sup>th</sup> P.M.), Town of Superior, County of Boulder, State of Colorado, and as a whole being more particularly described as follows: COMMENCING at the North Sixteenth Corner on the West side of said Section 19, monumented by a 2.5" Brass Rock Cap embedded in a concrete median and stamped "PLS 29761" and assuming the West line of the Southwest Quarter of the Northwest Quarter of said Section 19, monumented at the West Quarter Corner by a 2" Aluminum Pipe with a 2.5" Aluminum Cap stamped "Frank R. Drexel and 2149", to bear South 01°14'50" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, a distance of 1316.98 feet, with all bearings herein relative thereto;

THENCE North 88°44'36" East a distance of 154.96 feet to the Northwest corner of Lot 2 of the Ice House Subdivision Filing No. 2 and to the POINT OF BEGINNING;

THENCE North 88°44'36" East along the Northerly line of said Lot 2 a distance of 9.52 feet to the Southwesterly corner of said real property described in a Quit Claim Deed recorded August 1, 1997 as Reception No. 1719035 of the Records of Boulder County;

The next Three (3) courses are along the Westerly lines of said real property described in a Quit Claim Deed recorded August 1, 1997 as Reception No. 1719035 of the Records of Boulder County:

THENCE North 09°49'34" West a distance of 297.96 feet;

THENCE North 08°19'35" West a distance of 139.98 feet;

THENCE North 00°10'10" East a distance of 226.84 feet to the Northwest corner of said real property described in a Quit Claim Deed recorded August 1, 1997 as Reception No. 1719035 of the Records of Boulder County;

THENCE North 88°42'50" East along the Northerly line of said real property described in Reception No. 1719035 and along the Northerly line of the Ice House Subdivision Filing No. 2 a distance of 961.21 feet to the Southwesterly Right of Way line of U.S. Highway No. 36 and the beginning point of a curve, non-tangent to this course;

THENCE along said Southwesterly Right of Way line and along the arc of a curve concave to the Southwest a distance of 301.42 feet, said curve has a Radius of 5630.00 feet, a Delta of 03°04'03" and is subtended by a Chord bearing South 53°47'12" East a distance of 301.38 feet to the end point of said curve and to the Westerly line of the Biella Minor Subdivision;

THENCE North 00°09'03" West along the Westerly line of the Biella Minor Subdivision a distance of 10.27 feet to the Southwesterly Right of Way line of U.S. Highway No. 36 and the beginning point of a curve, non-tangent to this course;

The next Two (2) courses are along the Southwesterly Right of Way line of U.S. Highway No. 36:

THENCE along the arc of a curve concave to the Southwest a distance 721.14 feet, said curve has a Radius of 5630.00 feet, a Delta of 07°20'20" and is subtended by a Chord bearing South 48°47'49" East a distance of 720.65 feet to a Point of Tangency;

THENCE South 45°07'39" East a distance of 1104.78 feet to the East line of the Northwest Quarter of said Section 19 and also the Northeast corner of said Biella Minor Subdivision;

THENCE South 00°02'40" East along the East line of the Northwest Quarter of said Section 19 a distance of 65.30 feet to the Northerly line of Parcel D as described in an Agreement recorded May 16, 2003 as Reception No. 2442477 of the Records of Boulder County;

THENCE South 89°14'31" West along the Northerly line of said Parcel D a distance of 241.51 feet;

THENCE South 00°46'59" East along the Westerly line of the Superior Cemetery as per Reception No. 2442477 a distance of 271.02 feet to the Southwest corner thereof;

THENCE North 89°41'10" East along the Southerly line of said Superior Cemetery a distance of 238.00 Feet to the East line of the Northwest Quarter of said Section 19;

THENCE South 00°02'40" East along the East line of the Northwest Quarter of said Section 19 a distance of 190.53 feet to the Center Quarter Corner of said Section 19;

THENCE South 88°54'11" West along the South line of the East Half of the Northwest Quarter of said Section 19 a distance of 1321.03 feet to the West line of the Biella Minor Subdivision;

THENCE North 00°09'03" West along said West line a distance of 100.99 feet to the Southeasterly Corner of the Ice House Subdivision Filing No. 2; The next Five (5) courses are along the Southerly and Westerly lines of the Ice House Subdivision Filing No. 2, the Westerly lines of said subdivision being coincidental with the Easterly Right of Way lines of McCaslin Boulevard:

THENCE South 72°12'42" West a distance of 351.95 feet;

THENCE North 88°53'03" East a distance of 1.16 feet;

THENCE South 73°50'24" West a distance of 580.09 feet;

THENCE North 09°51'48" West a distance of 152.34 feet;

THENCE North 09°57'12" West a distance of 1333.18 feet to the POINT OF BEGINNING.

Said parcel contains 83.944 acres, more or less (±).

### Spicer Property

A tract of land located in the N1/2 of the SW1/4 of Section 19, T1S, R69W of the 6<sup>th</sup> P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the southwest corner of said Section 19, THENCE N88°47'37"E, 1260.30 feet along the south line of the SW1/4 of said Section 19 to the southeast corner of the SW1/4 of the SW1/4 of said Section 19; THENCE N00°27'35"E, 1315.49 feet along the east line of the SW1/4 of the SW1/4 of said Section 19 to the southwest corner of the NE1/4 of the SW1/4 of said Section 19 and the TRUE POINT OF BEGINNING;

THENCE N88°57'19"E, 1327.31 feet along the south line of the NE1/4 of the SW1/4 of said Section 19 to the southeast corner thereof;

THENCE N00°11'15"E, 1311.58 feet along the north-south centerline of said Section 19 to the center of said Section 19;

THENCE S89°07'01"W, 1320.98 feet along the east-west centerline of said Section 19 to the northwest corner of the NE1/4 of the SW1/4 of said Section 19;

THENCE S00°27'35"W, 541.03 feet along the west line of the NE1/4 of the SW1/4 of said Section 19;

THENCE S44°00'00"W, 54.67 feet;

THENCE S63°50'00"W, 281.99 feet;

THENCE S01°10'00"E, 159.68 feet;

THENCE S88°15'00"E, 158.73 feet;

THENCE S76°10'00"E, 48.28 feet;

THENCE S57°50'00"E, 93.50 feet to the west line of the NE1/4 of the SW1/4 of said Section 19;

THENCE S00°27'35"W, 384.91 feet along the west line of the NE1/4 of the SW1/4 of said Section 19 to the TRUE POINT OF BEGINNING.

### **Schuck Property**

A parcel of ground situated in the North 1/2 of the Southeast 1/4 of Section 19, Township One South, Range 69 West of the Sixth Principal Meridian, County of Boulder, State of Colorado;

Beginning at the Center 1/4 of said Section 19; THENCE North 88 Degrees 54 Minutes 41 Seconds East along said North Line 450.78 feet to the Southwesterly Right Of Way of Highway 36; THENCE along said Right Of Way South 45 Degrees 06 Minutes 34 Seconds East 472.00 feet; THENCE North 44 Degrees 53 Minutes 26 Seconds East 50.00 feet; THENCE South 45 Degrees 06 Minutes 34 Seconds East 49.54 feet to a point of curvature; THENCE along the arc of a curve to the left having a radius of 11560.00 feet, a central angle of 04 Degrees 59 Minutes 54 Seconds, and an arc length of 1008.46 feet; THENCE South 50 Degrees 08 Minutes 02 Seconds East 425.76 feet to the South Line of the said North 1/2; THENCE along said South Line South 88 Degrees 57 Minutes 58 Seconds West 1926.40 feet to the West Line of said Southeast 1/4; THENCE along said West Line North 0 Degrees 01 Minutes 36 Seconds 1311.56 feet to the point of beginning. The above described parcel of ground contains 1,546,277 square feet or 35.50 acres, more or less.

Exhibit B

List of Prominent Public Improvements

**SUPERIOR TOWN CENTER PD  
Public Improvements  
Probable Cost Summary  
3/8/2013**

Category	Item	Quantity	Unit	Unit Cost	Total Cost	Notes
<b>Earthwork</b>						
	Town Center Floodplain Mitigation	1	LS	\$2,000,000	\$2,000,000	fill to elevate Town Center
<b>Roadways and Paths</b>						
	Town Center North	1	EA	\$8,440,000	\$8,440,000	per PD, includes McCaslin, all streets, plaza, paths, walks
	Town Center South - Marshall Extension	1	LS	\$4,640,000	\$4,640,000	includes water, sanitary and storm utilities and street trees
	Town Center South - Discovery Extension	1	EA	\$1,440,000	\$1,440,000	includes water, sanitary and storm utilities and street trees
	Town Center South Typical Local Street	10,000	LF	\$770	\$7,700,000	includes water, sanitary and storm utilities
<b>Walls and Structures</b>						
	South Street Wall	1	EA	\$280,000	\$280,000	
	Detention Pond Walls - Town Center North	8,000	SF	\$35	\$280,000	
	Coal Creek Bridge	1	EA	\$1,380,000	\$1,380,000	
	Pedestrian Bridge	1	EA	\$80,000	\$80,000	
<b>Storm Sewer</b>						
	Town Center North	1	LS	\$2,230,000	\$2,230,000	
	Town Center South	1	ALLOW	\$600,000	\$600,000	Detention Facilities and Major Conveyance
	SMID #1 System DevelopmentCharges - Single Family	1,150	EQR	\$2,682	\$3,084,300	assumes 1,150 single family units
	SMID #1 System DevelopmentCharges - Multi Family	805	EQR	\$2,682	\$2,159,010	assumes 1,1150 units @7 per acre
	SMID #1 System DevelopmentCharges - Hotel	39	EQR	\$2,682	\$104,598	130 room hotel
	SMID #1 System DevelopmentCharges - Comm./ Office	16	EQR	\$2,682	\$42,912	assumes 16 acres coverage
<b>Sanitary Sewer</b>						
	Town Center North	1	LS	\$800,000	\$800,000	
	Lift Station and Force Main	1	LS	\$950,000	\$950,000	
	Offsite Main Upsize Allowance	2,000	LF	\$125	\$250,000	additional modeling required
	SMID #1 System DevelopmentCharges - Single Family	1,150	EQR	\$4,320	\$4,968,000	assumes 1,150 single family units
	SMID #1 System DevelopmentCharges - Multi Family	805	EQR	\$4,320	\$3,477,600	assumes 1,150 multi family units with 2 beds
	SMID #1 System DevelopmentCharges - Hotel	39	EQR	\$4,320	\$168,480	130 room hotel
	SMID #1 System DevelopmentCharges - Comm./ Office	475	EQR	\$4,320	\$2,052,000	950,000 sf Office/Commercial
<b>Reuse Water</b>						
	Town Center North	1	LS	\$190,000	\$190,000	
	Off Site Improvements (system storage)	1	LS	\$320,000	\$320,000	includes 200k gallons for TC North and 100k for TC South
<b>Domestic Water</b>						
	Town Center North	1	LS	\$1,490,000	\$1,490,000	
	Off Site Improvements (McCaslin Mains)	1	LS	\$690,000	\$690,000	
	SMID #1 System DevelopmentCharges - Single Family	1,150	EQR	\$20,991	\$24,139,650	assumes 1,150 single family units
	SMID #1 System DevelopmentCharges - Multi Family	863	EQR	\$20,991	\$18,104,738	assumes 1,150 multi family units with 2 beds
	SMID #1 System DevelopmentCharges - Hotel	39	EQR	\$20,991	\$818,649	130 room hotel
	SMID #1 System DevelopmentCharges - Comm./ Office	475	EQR	\$20,991	\$9,970,725	950,000 sf Office/Commercial
<b>Dry Utilities</b>						
		1	ALLOW	\$1,700,000	\$1,700,000	
<b>Parks and Amenities</b>						
	Developed Parkland - Town Center North	4	AC	\$290,000	\$1,015,000	
	Naturalized Open Space - Town Center North	17	AC	\$100,000	\$1,700,000	
	Developed Parkland - Town Center South	4	AC	\$290,000	\$1,073,000	
	Naturalized Open Space - Town Center South	15	AC	\$100,000	\$1,510,000	
<b>Buildings, Parking and Architectural Enhancements</b>						
	Structured Parking	3062	STALL	\$25,000	\$76,550,000	Total number on -street parking identified in TC PD. Public Dedication Status TBD
	Town Hall	1	ALLOW	#####	\$10,000,000	
	Architectural Enhancements	1	ALLOW	\$2,000,000	\$2,000,000	For civic and non-residential structures important to community design
<b>Total</b>					<b>\$198,398,662</b>	

**Project Summary**

On Site Infrastructure	\$39,498,000
Buildings, Parking and Architectural Enhancements	\$88,550,000
Off Site Utilities	\$70,350,662
<b>Total</b>	<b>\$198,398,662</b>

Exhibit C  
Project Fee Schedule

1. SMD1 System Development Fees, Attached as Appendix A, Superior Metropolitan District 1 Schedule of Rates and Fees (Revised/Current – January 11, 2013)
2. Town of Superior New Construction Fees, Attached as Town of Superior Fee Schedule – 2013.
3. Construction Materials Use Tax (Superior Municipal Code Sec. 4-3-50). Use taxes are assessed on the cost of construction materials only. Use taxes are normally established as an estimate equal to fifty percent (50%) of the total project value. 2013 use tax rates are as follows:
  - a. Town of Superior      3.30%
  - b. Boulder County        0.80%

**NOTE:** The Town of Superior is not able to freeze/hold the Boulder County use tax rate.

Development Review/FDP Compliance Fees (Superior Municipal Code Sec. 16-1-60). In addition to the standard fees, the applicant shall pay any actual costs incurred by the Town for review of the application by consultants, including but not limited to engineering, surveying, legal and planning, plus fifteen percent (15%) of such actual costs for Town staff administrative costs and supplies. The Town would cap this fee at no more than 1% of the total public improvement cost.

Exhibit D  
Location of Exchange Parcel and Town Parcel

