

TOWN OF AVON, COLORADO
AVON WORK SESSION FOR TUESDAY, AUGUST 25, 2009
MEETING BEGINS AT 2 PM
AVON TOWN HALL, ONE LAKE STREET



PRESIDING OFFICIALS

MAYOR	RON WOLFE
MAYOR PRO TEM	BRIAN SIPES
COUNCILORS	RICHARD CARROLL, DAVE DANTAS, KRISTI FERRARO
	AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.

TOWN STAFF

TOWN ATTORNEY: ERIC HEIL	TOWN MANAGER: LARRY BROOKS	TOWN CLERK: PATTY MCKENNY
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ALL WORK SESSION MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME; PLEASE TELL THE MAYOR YOU WOULD LIKE TO SPEAK UNDER NO. 2 BELOW
ESTIMATED TIMES ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY, SUBJECT TO CHANGE WITHOUT NOTICE
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS
AGENDAS ARE POSTED AT AVON TOWN HALL AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY
THE AVON TOWN COUNCIL MEETS ON THE SECOND AND FOURTH TUESDAYS OF EVERY MONTH

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- | | |
|--------------------------|--|
| 2:00 PM – 4:00 PM | 1. EXECUTIVE SESSION pursuant to C.R.S. §24-6-402(4)(b), for the purpose of receiving legal advice from the Town Attorney on specific legal questions regarding roles and duties under the Avon Home Rule Charter; for the purpose of receiving legal advice regarding Medical Marijuana Dispensaries; and pursuant to C.R.S. §24-6-402(4)(e) for the purpose of determining negotiating positions and instructing negotiators related to pending issues with the Village at Avon and pending litigation with Traer Creek Metropolitan District |
| 4:00 PM | 2. INQUIRY OF THE PUBLIC FOR COMMENT AND APPROVAL OF AGENDA |
| 4:00 PM – 4:15 PM | 3. COUNCIL COMMITTEE AND STAFF UPDATES
a. Council Meeting Processes Update (Ron Wolfe, Mayor) Discussion on meeting processes
b. Financial Matters (Scott Wright, Assistant Town Manager Finance (Memo Only) |
| 4:15 PM – 5:15 PM | 4. WATER RIGHTS AND LAND USE POLICY DISCUSSION (Justin Hildreth, Town Engineer) Update on development trends in Avon as it relates to water rights and land use policy |
| 5:15 PM | 5. ADJOURNMENT |

Council Meeting Options

STAYING FOCUSED.

Don't start discussion and debate until after the matter is presented. Once discussion is started, point out to colleagues that they are drifting off-point and/or failing to make their point.

SHARE OF VOICE.

Robert's Rules of Order call for every member to speak once before they speak again. Shall we rotate through the council, asking for comments, on every issue and for as many times as necessary for each member to have made their points?

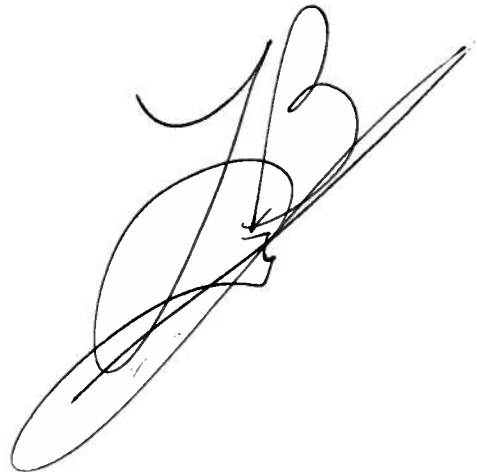
STOPPING DEBATE BY "CALLING THE QUESTION."

Any member of the Council may ask for the floor and when recognized by the Mayor may "call the question." According to Robert's Rules of Order Newly revised, "I call the question" is a form of motion to close debate. It is not in order to interrupt a speaker with cries of "Question" or "Call the Question," and even if no one is speaking, it is still necessary to seek recognition by the Mayor. The motion, if made, needs to have a second, it is not debatable, and it requires an immediate vote and 2/3 support (4 out of 6) to pass. If passed the Mayor will immediately ask for a motion with respect to the issue at hand, ask for a second and a vote without further discussion of the issue.

FINANCIAL MATTERS

August 25, 2009

1. YTD Building Revenue Report Actual vs Budget - July
2. Detail - Real Estate Transfer Taxes - July
3. Accomodations Tax Worksheet Actual vs Budget - June
4. Sales Tax Worksheet Actual vs Budget - June

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SUNGARD PENTAMATION, INC
 DATE: 08/20/2009
 TIME: 15:40:29

TOWN OF AVON
 REVENUE STATUS REPORT

PAGE NUMBER: 1
 REVSTALL

SELECTION CRITERIA: orgn.fund='10' and reviedgr.account in ('52201','52203','52204','54201','54202','54203')
 ACCOUNTING PERIOD: 7/09

SORTED BY: FUND,PROGRAM,1ST SUBTOTAL,ACCOUNT
 TOTALED ON: FUND,PROGRAM,1ST SUBTOTAL
 PAGE BREAKS ON: FUND,PROGRAM

FUND-10 GENERAL FUND
 PROGRAM- TITLE NOT FOUND
 1ST SUBTOTAL-52000 LICENSES AND PERMITS

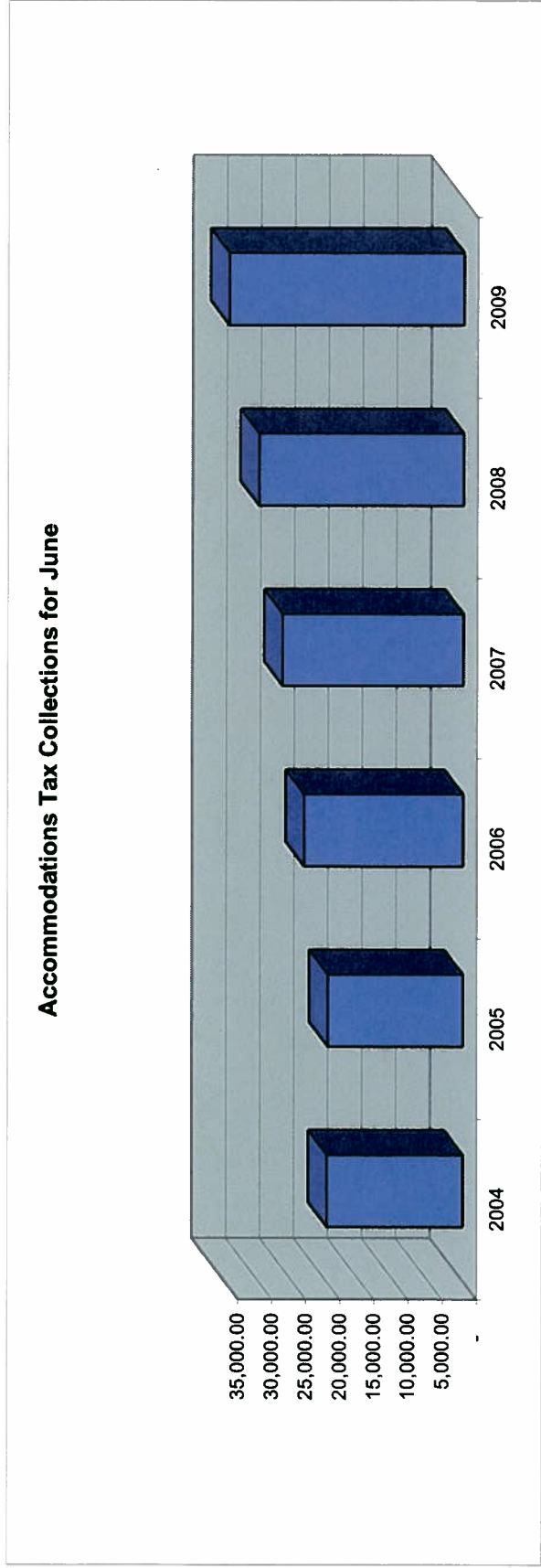
ACCOUNT	TITLE	BUDGET	PERIOD RECEIPTS	RECEIVABLES	YEAR TO DATE REVENUE	ALL TO BE COLLECTED	YTD/ BUD
52201	BUILDING PERMITS	150,000.00	25,022.67	.00	51,587.79	98,412.21	34.39
	TOTAL LICENSES AND PERMITS	150,000.00	25,022.67	.00	51,587.79	98,412.21	34.39
54201	PLAN CHECK FEES	90,000.00	4,117.26	.00	16,727.05	73,272.95	18.59
54202	SUBDIVISION REVIEW FEES	35,000.00	742.50	.00	5,370.00	29,630.00	15.34
54203	DESIGN REVIEW FEES	35,000.00	1,800.00	.00	14,725.00	20,275.00	42.07
	TOTAL CHARGES FOR SERVICES	160,000.00	6,659.76	.00	36,822.05	123,177.95	23.01
	TOTAL TITLE NOT FOUND	310,000.00	31,682.43	.00	88,409.84	221,590.16	28.52
	TOTAL GENERAL FUND	310,000.00	31,682.43	.00	88,409.84	221,590.16	28.52
	TOTAL REPORT	310,000.00	31,682.43	.00	88,409.84	221,590.16	28.52

**Town of Avon
Real Estate Transfer Tax
Calendar Year 2009**

Purchaser Name	Property	Amount Received	Riverfront PUD	The Gates at Beaver Creek
Jun-09		\$ 494,981.43	\$ 136,580.00	\$ -
Title Company Rockies	Christie Lodge Timeshare	0.20		
Christie Lodge	Christie Lodge Timeshare	100.00		
Land Title Guarantee	Falcon Pointe 104-27	20.00		
Land Title Guarantee	Falcon Point 403-06	34.00		
Land Title Guarantee	Falcon Pointe 513-07	96.00		
Title Company Rockies	Mtn. Vista 26-09	2518.80		
Title Company Rockies	Mtn. Vista 28-09	1403.94		
Title Company Rockies	Mtn. Vista 30-09	718.00		
1st American Title	Mtn. Vista 1225 & 1227-01	250.00		
Title Company Rockies	Mtn. Vista 1230-23	434.95		
Title Company Rockies	Mtn. Vista 1630 & 1632-42	1037.90		
Title Company Rockies	Lakeside Terrace 28-09	144.95		
In Sok Yi & Heather McMahon	Lot 49-A Blk 2 WR	18000.00		
Jennifer & Nezh Cakir	Lot 106-B Blk 1 WR	16715.50		
Ticor Title Ins	Western Riverfront A-3		10,541.60	
Ticor Title Ins	Western Riverfront A-3 II		3,223.80	
Ticor Title Ins	Western Riverfront B-3		11,698.20	
Ticor Title Ins	Western Riverfront C-3		8,582.60	
Ticor Title Ins	Western Riverfront D-3		9,481.00	
Ticor Title Ins	Western Riverfront E-3		12,999.00	
Ticor Title Ins	Western Riverfront F-4		12,941.00	
Ticor Title Ins	Western Riverfront G-3		11,699.40	
Ticor Title Ins	Western Riverfront H-3		13,756.00	
Ticor Title Ins	Western Riverfront I-3		13,218.60	
Ticor Title Ins	Western Riverfront J-3		10,820.00	
Ticor Title Ins	Western Riverfront K-3		12,479.00	
Ticor Title Ins	Western Riverfront L-5		12,732.40	
Ticor Title Ins	Western Riverfront M-3		11,442.00	
Ticor Title Ins	Western Riverfront N-3		11,711.40	
	Total July Revenue	\$41,474.24	\$167,326.00	
	Total YTD Revenue	536,455.67	303,906.00	-
	Total 2009 Budget	1,000,000.00	2,099,097.00	
	Variance, Favorable (Unfavorable)	\$ (463,544.33)	\$ (1,795,191.00)	\$ -

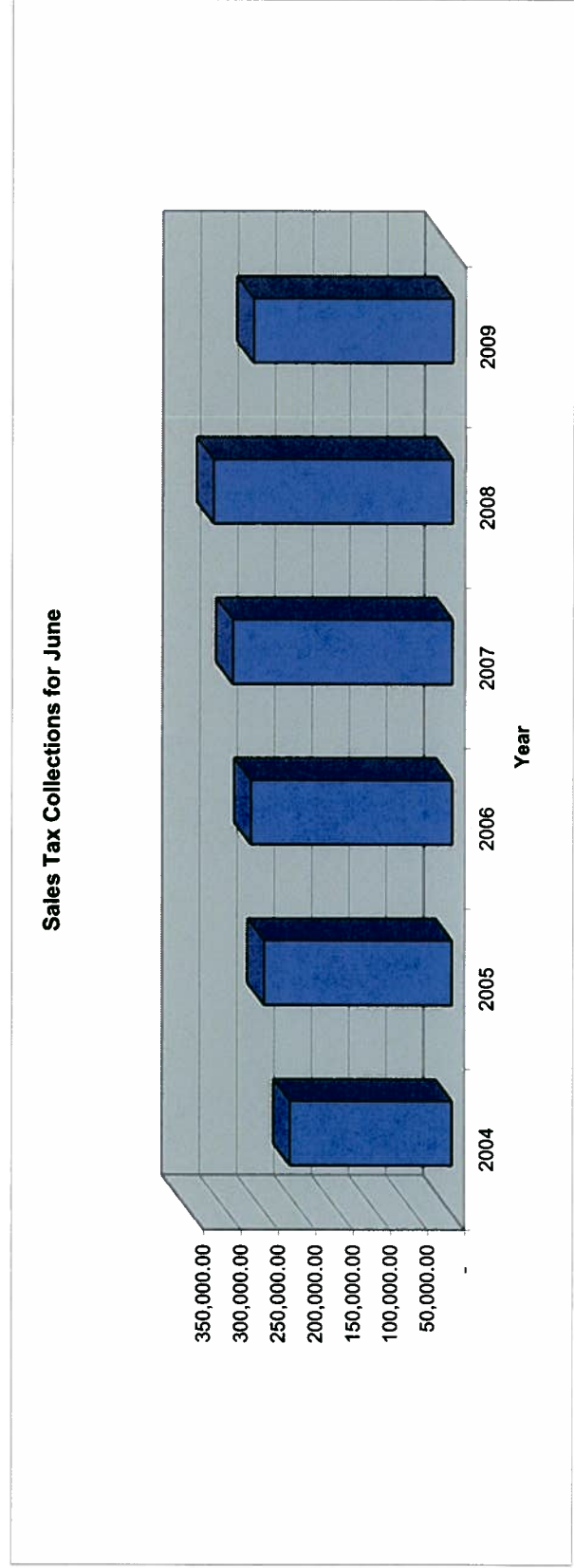
**TOWN OF AVON
ACCOMMODATIONS TAX WORKSHEET
2009 Actual YTD Collections**

	Actual Collections					YTD Collections 2009	% of change from 2008
	2004	2005	2006	2007	2008		
January	\$ 49,606.71	\$ 40,530.61	\$ 57,229.22	\$ 63,237.75	\$ 77,721.98	\$ 84,919.00	9.26%
February	52,217.57	60,993.89	60,901.95	70,721.21	83,157.06	83,502.22	0.42%
March	55,303.58	64,797.68	74,022.31	76,718.00	87,240.86	84,909.85	-2.67%
April	11,836.96	13,816.52	43,114.14	23,454.19	22,161.73	26,821.29	21.03%
May	8,380.80	9,899.09	10,685.43	13,887.33	16,208.09	19,090.36	17.78%
June	19,906.06	19,792.33	23,284.29	26,517.16	30,012.07	34,439.33	14.75%
July	22,059.52	23,732.97	28,334.33	28,963.77	33,302.03	-	-100.00%
August	18,552.96	18,539.93	20,832.64	26,703.98	29,326.28	-	-100.00%
September	14,405.20	15,873.60	17,192.35	17,923.08	21,214.32	-	-100.00%
October	10,988.04	10,688.00	18,824.40	19,981.39	21,856.62	-	-100.00%
November	9,544.00	14,002.80	16,614.61	19,011.03	20,737.61	-	-100.00%
December	50,102.41	51,311.12	64,170.25	68,267.16	86,699.64	-	-100.00%
Total	\$ 322,903.81	\$ 343,978.54	\$ 435,205.92	\$ 455,386.05	\$ 529,638.29	\$ 333,682.05	5.43%



**TOWN OF AVON
SALES TAX WORKSHEET
2009 Actual YTD Collections**

	Actual Collections					YTD Collections 2009	% of change from 2008
	2004	2005	2006	2007	2008		
January	\$ 362,384.60	\$ 425,503.18	\$ 448,714.65	\$ 524,820.41	\$ 552,981.33	\$ 552,648.47	-0.06%
February	375,274.89	418,743.05	464,806.63	497,012.53	574,301.20	516,349.68	-10.09%
March	436,524.67	544,245.61	560,114.95	572,427.68	653,095.43	536,913.42	-17.79%
April	251,294.79	272,227.06	349,371.03	357,949.34	349,061.05	319,833.51	-8.37%
May	217,509.24	252,342.79	270,369.12	294,883.30	321,213.74	267,960.76	-16.58%
June	306,000.04	340,829.23	376,396.05	425,208.94	427,371.70	396,066.29	-7.33%
July	351,427.03	398,216.13	397,751.05	456,067.69	458,484.39	-	-100.00%
August	338,167.96	368,792.50	373,562.61	424,583.42	428,296.71	-	-100.00%
September	340,704.01	341,113.82	381,410.80	421,607.28	466,731.86	-	-100.00%
October	262,086.75	301,696.64	297,640.80	367,965.07	365,209.05	-	-100.00%
November	278,435.62	308,834.90	305,534.90	362,353.89	338,385.19	-	-100.00%
December	637,150.60	703,905.00	774,113.53	868,333.36	794,328.16	-	-100.00%
Total	\$ 4,156,960.20	\$ 4,676,449.91	\$ 4,999,786.12	\$ 5,573,212.91	\$ 5,729,459.81	\$ 2,589,772.13	-10.02%



Memo

To: Honorable Mayor and Town Council
Thru: Larry Brooks, Town Manager *LUB*
From: Justin Hildreth, P.E., Town Engineer
Jeffrey Schneider, P.E., Project Engineer
Date: August 19, 2009
Re: Water Rights and Land Use Policy Discussion

Summary: In 2005, the Town of Avon renegotiated the lease agreement for the administration of all Avon water rights with the Upper Eagle Regional Water Authority (UERWA). The scope of the lease agreement includes all areas previously served by Avon Metropolitan District water service, generally consisting of the Town of Avon boundaries and excluding the Eaglebend Subdivision, Gates and Folsom parcels, and the Village at Avon. During the negotiation process, Town Staff completed an analysis of water consumption, existing zoning, and future water demand. During this analysis, the Town reached an agreement with UERWA resulting in the total water available for the Town of Avon to total 386.03 consumptive acre-feet (ac-ft). This amount of water will serve up to 4,984 Single Family Equivalents (SFEs) of domestic water service, of which 4,793 SFEs are allocated to existing subdivided lots and 191 reserved for future municipal services or public-private partnership projects, for example. The Riverfront Subdivision provided an additional 255.55 SFEs to serve their development above the existing water for the Confluence property, resulting in a total of 5,239.55 SFEs in the Town's supply. The Red House subdivision will provide 15 SFEs at Final Plat at a date to be determined. During lease negotiations, it was determined that the Town could supply water to new developments up to the maximum underlying zoning, as well as redevelopment up to existing zoning.

Since then, Town Staff has required all large developments involving upzoning to provide additional water rights above those provided by Avon under existing zoning, the most recent example being the Riverfront Subdivision. Providing adequate and acceptable water rights is a condition of final plat approval per Avon Municipal Code Section 16.24.140 (7). Mandating that larger development bring additional water rights does not protect the town from over-development, in the form of oversized units, within existing zoning.

The water allocation (SFEs) allocated for a given dwelling unit assume a maximum size of 3,000 square feet. A recent trend in residential construction is to build larger units that require more water than previously contemplated and estimated during water demand calculations. This memorandum is to provide an update on this development trend as it relates to water rights and land use policy, and provide a recommendation so that the Town no longer continues to provide additional water to private developers without reimbursement.

Previous Council Action: The Avon Town Council approved the Supplemental Water Lease with the Upper Eagle Regional Water Authority at the July 14, 2005 regular meeting. The lease was further supplemented with water provided by the Riverfront Subdivision and was approved at the July 14, 2009 council meeting. Copies of the Supplemental Water Leases are attached as Exhibit A. An introduction to this topic was provided at the April 8, 2008 meeting.

Background:

Single Family Equivalents, or SFEs, are the measurement of water consumption and allocation used by the Town of Avon and the UERWA. One SFE is equal to any residential living unit with a kitchen, whether it is a single-family home, townhome, condominium, or apartment, provided that the unit is below 3,000 square feet and contains kitchen facilities. Additional square footage is calculated as

pro-rated additional SFEs. An accommodation unit with an efficiency kitchen is counted as 0.5 SFEs, and a hotel room without any cooking facilities includes 0.35 SFEs. Commercial properties are separately metered and the SFEs are based on service line size. Service line sizes are derived from building heights, square footage, usages, and other requirements. Appendix 13-A of Avon Municipal Code, which details the SFE/Tap Fee process, is attached as Exhibit B. When new dwelling units are constructed or expanded to over 3,000 square feet and not a part of a rezoning application, the additional water demand has been provided from the Town's allotment. It is conceivable that a continuation of over-sized unit construction could reduce the remaining SFEs to the extent that SFEs could not be available to future development within zoning.

For large developments that initiate the PUD process and propose development beyond underlying zoning, the PUD process through Avon Municipal Code requires that developers bring additional water rights to serve the additional units beyond what Avon will serve under existing zoning. An applicable example is the Riverfront Subdivision. The original water demand served by Avon totaled 202.6 SFEs. The developer's proposal required water consumption of 458.15 SFEs. The developer of the Riverfront negotiated an agreement with the Town of Avon and the UERWA to supply adequate water for the additional density, and the developer was able to secure the development approval. The final plat was subsequently approved and the development is currently under construction.

Discussion:

Due to the fact that the bulk of oversized unit construction occurred in Wildridge, it is the primary focus of the analysis. Since January of 2005, forty eight new dwelling units were constructed in Wildridge. Of those forty eight units, ten units were less than 3,000 square feet and accounted for one SFE; the rest were oversized. This resulted in an average SFE per dwelling unit of 1.29. In over four and a half years, new home construction in Wildridge alone has resulted in an additional 13.8 SFEs worth of water consumption that directly affects the remaining allotment of SFEs within the town.

For large development projects such as the Riverfront Subdivision, town staff calculates water demand based on unit types and sizes in the submitted planning documents. If the water demand for the proposed project exceeds the water demand of existing zoning, it is noted in staff comments and becomes a prerequisite to final plat approval, ensuring that a developer does not initiate a project for which adequate water rights do not exist. In addition to the Riverfront Subdivision, the Sheraton Mountain Vista also contemplated increasing unit types and quantities during their most recent PUD amendment application, which impacted the water demand for the project. The revised water demand was transmitted to the developer and the developer agreed to provide additional water rights. Large projects usually involve developers with the means to acquire water rights, negotiate with the Town and the UERWA, or provide a 'cash-in-lieu' payment to the UERWA for additional water allocation to the project. The Sheraton Mountain Vista PUD amendment was withdrawn, so no follow-up is available on that particular application.

Another instance when SFEs can exceed planning estimates are for certain 'down-zoning' projects, which claim to create a down-zoning situation by reducing the number of dwelling units, but actually increase the demand on water with increased SFEs. An example of this type of project is the Hamel PUD, which converted two lots with four-plex and duplex zoning (six SFEs) to one PUD with five single family homes. Six SFEs were planned for the two lots subjected to the rezoning

application. The size of the proposed single family homes, proposed to be 5,000 square feet, led to a demand of 10 SFEs with the original 6-unit proposal, 8.33 SFEs with the revised five 5,000 square foot home proposal, and 6.67 SFEs with the final proposal of five 4,000 square foot homes. The application was withdrawn prior to Town Council action.

The current procedure of requiring developers to provide additional water rights does not necessarily function for all projects. It is impractical to require small developers to provide additional water rights for a small up-zoning project, or a project that exceeds allocated water demand but is within existing zoning. The smaller projects are examples of where a 'cash-in-lieu' payment would be appropriate. Avon could provide water with the currently allotted SFE pool, and the applicant can reimburse the Town for acquisition of new water rights in the future. An important point to consider is that the Eagle River is over-appropriated and acquiring water rights is extremely difficult and highly unlikely for the most part. Town Staff has had discussions with UERWA staff about the basic principles of requiring development to provide additional water rights or cash-in-lieu, but due to the complex, project-specific nature of this potential new policy, additional discussions are required in order to create such a policy.

Since the water right analysis was performed in 2004, the Town has provided an additional 18.3 SFEs beyond existing zoning entitlements as a combination of new construction and additions in Wildridge and Mountain Star. A table summarizing the residential construction in Wildridge and Mountain Star is included as Exhibit C to this memorandum. The 18.3 SFEs was provided from the 191 SFEs allocated for future municipal services, resulting in a future municipal service total of 172.7 SFEs. This is based on the 4,793 SFEs figure determined during lease negotiations as maximum allowable development under current zoning, and redevelopment of underdeveloped parcels up to current zoning. SFEs for units in Wildridge, Benchmark at Beaver Creek, and Mountain Star were assumed to be 1.0, 1.0, and 2.5, respectively, during the lease negotiations. These figures were based on the historic development data and original Wildridge covenants which limited units to 3,000 square feet, and development trends in Mountain Star. Since 2004, actual SFE counts based on actual development have proven to be approximately 29 percent higher than assumed values, resulting in 29 percent more water consumption.

As the Town provides additional SFEs to developers in small increments, e.g. large homes in Wildridge and in other subdivisions, the Town is providing water from the 191 SFEs previously allocated for future municipal purposes. As development exceeding initially contemplated water demand continues to occur in the remaining undeveloped or underdeveloped parcels, the Town will have fewer and fewer SFEs with which to implement future public projects, or perhaps invite public-private partnerships, an important asset as the Town implements the redevelopment contemplated in the East and West Town Center plans. As this trend continues, the Town will see further decreases in its available SFEs. Without a means to recoup the additional SFEs, the town is essentially 'giving away' its water to private developers.

Financial Implications:

The Town is attempting to negotiate a 75-year lease with the Colorado River Water Conservation District (CRWCD) for 20 consumptive ac-ft of water rights in the Eagle River. This would serve up to 288 SFEs for future development. The terms of the lease are an annual payment of \$1,093.00 per ac-ft, subject to annual increases.

Preliminary discussions with UERWA personnel indicate that the Town could purchase additional SFEs at a rate of approximately \$4,200 per SFE. By implementing the proposed approximate \$4,200 per SFE surcharge, the Town would have a dedicated funding source for the CRWCD lease, plus funding for additional water right acquisitions and water engineer/attorney fees in the unlikely event that water rights become available. Water rights were momentarily available during a sale of Columbine Ditch water, but the negotiations failed. The additional development surcharge would add to the Town's water fund if costly water rights are ever made available; the Columbine Ditch water would have cost the town approximately \$1.5 Million if completed.

Recommendation:

Staff proposes a forthcoming amendment to Avon Municipal Code Appendix 13-A, amending the Tap Fee schedule to assess an approximate \$4,200 per SFE additional surcharge, pro-rated, to all SFEs over one per dwelling unit for all subdivisions within Avon, with the exception of a surcharge per SFE over the 2.5 SFEs for oversized units within the Mountain Star subdivision. This will allow the Town to recoup its dwindling water allocation for future municipal projects and create an additional funding source for water leases and unlikely future purchase of water rights.

Once the exact per-SFE cost is determined through negotiations with UERWA and CRWCD, Staff will present an ordinance to amend AMC Appendix 13-A to revise the Tap Fee Schedule and implement the additional impact fee on the remaining undeveloped lots, additions that result in structures larger than one SFE per dwelling unit, and for infill/redevelopment projects within existing zoning entitlements that create units larger than 3,000 square feet.

Proposed Motion:

N/A – no official council action at this time.

Town Manager Comments:

A handwritten signature in black ink, appearing to be the initials 'L.B.' followed by a flourish, is written over a faint, illegible printed name.

Attachments:

- Exhibit A – Supplemental Water Lease
- Exhibit B – Avon Municipal Code Appendix 13-A
- Exhibit C – Wildridge and Mountain Star Water Development Data

non-potable irrigation within the Town and to provide water service to all development within the Town's Augmentation Plan area covered by Case Nos. W-3664 and 84CW225 up to 4,984 SFE's. References to "SFE's" herein are to an SFE as defined in Section 2.31 of the Rules and Regulations for Water and Sewer Service, Eagle River Water Sanitation District/Upper Eagle Regional Water Authority, Revised 01/28/04 and include the definitions in Sections 2.1, 2.13, 2.25, and the fractional SFE equivalents for residential units (1.0 plus pro-rated additions over 3,000 square feet), efficiency units (0.50 SFE), accommodation units (0.35 SFE), expansions or remodels, and commercial equivalents based on meter size that are contained in the Schedule of Fees and Charges for the Town of Avon, Effective January 1, 2005, that are attached to the Rules and Regulations for Water and Sewer Service, as Appendix A.

4. In the event the water level in Benchmark Lake is drawn down in some future year or years for maintenance or repair of the structure or facility or for any other cause, the Town may use the Water Rights and the Supplemental Water Rights that are not being used for the then current level of municipal service, lake evaporation and non-potable irrigation stated in Paragraph 3, above, to fill Benchmark Lake.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed in their corporate names, all by the proper officers duly authorized thereto, to be effective as of the Effective Date, but actual execution having been completed on the 14th day of July, 2005.

UPPER EAGLE REGIONAL WATER
AUTHORITY

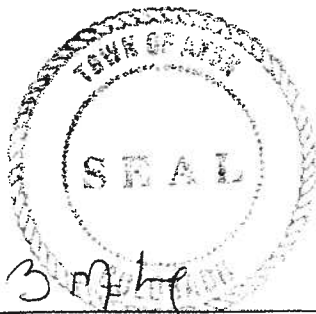
By: Stephen B. Feil
Stephen B. Feil, Chairman

ATTEST:

By: Doris J. Denton
Doris J. Denton, Secretary

TOWN OF AVON

By: Ronald C. Wolfe
Ronald C. Wolfe, Mayor



ATTEST:

By: Patty B. McKenny
Patty B. McKenny
Town Clerk

EXHIBIT A
Supplemental Water Rights
Town of Avon

An undivided 22.3% interest in the following water rights, as changed, quantified, exchanged, and/or augmented in Case Nos. W-3664, 80CW64, 84CW225, 85CW612, 86CW200, 92CW291, 94CW22, 99CW172, 00CW083, and 01CW015, all in Water Division No. 5:

1.

(a) Metcalf Ditch, priority no. 146, in the amount of 6.0 cfs, decreed on March 5, 1901, in Case No. CA 385, Water Division No. 5.

(b) Metcalf Ditch 1st enlargements, priority no. 415, in the amount of 4.07 cfs and 0.8 cfs, decreed on October 3, 1936, in Case No. CA 963, Water Division No. 5.

(c) Metcalf Ditch 2nd Enlargement, priority no. 528, in the amount of 9.13 cfs, decreed on July 23, 1958, in Case No. CA 1193, Water Division No. 5.

(d) Nottingham & Puder Ditch, priority no. 148, in the amount of 2.5 of the 10.00 cfs, decreed on March 5, 1901, in Case No. CA 385, Water Division No. 5.

(e) Nottingham & Puder Ditch 1st Enlargements, priority no. 377, in the amounts of 1.0 and 2.21 of the 4.42 cfs, decreed on October 3, 1936, in Case No. CA 963, Water Division No. 5.

(f) Nottingham & Puder Ditch (CAC No. 1), priority no. 377, in the amounts of 1.28 and 1.0 cfs, decreed on October 3, 1936, in Case No. CA 963, Water Division No. 5.

(g) Nottingham & Puder Ditch (CAC No. 2), priority no. 399, in the amount of 5.0 cfs, decreed on October 3, 1936, in Case No. CA 963, Water Division No. 5.

(h) Nottingham & Puder Ditch (Grace Park), priority no. 530, in the amount of 0.5 cfs, decreed on July 23, 1958, in Case No. CA 1193, Water Division No. 5.

(i) Nottingham & Puder Ditch Pump & Pipeline, priority no. 527, in the amount of 4.235 of the 13.58 cfs, decreed on July 23, 1958, in Case No. CA 1193, Water Division No. 5.

(j) Hurd Ditch, priority no. 147, in the amount of 2.0 cfs, decreed on March 5, 1901, in Case No. CA 385, Water Division No. 5.

(k) Johnson & Howard Ditch 1st Enlargement, priority no. 350, in the amount of 0.28 cfs, decreed on May 21, 1920, in Case No. CA 734, Water Division No. 5.

(l) Johnson & Howard Ditch 2nd Enlargement, priority no. 424, in the amount of 5.93 cfs, decreed on October 3, 1936, in Case No. CA 963, Water Division No. 5.

(m) Johnson & Howard Ditch 3rd Enlargement, priority no. 535, in the amount of 2.8 cfs, decreed on July 23, 1958, in Case No. CA 1193, Water Division No. 5.

2. H.A. Nottingham and Sons, Inc. Water Treatment and Storage Project, in the amount of 3 cfs, decreed on December 31, 1971, in Case No. W-327, Water Division No. 5.

3. Nottingham Domestic Pipeline, in the amount of 1 cfs of the 3.0 cfs decreed on December 31, 1973, in Case No. W-2130, Water Division No. 5.

4.. Avon Metropolitan Municipal Water System, in the amount of 5.0 cfs, decreed on December 31, 1977, in Case No. W-3666, Water Division No. 5.

5. Avon Metropolitan Municipal Water System 1st Enlargement, in the amount of 5.0 cfs, decreed on December 31, 1984, in Case No. 84CW225, Water Division No. 5.

6. The Augmentation Plan decreed on August 14, 1980, in Case No. W-3664, Water Division No. 5, insofar as it relates to 99.83 consumptive acre-feet (22.3%) of the 448.0 consumptive acre-feet quantified therein that are associated with the water rights described in paragraphs 1(a) through (m) above, and including the other rights and benefits of the augmentation plan decreed therein, as amended in the augmentation plan decreed on September 7, 1988, in Case No. 84CW225, Water Division No. 5.

SUPPLEMENTAL WATER SERVICE AGREEMENT

This Agreement dated this 25th day of June 2009, is between the Upper Eagle Regional Water Authority, a quasi-municipal corporation and political subdivision of the State of Colorado (the "Authority"), and the Town of Avon (the "Town").

RECITALS

A. The Authority is a quasi-municipal corporation established pursuant to an Intergovernmental Agreement dated September 18, 1984, among the Arrowhead Metropolitan District, the Town of Avon as successor to the Avon Metropolitan District ("Avon"), the Beaver Creek Metropolitan District, the Berry Creek Metropolitan District, the Eagle-Vail Metropolitan District, and the Edwards Metropolitan District (collectively the "Member Districts"). The Authority is the owner or lessee of the water rights and facilities that provide water service by contract to existing and projected developments within the service area of its Member Districts.

B. Pursuant to the Amended and Restated Water Lease dated effective as of the 1st day of January 1998, between the Authority and the Town, the Town leased to the Authority certain water and water rights, ditches and ditch rights, wells and groundwater rights, springs and spring rights, and reservoirs and storage rights described as an undivided 77.7% interest in the water rights described on Exhibit A attached to the Restated Water Lease.

C. Pursuant to the Supplemental Water Lease dated July 14, 2005, the Town leased to the Authority the remaining 22.3% undivided interest in and to the subject water rights. The Supplemental Water Lease states that the entire interest in the subject water rights leased to the Authority by virtue of the Restated Water Lease and the Supplemental Water Lease are adequate to replace depletions associated with lake evaporation (42.30 acre feet), non-potable irrigation in the amount of 19.58 acre feet, and potable water service for up to 4,984 SFEs.

D. Subsequent to the Supplemental Water Lease, the Authority and East West Resort Development XIV L.P., L.L.L.P. (the "Company") entered into that certain Water Service Agreement dated April 27, 2006. Pursuant to the Water Service Agreement, the Company sought water service for redeveloped property within the Town known as the Confluence Project. The proposed development of the Confluence Project at full build out will consist of 458.15 single family equivalent residential units ("SFEs"), which is 255.55 SFEs greater than the projected density of the property contemplated by the Restated Water Lease and Supplemental Water Lease. The Authority agreed to service these additional 255.55 SFEs at the Confluence Project provided certain contingencies were met, including the dedication of additional water rights.

E. The contingencies contemplated in the Water Service Agreement have been satisfied. As a result, the Authority and the Town desire to enter into this Agreement whereby the Authority agrees to increase the number of SFEs that it will serve in the Town by 255.55, to a total of 5,239.55 SFEs.

F. The Town and the Company entered into an Agreement for Dedication of Augmentation Water and Related Water Rights for the Confluence Project dated May 9, 2006, under which the Company was obligated to dedicate and convey to the Authority certain water rights and a payment was made for a pipeline relocation, subject to the Town's approval and acceptance. Said agreement contemplated that, should the Authority fail to provide water service to the Confluence Project for any reason, any right of the Company to require the Authority to reconvey all or any portion of the dedicated water rights and other consideration should be assigned to the Town.

G. Recital I on page 3 of the May 9, 2006 Agreement for Dedication of Augmentation Water and Related Water Rights indicated that the Town and the Authority had entered into an Amendment to Restated Water Lease and Supplemental Water Lease effective as of the 27th day of April, 2006. However, through oversight, no such amendment had been executed at that time. It is the intent and purpose of this Supplemental Water Service Agreement to correct that oversight by increasing the maximum number of SFEs to which the Authority will provide water service within the Town from 4,984 SFEs to 5,239.55 SFEs.

NOW, THEREFORE, in consideration of premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Authority and the Town agree as follows:

1. Additional Water Service Commitment. The Authority agrees that it will serve an additional 255.55 SFEs in the Town in addition to the 4,984 SFEs that were contemplated in the Supplemental Water Lease. These additional 255.55 SFEs will be available to the Confluence Project on the same basis as other users within the Authority's service area to meet the construction, residential, municipal, irrigation, recreation and other incidental water demands of the Confluence Project. The total number of SFEs in the Town that the Authority agrees to serve now totals 5,239.55 SFEs. The January 1, 1998 Amended and Restated Water Lease and the July 14, 2005 Supplemental Water Lease remain in full force and effect as supplemented by this Agreement.

2. Customer Charges. Currently all customers within the Town pay directly to the Authority plant investment fees and finished water storage fees at the time of hook up, and the monthly service charges of the Authority. Nothing contained in this Agreement shall modify this arrangement and all customers within the Town shall continue to be directly responsible for the payment of such fees and charges.

3. Conveyance upon Dissolution. As a condition of water service, the developer of the Confluence Project dedicated certain water rights to the Authority and also agreed to pay certain costs of a pipeline to relocate the return point of effluent from the Avon wastewater treatment plant, which had the effect of reducing the amount of water rights the developer otherwise would have been required to dedicate for its development. Should the Authority fail to provide water service to the Confluence Project or should the Authority cease to exist as a water service entity whether by reason of dissolution, termination or other reason, the Authority shall

convey to Avon the following water rights that were dedicated to the Authority by the developer of the Confluence Project: 5.47 of the 43.75 acre-feet of consumptive use water, at a flow rate not to exceed 0.623 cfs (plus an additional flow of 0.623 cfs when not needed by the Beaver Creek Metropolitan District for domestic water supply purposes within its service area) from the Townsend Ditch water rights decreed by the District Court in and for Water Division No. 5 in Case Nos. W-2746, 85CW26 and 85CW608 for domestic, commercial and municipal purposes and, four shares of Class B Series 2 stock in Eagle Park Reservoir Company amounting to 4.0 acre-feet of water from Homestake Reservoir. The intent of this provision is that, in addition to the specified water rights, Avon would receive the benefit of the effluent pipeline relocation described above to serve the Confluence Project at full buildout.

4. Miscellaneous:

(a) This Agreement may not be amended nor any rights hereunder waived except by an instrument in writing signed by the parties sought to be charged with such amendment or waiver.

(b) This Agreement shall be interpreted in accordance with and governed by the laws of the State of Colorado. The forum for resolution of any and all disputes arising hereunder shall be the District Court in and for Eagle County, State of Colorado.

(c) The paragraph headings herein are inserted for convenience of reference only and do not define, limit or prescribe the scope of this Agreement.

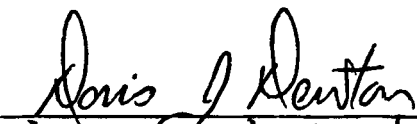
(d) The parties agree to execute such additional documents as may be reasonably required to implement the terms of this Agreement.

(e) The terms of this Agreement shall be binding on the parties' successors and assigns.

(f) Notwithstanding any interpretation of any term or condition to the contrary, water service to any customer or property within Avon shall be subject to all other rules, regulations, fees and requirements of the Authority.

EXECUTED as of the date first set forth above.

UPPER EAGLE REGIONAL WATER AUTHORITY, a quasi-municipal corporation of the State of Colorado

By: 
Name: DORIS J DENTON
Title: CHAIR

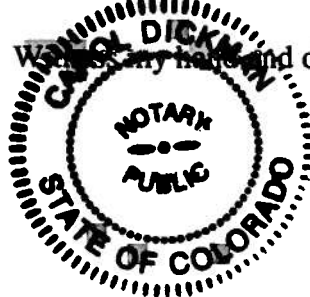
TOWN OF AVON

By: Ronald C. Wolfe
Name: Ronald C. Wolfe
Title: Mayor



STATE OF COLORADO)
) ss.
COUNTY OF Eagle)

The foregoing instrument was acknowledged before me this 25th day of June, 2009, by Ronald C. Wolfe as Mayor of the Upper Eagle Regional Water Authority, a quasi-municipal corporation and political subdivision of the State of Colorado.

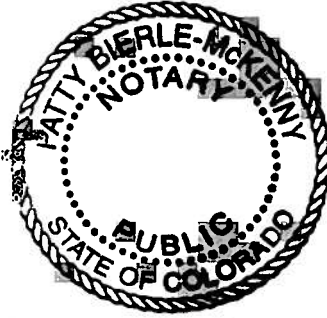


Witness my hand and official seal. My commission expires 8/19/09.

Carol Dickman
Notary

STATE OF COLORADO)
) ss.
COUNTY OF Eagle)

The foregoing instrument was acknowledged before me this 21st day of June, 2009, by Ronald Wolfe as Mayor of the Town of Avon



Witness my hand and official seal. My commission expires _____.

Patty Bierle-McKenny
Notary Public

13.09.080 Notice.

A complainant shall be given notice of any hearing before the Town Manager, the hearing officer or before the Town Council, by certified mail at least seven (7) calendar days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time, or to a waiver of formal notice. (Ord. 96-21 §1(part))

Appendix 13-A

Water Rate Schedule/Tap Fee Schedule

<i>Classification</i>	<i>Rate</i>	
1. Residential Unit. Any living unit with a kitchen; a kitchen being defined as including but limited to, hot and cold water, stove and/or microwave, sink and refrigerator. Examples: residential condominiums, townhouses, apartments, duplexes, triplexes, lock-off apartments, etc. Any commercial business and/or facilities in a residential condominium complex must be metered by a separate master meter separate from the residential units.	\$4,000.00 per unit up to 3,000 sq. ft., plus \$2.00 per sq. ft., thereafter; plus \$2.00 per sq. ft. for private swimming pool	
2. Hotel/Lodge/Motel/Lock-Off/Accommodation Unit. Efficiency Room: a single room with a bathroom and a kitchen; a kitchen being defined as including, but not limited to, hot and cold water, stove and/or microwave, sink and refrigerator.	\$2,000.00 per efficiency room	
Rooms (with or without a bathroom, but without a kitchen) with private access to a central corridor or the outside.	\$1,400.00 per room	
Restaurants, bars, stores, offices and accessory areas (such as lobbies, mechanical rooms, convention centers, ballrooms, auxiliary dining rooms, guest recreational facilities) in a hotel/lodge must be metered by a separate master meter so that these uses can be assessed a tap fee and usage fee separate from the hotel/lodge/motel/lock-off/accommodation units.	(minimum \$6,000.00)	
3. Commercial, Industrial and Irrigation. (These uses must be metered on a separate master meter so that these uses can be assessed a tap fee and usage fee separate from the residential, hotel, lodge, motel, lock-off, and accommodation units.)		
<u>Service Line Size</u>	<u>SFE</u>	<u>Rate</u>
¾ inch	1.50	\$ 6,000.00
1 inch	2.60	10,400.00
1½ inch	5.80	23,200.00
2 inch	10.30	41,200.00
3 inch	23.00	92,000.00
4 inch	40.90	163,000.00
6 inch	92.10	368,000.00
4. Water Meter. The town shall provide and install the appropriate water meter required for new structures. The material and labor charges shall be in addition to the tap fee. A "pipe spool piece" having the same dimensions as the meter will be provided to the contractor to facilitate testing prior to the Town's installation of the meter.		
5. Service Charges.		\$12.75 per month per single-family equivalent

For metered accounts: \$2.35 per thousand gallons of water
 Base charge

Usage rate

Accounts with broken meters, or unmetered accounts shall be charged the rate for 10,000 gallons per single-family equivalent per month during the winter (October through April) and 20,000 gallons per single-family equivalent per month during the summer (May through September), or an amount consistent with historic use, whichever the Town deems most appropriate.

Single-family equivalents:

Single-family equivalents (SFEs) shall be assigned as follows for the determination of base service charges:

Residential unit to 3,000 per sq. ft. 1 SFE/unit

Residential unit over 3,000 sq. ft:

$$\frac{(\text{actual sq. ft.}) \times 1 \text{ SFE}}{(3,000 \text{ sq. ft.})} = \text{_____ SFE/unit}$$

Hotel/lodge/motel/lock-off/accommodation unit:

Efficiency room

0.50 SFE/efficiency room

Rooms

0.35 SFE/room

Commercial, industrial and irrigation:

<u>Service Line Size</u>	<u>SFE</u>
¾ inch	1.50
1 inch	2.60
1½ inch	5.80
2 inch	10.30
3 inch	23.00
4 inch	40.90
6 inch	92.10

Base service charges for existing accounts with assigned SFEs varying from this schedule shall be adjusted over a three-year period. One-third of the difference between the assigned SFEs and the reviewed SFEs shall be added to the SFE schedule for base service charges effective with the January billing of each year until the assigned SFE schedule is current.

6. Fire Hydrant Meters.

Policy. Fire hydrant meters are allowed to be used between April 15th and October 15th, provided freezing at night is not occurring. The customer is responsible for any damage to fire hydrants or fire hydrant meters, which includes vandalism or freezing. Approval for extension of use after October 16th must be requested in writing.

A deposit of \$200.00 for one-inch or smaller meter, or \$600.00 for meters larger than one-inch is required. Deposit is fully refundable, provided the meter is returned in good condition. A \$50.00 installation and removal charge, payable in advance, is required (nonrefundable). The billing shall be \$35.00 per month, plus \$3.20 per 1,000 gallons.

Fire hydrant water shall not be used for drinking purposes at anytime. If the water is to be used for lawn irrigation, the customer shall provide a backflow prevention device. A relocate fee of \$25.00 to move the fire hydrant meter from one fire hydrant to another is required. Only Town personnel are allowed to move fire

hydrant meters. Contractor will be subject to a penalty if he/she attempts to move or alter the fire hydrant meter.

Exhibit C
Wildridge and Mountain Star Water Development 2005 - Present

New Construction - Wildridge and Mountain Star 2005 - Present

Year	Subdivision	Street Addresses	Actual SFEs	Originally Estimated SFEs	Difference
2005	Wildridge	2520 Old Trail Road UC	1	1	0
	Wildridge	3055 Wildridge Road	1.5	1	0.5
	Wildridge	2360 Old Trail Road UA	1	1	0
	Wildridge	2360 Old Trail Road UB	1	1	0
	Wildridge	5107 Longsun Lane EU	1.3	1	0.3
	Wildridge	5107 Longsun Lane WU	1.3	1	0.3
	Wildridge	5650 Wildridge Road E EU	1.1	1	0.1
	Wildridge	5650 Wildridge Road E WU	1.2	1	0.2
	Wildridge	5039 Wildridge Road E	1.5	1	0.5
	Wildridge	5491 Wildridge Road E	1.2	1	0.2
	Wildridge	5209 Longsun Lane	1.1	1	0.1
	Mountain Star	0044 Jasmine	2.2	2.5	-0.3
	Mountain Star	0084 Wild Rose	2.2	2.5	-0.3
	Mountain Star	1305 Wildwood Road	2.6	2.5	0.1
	Mountain Star	0114 Wood Violet	2.6	2.5	0.1
2006	Wildridge	1031 Wildwood Road UA	1	1	0
	Wildridge	1031 Wildwood Road UB	1	1	0
	Wildridge	1031 Wildwood Road UC	1	1	0
	Wildridge	1031 Wildwood Road UD	1	1	0
	Wildridge	1031 Wildwood Road UE	1	1	0
	Wildridge	1031 Wildwood Road UF	1	1	0
	Wildridge	5651 Wildridge Road E	1.3	1	0.3
	Wildridge	5101 Longsun Lane EU	1.3	1	0.3
	Wildridge	5101 Longsun Lane WU	1.3	1	0.3
	Wildridge	5070 Wildridge Road E UA	1.5	1	0.5
	Wildridge	5070 Wildridge Road E UB	1.3	1	0.3
	Wildridge	5581 Coyote Ridge	1.6	1	0.6
	Wildridge	4235 Wildridge Road UA	1.4	1	0.4
	Wildridge	4235 Wildridge Road UB	1.1	1	0.1
	Mountain Star	0086 Blue Flax	3.3	2.5	0.8
2007	Wildridge	2510A Old Trail Road	1.2	1	0.2
	Wildridge	2510B Old Trail Road	1.2	1	0.2
	Wildridge	2510C Old Trail Road	1.3	1	0.3
	Wildridge	5750 Wildridge Rd. East A	1.4	1	0.4
	Wildridge	5750 Wildridge Rd. East B	1.5	1	0.5
	Wildridge	5201 Longsun Lane	1.3	1	0.3
	Wildridge	5203 Longsun Lane	1.4	1	0.4
	Wildridge	5786 Wildridge Rd E UB	1.4	1	0.4
	Wildridge	5786 Wildridge Rd E UA	1.4	1	0.4
	Wildridge	2661 Bear Trap UB	1.2	1	0.2
	Wildridge	2661 Bear Trap UA	1.4	1	0.4
	Wildridge	5691 Wildridge Rd E UB	1.1	1	0.1
	Wildridge	5691 Wildridge Rd E UA	1.5	1	0.5
	Wildridge	2160 Long Spur WU	1.3	1	0.3
	Wildridge	2160 Long Spur EU	1	1	0
	Mountain Star	108 Primrose	3.1	2.5	0.6
	Mountain Star	104 Rabbit Brush	3.2	2.5	0.7
2008	Wildridge	5775 Wildridge Road E	1.9	1	0.9
	Wildridge	5351 Ferret Lane WU	1.4	1	0.4
	Wildridge	5351 Ferret Lane EU	1.4	1	0.4
	Wildridge	2610 Bear Trap EU	1.5	1	0.5

Exhibit C
Wildridge and Mountain Star Water Development 2005 - Present

Year	Subdivision	Street Address	Actual SFEs	Originally Estimated SFEs	Difference
2008	Wildridge	2610 Bear Trap WU	1.2	1	0.2
	Wildridge	5178 Longsun Lane UB	1.1	1	0.1
	Wildridge	2060 Beaver Creek Point	1.8	1	0.8
	Mountain Star	236 Wild Rose	2.9	2.5	0.4
	Mountain Star	1392 Paintbrush	2.8	2.5	0.3
	Mountain Star	587 Paintbrush	2.9	2.5	0.4
2009	Wildridge	2070 Beaver Creek Point	1.9	1	0.9
Total SFEs for New Construction			89.6	73	16.6

Wildridge Contribution to SFEs over Allotment **13.8**
Mountain Star Contribution to SFEs over Allotment **2.8**

Average Wildridge SFEs, new Dwelling Units 2005 - 2009 **1.29**
Average Mountain Star SFEs, new Dwelling Units 2005 - 2009 **2.78**

Additions Over 3,000 Sq. Ft. (Wildridge/Mountain Star 2005 - Present)

Subdivision	Street Address	Additional SFEs
Mountain Star	0132 Shooting Star	0.5
Wildridge	5723 Wildridge Rd E	0.1
Wildridge	5135 Longsun Ln UB	0.4
Wildridge	5796 Wildridge Rd E	0.3
Wildridge	5762 Wildridge Road E WU	0.3
Wildridge	2823 Ked Spur	0.1
Total		1.7

Total Additional SFEs 2005 - Present **18.3**