PURPOSE STATEMENT
For the Town Council to consider and approve a Right-of-Way, Utility and Snow Storage Easement Agreement from Pine Glades Development, LLC to the Town of Jackson.

BACKGROUND/ALTERNATIVES
On January 22, 2008, Town Council approved a Final (Major) Development Plan of a 39-Unit Planned Unit Development (PUD) for the Pine Glades Subdivision located at 10, 30 & 40 Spruce Drive, subject to three (3) conditions of approval. This project was also approved subject to any Project Reviews, analysis, requirements and future permitting required by the Public Works Department, Town Attorney and/or Town Engineer, and other Town Departments.

Project Reviews by Town Departments require that: 1) the access from Pine Drive will need to connect, and that it would be acceptable to the Fire Department if there is a gate providing access for emergency services and that it is maintained and accessible year round; 2) that prior to any future permitting related to this project, the applicant shall be required to provide a snow storage easement to the Town for the removal of snow from the emergency access to Pine Drive; and 3) that a turnaround easement be provided at the end of Wister Avenue in the event the Town needs such in the future, and that the appropriate agreements be finalized with the Town. http://my.bresnan.net/files/bresnan/redirect.php?to=webmail

Accordingly, based upon the above, the attached Right-of-Way Easements and Snow Storage Easement Agreement from Pine Glades Development, LLC to the Town of Jackson need to be approved by Council. “Easement 1” in the attached Agreement pertains to the Wister Drive turnaround in the event it is needed by the Town in the future. “Easement 2” in the attached agreement pertains to the Pine Drive turnaround which be constructed immediately with a gate at the end for emergency vehicle access.

At the Town Council meeting on November 17, 2008, Shawn O’Malley, Town Engineer, requested that additional provisions be included such that the attached would include a utility easement. The attached also incorporates that the infrastructure would be granted to the town via bill of sale once accepted by Shawn O’Malley, but is subject to the one year warranty and a 20% bond. Afterwards, the structural infrastructure is maintained 50/50, but the utilities and asphalt will be 100% Town responsibility and the breakaway barrier is 100% Pine Glades obligation.
ALIGNMENT WITH COUNCIL’S STRATEGIC INTENT
The Pine Glades PUD is consistent with the Town as Heart strategic objective. The Town as Heart “vision” states that “[A]s the sole municipality Jackson is the community hub where people live, work and play.” The Pine Glades PUD development will provide residential and affordable housing within the corporate limits of the Town of Jackson.

ATTACHMENTS
Right-of-Way, Utility and Snow Storage Easement Agreement from Pine Glades Development, LLC to the Town of Jackson

FISCAL IMPACT
None.

STAFF IMPACT
None.

LEGAL REVIEW
Complete.

RECOMMENDATION
Town Attorney recommends approval of the attached Right-of-Way, Utility and Snow Storage Easement Agreement from Pine Glades Development, LLC to the Town of Jackson.

SUGGESTED MOTION
I move to approve the attached Right-of-Way, Utility and Snow Storage Easement Agreement from Pine Glades Development, LLC to the Town of Jackson, subject to minor changes deemed necessary by the Town Attorney.
RIGHT-OF-WAY, UTILITY AND SNOW STORAGE EASEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that for Ten Dollars ($10) and other good and valuable consideration, receipt whereof being hereby acknowledged by PINE GLADES DEVELOPMENT, LLC, a Wyoming limited liability company, of P.O. Box 11870, Jackson, Wyoming 83002, hereinafter called the "Grantor", hereby grants and conveys to the TOWN OF JACKSON, a municipal corporation of the State of Wyoming, its successors and assigns, of P.O. Box 1687, Jackson, Wyoming, hereinafter called the "Grantee", the following easements (each, and "Easement" and collectively, the "Easements"):

(i) a non-exclusive right-of-way easement in, under, on, over, across, and through that property described as “Easement 1” on Exhibit A, attached hereto and incorporated herein, for the sole right to:

- construct, use and maintain a public roadway turnaround and the right to lay out, install, operate, and maintain public utilities and appurtenances thereto within the easement, to include but not be limited to sanitary sewer, water, drainage, gas, electricity, telephone, and cable television.

(ii) a non-exclusive right-of-way easement in, under, on, over, across, and through that property described as “Easement 2” on Exhibit A, attached hereto and incorporated herein, for the sole right to:

- use and maintain a public roadway turnaround and for the right to plow, cast and store snow that has fallen in adjacent public rights-of-way and the right to lay out, install, operate, and maintain public utilities and appurtenances thereto within the easement, to include but not be limited to sanitary sewer, water, drainage, gas, electricity, telephone, and cable television.

Grantee shall have the right to use that property described as “Easement 1” on Exhibit A for those purposes described above in item (i) and shall have no right to use Easement 1 for any other use. Grantor shall have the right to use that property described as “Easement 2” on Exhibit A for those purposes described above in item (ii) and shall have no right to use Easement 2 for any other use. Grantee shall maintain the utilities and the asphalt surfaces located within the Easements. Grantee shall be responsible for performing the maintenance and repair of any retaining wall systems and/or infrastructure located within Easement 1 at its sole expense. Grantee shall be responsible for performing the maintenance and repair of the retaining wall system located within Easement 2 and the cost to perform the maintenance and repair of such infrastructure shall be split evenly between Grantor and Grantee. Grantor shall maintain and repair the emergency breakaway barrier to be located at the eastern boundary of Easement 2. All obligations of Grantor and Grantee shall be binding upon their heirs, successors and assigns; however, it is anticipated that the successor of Grantor will be the homeowners association of the Pine Glades Townhome Addition to the Town of Jackson and the Pine Glades Condominium Addition to the Town of Jackson and in such circumstance, all costs associated with the foregoing shall be assessed by such successor entity to the members of such association as a special assessment.

Grantee shall repair or replace any items that it shall move from the Easements and shall repair any damage resulting from Grantee's construction on and use of the Easements as contemplated by this agreement. All work performed within the Easements by Grantee shall be performed in such a manner as to minimize interference with the use and enjoyment of the Easements by Grantor.
Grantor represents, warrants, covenants and agrees that it has good, right and lawful authority to execute and deliver this instrument. Grantor hereby further reserves unto itself, its heirs, successors and assigns, the right to grant additional easements in, under, over and across the Easements for any purpose as Grantor deems necessary in Grantor’s sole discretion provided such additional easements do not unreasonably impair, interfere with or obstruct the use of the Easements by Grantee.

Grantee shall indemnify, save and hold Grantor harmless from any loss, attorney fees, claim and liability arising out of, or attributable to the use, maintenance and occupation of the Easements by Grantee, its employees, agents, invitees, contractors and representatives. To the extent permitted by law, Grantee releases Grantor and Grantor’s employees, agents, invitees, contractors and representatives from, and waives all claims for damage to, person or property sustained by Grantee resulting from the construction of the roadway turnaround within Easement 2 by Grantor, and/or its employees, agents, contractors and/or representatives, and/or resulting from the use of Easement 1 and/or Easement 2 by Grantee or its employees, agents, invitees, contractors and/or representatives, and/or resulting from the Easements or any part thereof becoming out of repair, and/or resulting from any act, omission, neglect or default of Grantor or its employees, agents, invitees, contractors and/or representatives.

Grantor makes no representations or warranties, express or implied, in connection with this grant and the Easements, whether of title, fitness of use, condition, purpose, or of any other nature. Grantor represents and warrants that Grantor has the authority to grant the Easements contained herein. Grantee accepts each Easement in each of its present condition, “as-is”, “where-is” and “with all faults” and subject to any and all existing liens, encumbrances, charges, easements, rights and covenants, conditions and restrictions of record.

If any party is required to take action to enforce the terms and conditions of this Agreement, the defaulting party agrees to pay all costs incurred by the non-defaulting party, including attorney’s fees whether suit is brought or not.

The within grants are easements running with the land and shall be perpetual so long as they are used for the above-described purposes. This Agreement shall be binding on the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands this ____ day of __________________, 200__, hereby waiving and releasing all rights under and by virtue of the homestead exemption laws of the State of Wyoming.

GRANTOR:

Pine Glades Development, LLC,
a Wyoming limited liability company

By: ______________________________________
Name: ____________________________________
Title: ____________________________________
STATE OF ________________________                           )
                                      ) ss.
COUNTY OF ________________________                           )

On this ______ day of ____________, 200__, before me personally appeared
______________________, personally known to me, or proved to me on the basis of satisfactory evidence, to
be the person whose name is subscribed within this instrument and acknowledged to me that he executed the
same in his authorized capacity, and that by his signature on this instrument, the entities upon behalf of which
the person acted executed this instrument.

WITNESS my hand and official seal.

______________________________
Notary Public
My commission expires:
The foregoing easement is hereby accepted by the Town of Jackson this _____ day of ____________________, 20______.

TOWN OF JACKSON

BY: __________________________________

its Mayor

ATTEST:

BY: __________________________________

its Town Clerk

State of Wyoming )
County of Teton ) ss.

The foregoing instrument was acknowledged before me __________________________, as Town Attorney of the Town of Jackson this ___ day of ____________, 20___.

Witness my hand and official seal.

__________________________
Notary Public

My Commission Expires:

State of Wyoming )
County of Teton ) ss.

The foregoing instrument was acknowledged before me __________________________, as Town Clerk of the Town of Jackson this _____ day of ____________, 20___.

Witness my hand and official seal.

__________________________
Notary Public

My Commission Expires:
State of Wyoming )
County of Teton ) ss.

The foregoing instrument was acknowledged before me ______________________,
______________________________, as Mayor of the Town of Jackson this ___ day of ______, 20__.

Witness my hand and official seal.

_____________________________________________________________
Notary Public

My Commission Expires: