

**LOT SPECIFIC DEVELOPMENT AGREEMENT**

**AGREEMENT SETTING FORTH SPECIFIC REQUIREMENTS, RESTRICTIONS, AND CONDITIONS REGARDING INSERT TRACT, LOT, ETC. LOCATED IN THE INSERT NAME OF SUBDIVISION SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO, AND THE DEVELOPMENT OR RE-DEVELOPMENT THEREOF.**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among **Insert Owner's Name**, a Colorado Insert Type of Entity (“Owner”), and the **CITY OF LOVELAND, COLORADO**, a home rule municipality (“City”).

**WHEREAS**, the Owner owns certain real property situated in the County of Larimer, State of Colorado, (hereafter referred to as the "Property") and legally described as follows:

Insert Legal Description

**WHEREAS**, the Owner wishes to develop the Property in accordance with certain plans approved by the City (as described herein) for Insert Project Name and Number (the “Development”);

**WHEREAS**, the parties to this Agreement have agreed that the development of the Property will require increased municipal services from the City in order to serve such area and will further require the installation of certain improvements primarily of benefit to the lands to be developed and not to the City of Loveland as a whole; and

**WHEREAS**, the City has approved the  Site Development Plan (“SDP”) and/or  Public Improvement Construction Plans (“PICP”) submitted by the Owner, subject to certain requirements and conditions, which involve the installation and construction of various improvements in connection with the Property; and

**WHEREAS**, the City and the Owner wish to set forth the terms and conditions for development of the Property herein.

**NOW, THEREFORE**, in consideration of the promises of the parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

**I. General Conditions:**

**A. Development Activities.** The purpose of this Agreement is to provide for the completion of the site plan improvements as hereinafter defined, and the terms of this Agreement shall govern all development activities of the Owner and all subsequent development, re-development and use of land by subsequent owners pertaining to the Property. For the purposes of this Agreement, "development activities" shall include, but not be limited to, the following: (1) the actual construction of improvements, (2) obtaining building permits for said improvements, or (3) any change in grade, contour or appearance of the Property caused by, or on behalf of, the Owner with the intent to construct said improvements thereon.

**B. Installation of Site Plan Improvements.**

1. For the purposes of this Agreement, “Site Plan Improvements” mean offsite improvements within the public right-of-way or on public property; landscaping improvements on privately owned property; public utilities, sidewalks, or other improvements within dedicated easements onsite; and drainage and erosion control improvements and measures on privately owned property. The Site Plan Improvements, which are shown on the SDP and/or PICP, are required by the City for the benefit of owners within and adjacent to the Property, or are required by the City to properly address drainage and erosion control, utilities, vehicular or pedestrian traffic related items, grading, landscaping and irrigation, and lighting.

2. At the Owner’s sole cost and expense, the Owner shall complete the construction and installation of the Site Plan Improvements in compliance with the SDP, PICP, Loveland Municipal Code, all necessary permits and approvals issued by the City, and all other standards and specifications of the City in effect as of the date of this Agreement.

3. The Owner shall acquire and dedicate, at no cost to the City, any rights-of-way and easements necessary for the required public improvements as shown on the approved PICP.

4. The Owner shall obtain a Right-of-Way work permit from the Public Works Department prior to performing any work in any public street right of way. The Owner agrees to comply with all terms and conditions of such Right-of-Way work permit.

5. If required, the Owner shall apply for and obtain a Development Construction Permit and/or Site Work Permit and comply with all terms and conditions in such permits.

6. The Owner warrants that the Site Plan Improvements, each and every one of them, will be installed in a good and workmanlike manner in accordance with the SDP and PICP, as applicable, and will be free from defects for a period of two (2) years from the City’s initial acceptance of each particular Site Plan Improvement. The Owner shall provide performance and warranty sureties as may be required by the City.

7. Except as otherwise set forth in this Agreement, all Site Plan Improvements as shown on the approved SDP and PICP, as applicable, shall be installed by the Owner and accepted by the City prior to the issuance of building permits pursuant to the provisions of the Loveland Municipal Code.

8. The Owner shall be responsible for obtaining all other permits, approvals and otherwise meeting the requirements of other entities and governmental agencies as may be required for development of the Property. The City’s approval of the SDP and PICP, as applicable, does not constitute authorization on behalf of any other entity to proceed with the development of the Property.

9. This Agreement shall expire and become null and void at the time that the SDP and PICP, as applicable, expire under the Loveland Municipal Code, whichever is later.

**C. Early Building Permit Requests.**

1. Early Building Permits. Upon request of the Owner, the Director of Development Services (the "Director"), in his or her sole discretion, may authorize the issuance of building permits for the Development prior to the installation of all required public improvements if the following requirements are met:

- a. The Director finds in writing that issuance of any such building permit will not create a threat to public health, safety or welfare; and
- b. Temporary erosion control measures have been installed on the site in compliance with City standards; and
- c. Curb and gutter have been installed; and
- d. All power and other utilities lines and facilities have been installed and energized; and
- e. The Owner has completed and the City has accepted all other public improvements as set forth in the approved PICP except for the following (if applicable) which may be financially secured as described in Section 3 below:
  - Final asphalt lift for street pavement
  - Final pavement markings
  - Landscaping in the right-of-way
  - Private alleyways and private drive aisles
  - Sidewalks

2. Temporary Certificate of Occupancy. Before a temporary certificate of occupancy can be issued for any lot in the Development, the Owner must install and have accepted by the City all remaining public improvements, except for adjacent public sidewalks and building site landscaping, which may be financially secured as described in Section 3 below and completed prior to issuance of a full certificate of occupancy.

3. Requirements for Financially Securing Incomplete Improvements

a. *Agreement.* The Owner, the Owner's contractor, or other applicant requesting the building permit or certificate of occupancy must execute an Incomplete Improvements Agreement in a form approved by the Loveland City Attorney.

b. *Security.* The City may require that the Owner post financial security as described in Sections 1 and 2 above in the amount of 110 percent of the estimated cost of the incomplete improvements in the form of a surety bond or letter of credit in forms approved by the City Attorney, or a deposit of cash or other certified funds. Such financial security shall be provided to the City prior to the issuance of the building permit or certificate of occupancy as applicable, and shall be conditioned upon the Owner's complete installation of such incomplete improvements and compliance with such conditions and requirements within the time and in the manner required by the Loveland Municipal Code or any ordinance or resolution approved by the Loveland City Council.

c. *Release of Security.* Upon Owner's completion of and the City's acceptance of all required improvements, conditions, and requirements within the time set forth in the Incomplete Improvements Agreement and the Owner's request for release of such security, the City shall cause such security to be released within fifteen (15) days.

**D.** The Owner shall, pursuant to the terms of this Agreement, complete all improvements and perform all other obligations required herein and the City, pursuant to the Loveland Municipal Code, may withhold such building permits and certificates of occupancy as it deems necessary to ensure performance hereof.

**E.** Owner acknowledges that the City's review and approval of plans for the development of the Property is done in furtherance of the general public health, safety and welfare and that no specific relationship with, or duty of care to, Owner or third parties is assumed by such review approval or immunity waived as is more specifically set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-106.5.

**F.** The Owner does hereby indemnify and hold harmless the City from any and all claims that might arise, directly or indirectly, as a result of the discharge of injurious storm drainage or seepage waters from the Property in a manner different from that which was historically discharged and caused by the design or construction of the storm water drainage facilities, except for (1) such claims and damages as are caused by the acts or omissions of the City in maintenance of such facilities as have been accepted by the City for maintenance; and (2) specific directives that may be given to the Owner by the City in writing. The City agrees to give notice to the Owner of any claim made against it to which this indemnity and hold harmless agreement by the Owner could apply, and the Owner shall have the right to defend any lawsuit based on such claim and to settle any such claim provided Owner must obtain a complete discharge of all City liability through such settlement. Failure of the City to give notice of any such claim to the Owner within ninety (90) days after the City first receives notice of such claim under the Colorado Governmental Immunity Act for the same, shall

cause this indemnity and hold harmless agreement by the Owner to not apply to such claim and such failure shall constitute a release of this indemnity and hold harmless agreement as to such claim. Review and/or acceptance by the City of any storm drainage facility design or construction shall in no manner be determined to constitute a waiver or relinquishment by the City of the aforesaid indemnification.

**G.** Owner agrees to indemnify and hold harmless the City and its officers and employees from and against all liability, claims, demands and expenses, including any court costs and reasonable attorneys' fees, on account of any injury, loss or damage, which arise out of or are in any manner connected with the Owner's performance under this Agreement if such injury, loss or damage is caused in whole or in part by the negligent act or omission, error, professional error, mistake, accident or other fault of the Owner, any subcontractor of Owner or any officer, employee or agent of Owner. The obligations of this Section shall not apply to the extent that the City becomes liable by final judgment to pay a third party as the result of the negligent act or omission, error, professional error, mistake, accident or other fault of the City.

**H.** Except as otherwise specifically provided for herein, neither party shall be entitled to claim or receive any form of monetary damages, including but not limited to remedial, compensatory, punitive or consequential damages, including economic damages and lost profits.

## **II. Special Conditions:**

All special conditions applicable to the Property and the Development are set forth in Exhibit A attached hereto and incorporated herein.

## **III. Miscellaneous:**

**A.** Nothing herein contained shall be construed as a waiver of any requirements of the City of Loveland Municipal Code, and the Owner agrees to comply with all requirements of the same to the extent such requirements are not inconsistent with the applicable General Conditions and Special Conditions of this Agreement.

**B.** In the event the City waives any breach of this Agreement, no such waiver shall be held or construed to be a waiver of any subsequent breach hereof.

**C.** To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the City, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution.

**D.** No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* and under any other applicable law.

**E.** This Agreement shall run with the Property and shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs, successors, grantees and assigns. It is agreed that all improvements required pursuant to this Agreement touch and concern the Property regardless of whether such improvements are located on the Property. Assignment of interest within the meaning of this paragraph shall specifically include, but not be limited to, a conveyance or assignment of any portion of the Owner's legal or equitable interest in the Property, as well as any assignment of the Owner's rights to develop the Property under the terms and conditions of this Agreement.

**F.** In the event the Owner transfers title to the Property and is thereby divested of all equitable and legal interest in the Property, the City hereby agrees to release said Owner from liability under this Agreement with respect to any breach of the terms and conditions of this Agreement occurring after the date of any such transfer of interest. In such event, the succeeding property owner shall be bound by the terms of this Agreement.

**G.** Each and every term of this Agreement shall be deemed to be a material element hereof. In the event that either party shall fail to perform according to the terms of this Agreement, such party may be declared in default. In the event that a party has been declared in default hereof, such defaulting party shall be given written notice specifying such default and shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to pursue any and all remedies available at law or in equity including, without limitation, to treat the Agreement as continuing and require specific performance.

**H.** Except as expressly set forth herein, this Agreement is in addition to, and not in place of, any existing agreements related to the Property and the Development.

**I.** Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three days after being sent by certified mail, return receipt requested:

If to the Owner:

Insert Address

If to the City:

City of Loveland  
City Manager  
500 E. Third St., Suite 300  
Loveland, CO 80537

With a copy to:

City of Loveland  
City Attorney  
500 E. Third St., Suite 330  
Loveland, CO 80537

**J.** This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

**K.** It is expressly understood and agreed by and between the parties hereto that this Agreement shall be governed by and its terms construed under the laws of the State of Colorado and the City of Loveland, Colorado. Venue shall be in the district court for Larimer County, Colorado.

**L.** When used in this Agreement, words of the masculine gender shall include the feminine and neuter gender, and when the sentence so indicates, words of the neuter gender shall refer to any gender; and words in the singular shall include the plural and vice versa. This Agreement shall be construed according to its fair meaning, and as if prepared by all parties hereto, and shall be deemed to be and contain the entire understanding and agreement between the parties hereto pertaining to the matters addressed in this Agreement. There shall be deemed to be no other terms, conditions, promises, understandings, statements, representations, expressed or implied, concerning this Agreement, unless set forth in writing signed by all of the parties hereto. Further, paragraph headings used herein are for convenience of reference and shall in no way define, limit, or prescribe the scope or intent of any provision under this Agreement.

**M.** This Agreement may be amended only in writing executed by duly authorized representatives of the parties.

**N.** This Agreement shall be recorded in the Larimer County Clerk and Record's Office.

**O.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. Facsimile or electronic signatures, for purposes of this Agreement, shall be deemed as original signatures.



**THE CITY OF LOVELAND, COLORADO,**  
a home rule municipality

\_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO SUBSTANCE:**

\_\_\_\_\_  
Development Services Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney

TEMPLATE - DO NOT MODIFY

## **EXHIBIT A**

### **Special Conditions for Insert Project Name (the “Project”)**

The following special conditions, in addition to any conditions set forth in the Site Development Plan, Public Improvements Construction Plans, or other planning documents on file with the City for the Project, as may be amended, apply to the Project. All improvements must be constructed in compliance with the Loveland Municipal Code and the City’s standards and specifications unless expressly stated otherwise:

#### **Insert Conditions**

TEMPLATE - DO NOT MODIFY