

AGREEMENT FOR
SEDIMENT/EROSION CONTROL
BEST MANAGEMENT PRACTICES (BMPs)
WITH CASH DEPOSIT

RELATING TO THE DEVELOPMENT OF:

Legal Description of Property

THIS AGREEMENT, dated this _____ day of Leave the Date Blank 20____,
between the City of Loveland, Colorado, a Municipal Corporation (hereinafter called
“City”) and Developer/Property Owner Name hereinafter called “Developer”),
WITNESSETH:

WHEREAS, Developer has or intends to apply for a Stormwater Quality Permit (“Permit”) on property legally described as on Exhibit “A” attached hereto and incorporated herein (“Property”); and

WHEREAS, Chapter 13.20 of the Loveland Municipal Code requires that as a condition for the issuance of a Permit, Developer shall be required to provide security in the form of cash deposit or an irrevocable letter of credit; and

WHEREAS, the amount of the security shall be based upon the estimated cost of the work required to ensure compliance with the Permit’s terms and conditions and requirements of this Chapter 13.20 of the Loveland Municipal Code; and

WHEREAS, in determining the cost of work, a 15% contingency shall be included; and

WHEREAS, the City is willing to issue said Permit upon the agreement of the Developer herein set forth, and subject to all requirements, terms and conditions of the ordinances of the City and other applicable laws, rules and regulations; and

WHEREAS, City and Developer mutually acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by City in connection with its granting of said Permit, and that such matters are necessary to protect, promote and enhance the public welfare; and

WHEREAS, it is further mutually acknowledged that City is entitled to other assurance that the matters hereinafter agreed to will be performed as agreed by Developer, and in that regard, Developer will furnish to City a cash deposit.

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained, it is agreed as follows:

1. All sediment and erosion control Best Management Practices (BMPs), to be properly installed, maintained and removed upon required site stabilization, and other BMPs described or identified on Exhibit “A,” shall be completed by Developer according to the applicable standards, rules and regulations of the City, and in compliance with the accepted Sediment/Erosion Control Plans for Legal Description of Property Property, as on file with the City.

2. ~~Developer agrees to and hereby does submit with this Agreement a check in the amount of~~ Written form of cost, taken from Total Cost line item of Sediment/Erosion Control Opinion of Costs Spreadsheet for sites over an acre OR the Total Performance Security listed in Section 7 of the Small Site Stormwater Quality Application for sites under an acre.

(\$ numerical form of cost) (Developer's Deposit) which is the estimated cost of satisfaction of the BMPs herein described. The City may deposit Developer's Deposit in a City interest bearing account and agrees to hold Developer's Deposit as collateral for Developer's promise to properly install, maintain and remove the BMPs according to the applicable standards, rules and regulations of the City, and in compliance with the accepted Sediment/Erosion Control Plans for Legal Description of Property

Property, as on file with the City and perform all matters herein agreed to be performed to the City's satisfaction. If Developer does not properly install, maintain and remove the BMPs herein described, and perform all matters herein agreed to be performed to the City's satisfaction, the City shall be entitled to use Developer's Deposit as it deems appropriate for the purpose of properly installing, maintaining or removing the BMPs itself or by contract with a third party. Should City not require all funds that it draws to properly install, maintain or remove the BMPs, it shall refund the balance to Developer. Developer agrees that it is obligated for the actual cost of properly installing, maintaining and removing the BMPs and Developer's Deposit is only collateral for Developer's promise to pay such cost. Nothing herein shall in any way limit the Developer's obligations hereunder, and Developer shall, in any event, remain liable for properly installing, maintaining and removing the BMPs described herein and for payment for the actual cost of all work and materials utilized in the installation, maintenance and removal of said BMPs, notwithstanding the estimated cost in sentence one of this paragraph. If Developer properly installs, maintains and removes the BMPs and upon completion of the project and final inspection of the BMPs by the City, the City will refund Developer's Deposit, less any interest earned, to the Developer.

3. It is understood that the amount of Developer's Deposit may be reduced, in the City's sole discretion, prior to the completion of the project upon a determination by the City that the Developer has properly stabilized a portion of the project area in accordance with the accepted Sediment/Erosion Control Plans.

4. In the event that Developer breaches its obligations under this Agreement, the City shall be entitled to direct and consequential monetary damages, equitable relief, including specific performance, and such other remedies at law or in equity as may be available under applicable law. In the event of litigation relating to or arising out of this Agreement, the prevailing party whether plaintiff or defendant shall be entitled to recover its costs and reasonable attorneys' fees from the non-prevailing party.

5. This Agreement, and the terms, conditions and covenants herein contained, shall be deemed to complement and shall be in addition to the conditions and requirements of the ordinances of the City of Loveland and other applicable laws, rules and regulations. Notwithstanding anything herein contained to the contrary, Developer, in developing the subject property shall fully comply with all applicable ordinances, rules, regulations, standards and laws.

6. Upon execution of this Agreement by the parties hereto and upon submittal of the Developer's Deposit to City, and provided all other conditions not herein contained have been met by Developer, City agrees to grant the subject Permit.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

DEVELOPER

By: _____

Title: _____

STATE OF COLORADO)
) ss
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of
_____, 20__ by

_____.

My commission expires _____.

(S E A L)

Notary Public

Address

* * * *

ATTEST

CITY OF LOVELAND

By: _____

By: _____

Title: _____

Title: _____

APPROVED AS TO FORM

Assistant City Attorney

EXHIBIT "A"

Legal Description of Property