



To: Centerra Metropolitan District Board of Directors  
 From: Pinnacle Consulting Group, Inc.  
 Subject: Managers' Report  
 Board Meeting Date: March 21, 2024

### General District Matters

- **Primary Contact:** Please contact Bryan Newby, District Manager, at Bryann@pcgi.com or cenmdadmin@pcgi.com for any District matters which include operations, Board of Directors relations, financial management, compliance, and constituent relations.
- **Management & Administration Updates & Activities:**
  - The Management and Capital teams have worked with Celeste Smith to finalize her Master Service Agreement, Work Order, and Scope of Work to fill the marketing gap left in early 2024. These items will be brought to the Boards for Approval during the March 21<sup>st</sup> meeting.
  - The 2024 Developed TIF Area Certification for Centerra MD has been submitted to the Director of Development services for the City of Loveland per section 2.3.1 of the Intergovernmental Agreement Regarding the US34/Crossroads Renewal Plan dated September 16, 2008.
- **Website Analytics:** Website analytics allows management to review website activity throughout the year.

Last Month	YTD	Top 3 Pages Viewed
56 Visits	143 Visits	Home Page
55 Unique Visitors	136 Unique Visitors	About the District
128 Page Views	275 Page Views	Governing Documents

- **Compliance Matters:** Annually, District Management ensures the District meets required statutory responsibilities and tracks compliance accordingly.

Compliance Matters	Responsible	Due Date	Completion Date
File Boundary Map	PCGI	01/01/24	Complete
Post Transparency Notice	PCGI	01/15/24	Complete
File Certified Copy of Adopted Budget	PCGI	01/30/24	Complete
Renew SDA Membership	PCGI	03/01/24	Complete
File Audit Exemptions	PCGI	03/31/24	
Submit Audit to Governing Board	PCGI	06/30/24	
File Audit	PCGI	07/30/24	
File Annual Report	PCGI	10/01/24	
Draft 2025 Budgets Distributed to Board	PCGI	10/15/24	
Renew Property & Liability Insurance	PCGI	12/01/24	

Centerra Metropolitan District  
 c/o Pinnacle Consulting Group, Inc.  
 Main office located at 550 W. Eisenhower Blvd., Loveland, CO 80537  
 Phone: (970) 669 3611  
 Email: cenmdadmin@pcgi.com

*Serving our clients and community through excellent dependable service.*

Certify Mill Levies	PCGI	12/15/24	
Adopt Budget	PCGI	12/31/24	
Ensure Website Compliance	PCGI	12/31/24	
Payables	PCGI/Board	Monthly	Sent to Board third week of the month

### **Operations & Maintenance Updates & Activities**

- We are continuing to coordinate and manage snow removal within district areas with EDI and GreenEarth. Heavier snow events are predicted for March and April.
- EDI and Green Earth have completed winter plant pruning and cutbacks, pre-emergent applications, and aeration services. Fertilization applications will be completed in late March along with the irrigation system audit and final preparations for the growing season.
- We are in the process of assessing district sidewalks/trails with vendors for various repairs and replacements needed in 2024.
- Ditch maintenance sediment removal work by SWPPP and Kinetic began on 3/8 and is anticipated to finish by the end of the month.
- Chapungu Park hardscape assets repairs and replacement coordination with MRES.



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## MASTER SERVICES AGREEMENT

This **MASTER SERVICES AGREEMENT** (“Agreement”) is made and entered into this **21<sup>st</sup> day of March, 2024**, by and between **CENTERRA METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and **IMPACT MARKETING ADVISORS, LLC** (“Contractor”), collectively, the “Parties.”

### RECITALS

WHEREAS, the District was organized pursuant to the laws of the State of Colorado in order to construct, operate and maintain certain public facilities, improvements, and infrastructure in accordance with its approved service plan; and

WHEREAS, pursuant to Section 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts affecting the affairs of the District; and

WHEREAS, the District desires to procure certain professional services to serve the administrative needs of the District, as such services are more specifically described in one or more Work Orders (as such term is defined in Section 2 hereof) issued hereunder; and

WHEREAS, Contractor has experience and resources to provide such services and is willing and able to provide such services to the District for reasonable consideration; and

WHEREAS, the District desires to engage Contractor to render such services as needed by the District; and

WHEREAS, the Parties desire to enter into this Agreement to establish the terms and conditions by which Contractor shall provide such services to the District.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### AGREEMENT

1. Appointment of Contractor. The District hereby retains Contractor for purposes of performing the Services (as such term is defined in Section 2 hereof) set forth in one or more Work Order(s) issued hereunder, and subject to the terms and conditions of this Agreement. Contractor hereby agrees to perform the Services set forth in any Work Order issued hereunder, pursuant to the terms and conditions set forth herein. Contractor acknowledges and agrees that the District may, in the District’s sole discretion, engage other contractors, to perform the same or similar Services as may be needed by the District, and that Contractor’s authority to perform the Services

hereunder shall be limited to those Services set forth in a Work Order and, if applicable, a Change Order (as such term is defined in Section 2 hereof) executed by the Parties.

2. Scope of Services. Upon execution of this Agreement, the District and Contractor shall execute one or more Work Order(s) (“Work Order”), attached hereto as **Exhibit A** and incorporated herein by reference, describing the Services to be provided by Contractor and the compensation to be paid by the District for the Services rendered. In the event the Parties need to modify the Services set forth in the Work Order, the Parties shall execute a Change Order, as set forth in **Exhibit B** attached hereto and incorporated herein by reference, describing the specific changes to the Services to be provided by Contractor and any changes to compensation to be paid to Contractor by the District. At the request of the District and upon agreement of the Parties, Contractor may perform additional services that are beyond the scope of existing services set forth in any Work Order issued hereunder. Such additional services and compensation to be paid for the additional services will be set forth in a new Work Order executed by the Parties. Any new Work Order issued pursuant to this Paragraph 2 shall be subject to the terms and conditions set forth in this Agreement. No Work Order or Change Order shall be authorized and executed by the District unless sufficient funds have been appropriated by the District for payment of the Contractor’s compensation, as provided in Section 13 hereof. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement. Contractor shall at all times conform to the stated policies established and approved by the District.

A. General Duties. In connection with performing the Services set forth in any executed Work Order and/or Change Order issued hereunder, Contractor agrees to:

(1) Provide all Services in a good and workmanlike manner and in accordance with any and all approved plans, documents, and specifications described in Contractor’s proposal to provide such Services to the District;

(2) Furnish, or cause to be furnished, all labor, materials, equipment, permits and accessories, as necessary, to provide such Services;

(3) Take all precautions necessary for safely and prudently conducting the Services required by this Agreement, including maintaining insurance as required by Section 7 hereof;

(4) Advise the District of the status of the Services required by this Agreement on a regular basis and work in coordination with the District’s staff and Contractors to assure that the District has the most complete information available for the exercise of the District’s powers and discretionary authority; and

(5) Refrain from entering into any contract, oral or written, in the name of the District, and from incurring any debt, liability or obligation for or on behalf of the District. All obligations incurred by Contractor shall be the obligations of Contractor whom shall hold the District harmless therefrom.

B. Compliance with Applicable Law. Contractor shall provide the Services as set forth herein in full compliance with all applicable laws, ordinances, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction in which this Agreement is performed. Contractor declares that Contractor has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the Services to be provided pursuant to this Agreement.

C. Subcontractors. Contractor is solely and fully responsible to the District for the Services to be provided pursuant to this Agreement, including all acts and omissions of subcontractors and persons employed by them. Contractor will require any subcontractors to obtain the required insurance coverage pursuant to Section 7 hereof and to agree to indemnify the District in the same manner as Contractor pursuant to Section 10 hereof.

D. No Right or Interest in District's Assets. Contractor shall have no right or interest in any assets of the District, or in any lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein.

E. Responsibility for Errors. Contractor shall be responsible for all Services performed pursuant to this Agreement, including any Work Orders and Change Orders issued hereunder. Contractor, when requested, shall furnish clarification and/or explanation as may be required by the District, regarding any Services rendered pursuant to this Agreement, and any Work Orders and Change Orders issued hereunder, at no additional cost to the District. In the event of an error or omission caused by Contractor or its Subcontractors, Contractor shall, at no cost to the District, provide all necessary design drawings, estimates and other services necessary to rectify and correct the matter to the satisfaction of the District and participate in any meetings required with regard to the correction at no cost to the District.

3. Compensation. The District shall compensate Contractor for Services rendered in such amount(s) and/or at such rates as set forth in the executed Work Order or, if applicable, Change Order. Contractor shall not receive additional compensation for any changes to a Work Order unless the District and Contractor have executed a Change Order authorizing the change in Services and the payment of additional compensation to Contractor. Any and all Work Orders and Change Orders resulting in additional compensation to be paid to Contractor by the District beyond the amount originally appropriated by the District as set forth in the Work Order, shall require the appropriation of funds by the District, as set forth in Section 13 hereof, prior to the execution of any such Work Order or Change Order. The District is exempt from Colorado sales and use taxes. Contractor shall use reasonable efforts to ensure that the costs for Services provided and charged to the District do not include sales and use taxes.

A. Performance Reports and Invoices. Contractor shall submit monthly performance reports and invoices for Services rendered to the District. Performance reports shall be in a form acceptable to the District and describe the work completed to date, work in progress and work yet to be performed. Concurrently with the submission of the performance report, Contractor shall submit an invoice to the District that summarizes costs paid to date by the District and the amount currently due to Contractor. Invoices and performance reports are to be submitted

to the District no later than the 3<sup>rd</sup> day of each month for Services completed in the preceding month. The District shall pay Contractor's invoice within forty-five (45) days from the 3<sup>rd</sup> day of each month. The District reserves the right to review and/or inspect all Services completed and invoiced prior to payment as set forth in Section 3.B. herein. If any or all the Services are not accepted for payment by the District after review and/or inspection of the completed Services, the terms of Section 3.B. herein shall apply.

B. Review and Inspection of Services. The District may review and/or inspect the Services provided at any time throughout the term of this Agreement and shall notify Contractor if, in the District's discretion, any or all Services are not provided in accordance with this Agreement and any Work Order and Change Order issued hereunder. Failure by Contractor to properly provide the Services required pursuant to this Agreement, including any Work Order and Change Order issued hereunder, shall constitute a default of this Agreement. In such case, the District shall provide written notice of said default to Contractor. Contractor shall have two (2) days to cure or to reasonably commence to cure the default unless otherwise agreed to by the Parties. If Contractor fails to cure the default within the time period provided, the District shall be entitled to pursue all remedies provided by law and in equity, including specific performance, and to recover all costs and reasonable attorney fees incurred in any suit or claim brought by the District to enforce the terms of this Agreement and any Work Order and Change Order issued hereunder. In addition, in the event of an uncured default by Contractor, the District may hire a third party to complete the Services and Contractor agrees to pay all additional costs incurred by the District for the completion of the Services by a third party.

C. Compensation Upon Termination. In the event this Agreement is terminated as provided in Section 5 hereof, the District shall pay Contractor for all Services satisfactorily completed pursuant to any Work Order or Change Order issued hereunder, through the effective date of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the date of notice of termination or the effective date of termination, as applicable. In ascertaining the Services actually rendered through the date of notice of termination or the effective date of termination of this Agreement (and all Work Orders and Change Orders issued hereunder), consideration shall be given to both completed work and work in progress pertaining to the Services contemplated herein.

4. Term. The term of this Agreement shall begin on the date set forth above, shall be effective as of such date regardless of the date of execution hereof, and shall terminate upon the completion of all Services unless otherwise terminated by the District or Contractor pursuant to Section 5 hereof. In the event the completion of Services occurs in a fiscal year following the effective date of this Agreement, such Services to be performed in the following fiscal year shall be subject to annual appropriations by the District as set forth in Section 12 hereof.

5. Termination. The District shall have the right to terminate this Agreement, with or without cause, at any time, by providing written notice to Contractor of such termination and specifying the effective date of termination thereof. Contractor shall be entitled to receive compensation in accordance with Section 3.C. of this Agreement for any Services satisfactorily completed pursuant to the terms of this Agreement prior to the effective date of termination. Contractor may terminate this Agreement, with cause, by delivery of written notice of termination

to the District at least thirty (30) days prior to the effective date of termination. Such notice shall specify the extent of termination and the effective date. Contractor shall stop rendering Services pursuant to this Agreement upon the effective date of termination. Upon any termination and payment of all undisputed amounts owed to Contractor, Contractor shall transfer title and deliver to the District all Instruments of Service, as defined and described in Section 6 hereof, which shall be deemed from and after the effective date of this Agreement to be the property of the District.

6. Instruments of Service. For purposes of this Agreement, Instruments of Service includes the following: any and all finished or unfinished design, development and/or construction documents, if any, drawings, reports, writings, data, studies, graphics, maps, plans, specifications, electronic files and other documents, materials and information, in every form and/or format, which Contractor created, prepared and/or produced in connection with this Agreement. Contractor owns the Instruments of Service, including all associated copyrights and the right of reuse at the discretion of the Contractor. Contractor shall continue to own the Instruments of Service and all associated rights whether or not the Services are completed. The District may make and retain copies of Instruments of Service for information and reference in connection with the use of the Instruments of Service on the Services. Contractor grants the District a limited license to use the Instruments of Service on the Services, extensions of the Services, and for related uses of the District, subject to receipt by Contractor of full payment due and owing for all Services, and subject to the following limitations: (a) the District acknowledges that such Instruments of Service are not intended or represented to be suitable for use on the Services unless completed by the Contractor, or for use or reuse by the District or others on extensions of the Services, on any other project, or for any other use or purpose, without written verification or adaptation by the Contractor; (b) any such use or reuse, or any modification of the Instruments of Service, without written verification, completion, or adaptation by the Contractor, as appropriate for the specific purpose intended, will be at the District's sole risk and without liability or legal exposure to the Contractor or to its officers, directors, members, partners, agents, employees, and subconsultants; and (c) such limited license to the District shall not create any rights in third parties.

7. Insurance.

A. Minimum Scope and Limits of Insurance. Contractor shall acquire and maintain in full force and effect during the entire term of this Agreement, and at its sole cost and expense, including any extensions of this Agreement, the minimum insurance coverages and limits set forth in this Section 7(A), to provide protection from claims that may arise out of or result from Contractor's performance or obligations pursuant to this Agreement, whether such performance is by Contractor, by anyone directly or indirectly employed by Contractor, or by anyone who acts on behalf of Contractor, including any subcontractors of Contractor. The minimum insurance coverages and limits to be acquired by Contractor are as follows:

(1) <u>Commercial General Liability Insurance:</u>	
General Aggregate	\$ 2,000,000
Products and Completed Operations	\$ 1,000,000
Personal and Advertising Injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000
Damage to Rented Premises	\$ 100,000

Medical Expenses (Any one person) \$ 5,000

(2) Comprehensive Automobile Liability Insurance shall include all motor vehicles owned, hired, leased, or borrowed, with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence.

(3) Workmen's Compensation and Employer Liability Insurance

Worker's Compensation	Per Colorado Statutes
Employers' Liability	\$ 1,000,000 each accident

(4) Umbrella Policy: \$ 1,000,000

B. In addition, unless otherwise marked "No", the following coverage shall be obtained by Contractor, on an occurrence basis:

(1) Performance Bond

Included: Yes [ ] No [X]

(2) Builder's Risk Insurance. A blanket builder's risk insurance policy with coverage on an "all risk" basis for the project including but not limited to: (1) coverage for any ensuing loss from faulty workmanship or defective materials; (2) coverage against damage or loss caused by earth movement, flood, fire, and extended coverage perils, theft, vandalism, and malicious mischief, collapse and false work, including increased cost of construction, architects fees and expenses, soft costs, and operational testing; (3) coverage for removal of debris and demolition; (4) transit coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; (5) policy is to include as insured the District, the Contractor, and all subcontractors; and (6) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the site of the Services. Such insurance shall be on a "completed value" form insuring probable maximum loss, all on a replacement cost basis.

Included: Yes [ ] No [X]

(3) General Professional Liability. Professional Liability insurance with coverage in the amount of One Million Dollars (\$1,000,000) each claim and in the aggregate covering the negligent acts, errors, or omissions of the Contractor and/or its subcontractors in the performance of the Services.

Included: Yes [ ] No [X]

Unless otherwise indicated, all policies listed in this Section 7 shall be on an occurrence basis.



C. Waiver of Subrogation. All coverages specified herein shall waive any right of subrogation against the District and its directors, officers, employees, and agents.

D. Additional Insured Parties. The District shall be named as an additional insured on all policies (with the exception of workers' compensation insurance). The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available insurance sources.

E. Certificates of Insurance. Contractor shall provide to the District certificates of insurance showing the insurance coverages and required endorsements described above, prior to performing any Services pursuant to this Agreement.

F. Notice. Contractor agrees to provide the District with a minimum 10-day notice for the cancellation of any insurance policies required by this Agreement due to the non-payment of a premium and with a minimum of a 30-day notice for any change to or cancellation of an insurance policy other than for non-payment of a premium. Any failure on the part of the Contractor to comply with the notice reporting provisions or other conditions of the insurance policies set forth herein shall not affect the obligation of the Contractor to provide the required coverage to the District and its directors, officers, employees, and agents.

G. Subcontractor Insurance. If Contractor subcontracts any portion(s) of the Services, Contractor shall require that each subcontractor retained by Contractor to acquire and maintain insurance coverage as set forth in this Section 7. Contractor shall require each subcontractor to provide to Contractor insurance certificates and endorsements, including necessary updates to the same, demonstrating compliance with this Section 7. The Contractor shall retain all subcontractor insurance certificates and endorsements for the duration of the Agreement. Contractor shall, upon District request, submit them to the District for review. Failure to acquire and maintain subcontractor insurance certificates is a material breach of this Agreement.

H. Non-limiting. No provision, term or condition contained in this Section 7 of the Agreement shall be construed as limiting in any way the indemnification provision contained in Section 9 hereof, or any rights, immunities and protections provided to the District by the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S., or the extent to which Contractor may be held responsible for payments of damages to persons or property.

8. Independent Contractor. Contractor is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the District other than that of owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the District and any of the Contractor's employees. Neither the Contractor nor any of Contractor's employees are or shall be deemed employees of the District. Contractor is not, and shall not act as, the agent of the District. The employees who assist Contractor in the performance of the Services shall at all times be under Contractor's exclusive direction and control and shall be employees of Contractor and not employees of the District. Contractor shall pay all wages, salaries, and other amounts due Contractor's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees including, without limitation social security tax, income tax withholding,

unemployment compensation, worker's compensation, employee benefits and similar matters. Further, Contractor has sole authority and responsibility to employ, discharge, and otherwise control Contractor's employees. Contractor has sole authority and responsibility as principal for Contractor's agents, employees, subcontractors and all others Contractor hires to perform or assist in performing the Services.

9. Indemnification. Contractor shall indemnify, assume all responsibility for, and hold harmless the District and each of its directors, officers, consultants, employees, servants, agents, and authorized volunteers, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities arising, or alleging to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of Contractor or any of its subcontractors, agents or employees, in connection with Contractor's performance, duties, and obligations pursuant to this Agreement; provided, however, that Contractor shall not be liable for any claim, loss, damage, injury or liability caused by the negligence or fault of the District or any third party under the control or supervision of the District. If Contractor is providing architectural, engineering, surveying, or other design services, then the extent of Contractor's obligation to indemnify or hold harmless the District may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between Contractor and the District. The obligations of the indemnifications extended by Contractor to the District under this Section 9 shall survive termination or expiration of this Agreement. Upon execution of this Agreement, Contractor shall provide the District with a copy of Contractor's IRS Form W-9, Request for Taxpayer Identification Number.

10. Governmental Immunity. Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege, or protection afforded the District or its directors, officers, employees, servants, agents, or authorized volunteers, pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S.

11. Liability of the District. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon the District shall constitute or create an indebtedness or debt of the District within the meaning of any Colorado constitutional provision or statutory limitation.

12. Subject to Annual Appropriations. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The District's payment obligations hereunder for any and all Services authorized pursuant to Section 2 of this Agreement are subject to annual appropriations of funds by the District. Any extension of this Agreement, including any Work Orders or Change Orders, resulting in additional compensation beyond amounts originally appropriated, if any, shall be subject to annual appropriations of funds by the District.

13. Bidding. The District shall be entitled to bid for the same or similar services that Contractor could provide pursuant to this Agreement as the District deems necessary to comply with current law regarding contracts for such services. Contractor shall have no claim against the

District if this Agreement is not extended for any fiscal year or if Contractor is not selected to perform certain services as may be needed by the District throughout the fiscal year.

14. Notices. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; sent by electronic mail, delivery receipt requested; or sent by a nationally recognized receipted overnight delivery service for earliest delivery the next day. Any such notice shall be deemed to have been given as follows: when personally delivered to the party to whom it is addressed; when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; when by electronic mail, on the day sent if sent on a day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next day at 9 a.m.; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for mailing, transmitting, or delivering notices shall be as follows:

**If to the District:** Centerra Metropolitan District No. 1  
c/o Pinnacle Consulting Group, Inc.  
Attention: Bryan Newby  
550 W. Eisenhower Blvd.  
Loveland, CO 80537  
Email: bryann@pcgi.com

**With a Copy to:** Icenogle Seaver Pogue, PC.  
Attn: Alan D. Pogue  
4725 S. Monaco St., Suite 360  
Denver, Colorado 80237  
Email: APogue@ISP-law.com

**If to the Contractor:** Impact Marketing Advisors, LLC  
Attention: Celeste Smith  
2640 Logan Drive  
Loveland, CO, 80538  
(970) 231-2626  
Email: celestesmith12@gmail.com

15. Modification. This Agreement may not be amended modified, or changed, in whole or in part, without a written agreement executed by both the District and Contractor.

16. Assignment. Contractor shall not assign or transfer its rights hereunder, or subcontract any work hereunder, either in whole or in part, without the prior written consent of the District. Any attempted assignment or transfer shall be void and shall constitute a breach of the Agreement and cause for termination of this Agreement. Regardless of the District's consent, no assignment or transfer shall release Contractor from Contractor's obligation to perform all other obligations required to be performed by Contractor hereunder for the term of the Agreement. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

17. No Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence of event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

19. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance.

20. Attorneys' Fees. In the event that litigation is brought by either party hereto in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any terms, conditions, or provisions hereof.

21. No Third-Party Beneficiaries. This Agreement is entered into for the sole benefit of the District and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under, or to this Agreement.

22. Conflicts. The terms of this Agreement may be used to construe the intent of the Parties in connection with any exhibits, addendums, amendments, Work Orders, or Change Orders attached hereto, and shall be read as nearly as possible to make the provisions of this Agreement, and any such exhibits, addendums, amendments, Work Orders, and Change Orders fully effective. Should any irreconcilable conflict arise between the terms and provisions of this Agreement and the terms and provisions set forth in any exhibit, addendum, amendment, Work Order, and/or Change Order attached hereto, the terms and provisions of this Agreement shall prevail.

23. Headings. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

24. Binding Agreement. This Agreement shall inure to and be binding upon the respective Parties hereto and their successors and permitted assigns.

25. Entire Agreement. This Agreement, including all Work Orders and Change Orders executed hereunder, and any other exhibits attached hereto, constitutes the entire Agreement

between the Parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations.

26. Counterparts. 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.

(Remainder of Page Left Intentionally Blank.)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

**CENTERRA METROPOLITAN DISTRICT NO. 1:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**IMPACT MARKETING ADVISORS, LLC:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**  
(To Master Services Agreement)

**WORK ORDER(S)**

**WORK ORDER #202\_-\_\_\_\_**  
**TO MASTER SERVICES AGREEMENT, DATED March 21, 2024**

This Work Order is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between **CENTERRA METROPOLITAN DISTRICT NO. 1**, (the “District”), and **IMPACT MARKETING ADVISORS, LLC** (“Contractor”), collectively, the “Parties.” Unless otherwise defined herein, all capitalized terms shall have the meaning given to them in that certain Master Services Agreement between the District and Contractor, dated **March 21, 2024** (the “Agreement”).

1. Services. The Services to be provided by Contractor pursuant to the terms of the Agreement and this Work Order are set forth in **Exhibit A-1** attached hereto and further described as follows:

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2. Compensation. Contractor hereby agrees to perform such Services as set forth in Paragraph 1 to this Work Order and the District hereby agrees to pay Contractor for the satisfactory performance of the Services [in an amount not to exceed \$\_\_\_\_\_ -OR- based on established unit prices -OR- a lump sum amount of \$\_\_\_\_\_ -OR- on a time and materials basis, not to exceed a total amount of \$\_\_\_\_\_], as set forth in **Exhibit A-1** attached hereto. The District’s payment obligation set forth in this Paragraph 2 is subject to the annual appropriation of funds by the District, as set forth in Section 12 of the Agreement. The District has appropriated sufficient funds to compensate Contractor for Services rendered pursuant to this Work Order for the current fiscal year. Payment by the District for any Services rendered by Contractor in the subsequent fiscal year shall be subject to the District appropriating such funds for payment for the subsequent fiscal year.

3. Term. The term of this Work Order shall begin on the date set forth above, shall be effective as of such date regardless of the date of execution hereof, and shall terminate [on December 31, 202\_\_ -OR- upon the completion of the Services by Contractor].

4. Modification. This Work Order may not be amended, modified or changed, in whole or in part, except by a Change Order executed by the District and the Contractor. Any Change Order resulting in an increase in compensation shall be subject to the appropriation of funds by the District prior to the execution of a Change Order, as set forth in Section 12 of the Agreement.

5. Integrated Agreement. This Work Order has been issued pursuant to, and is hereby made a part of, the Agreement. The terms and conditions of the Agreement remain in full force and effect and shall apply to this Work Order and the Services performed hereunder.



IN WITNESS WHEREOF, the Parties have executed this Work Order as of the \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

**CENTERRA METROPOLITAN DISTRICT NO. 1:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**IMPACT MARKETING ADVISORS, LLC:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A-1 TO WORK ORDER #202\_ - \_\_\_\_**  
**SCOPE OF SERVICES AND PAYMENT FOR SERVICES**

**EXHIBIT B**  
(To Master Services Agreement)  
**FORM OF CHANGE ORDER**

**CHANGE ORDER # \_\_\_\_**  
**TO WORK ORDER #202\_\_ - \_\_\_\_**  
**MASTER SERVICES AGREEMENT, DATED March 21, 2024**

This Change Order is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between **CENTERRA METROPOLITAN DISTRICT NO. 1**, (the “District”), and **IMPACT MARKETING ADVISORS, LLC** (“Contractor”), collectively, the “Parties,” and is hereby issued to modify the terms of that certain Work Order #201\_\_ - \_\_\_\_ (“Work Order”) executed by the Parties pursuant to the terms of the Agreement (as defined herein). Unless otherwise defined herein, all capitalized terms shall have the meaning given to them in that certain Master Services Agreement dated **March 21, 2024** between the District and Contractor, (the “Agreement”).

1. Services. The Parties hereby acknowledge and agree that the Services to be provided by the Contractor pursuant to the Work Order are hereby modified as set forth in **Exhibit B-1** attached hereto and further described as follows: (describe specific changes to the Services that are being modified or removed from the original Work Order)

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2. Compensation. Contractor hereby agrees to perform such Services as set forth in Paragraph 1 to this Change Order and the District hereby agrees to pay Contractor for the satisfactory performance of the Services [in an amount not to exceed \$\_\_\_\_\_ -OR- based on established unit prices -OR- a lump sum amount of \$\_\_\_\_\_ -OR- on a time and materials basis, not to exceed a total amount of \$\_\_\_\_\_], as set forth in **Exhibit B-1** attached hereto. The District’s payment obligation set forth in this Paragraph 2 is subject to the annual appropriation of funds by the District, as set forth in Section 12 of the Agreement. The District has appropriated sufficient funds to compensate Contractor for Services rendered pursuant to this Change Order for the current fiscal year. Payment by the District for any Services rendered by Contractor in the subsequent fiscal year shall be subject to the District appropriating such funds for payment for the subsequent fiscal year.

3. Term. The term of this Work Order shall begin on the date set forth above, shall be effective as of such date regardless of the date of execution hereof, and shall terminate [on December 31, 201\_ -OR- upon the completion of the Services by Contractor].

4. Modification. This Change Order may not be amended, modified or changed, in whole or in part, except by a new Change Order executed by the District and the Contractor.

5. Integrated Agreement. This Change Order has been issued pursuant to, and is hereby made a part of, the Agreement and Work Order #202\_\_-\_\_\_\_. Except as otherwise

provided herein, the terms and conditions of the Agreement and Work Order #202\_\_ - \_\_\_\_ remain in full force and effect and shall apply to this Change Order.

IN WITNESS WHEREOF, the Parties have executed this Change Order as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**CENTERRA METROPOLITAN DISTRICT NO. 1:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**IMPACT MARKETING ADVISORS, LLC:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT B-1 TO CHANGE ORDER #\_\_\_**  
**SCOPE OF SERVICES AND PAYMENT FOR SERVICES**



**WORK ORDER #2024-01**  
**TO MASTER SERVICES AGREEMENT, DATED March 21, 2024**

This Work Order is made and entered into this **21<sup>st</sup> day of March, 2024**, by and between **CENTERRA METROPOLITAN DISTRICT NO. 1**, (the “District”), and **IMPACT MARKETING ADVISORS, LLC** (“Contractor”), collectively, the “Parties.” Unless otherwise defined herein, all capitalized terms shall have the meaning given to them in that certain Master Services Agreement between the District and Contractor, dated **March 21, 2024** (the “Agreement”).

1. Services. The Services to be provided by Contractor pursuant to the terms of the Agreement and this Work Order are set forth in **Exhibit A-1** attached hereto and further described as follows: **Centerra O&M: Chapungu Marketing Services.**

2. Compensation. Contractor hereby agrees to perform such Services as set forth in Paragraph 1 to this Work Order and the District hereby agrees to pay Contractor for the satisfactory performance of the Services **on a time and materials basis, not to exceed a total cost of \$25,000.00**, as set forth in **Exhibit A-1** attached hereto. The District’s payment obligation set forth in this Paragraph 2 is subject to the annual appropriation of funds by the District, as set forth in Section 13 of the Agreement. The District has appropriated sufficient funds to compensate Contractor for Services rendered pursuant to this Work Order for the current fiscal year. Payment by the District for any Services rendered by Contractor in the subsequent fiscal year shall be subject to the District appropriating such funds for payment for the subsequent fiscal year.

3. Term. The term of this Work Order shall begin on the date set forth above, shall be effective as of such date regardless of the date of execution hereof, and shall terminate **December 31, 2024.**

4. Modification. This Work Order may not be amended, modified or changed, in whole or in part, except by a Change Order executed by the District and the Contractor. Any Change Order resulting in an increase in compensation shall be subject to the appropriation of funds by the District prior to the execution of a Change Order, as set forth in Section 13 of the Agreement.

5. Integrated Agreement. This Work Order has been issued pursuant to, and is hereby made a part of, the Agreement. The terms and conditions of the Agreement remain in full force and effect and shall apply to this Work Order and the Services performed hereunder.

IN WITNESS WHEREOF, the Parties have executed this Work Order as of the **21<sup>st</sup> day of March, 2024.**

**CENTERRA METROPOLITAN DISTRICT NO. 1:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**IMPACT MARKETING ADVISORS, LLC:**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_



**EXHIBIT A-1 TO WORK ORDER #2024-01**  
**SCOPE OF SERVICES AND PAYMENT FOR SERVICES**

**Centerra Metropolitan District  
Capital Fund Summary  
As of February 22, 2024**

<b>Active Projects</b>							
<b>CFS #</b>	<b>Project Name</b>	<b>Approved Project Budget</b>	<b>Estimated Project Total</b>	<b>Change in Estimated Project Total From Prior Report Incr/(Decr)</b>	<b>Projected Over/(Under) Project Budget</b>	<b>Total Expenditures thru 1/31/2024</b>	<b>Estimated Remaining Project Costs</b>
1	General Capital	149,920	149,920	-	-	4,008	145,913
2	Savanna 2nd Kendall Pkwy Phase 2	5,550,940	5,501,706	-	(49,234)	5,471,706	30,000
3	Northwest Arterial Roads Phase 2	5,608,818	5,360,841	-	(247,977)	5,303,131	57,710
4	Meyers Group 5th Subdivision	1,685,876	1,660,128	-	(25,748)	1,592,570	67,558
5	Savanna 5th Subdivision	2,008,772	1,937,916	-	(70,856)	1,863,597	74,319
6	Boyd Lake Ave South	8,035,259	7,943,890	-	(91,369)	7,815,871	128,019
7	Boyd Lake Ave North Landscaping (Trapper to North)	451,817	451,817	-	-	447,557	4,260
8	Parcel 301	2,954,834	2,429,049	-	(525,785)	2,346,714	82,335
9	Parcel 504 Phase II	3,159,309	3,159,309	-	-	3,014,422	144,887
10	Parcel 504 Phase III	525,000	536,931	-	11,931	475,557	61,374
11	Kendall Parkway/I-25 Underpass	8,766,196	8,166,196	-	(600,000)	6,340,584	1,825,612
12	Kendall Parkway Underpass/Bus Stop Enhancements	3,170,126	3,170,126	-	-	1,014,108	2,156,018
13	Boyd Lake Avenue and Kendall Parkway Landscaping	1,411,394	1,411,394	-	-	1,390,044	21,350
14	The Lakes Residential Phase 9 (MNW 17th)	1,435,306	1,435,306	-	-	1,410,109	25,197
15	Kinston Metropolitan District	5,000,000	5,000,000	-	-	3,341,879	1,658,121
16	Precision on the Tracks	362,046	362,046	-	-	214,606	147,440
17	Myers Subdivision Landscaping and Sidewalk	113,652	113,652	-	-	9,306	104,346
18	Kendall Parkway, Rocky Mtn. to Centerra Pkwy	1,800,000	1,800,000	-	-	153,083	1,646,917
19	Millennium East 13th	7,187,505	7,187,505	-	-	15,817	7,171,688
20	Centerra Regional Pond 1	1,147,015	1,147,015	-	-	10,892	1,136,123
21	Centerra Parkway Traffic Signals	815,399	815,399	-	-	6,055	809,344
22	Parcel 205	125,000	125,000	-	-	7,597	117,403
	<b>Totals</b>	<b>61,464,184</b>	<b>59,865,146</b>	<b>-</b>	<b>(1,599,038)</b>	<b>42,249,212</b>	<b>17,615,934</b>

**Anticipated Project Funds Available\*\*:** 4,224,475

\*This document is intended for planning purposes only, please see the 2024 Adopted Budgets for District approved and appropriated funds\*

**Centerra Metropolitan District  
Capital Fund Summary - Detail  
As of February 22, 2024**

	A	B	C	D	E	F	G	H
	Approved Project Budget	Approved Contract Amounts	Other Projected Costs	Estimated Project Total (B+C)	Change in Estimated Project Total From Prior Report Incr/(Decr)	Projected Over/(Under) Project Budget (D-A)	Total Expenditures 1/31/2024	Estimated Remaining Project Costs (D-G)
<b>(1)</b> <b>General Capital</b>								
District Planning/Engineering Mgmt	20,000	20,000	0	20,000	0	0	688	19,313
District Management	29,920	29,920	0	29,920	0	0	3,320	26,600
District Engineering	100,000	50,335	49,665	100,000	0	0	0	100,000
	149,920	100,255	49,665	149,920	0	0	4,008	145,913
<b>(2)</b> <b>Project: Savanna 2nd Kendall Pkwy Phase 2</b>								
Indirect Project Costs	597,871	597,871	(44,880)	552,991	0	(44,880)	552,991	0
Direct Project Costs	4,906,498	4,918,715	0	4,918,715	0	12,217	4,918,715	0
Contingency	0	0	0	0	0	0	0	0
Warranty/Maintenance	46,571	0	30,000	30,000	0	(16,571)	0	30,000
	5,550,940	5,516,586	(14,880)	5,501,706	0	(49,234)	5,471,706	30,000
<b>(3)</b> <b>Project: Northwest Arterial Roads Phase 2</b> <b>(Boyd Lake Ave north of Carrie and</b> <b>Kendall Pkwy west of Main St)</b>								
Indirect Project Costs	689,326	663,461	0	663,461	0	(25,865)	660,220	3,241
Direct Project Costs	4,753,295	4,695,685	0	4,695,685	0	(57,610)	4,642,911	52,774
Contingency	77,816	0	0	0	0	(77,816)	0	0
Warranty/Maintenance	88,381	0	1,695	1,695	0	(86,686)	0	1,695
	5,608,818	5,359,146	1,695	5,360,841	0	(247,977)	5,303,131	57,710
<b>(4)</b> <b>Project: Meyers Group 5th Subdivision</b>								
Indirect Project Costs	324,628	343,490	7,588	351,078	0	26,450	334,449	16,629
Direct Project Costs	1,215,400	1,289,460	0	1,289,460	0	74,060	1,258,121	31,340
Contingency	121,540	0	15,029	15,029	0	(106,511)	0	15,029
Warranty/Maintenance	24,308	0	4,561	4,561	0	(19,747)	0	4,561
	1,685,876	1,632,950	27,178	1,660,128	0	(25,748)	1,592,570	67,558
<b>(5)</b> <b>Project: Savanna 5th Subdivision</b>								
Indirect Project Costs	196,846	205,663	0	205,663	0	8,817	176,248	29,415
Direct Project Costs	1,618,818	1,675,272	56,981	1,732,253	0	113,435	1,687,349	44,904
Contingency	160,732	0	0	0	0	(160,732)	0	0
Warranty/Maintenance	32,376	0	0	0	0	(32,376)	0	0
	2,008,772	1,880,935	56,981	1,937,916	0	(70,856)	1,863,597	74,319

\*This document is intended for planning purposes only, please see the 2024 Adopted Budgets for District approved and appropriated funds\*

**Centerra Metropolitan District  
Capital Fund Summary - Detail  
As of February 22, 2024**

	A Approved Project Budget	B Approved Contract Amounts	C Other Projected Costs	D Estimated Project Total (B+C)	E Change in Estimated Project Total From Prior Report Incr/(Decr)	F Projected Over/(Under) Project Budget (D-A)	G Total Expenditures 1/31/2024	H Estimated Remaining Project Costs (D-G)
(6) <u>Project: Boyd Lake Ave South</u>								
Indirect Project Costs	1,239,901	1,315,644	0	1,315,644	0	75,743	1,290,587	25,057
Direct Project Costs	6,517,224	6,528,246	0	6,528,246	0	11,022	6,525,284	2,962
Contingency	155,754	0	0	0	0	(155,754)	0	0
Warranty/Maintenance	122,380	0	100,000	100,000	0	(22,380)	0	100,000
	8,035,259	7,843,890	100,000	7,943,890	0	(91,369)	7,815,871	128,019
(7) <u>Project: Boyd Lake Ave North Landscaping (Trapper to North)</u>								
Indirect Project Costs	49,472	41,682	6,610	48,292	0	(1,180)	44,480	3,812
Direct Project Costs	359,433	403,077	0	403,077	0	43,644	403,077	0
Contingency	32,912	0	0	0	0	(32,912)	0	0
Warranty/Maintenance	10,000	0	448	448	0	(9,552)	0	448
	451,817	444,759	7,058	451,817	0	0	447,557	4,260
(8) <u>Project: Parcel 301</u>								
Indirect Project Costs	537,014	458,411	0	458,411	0	(78,603)	445,850	12,561
Direct Project Costs	2,161,842	1,906,285	21,690	1,927,975	0	(233,867)	1,900,864	27,111
Contingency	213,315	0	0	0	0	(213,315)	0	0
Warranty/Maintenance	42,663	0	42,663	42,663	0	0	0	42,663
	2,954,834	2,364,696	64,353	2,429,049	0	(525,785)	2,346,714	82,335
(9) <u>Project: Parcel 504 Phase II</u>								
Indirect Project Costs	279,026	304,905	0	304,905	0	25,879	285,305	19,600
Direct Project Costs	2,528,194	2,774,598	26,248	2,800,846	(409)	272,652	2,729,117	71,729
Contingency	303,979	0	5,448	5,448	409	(298,531)	0	5,448
Warranty/Maintenance	48,110	0	48,110	48,110	0	0	0	48,110
	3,159,309	3,079,503	79,806	3,159,309	0	0	3,014,422	144,887
(10) <u>Project: Parcel 504 Phase III</u>								
Indirect Project Costs	525,000	536,931	0	536,931	0	11,931	475,557	61,374
	525,000	536,931	0	536,931	0	11,931	475,557	61,374
(11) <u>Project: Kendall Parkway /I-25 Underpass</u>								
CDOT Contributions	6,000,000	6,000,000	0	6,000,000	0	0	6,000,000	0
2020 CDOT Enhancements Contribution	2,723,296	2,123,296	(598,628)	1,524,668	0	(1,198,628)	0	1,524,668
I-25 and HWY 34 Landscape Improvements	0	0	598,628	598,628	0	598,628	297,684	300,944
Underpass Study	42,900	42,900	0	42,900	0	0	42,900	0
	8,766,196	8,166,196	0	8,166,196	0	(600,000)	6,340,584	1,825,612
(12) <u>Project: Kendall Parkway Underpass/Bus Stop Enhancements</u>								
Indirect Project Costs	718,876	730,911	0	730,911	71,635	12,035	562,727	168,184
Direct Project Costs	2,451,250	2,126,661	0	2,126,661	0	(324,589)	451,381	1,675,280
Contingency	0	0	270,021	270,021	(71,635)	270,021	0	270,021
Warranty/Maintenance	0	0	42,533	42,533	0	42,533	0	42,533
	3,170,126	2,857,572	312,554	3,170,126	0	0	1,014,108	2,156,018

**Centerra Metropolitan District  
Capital Fund Summary - Detail  
As of February 22, 2024**

	A Approved Project Budget	B Approved Contract Amounts	C Other Projected Costs	D Estimated Project Total (B+C)	E Change in Estimated Project Total From Prior Report Incr/(Decr)	F Projected Over/(Under) Project Budget (D-A)	G Total Expenditures 1/31/2024	H Estimated Remaining Project Costs (D-G)
(13) <u>Project: Boyd Lake Avenue and Kendall Parkway Landscaping</u>								
Indirect Project Costs	85,631	69,972	16,699	86,671	0	1,040	66,460	20,211
Direct Project Costs	1,283,333	1,323,584	0	1,323,584	0	40,251	1,323,584	0
Contingency	42,430	0	1,139	1,139	0	(41,291)	0	1,139
Warranty/Maintenance	0	0	0	0	0	0	0	0
	<b>1,411,394</b>	<b>1,393,556</b>	<b>17,838</b>	<b>1,411,394</b>	<b>0</b>	<b>0</b>	<b>1,390,044</b>	<b>21,350</b>
(14) <u>Project: The Lakes Residential Phase 9 (MNW 17th)</u>								
Cost Share Reimbursement	1,435,306	1,435,306	0	1,435,306	0	0	1,410,109	25,197
	<b>1,435,306</b>	<b>1,435,306</b>	<b>0</b>	<b>1,435,306</b>	<b>0</b>	<b>0</b>	<b>1,410,109</b>	<b>25,197</b>
(15) <u>Project: Kinston Metropolitan District</u>								
Cost Share Reimbursement	5,000,000	3,341,879	1,658,121	5,000,000	0	0	3,341,879	1,658,121
	<b>5,000,000</b>	<b>3,341,879</b>	<b>1,658,121</b>	<b>5,000,000</b>	<b>0</b>	<b>0</b>	<b>3,341,879</b>	<b>1,658,121</b>
(16) <u>Project: Precision on the Tracks</u>								
Indirect Project Costs	80,210	60,868	19,342	80,210	0	0	37,391	42,819
Direct Project Costs	251,639	190,397	62,782	253,179	0	1,540	177,214	75,965
Contingency	25,164	0	23,624	23,624	0	(1,540)	0	23,624
Warranty/Maintenance	5,033	0	5,033	5,033	0	0	0	5,033
	<b>362,046</b>	<b>251,265</b>	<b>110,781</b>	<b>362,046</b>	<b>0</b>	<b>0</b>	<b>214,606</b>	<b>147,440</b>
(17) <u>Project: Myers Subdivision Landscaping and Sidewalk</u>								
Indirect Project Costs	40,456	18,449	22,007	40,456	0	0	9,306	31,150
Direct Project Costs	66,424	46,822	19,602	66,424	0	0	0	66,424
Contingency	5,643	0	5,643	5,643	0	0	0	5,643
Warranty/Maintenance	1,129	0	1,129	1,129	0	0	0	1,129
	<b>113,652</b>	<b>65,271</b>	<b>48,381</b>	<b>113,652</b>	<b>0</b>	<b>0</b>	<b>9,306</b>	<b>104,346</b>
(18) <u>Project: Kendall Parkway Rocky Mtn. to Centerra Pkwy</u>								
Indirect Project Costs	260,120	376,584	0	376,584	116,464	116,464	153,083	223,501
Direct Project Costs	972,890	972,890	0	972,890	0	0	0	972,890
Contingency	547,533	0	431,069	431,069	(116,464)	(116,464)	0	431,069
Warranty/Maintenance	19,457	0	19,457	19,457	0	0	0	19,457
	<b>1,800,000</b>	<b>1,349,474</b>	<b>450,526</b>	<b>1,800,000</b>	<b>0</b>	<b>0</b>	<b>153,083</b>	<b>1,646,917</b>
(19) <u>Project: Millennium East 13th</u>								
Indirect Project Costs	1,022,779	374,410	100,000	474,410	(548,369)	(548,369)	15,817	458,593
Direct Project Costs	5,761,425	3,898,447	2,467,593	6,366,040	604,615	604,615	0	6,366,040
Contingency	288,072	0	231,826	231,826	(56,246)	(56,246)	0	231,826
Warranty/Maintenance	115,229	0	115,229	115,229	0	0	0	115,229
	<b>7,187,505</b>	<b>4,272,857</b>	<b>2,914,648</b>	<b>7,187,505</b>	<b>0</b>	<b>0</b>	<b>15,817</b>	<b>7,171,688</b>

**Centerra Metropolitan District  
Capital Fund Summary - Detail  
As of February 22, 2024**

	A Approved Project Budget	B Approved Contract Amounts	C Other Projected Costs	D Estimated Project Total (B+C)	E Change in Estimated Project Total From Prior Report Incr/(Decr)	F Projected Over/(Under) Project Budget (D-A)	G Total Expenditures 1/31/2024	H Estimated Remaining Project Costs (D-G)
(20) <u>Project: Centerra Regional Pond 1</u>								
Indirect Project Costs	130,678	111,376	20,800	132,176	1,498	1,498	10,892	121,284
Direct Project Costs	949,848	928,001	21,847	949,848	0	0	0	949,848
Contingency	47,492	0	45,994	45,994	(1,498)	(1,498)	0	45,994
Warranty/Maintenance	18,997	0	18,997	18,997	0	0	0	18,997
	<b>1,147,015</b>	<b>1,039,377</b>	<b>107,638</b>	<b>1,147,015</b>	<b>0</b>	<b>0</b>	<b>10,892</b>	<b>1,136,123</b>
(21) <u>Project: Centerra Parkway Traffic Signals</u>								
Indirect Project Costs	102,815	42,687	8,640	51,327	8,507	(51,488)	6,055	45,272
Direct Project Costs	665,967	725,962	0	725,962	0	59,995	0	725,962
Contingency	33,298	0	24,791	24,791	(8,507)	(8,507)	0	24,791
Warranty/Maintenance	13,319	0	13,319	13,319	0	0	0	13,319
	<b>815,399</b>	<b>768,649</b>	<b>46,750</b>	<b>815,399</b>	<b>0</b>	<b>0</b>	<b>6,055</b>	<b>809,344</b>
(22) <u>Project: Parcel 205</u>								
Indirect Project Costs	125,000	74,475	50,525	125,000	0	0	7,597	117,403
Direct Project Costs	0	0	0	0	0	0	0	0
Contingency	0	0	0	0	0	0	0	0
Warranty/Maintenance	0	0	0	0	0	0	0	0
	<b>125,000</b>	<b>74,475</b>	<b>50,525</b>	<b>125,000</b>	<b>0</b>	<b>0</b>	<b>7,597</b>	<b>117,403</b>
<b>Grand Totals</b>	<b>61,464,184</b>	<b>53,775,528</b>	<b>6,089,618</b>	<b>59,865,146</b>	<b>0</b>	<b>(1,599,038)</b>	<b>42,249,212</b>	<b>17,615,934</b>

**Bond/Cash Funds Available \$ 21,840,409**  
**Estimated Remaining Project Costs\*: (17,615,934)**  
**Anticipated Project Funds Available\*\*: 4,224,475**

\* Remaining costs include uncontracted costs of \$6,089,618.

\*\* Funding of \$4,224,475 is available for reported projects.

\$10,314,093 is available for contracting. (\$21,840,409 in available cash less remaining contracted costs of \$11,526,316.)

**CENTERRA METROPOLITAN DISTRICT- CAPITAL NEEDS FOR COMMITTED AND PRIORITY PROJECTS**  
3/20/2024

**CASH AVAILABLE (2/22/24 CFS) \$ 21,840,409**

LESS: COMMITTED PROJECTS: (Remaining to be spent)	CFS #	Estimated Remaining Project Spend	PM-Recommended Savings/Deferrals	Recommended Remaining Spend (District PM)	Project Amendment Notes
<b>TIER 1: PROJECTS WITHIN CAPITAL FUNDS SUMMARY (APPROPRIATED/BUDGETED)</b>					
General Capital Projects	1	145,913	\$ -	\$ 145,913	
Savanna 2nd, Kendall Pkwy Phase 2 (Rocky to Main St)	2	30,000	\$ -	\$ 30,000	
Northwest Arterials PH2 (Boyd North & Kendall W)	3	57,710	\$ -	\$ 57,710	
Meyers Group 5th Subdivision (Auto Dealer)	4	67,558	\$ -	\$ 67,558	
Savannah 5th Subdivision	5	74,319	\$ -	\$ 74,319	
Boyd Lake Ave South (US34 to GLIC and 15th St RAB)	6	128,019	\$ -	\$ 128,019	
Boyd Lake Avenue North Landscaping (Trapper to North Boundary)	7	4,260	\$ -	\$ 4,260	
Parcel 301	8	82,335	\$ -	\$ 82,335	
Parcel 504 Phase II Design + Construction	9	144,887	\$ -	\$ 144,887	
504 Phase III (Resort 55- Land South of Railway Flats)	10	61,374	\$ -	\$ 61,374	
Kendall Parkway/I-25 Underpass Contributions to CDOT	11	1,825,612	\$ -	\$ 1,825,612	
I-25 CDOT Bus Transit Enhancements- Design Only	12	2,156,018	\$ -	\$ 2,156,018	
Boyd Lake Avenue and Kendall Parkway Landscaping	13	21,350	\$ -	\$ 21,350	
The Lakes Residential Phase 9 (within CMD Boundaries)	14	25,197	\$ -	\$ 25,197	
Kinston Residential Phase 1 (Within CMD Boundaries)	15	1,658,121	\$ -	\$ 1,658,121	
Precision on the Tracks Design (Myers Group Sub Treelawn)	16	147,440	\$ -	\$ 147,440	
Myers Subdivision Landscaping and Sidewalk	17	104,346	\$ -	\$ 104,346	
Kendall Parkway, Rocky Mnt to Centerra Parkway	18	1,646,917	\$ -	\$ 1,646,917	
Millennium East 13th Subdivision	19	7,171,688	\$ -	\$ 7,171,688	
Centerra Regional Pond 1	20	1,136,123	\$ -	\$ 1,136,123	
Centerra Parkway Traffic Signals	21	809,344	\$ -	\$ 809,344	
Parcel 205- Kendall Parkway and Utility Improvements	22	117,403	\$ -	\$ 117,403	
		-	\$ -	\$ -	
<b>AVAILABLE BALANCE AFTER BUDGETED CFS PROJECTS</b>		<b>\$4,224,475</b>		<b>\$4,224,475</b>	

TIER 2: PRIORITY PROJECTS - DEVELOPER (BUSINESS PLAN) PROJECTION OR PRIORITY PROJECT	Remaining Project Spend	Anticipated Project Appropriation Date	Recommended Remaining Spend (District PM)	Cumulative Balance, Tier 1 & 2 Projects**
Kendall Parkway/Boyd (Lakes) Landscaping- 2022/2023	\$ 600,000	6/15/2024	\$ 600,000	\$3,624,475
Myers Subdivision- Public Landscaping and Sidewalk (New Auto Dealer), Construction	\$ 66,348	7/15/2024	\$ 66,348	\$3,558,127
Parcel 504 Phase III Construction (Resort 55 MF)	\$ 2,177,948	9/15/2024	\$ 2,177,948	\$1,380,179
Parcel 205 Construction Costs	\$ 1,375,000	10/15/2024	\$ 1,375,000	\$5,179

**CASH BALANCE AFTER CFS +TIER 2 PROJECTS \$5,179**

DISCLAIMER: This document is intended for planning purposes only, please see the 2023/2024 Adopted Budgets for District approved and appropriated funds .

\*\* Negative cumulative balances within Tier 1 or Tier 2 projects do not reflect any current shortfall for the district, and only identify intended priority and costs of upcoming projects.

## LOT DEVELOPMENT AGREEMENT Kinston

THIS LOT DEVELOPMENT AGREEMENT (this “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the “Effective Date”), by and between CENTERRA EAST DEVELOPMENT, INC., a Delaware corporation (“Developer”), [\_\_\_\_\_, a \_\_\_\_\_], (“Builder”), and CENTERRA METROPOLITAN DISTRICT NO. 1 (“Metropolitan District”). Developer, Builder and the Metropolitan District are sometimes individually referred to as a “Party” and collectively referred to as the “Parties.”

### RECITALS

A. Developer is the developer of a mixed-use project commonly known as “Centerra” (the “Project”), located in the City of Loveland (the “City”), County of Larimer (the “County”), State of Colorado. Developer intends to develop a portion of Centerra as a master planned residential community known as “Kinston”, and which may also be referred to herein as the “Development”.

B. Prior to the execution of this Agreement, Developer, as seller, and Builder, as purchaser, entered into that certain Contract for Purchase and Sale of Real Estate, dated as of February 9, 2024 (the “Purchase Agreement”) with respect to the purchase and sale of 50 platted but unfinished single family detached residential lots that are approximately 45.5 feet wide and 110 feet deep (the “45.5’ Lots”), 32 platted but unfinished single family detached residential lots that are approximately 50.5 feet wide and 110 feet deep (the “50.5’ Lots”), and 31 platted but unfinished single family detached residential lots that are approximately 60.5 feet wide and 110 feet deep (the “60.5’ Lots”), as more particularly described on **Exhibit A-1** attached hereto (such 45.5’ Lots, 50.5’ Lots and 60.5’ Lots hereinafter referred to individually as a “Lot” and collectively as the “Lots”) within the Development.

C. Pursuant to the Purchase Agreement, Developer and Builder agreed to enter into this Agreement, pursuant to which the Developer and the Metropolitan District will each construct certain infrastructure improvements serving the Development (“Development Improvements”). The portion of the Development Improvements listed in **Exhibit B** designated as (i) “public infrastructure improvements” are referred to herein as the “Public Improvements”, and (ii) “private infrastructure improvements” are referred to herein as the “Private Improvements”. The Public Improvements and the Private Improvements are hereinafter sometimes referred to as the “Improvements”. All other Development Improvements (other than the Improvements) have been or are being constructed pursuant to one or more lot development agreements, or similar agreements, by and among Developer, Builder, Metropolitan District and certain other homebuilders who have acquired (or who will acquire) lots from Developer within the Development. The (1) Civil Construction Plans - Millennium East Thirteenth Subdivision, approved by the City of Loveland on November 10, 2022, (2) the Civil Construction Plans Traffic Signals on Centerra Blvd at Kinston Parkway and Elk River Drive, approved by the City of Loveland on July 19, 2023, and (3) the Civil Construction Plans Parcel A-1 Millennium Additions Centerra Regional Pond One Interim Improvements, approved by the City of Loveland on February 15, 2023, are hereinafter referred to as the “Plans”.



D. Pursuant to the terms of the Purchase Agreement, Builder has elected to pay a portion of the total consideration for such Lots in certified United States funds, by wire transfer or other immediately available U.S. federal funds (“Good Funds”) at the closing thereunder (“Closing”) to Developer, with a portion of the total consideration set forth on Builder’s counterpart signature page attached hereto (“Builder’s Total Share”) to be paid by Builder in deferred installments as the Improvements are completed, which obligation shall be secured by a Builder Letter of Credit (as hereinafter defined), all as more fully set forth in Section 6 below.

E. The Parties now desire to enter into this Agreement in order to set forth the terms and conditions under which the Improvements will be constructed by Developer and/or the Metropolitan District and provide for the payment of the cost of installation of the Improvements, together with such other matters as are set forth hereinafter.

## AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and Builder agree as follows:

1. Incorporation of Recitals. The Parties hereby acknowledge and agree to the Recitals set forth above, which are incorporated herein by this reference.

2. Construction Activities by Constructing Parties. The Parties acknowledge and agree that Developer and the Metropolitan District shall construct, or cause to be constructed, the Improvements in the manner set forth hereinafter. For purposes of this Agreement, references to the “Constructing Party(ies)” shall mean and refer to Developer with respect to the Private Improvements, and the Metropolitan District with respect to the Public Improvements. The Metropolitan District has informed the other Parties that, as of the Effective Date, the Metropolitan District has appropriated sufficient funds to satisfy its financial obligations under this Agreement and it has and will continue to comply with all terms and conditions of applicable law as required to perform in accordance with the terms of this Agreement.

3. Responsibilities of Constructing Parties.

3.1 Generally. Constructing Parties shall coordinate, administer and oversee (a) the preparation and filing of all applications, filings, submittals, plans and specifications, budgets, timetables and other documents pertaining to construction and installation of the Improvements, (b) the construction and installation of the Improvements, and (c) the initial and final construction acceptance of the Improvements by all applicable Approving Authorities (as hereinafter defined). Constructing Parties will engage or cause to be engaged contractors and subcontractors who will be responsible for the construction of the Improvements, and suppliers who will be responsible for supplying materials and equipment in connection with the construction of the Improvements (collectively, “Service Provider(s)”), pursuant to the Contracts (as hereinafter defined).

3.2 Comply with Legal Requirements. Constructing Parties shall comply with all terms and conditions of applicable law in performing their obligations under this Agreement. Constructing Parties shall promptly provide to Builder copies of all notices filed by

Constructing Parties with the City and all other applicable governmental or quasi-governmental entities or agencies (collectively, the “Approving Authorities”) and utility providers, related to the Improvements and shall, within three business days of receipt thereof, provide notice to Builder (together with copies of all notices received by Constructing Parties) of any notice received by Constructing Parties alleging any failure to comply with any applicable laws, ordinances, rules, regulations, or lawful orders of the Approving Authorities and utility providers bearing on the construction of the Improvements.

3.3 Bonds and Assurances. Constructing Parties shall provide to all applicable Approving Authorities any bonds, assurance agreements, or other financial assurances required with respect to construction of the Improvements. Upon Final Completion (as defined in Section 4.5) of the Improvements, Constructing Parties shall provide, or cause to be provided, to all Approving Authorities all warranties, bonds and other financial assurances required to obtain permits for and the final acceptance and approval of the Improvements, including, without limitation, all assurances necessary for the Approving Authorities to issue to Builder, upon proper application and payment of fees therefor by Builder, a building permit for the construction of homes on the Lots, and after due and proper completion thereof in accordance with all applicable laws, rules regulations, codes and ordinances, a certificate of occupancy therefor. Builder shall take all commercially reasonable actions and execute all documents reasonably requested by Constructing Parties (at no out-of-pocket cost or liability to Builder) to allow Constructing Parties to obtain releases of all such warranties, bonds, and other financial assurances upon final acceptance of the Improvements by the Approving Authorities.

3.4 Taxes, Fees and Permits. Constructing Parties or the Service Providers shall pay all applicable sales, use, and other similar taxes pertaining to the Improvements, and shall secure and pay for all approvals, easements, assessments, charges, permits and governmental fees, licenses and inspections necessary for proper completion of the Improvements, subject to the terms of the Purchase Agreement. In any event, Constructing Parties and the Service Providers shall not defer the payment of any use taxes, permits or fees pertaining to the Improvements.

3.5 Dedications. Constructing Parties shall timely make all conveyances and dedications of the Improvements if and as required by the Approving Authorities, free and clear of all liens and encumbrances by the Service Providers.

3.6 Indemnity. From and after the Effective Date of this Agreement, Developer shall indemnify, defend and hold harmless Builder and its shareholders, directors, officers, managers, members, partners, employees, affiliates, successors and assigns for, from and against all claims, demands, liabilities, losses, damages (exclusive of special, consequential or punitive damages), costs and expenses, including, but not limited to, court costs and reasonable attorneys’ fees, arising out of Constructing Parties’ gross negligence or willful misconduct on or pertaining to the Lots. Developer’s obligations under this Section shall survive the termination or expiration of this Agreement.

3.7 Insurance. Constructing Parties shall procure and maintain the insurance described in Exhibit C attached hereto; provided, however, if Builder is Lennar Colorado, LLC (but not its successors or assigns) and becomes a Substitute Constructing Party, it may elect to self-insure the required coverages, unless otherwise required by law.

#### 4. Construction of Improvements.

4.1 Plans and Specifications. The Plans have previously been approved by the applicable Approving Authorities and applicable utility providers, to the extent approved by utility providers. If Constructing Parties elect to amend the Plans in a manner that will result in a Material Change (defined below), then Constructing Parties shall provide written notice of the Material Change (a “Notice of Material Change”) to Builder. The Notice of Material Change shall describe the modification to the Plans requested by the applicable Constructing Party. Builder shall have five business days after receipt of the Notice of Material Change to provide written notice to the applicable Constructing Party if it objects to the proposed Material Change (a “Notice of Material Change Objection”), which shall describe revisions to the Material Change that would render it acceptable to Builder. If Builder fails to give a timely Notice of Material Change Objection to the applicable Constructing Party, the Material Change shall be deemed approved by Builder. If the Constructing Party performs any Material Change without first providing Builder with a Notice of Material Change, or after receiving a Notice of Material Change Objection, which objection has not been resolved in accordance with the following provisions, then the Constructing Party shall assume responsibility for the cost of correcting any such change, as well as the time impacts for making such correction. Within five business days after delivery to the applicable Constructing Party of a Notice of Material Change Objection, said Constructing Party and Builder shall meet to approve or reject the Material Change. If the Constructing Party and Builder cannot reach an acceptable resolution regarding the Notice of Material Change Objection, the dispute shall be resolved pursuant to the arbitration provision set forth in Section 7.6 below. For purposes of this Section 4.1, a “Material Change” shall consist of the following changes to the Plans:

4.1.1 Reduction of the total number of Lots.

4.1.2 Reduction of the minimum unrestricted building envelope size of a Lot such that Builder is not permitted to build a home on such Lot based on Builder’s home plans previously approved by Developer for the Development.

4.1.3 Material adverse impact on the ability to serve basements with gravity flow sanitary sewer service (and underdrains, if any identified on the Plans), on the Lots.

4.1.4 Changes to the grading plans and/or drainage pattern on any of the Lots that would result in Builder being required to construct a retaining wall not related to a walk-out basement.

4.1.5 Changes to the grading plans on any Lots that would result in an overlot grading condition occurring on any Lot where the rear property line is more than five percent (5%) higher or more than ten percent (10%) lower than the front property line of such Lot.

4.1.6 Changes that materially increase the cost to construct or complete Builder work on the Lots, including, without limitation the residences.

4.1.7 Changes greater than 0.2’ to the top of the foundation elevation for any of the Lots or modification greater than 0.2’ to common or shared top of foundation elevations identified for attached product.

4.1.8 A material delay, including, without limitation, the timing of availability of building permits or certificates of occupancy related to the Lots.

4.2 Construction Standard. Constructing Parties shall cause the Improvements to be constructed in accordance with the Construction Standard and shall obtain preliminary and final acceptance thereof by all Approving Authorities and applicable utility providers, to the extent provided by utility providers. As used herein, the term “Construction Standard” means (i) construction and installation in a good, workmanlike manner, and (ii) in substantial conformity with (A) the Plans (as may be modified pursuant to the terms hereof), (B) the Subdivision Development Agreement by and among the Developer, the City, and the Metropolitan District recorded in the real property records of the County on November 21, 2022 at Reception No. 20220068116 (the “SDA”), (C) the applicable requirements of the Approving Authorities, and (D) the “Finished Lot Standard” set forth on Exhibit D attached hereto. Builder acknowledges and agrees that the “Finished Lot Standard” does not include, and Constructing Parties will not be performing, any grading work on the Lots beyond that shown in the grading plan contained in the Plans. Builder shall be solely responsible for any additional grading work on the Lots beyond that reflected in the Plans, including any over-excavation work determined to be necessary by Builder in its sole discretion in connection with Builder’s plans to construct residences on the Lots (the “Builder Over-Ex Work”). By its execution of this Agreement, Builder is notifying the Parties hereto that it likely will perform Builder Over-Ex Work. The Construction Schedule (as hereinafter defined) shall include a completion date for Builder’s Over-Ex Work (the “Over-Ex Completion Date”). Subject to an Uncontrollable Event (as hereinafter defined), Builder shall complete its Builder Over-Ex Work on or before the Over-Ex Completion Date, or determine in its sole discretion on or before such date that no further Builder Over-Ex Work is required, and upon completion or such determination, shall deliver to Developer written notice of the same. If Builder has failed to complete its Builder Over-Ex Work or determine that no further Builder Over-Ex Work is required by the Over-Ex Completion Date, Builder shall be in default, and Constructing Parties shall send a written notice of such default, in which event Builder shall have an additional 30 days following such notice to complete the same. If Builder has failed to complete its Builder Over-Ex Work or determine that no further Builder Over-Ex Work is required by the Over-Ex Completion Date, as extended, then each Constructing Party shall proceed to complete the Improvements without further delay, and without any liability to Builder for any increased costs that Builder may incur by having to complete its Builder Over-Ex Work at a later date. If Constructing Parties have to do any additional work as a result of any Builder Over-Ex Work not being timely completed, then Builder shall be responsible to reimburse Constructing Parties for their actual, out of pocket, additional costs resulting directly from such default, as evidenced by third party invoices or change orders, including but not limited to, regrading costs necessary to permit Constructing Parties to complete the Improvements. Builder and Constructing Parties shall cooperate with each other to ensure the least amount of conflict between the activities being conducted by Constructing Parties and Builder to complete the Improvements and Builder’s completion of the Builder Over-Ex Work. Such cooperation may, at the sole discretion of the applicable Parties, include obtaining bids from one or more soils contractors and coordinating the Builder Over-Ex Work and other grading work with one or more soils contractors.

4.3 Contracts for Work. Constructing Parties or affiliates and contractors of Constructing Parties shall contract for all of the work and materials comprising the Improvements.

Constructing Parties shall have the right to bid, pursue, negotiate, agree to and execute contracts and agreements with Service Providers for the work and materials comprising the Improvements (each a “Contract” and collectively, the “Contracts”), as the applicable Constructing Party deems necessary or appropriate in its commercially reasonable discretion; provided that the requirements set forth in (i) Exhibit E-1, with respect to the Metropolitan District, and (ii) Exhibit E-2, with respect to the Developer, have been met. Constructing Parties may update and modify the Contracts on their own initiative or as part of negotiations with the Service Providers, provided that (i) any such update or modifications shall not materially adversely impact the applicable Construction Schedule or the rights, obligations, costs, or remedies of Builder hereunder or with respect to the Improvements, and (ii) each Contract shall comply with the requirements set forth in Exhibit E-1 and Exhibit E-2 hereto, as applicable. Upon receipt of written request from Builder, Constructing Parties shall deliver a copy of each Contract to Builder within five business days after receipt of the written request.

4.4 Commencement and Completion Dates. Constructing Parties shall cause construction of the Improvements to be commenced and completed as follows:

4.4.1 Commencement; Construction Schedule; Completion. Subject to an Uncontrollable Event, the applicable Constructing Party or Substitute Constructing Party (as hereinafter defined) shall commence and complete each component of the Improvements in accordance with the construction schedule set forth on Exhibit F attached hereto (the “Construction Schedule”), and shall act with due diligence to cause Final Completion of the Improvements to occur on or before the deadline therefor as set forth in the Construction Schedule (the “Final Completion Deadline”). Notwithstanding the foregoing, in the event that the Substitute Constructing Party takes over the construction of any portion of the Improvements as contemplated by Section 4.6 below, or the Construction Schedule, as applicable (including any milestone or delivery dates set forth therein) shall be equitably adjusted to provide the Substitute Constructing Party a reasonable amount of additional time to achieve Final Completion of the Improvements.

4.4.2 Force Majeure. Notwithstanding any contrary provision of this Agreement, the completion dates and all interim milestones (if any) set forth on the Construction Schedule, the Final Completion Deadlines, and the time for performance of other obligations of Constructing Parties under the Construction Schedule or this Agreement shall be extended by a period of time equal to any period that such performance or progress in construction of the Improvements is delayed due to any of the following: (i) any Dispute (as hereinafter defined); (ii) delays by Builder in completing its Builder Over-Ex Work that adversely impact the ability of Constructing Parties to complete grading work or any portion of the Improvements; (iii) failure of Builder to act; (iv) failure of or delay in any Approving Authority to act; or (v) pandemic, closures mandated by governmental authorities, strike, riot, act of war, act of terrorism, act of violence, unseasonable or intemperate weather, act of God, or any other act, occurrence or non-occurrence beyond the reasonable control of Constructing Parties, including but not limited to a delay in the installation of dry utilities, landscaping and detached walks, notice of which has been provided to Builder within 30 days after the conclusion of the occurrence thereof (each, an “Uncontrollable Event”). Notwithstanding the foregoing, delay caused by a failure to pay amounts owed by a Constructing Party or Substitute Constructing Party under this Agreement or that are otherwise due and payable by such party relating to this Agreement or the Improvements, including, without limitation, amounts owed to Service Providers, shall not

constitute an Uncontrollable Event, unless such delay is caused by the failure of Builder to timely perform its obligations under this Agreement.

#### 4.5 Final Completion.

4.5.1 Definition of Final Completion. “Final Completion” of the Improvements (or applicable component thereof) shall be deemed to have occurred when all of the following have occurred with respect to the Improvements (or applicable component thereof):

(a) Constructing Parties have completed or corrected all punchlist items provided by the Approving Authorities and Builder (if applicable) affecting the Improvements (or applicable component thereof) in accordance with Section 4.5.2 below, and all warranty security required by the applicable Approving Authority has been posted;

(b) The Improvements (or applicable component thereof) shall comply with the Construction Standard, including satisfaction of the Finished Lot Standard. In all events, the Improvements shall be sufficiently complete so that Builder is not precluded from obtaining from the Approving Authorities either building permits or certificates of occupancy for homes constructed, or to be constructed, on any Lots solely as a result of the Improvements (or applicable component thereof) not being complete;

(c) Any Improvements (or applicable component thereof) that are intended to be dedicated to an Approving Authority shall have been inspected and preliminarily accepted by the applicable Approving Authority (subject to completion of any final punchlist items provided by an Approving Authority and the Government Warranty Period (as defined below)); and

(d) No mechanics’ or materialmen’s liens or notices of claim shall have then been filed against the Lots with respect to the Improvements (except to the extent that any such liens or claims have been released or bonded-over in accordance with applicable law) and unconditional final lien or claim waivers have been obtained from the Service Providers that constructed the Improvements (or applicable portion thereof); provided, however, that a conditional final lien or claim waiver shall suffice if the Constructing Parties can demonstrate with reasonable documentation that final payment has been made to the Service Providers in the amount set forth on such final conditional lien or claim waiver. Notwithstanding the foregoing, in the event that a verified statement of claim is filed by any Service Providers pursuant to C.R.S. § 38-26-107, this Section 4.5.1(d) will be deemed satisfied if the Constructing Parties can reasonably demonstrate compliance with either: (i) the withholding requirements of C.R.S. § 38-26-107(2) or (3), as applicable; (ii) the failure of the claimant to commence an action within ninety days following the date fixed for final settlement as published; or (iii) the approval of a substitute corporate surety bond or any other undertaking that may be acceptable to a judge of the district court of the county where the contract is being performed or of the county where the office in which the verified statement of claim is located.

#### 4.5.2 Inspection.

(a) Notice to Builder. The applicable Constructing Party shall notify Builder prior to Final Completion of the Improvements (or applicable component thereof), with the date(s) and time(s) the Approving Authorities will inspect such Improvements (or applicable component thereof). Within 10 business days after receipt by Builder of such notice from the Constructing Party, Constructing Party and Builder shall jointly inspect the Improvements (or applicable component thereof) and produce a punchlist (“Builder Punchlist”); provided, however, that such punchlist may only include incomplete or defective items shown as incomplete or defective on the Lot Turnover Checklist attached hereto as Exhibit G, and Builder may only object to items affecting the Lots. If the Parties are unable to agree upon a punchlist within five days after the joint inspection described above, then any dispute related to such punchlist shall be submitted to arbitration in accordance with Section 7.6 below. Builder shall have the right to be present at all inspections by the Approving Authorities. Constructing Party shall provide Builder with copies of any inspection reports or punchlists received from the Approving Authorities in connection with the inspection of the Improvements, and the applicable Constructing Party shall be responsible to correct punchlist items from the Approving Authorities and items set forth on the Builder Punchlist. If an Approving Authority grants preliminary approval to any of the Improvements that it will accept for maintenance, it shall conclusively be presumed that such Improvement was completed in accordance with the Construction Standard, subject to completion of the Builder Punchlist and the punchlist items provided by any Approving Authority, and a subsequent determination during the Government Warranty Period that the Improvements were not completed in accordance with the Construction Standard.

(b) Correction of Punchlist Items. The applicable Constructing Party shall cause any punchlist items to be corrected within the time required by the City or other applicable Approving Authorities, or such shorter time as may be required pursuant to the applicable Construction Schedule.

(c) Interim Inspections. Upon reasonable prior notice, Builder shall have the right to inspect the construction of the Improvements; provided, however, such inspection shall be (i) at the sole risk of Builder, (ii) such inspection shall be non-invasive and shall be performed in a manner that does not interfere with or result in a delay in the construction of the Improvements, and (iii) Builder shall indemnify the applicable Constructing Party for any damage resulting from Builder’s inspection.

(d) Removal of Equipment and Maintenance of the Property. Each Constructing Party shall keep the Lots and the adjacent area reasonably free from accumulation of waste materials and rubbish caused by such Constructing Party’s operations under this Agreement. Following Final Completion of the Improvements, each Constructing Party shall remove from the applicable Lots all remaining waste materials, rubbish, and any tools, construction equipment, machinery and surplus materials.

#### 4.6 Self-Help Remedy.

4.6.1 Notice of Default. If a Constructing Party: (a) breaches its obligation under this Agreement to complete or cause the completion of any Improvement in

accordance with the SDA, Plans, or the Finished Lot Standard (as applicable), or the applicable Construction Schedule (as extended by any Uncontrollable Event); (b) otherwise breaches any material obligation under this Agreement; (c) fails to comply with any material provision of its Contracts with Service Providers beyond any applicable express notice or cure periods; or (d) files a petition for relief in bankruptcy or makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due (each a “Bankruptcy Event”), then Builder may deliver written notice of the breach to such Constructing Party (a “Notice of Default”). Each of the events set forth in Subsections (a) through (d) inclusive of the preceding sentence shall be herein referred to as a “Constructing Party Default.” For any Constructing Party Default other than a Bankruptcy Event, the Constructing Party shall have 30 days after Constructing Party’s receipt of the Notice of Default from Builder to cure the Constructing Party Default (the “Cure Period”); provided, however, if the nature of the Constructing Party Default is such that it cannot reasonably be cured within 30 days, the Cure Period shall be deemed extended for a reasonable period of time (not to exceed an additional 60 days) so long as Constructing Party commenced in good faith and with due diligence to cause such Constructing Party Default to be remedied. If Constructing Party does not cause the cure of the Constructing Party Default within the Cure Period (as may be extended pursuant to the preceding sentence, and subject to Uncontrollable Events), or if a Bankruptcy Event occurs (either, an “Event of Default”), then Builder, as its sole remedy, may assume and take over the construction of the applicable Improvements by providing written notice to the applicable Constructing Party of its election (the “Assumption Notice”), in which event, Builder shall thereafter be referred to as the substitute constructing party (“Substitute Constructing Party”). The Substitute Constructing Party shall be entitled to an administrative fee in an amount equal to 5% of the remaining Costs (as hereinafter defined) actually paid, which administrative fee shall be included in Cost Overruns (as hereinafter defined) and shall be paid in connection with each Draw Request (as hereinafter defined), and the applicable Construction Schedule (including any milestone or delivery dates set forth therein) shall be equitably adjusted to provide the Substitute Constructing Party a reasonable amount of additional time to achieve Final Completion of the applicable Improvements following the Event of Default by Constructing Party. Substitute Constructing Party shall not be responsible for the payment of any Cost Overruns, which Cost Overruns shall remain the sole responsibility of Developer, except for change orders signed by Substitute Constructing Party that increases the construction cost over the Budgeted Costs solely for the purpose of accommodating a plan change requested by Substitute Constructing Party. If Builder does not deliver an Assumption Notice on or before 60 days after expiration of the Cure Period, as may be extended pursuant to the provisions of this Section (the “Assumption Notice Delivery Deadline”), then Builder shall be deemed to have waived its rights pursuant to this Section 4.6 with respect to the applicable Event of Default by Constructing Party. Notwithstanding the foregoing, the Parties agree that the City is an express third party beneficiary of this Agreement solely with respect to matters arising out of or in connection the City’s delivery of an Assumption Notice and its subsequent designation as a Substitute Constructing Party. Therefore, if Builder fails to timely deliver an Assumption Notice as described above, the City (as a third party beneficiary) shall have the right to elect to assume and take over the construction of the Improvements (and thereby become Substitute Constructing Party) as if it were a signatory to this Agreement, by delivering an Assumption Notice to the Constructing Party and Builder within 90 days following the Assumption Notice Delivery Deadline. If the City fails to timely deliver an Assumption Notice as described above, the City



shall be deemed to have waived its rights pursuant to this Section 4.6 with respect to the applicable Event of Default by Constructing Party.

4.6.2 Assumption Right. Subject to any rights of the Approving Authorities and applicable utility providers, if Builder or the City delivers an Assumption Notice, then: (i) Constructing Parties shall cooperate to allow the Substitute Constructing Party to take over and complete the applicable incomplete Improvements, including the execution and delivery to the Substitute Constructing Party of such agreements, documents or instruments as may be reasonably necessary to assign to the Substitute Constructing Party all Contracts with third parties pertaining to the applicable Improvements; (ii) the Substitute Constructing Party shall be entitled to draw on the applicable Private Funds or Public Funds (both as hereinafter defined) to pay the Costs and shall have all rights of the Constructing Party to perform the work required hereby; (iii) except for change orders signed by Substitute Constructing Party that increases the construction cost over the Budgeted Costs solely for the purpose of accommodating a plan change requested by Substitute Constructing Party, Developer shall remain responsible for all Cost Overruns, which shall include Builder's cost to obtain bonds and financial assurances with respect to its role as Substitute Constructing Party; (iv) Constructing Party (including Developer, if applicable) shall be relieved of all further obligations under this Agreement with respect to the completion of the incomplete Improvements subsequent to the date of the Assumption Notice, except that Constructing Party (including Developer, if applicable) shall be responsible for any defect or other claim relating to the work performed in constructing the applicable Improvements prior to the date of such assumption, and shall remain responsible for any bond or financial assurances, if required by the City, for such work performed prior to the date of the Assumption Notice, and the cost of warranty work related to the Improvements installed by such Constructing Party; (v) Constructing Party (including Developer, if applicable) shall remain liable for (a) its acts, omissions, negligence and willful misconduct, (b) any indemnification obligations specified herein incurred prior to the date of such assumption, and (c) Cost Overruns; and (vi) Substitute Constructing Party shall at all times operate in good faith to minimize any Cost Overruns. If following the delivery of an Assumption Notice, there is an uncured Event of Default by the Substitute Constructing Party, then the City (as a third-party beneficiary), shall have the right to assume and take over the construction of the applicable Improvements (and thereby become the Substitute Constructing Party) by delivering an Assumption Notice to Developer, Substitute Constructing Party, and Builder, following the same process set forth above in Section 4.6.1.

4.6.3 Role of Substitute Constructing Party; Liability. In the event the Substitute Constructing Party takes over the construction of the Improvements, or any portion thereof, as contemplated by Section 4.6 of this Agreement, Substitute Constructing Party's assumption of the construction of such Improvements is done only as an accommodation to the Parties and that, except as expressly set forth in this Agreement, Substitute Constructing Party shall have no responsibility, liability or obligation with respect to (and the Parties hereby covenant not to sue Substitute Constructing Party for, and hereby release the Substitute Constructing Party from, all liability and claims relating to or arising from) the design, engineering, construction or completion of the Improvements, any damage, loss or injury to any of the Parties or otherwise related to any action or inaction of Substitute Constructing Party in connection with this Agreement, or any defect in the materials or workmanship pertaining to the Improvements, except for any Substitute Constructing Party Covered Liability (as hereinafter defined). "Substitute

Constructing Party Covered Liability” means the following matters for which Substitute Constructing Party shall be liable to the other Parties in connection with its performance as Substitute Constructing Party hereunder: (a) any failure to deposit any portion of the Substitute Constructing Party’s Builder’s Total Share into the Builder’s Initial Escrow Account (as hereinafter defined) as required by the provisions of this Agreement, (b) any damage, loss or injury arising from the willful misconduct, bad faith, recklessness or illegal acts of the Substitute Constructing Party in performing or failing to perform hereunder, or (c) damage, loss or injury arising from the fraudulent conduct of Substitute Constructing Party; provided, however, that any damages to which the other Parties shall be entitled to recover for any Substitute Constructing Party Covered Liability shall be limited to out-of-pocket losses, costs, damages or expenses, and the other Parties shall not be entitled to recover from the Substitute Constructing Party any punitive or consequential losses, costs, damages or expenses or lost profits as a result of, or in connection with, any Substitute Constructing Party Covered Liability. Substitute Constructing Party makes no representation or warranty with respect to the Improvements, and shall have no liability for any defect in the materials or workmanship pertaining thereto. If Substitute Constructing Party takes over the construction of the Improvements, or any portion thereof, the Parties hereby agree to look solely to the contractors engaged to construct and complete the Improvements for any contractual violation, indemnity, warranty or guarantee relating to the Improvements. Upon completion of the applicable Improvements, Substitute Constructing Party shall assign to the Parties (to the extent assignable and without any representation or warranty whatsoever), on a non-exclusive basis, the contractual rights received from the contractors that construct or complete any portion of the Improvements, including, without limitation, all rights related to any indemnities, guaranties and/or warranties received from such contractors.

#### 4.7 Warranty Periods

4.7.1 Government Warranty Period. The Approving Authorities may require a warranty period after the Final Completion of the Improvements (a “Government Warranty Period”). In the event defects in the Improvements to which a governmental warranty applies become apparent during the Government Warranty Period, then the applicable Constructing Party shall coordinate the repairs with the applicable Approving Authorities and cause the Service Provider(s) who performed the work or supplied the materials in which the defect(s) appear to complete such repairs or, if such Service Providers fail to correct such defects, otherwise cause such defects to be repaired to the satisfaction of the Approving Authorities. Any costs and expenses incurred in connection with any repairs or warranty work performed during the Government Warranty Period (including, but not limited to, any costs or expenses incurred to enforce any warranties against any Service Providers) shall be borne by the Metropolitan District or Developer, as applicable, and shall be included in Cost Overruns, unless such defect or damage was caused by Builder or its contractors, subcontractors, employees, or agents, in which event Builder shall pay all such costs and expenses to the extent caused by Builder or its contractors, subcontractors, employees, or agents.

4.7.2 Non-Government Warranty Period. Developer warrants (“Non-Government Warranty”) to Builder that each Improvement to which a Governmental Warranty Period does not apply shall have been constructed in accordance with the Construction Standard, as applicable, for two years after the date of Final Completion of the Improvement (the “Non-

Government Warranty Period”). If Builder delivers written notice to Developer of breach of the Non-Government Warranty during the Non-Government Warranty Period, then Developer shall coordinate the corrections with Builder and cause the Service Provider(s) who performed the applicable work or supplied the applicable materials to complete such corrections or, if such Service Providers fail to make such corrections, otherwise cause such corrections to be made to the reasonable satisfaction of Builder. Any costs and expenses incurred in connection with a breach of the Non-Government Warranty shall be borne by the Metropolitan District or Developer, as applicable (including, but not limited to, any costs or expenses incurred to enforce any warranties against Service Providers), and shall be included in Cost Overruns, unless such breach was caused by Builder or its contractors, subcontractors, employees, or agents, in which event Builder shall pay all such costs and expenses to the extent caused by Builder or its contractors, subcontractors, employees, or agents.

4.8 License for Construction. Builder hereby grants to Constructing Parties or the Substitute Constructing Party (as applicable) and the Service Providers a temporary, non-exclusive license to enter upon the Lots as reasonably necessary for the installation of the Improvements, rough grading of the Lots, stubbing of utilities and/or the performance of each Constructing Party’s (or Substitute Constructing Party’s, as applicable) responsibilities under this Agreement. Builder further agrees to grant such separate written rights of entry and/or licenses in or upon the Lots as may be reasonably necessary for installation of the Improvements, rough grading of the Lots and stubbing of utilities. No rights of entry and/or licenses over any Lots may be exercised in any fashion that would unreasonably interfere with or adversely impact development of the Lots by Builder. The rights under this Section or any instruments delivered hereunder shall terminate in their entirety upon the expiration of all Government Warranty Periods, and shall terminate with respect to any individual Lot upon the completion of the construction of a residence thereon as evidenced by the issuance of a certificate of occupancy for the residence on such Lot.

4.9 Liens. Constructing Parties shall pay, cause to be paid when legally due, bond-over, or otherwise obtain the release of all liens and claims for labor and/or materials furnished to the Lots pursuant to this Agreement to prevent, remove, or release the filing or recording by any third party of any mechanics’, materialmen’s or other liens, or any attachments, levies or garnishments (collectively “Liens”) affecting title to the Improvements. Constructing Parties will, within 20 days after written notice from Builder or after Constructing Parties otherwise become aware of such Liens, commence such legal action as necessary to terminate the effect of any Liens by filing or recording an appropriate release, bond, or other undertaking, if so requested by Builder. If Builder requests a Constructing Party to file and obtain any such release or bond and Constructing Party fails to commence such legal action as necessary to do so within 20 days of such request, Builder may obtain such bond or secure such release on behalf of Constructing Party, and Constructing Party shall reimburse Builder for all costs and fees related thereto within 10 days after receipt of written request therefor.

## 5. Costs of Improvements.

5.1 Definition of Costs. As used herein, the term “Costs” shall mean all hard and soft costs incurred in connection with the design (including all engineering expenses), construction and installation of the Improvements, including, but not limited to, costs of labor,

materials and suppliers, engineering, design and consultant fees and costs, blue printing services, construction staking, demolition, soil amendments or compaction, any processing, plan check or permit fees for the Improvements, engineering services required to obtain a permit for and complete the Improvements, costs of compliance with all applicable laws, costs of insurance required by this Agreement, costs of any financial assurances, any corrections, changes or additions to work required by the Approving Authorities or necessitated by site conditions, municipal, state and county taxes imposed in connection with construction of the Improvements, any warranty work, and any other costs incurred in connection with the performance of the obligations of Constructing Parties or the Substitute Constructing Party (as applicable) hereunder to complete the Improvements.

5.2 Budget for Improvements. Attached hereto as **Exhibit H** is an estimate of the Costs to construct the Improvements which includes a 10% contingency line item, and distinguishes between the Private Improvements and the Public Improvements (the “Improvements Budget”). The Costs identified on the Improvements Budget are referred to herein as “Budgeted Costs.” The Budgeted Costs and any Costs incurred in excess of the overall Budgeted Costs (“Cost Overruns”) shall be funded pursuant to Section 6 below. In the event Builder delivers an Assumption Notice and the Metropolitan District or Developer, as applicable, fails to pay the Cost Overruns, Builder shall have all remedies available to it at law or in equity to collect such Cost Overruns as set forth in Section 21.

5.3 Accounting. Each Constructing Party shall keep good and accurate books and records in sufficient detail to allow the Costs to be calculated, which books and records shall be made available for review (upon reasonable prior written notice) by the Parties. Within 30 days after Final Completion of the Improvements, the Constructing Parties shall deliver to Builder a reasonably detailed final accounting of the Costs of the Improvements.

5.4 Progress Reports. Developer shall, with each Draw Request, and no less frequently than once per month, provide Builder with a progress report setting forth the amount of Private Funds and Public Funds expended to date, a list of Improvements completed to date, an estimate of the remaining cost to complete the Improvements, and an estimate by a project manager of Developer of the status of overall completion of the Improvements, in such form as Developer deems reasonably appropriate (“Progress Report”).

## 6. Payment of Costs.

### 6.1 Background and Escrow.

6.1.1 Background. The Parties acknowledge that, pursuant to the terms of the Purchase Agreement, Builder has elected to deposit with Escrow Agent a Builder Letter of Credit to secure Builder’s payment of a portion of the total consideration for the Lots payable in variable monthly installments in the amount of Builder’s Total Share of each applicable Draw Request to be applied toward the payment of Budgeted Costs as directed by Builder within five business days after receipt of such Draw Request, as more particularly described in Section 6.1.3 below.

The term “Pro Rata Share” as used in this Agreement, may mean either Builder’s proportionate share of the Budgeted Costs for the Public Improvements (“Public Pro Rata Share”) or Builder’s proportionate share of the Budgeted Costs for the Private Improvements (“Private Pro Rata Share”) as set forth on Builder’s counterpart signature page attached hereto. In no event shall Builder have any responsibility for payment of any Costs in excess of Builder’s Total Share.

6.1.2 Public Funds Escrow Account. Concurrently with the execution of this Agreement, the Metropolitan District will deposit in escrow with Fidelity National Title Insurance Company, 1401 17th Street, Suite 480, Denver, CO 80202, Attention: Teresa Hott (“Escrow Agent”) Good Funds in the amount of \$6,631,390.00 (the “Public Funds”) for payment of all Costs designated as “public” in the Improvements Budget. Escrow Agent will hold all funds provided to Escrow Agent pursuant to this Section 6.1.2 in an interest-bearing escrow account (“Public Funds Escrow Account”) in accordance with the terms of this Agreement. The Metropolitan District shall direct the Escrow Agent to pay all District Progress Payments (as hereinafter defined) for any Draw Request (for Public Improvements) from the Public Funds Escrow Account pursuant to Section 6.2 below.

6.1.3 Builder Letter of Credit; Builder’s Escrow Account. Concurrently with the execution of this Agreement, Builder will deposit into escrow with Escrow Agent a letter of credit in the amount of Builder’s Total Share (the “Builder Letter of Credit”) which shall be placed into escrow with Escrow Agent to secure payment of Builder’s Total Share (“Builder’s Escrow Account”) in accordance with the terms of this Agreement. The Builder Letter of Credit shall, among other things: (a) name the Escrow Agent as the beneficiary; (b) have an initial expiration date of not less than 365 days after the date of its issuance and provide for automatic annual extensions; (c) provide that issuer will deliver a 60-day advance written notice to beneficiary (a “Termination Notice”) in the event issuer elects not to extend or elects to otherwise terminate the Builder Letter of Credit; (d) permit partial and full draws; (e) be issued by Fidelity Guaranty and Acceptance Corp., or, if not issued by Fidelity Guaranty and Acceptance Corp., a financial institution reasonably acceptable to Developer and the Metropolitan District; (f) allow presentation of drawings to be made by on site or overnight delivery; and (g) be acceptable to Developer in its reasonable discretion. The Builder Letter of Credit may provide that it may be reduced from time to time commensurate with Builder Progress Payments (as hereinafter defined) made by Builder. In the event the issuer of the Builder Letter of Credit delivers a Termination Notice, Builder shall, no later than 45 days prior to the expiration date of the Builder Letter of Credit, deliver written notice (a “Replacement Notice”) to Developer and Escrow Agent electing whether to replace the Builder Letter of Credit with either (i) a replacement Builder Letter of Credit in the amount of the then unpaid portion of Builder’s Total Share (the “Remaining Builder’s Share”), or (ii) Good Funds in the amount of the Remaining Builder’s Share (“Replacement Funds”). Any Replacement Notice shall be accompanied by an accounting of Builder’s calculation of its Remaining Builder’s Share. Builder shall have until the date that is 30 days prior to the expiration date of the Builder Letter of Credit to deliver to Escrow Agent either the replacement Builder Letter of Credit or Replacement Funds. If Builder fails to deliver to Escrow Agent either the replacement Builder Letter of Credit or Replacement Funds by such date, Escrow Agent shall draw on the existing Builder Letter of Credit in the amount of the Remaining Builder’s Share. Builder may also elect, at any time, to replace its Builder Letter of Credit with Replacement Funds, provided Builder has delivered written notice to Developer and Escrow Agent of its intent to do

so at least 15 days in advance of delivery of the Replacement Funds, which notice shall include an accounting of Builder's Remaining Builder's Share. Following Escrow Agent's receipt of either a replacement Builder Letter of Credit or Replacement Funds from Builder, the Builder Letter of Credit that is being replaced shall be returned to Builder, together with an executed reduction certificate reducing the face amount thereof to \$0.00.

#### 6.1.4 Cost Overruns.

(a) Private Improvements. If at any time it is determined that there will be any Cost Overruns for the Private Improvements, Developer shall without undue delay deposit additional Good Funds with the Escrow Agent in the amount of such Cost Overruns, and shall notify Builder of the same. Developer shall be responsible for the prompt payment of all Cost Overruns in connection with the Private Improvements (so that the costs of the Private Improvements are timely paid) and in no event shall Builder have any responsibility for such Cost Overruns unless such Cost Overruns occur as a result of Builder's breach of its obligations under this Agreement.

(b) Public Improvements. In the event of any Cost Overruns for the Public Improvements, the Metropolitan District shall take all actions that are necessary, if any, to appropriate additional funds and deposit such additional funds into the Public Funds Escrow Account as necessary to pay such Cost Overruns, and shall notify Builder of the same. The Metropolitan District shall be responsible for the prompt payment of all Cost Overruns in connection with the Public Improvements (so that the costs of the Public Improvements are timely paid) and in no event shall Builder have any responsibility for such Cost Overruns unless such Cost Overruns occur as a result of Builder's breach of its obligations under this Agreement. In the event that the Metropolitan District fails to deposit the necessary additional funds for such Cost Overruns, then the Developer, without prejudice to or waiver of its rights hereunder, shall deposit such additional funds for the payment of such Cost Overruns.

6.1.5 Draw Upon Builder Letter of Credit. If Builder fails to timely make a Builder Progress Payment in accordance with Section 6.2 below, and such Builder Progress Payment remains unpaid for three days following Builder's receipt of notice from Escrow Agent that such amount is delinquent, Escrow Agent shall draw upon the Builder Letter of Credit to be used for the payment of the Draw Request. If the Improvements are completed for less than the Budgeted Costs, Builder shall nevertheless pay the final installment of its Builder's Total Share pursuant to Section 6.3.3 below, failing which Escrow Agent shall draw upon the Builder Letter of Credit for such final installment.

6.1.6 Developer Responsible for Metropolitan District Shortfall. To the extent that the Public Funds in the Public Funds Escrow Account are insufficient to pay a Draw Request, and if the Metropolitan District fails to deposit an amount equal to such deficit in the Public Funds Escrow Account within five business days following the issuance of a Draw Request, then Developer shall be responsible for the prompt payment of such deficiency.

6.1.7 Escrow Agreement. This Agreement shall constitute an escrow agreement and instructions to Escrow Agent and funds shall be disbursed and dealt with by Escrow Agent in strict accordance with this Agreement. Escrow Agent shall not be liable for any action

taken or omitted by it or by any Party to this Agreement, except for its own negligence, bad faith, recklessness or willful misconduct. Escrow Agent shall be entitled to rely upon advice of counsel concerning legal matters and upon any document or notice delivered to it hereunder which it believes to be genuine or to have been presented by a proper person. Escrow Agent shall be entitled to receive as compensation for its services hereunder the fees it normally charges customers for similar services, which fees will be part of the Costs. Escrow Agent shall provide the Parties with monthly account statements regarding the accounts held by it hereunder. In the event that Builder delivers an Objection Notice or Dispute Notice to Developer and/or the Metropolitan District, the parties shall resolve such Objection Notice or Dispute Notice, as applicable, in accordance with the process set forth in Section 6.2.5 or Section 7, respectively, and until such process has concluded, as evidenced by issuance of a final binding decision by the Arbitrator or Informal Arbitrator (each as hereinafter defined) pursuant to Section 7, Escrow Agent shall be prohibited from interpleading the Builder Letter of Credit. Further, the parties acknowledge that, regardless of the delivery of an Objection Notice or Dispute Notice, Builder shall remain obligated to deliver Builder Progress Payments pursuant to Section 6.2.3, and therefore, Escrow Agent shall remain obligated to draw upon the Builder Letter of Credit, if required pursuant to Section 6.1.5.

## 6.2 Draw Requests for Improvements.

6.2.1 Submission. Constructing Parties shall submit periodic draw requests for the Improvements (each a “Draw Request” and collectively, “Draw Requests”) not more often than once monthly that will allow Escrow Agent to timely disburse all amounts due and payable to either the Service Providers or to Developer, as applicable. Developer shall submit periodic Draw Requests for the Private Improvements to Escrow Agent, with a copy to Builder. The Metropolitan District shall submit periodic draw requests for the Public Improvements to Escrow Agent, with a copy to Builder. Draw Requests (for Public Improvements) will be in the form attached hereto as Exhibit I-1 and Draw Requests (for Private Improvements) will be in the form attached hereto as Exhibit I-2, and each such Draw Request must be accompanied by copies of (a) conditional lien waivers (conditional only on the payment of the amount due) from all Service Providers covered thereunder for the amounts to be paid, (b) invoices for all amounts sought to be paid, (c) to the extent not previously provided, unconditional lien waivers from all Service Providers paid from prior Draw Requests, (d) a Progress Report as of the date of the Draw Request; and (e) an engineer’s certificate in the form attached as Exhibit J that the Construction Standard has been satisfied for all work that is subject to the Draw Request.

6.2.2 Payment. Upon receipt of each Draw Request, Escrow Agent shall immediately obtain an owner’s and encumbrances report and notify the Parties in writing of any intervening liens or notice of liens that are discovered.

6.2.3 Builder Progress Payment. Within five business days of each Draw Request (i) for any Private Improvements, Builder shall deposit in Good Funds into the Builder’s Escrow Account with the Escrow Agent an amount equal to its Pro Rata Share of the amount of the applicable Draw Request (the “Private Funds”), up to \$1,108,909.00, and (ii) for any Public Improvements, Builder shall deposit in Good Funds into the Builder’s Escrow Account with Escrow Agent an amount equal to its Public Pro Rata Share of the amount of the applicable Draw Request (“Builder Public Portion”), in an amount not to exceed \$6,027,091.00 (each a “Builder Progress”).

Payment” and collectively, “Builder Progress Payments”). Upon receipt of a Builder Progress Payment, and provided that Builder has not delivered an Objection Notice pursuant to Section 6.2.5 in which event the provisions of such Section 6.2.5 shall apply, Escrow Agent shall disburse to Service Providers the Private Funds to pay each Draw Request (for Private Improvements) or to Developer if Developer previously paid the Service Provider for eligible and budgeted Private Improvements, and disburse to Developer the Builder Public Portion in the amount of each Draw Request (for Public Improvements), as applicable, and Escrow Agent shall process a reduction certificate to the Builder Letter of Credit in the amount of the Draw Request so paid.

6.2.4 District Progress Payment. For each Draw Request for Public Improvements, the Metropolitan District shall direct Escrow Agent to pay the Draw Request from the Public Funds Escrow Account (each a “District Progress Payment” and collectively, “District Progress Payments”) within five business days following receipt of such Draw Request. Any Builder Progress Payment and any District Progress Payment may be referred to herein individually or collectively as a “Progress Payment” and collectively as “Progress Payments”.

6.2.5 Objection. Builder may only object to a Draw Request in the event the documents required by Section 6.2.1 in conjunction with a Draw Request are incomplete, incorrect or do not support the amount requested. Builder shall deliver written notice specifying the basis for the objection and the amount disputed as a result of such objection (“Objection Notice”) to Escrow Agent and the applicable Constructing Party or the Substitute Constructing Party (as applicable) within five business days following receipt of such Draw Request. Any portion of a Draw Request that Builder does not disapprove in a timely delivered Objection Notice will be deemed approved. It shall be deemed that the documents were not properly delivered if the engineer’s certificate fails to confirm that the Construction Standard has been satisfied for all work that is the subject of the Draw Request or contains any exception with respect to the Construction Standard being satisfied. It shall further be deemed that the documents were not properly delivered if the engineer’s certificate states that the Progress Report reflects that the work for which the Draw Request has been submitted is overstated in terms of percentage of completion. If Escrow Agent and the applicable Constructing Party or the Substitute Constructing Party (as applicable) timely receive an Objection Notice, then, notwithstanding anything to the contrary contained herein, Escrow Agent shall not be authorized to disburse such disputed amount (but Escrow Agent shall be authorized to disburse all other amounts) unless and until Escrow Agent receives authorization to do so from Builder, or until Escrow Agent receives direction from an Arbitrator (as hereinafter defined). If Escrow Agent and Constructing Party or the Substitute Constructing Party (as applicable) timely receive an Objection Notice, then Builder and Constructing Party or the Substitute Constructing Party (as applicable) shall meet and in good faith attempt to resolve all objections and provide direction to Escrow Agent to disburse mutually-acceptable amounts to Service Providers. If all such objectionable item(s) cannot be resolved within the five business day period after receipt of an Objection Notice, then (a) Escrow Agent shall release that portion of each Draw Request to be paid from the Public Funds Escrow Account to allow the Metropolitan District to timely pay its Service Providers, and (b) following such release, any Party may submit the objectionable matter(s) to arbitration as provided in Section 7.6 below. The Parties acknowledge and agree that the Public Funds deposited by the Metropolitan District to the Public Funds Escrow Account are held in escrow on behalf of the Metropolitan District and are not funds contributed by the Builder, and that the purpose of subsection 6.2.5(a) above is to ensure that in no event shall any objection by Builder pursuant to this Section prevent the Metropolitan



District from timely meeting its payment obligations to its Service Providers pursuant to any contract entered into between the Metropolitan District and any Service Provider related to the Improvements. For purposes of clarity, delivery of an Objection Notice by Builder shall not relieve Builder of the obligation to make any Builder Progress Payment required pursuant to Section 6.2.3, and delivery of any Builder Progress Payment shall not constitute a waiver of Builder's right to deliver an Objection Notice pursuant to this Section.

6.3 Final Completion of the Improvements. Promptly, but in any event not more than 30 days, following Final Completion of the Improvements, as evidenced by an affidavit from Constructing Parties or the Substitute Constructing Party (as applicable) which is not disputed by the other Parties within five business days after receipt by the other Parties and Escrow Agent of such affidavit, and by delivery to the other Parties and Escrow Agent of (a) copies of the letter(s) of preliminary acceptance (or equivalent written approval) from the Approving Authorities and evidence that all warranty surety has been deposited by Developer (for the Private Improvements constructed by Developer), or by the Metropolitan District (for the Public Improvements constructed by the Metropolitan District) with the Approving Authorities, and (b) the "as-built" plans prepared in accordance with the applicable Approving Authorities' and applicable utility providers' requirements, if any:

6.3.1 Developer shall pay any remaining portion of the Cost Overruns for the Private Improvements, if any, and the Metropolitan District shall pay any remaining portion of the Cost Overruns for the Public Improvements, if any, to Escrow Agent;

6.3.2 Escrow Agent will pay any final Draw Request from the Public Funds Escrow Account or the Builder Progress Payments, as applicable, less any retainage required by the Contracts and identified by the Parties in writing and provided to Escrow Agent;

6.3.3 Unless Builder has delivered an Assumption Notice in accordance with the terms of Section 4.6, above, Escrow Agent will deliver to Developer all remaining Private Funds and will deliver to the Metropolitan District all remaining Public Funds. If the total of the Builder Progress Payments made by Builder as of the date of Final Completion (collectively the "Prior Builder Payments") is less than Builder's Total Share, then Builder shall, within 10 days following Final Completion, wire transfer or submit a check for the difference between Builder's Total Share and the Prior Builder Payments, and such funds shall be immediately disbursed by Escrow Agent to Developer; and

6.3.4 The Builder Letter of Credit will be returned to Builder, together with an executed reduction certificate reducing the face amount thereof to \$0.00, provided that Builder is not in default of its obligations under this Agreement.

7. Arbitration of Disputes. Any question, dispute, claim or controversy arising under or in connection with this Agreement on which the Parties cannot agree (a "Dispute") shall be resolved by mandatory arbitration in accordance with the Arbitration Rules for the Construction Industry of the American Arbitration Association currently in effect (the "Rules"), in accordance with and subject to the following provisions:

7.1 Dispute Notice. If any Party believes that a Dispute exists, it may notify the other Parties thereof, which notice (a “Dispute Notice”) shall identify the Dispute. As promptly as practicable, and in any event within 15 days following the delivery of the Dispute Notice, the Parties shall meet in an attempt to resolve the Dispute. If the Dispute cannot be resolved at that meeting, any Party may submit the Dispute to arbitration as hereinafter provided.

7.2 Appointment of Arbitrator. A single arbitrator at the Denver, Colorado office of the Judicial Arbitrator Group shall be the Arbitrator; provided, however, that the individual selected must be recognized in the Denver metropolitan area as having competence in the subject matter of the Dispute, and except as stated in Section 7.6 shall be admitted to practice law in the State of Colorado and shall be experienced in real estate and construction matters. If the affected Parties are unable to agree upon the Arbitrator, then, within 21 days after notice by any affected Party to the others, the affected Constructing Party(ies) shall appoint one Arbitrator at the Judicial Arbitrator Group and Builder shall appoint one Arbitrator at the Judicial Arbitrator, and the appointed arbitrators shall select one Arbitrator to hear the Dispute. The term “Arbitrator” as used herein shall mean and refer to the single arbitrator selected pursuant to this Section.

7.3 Conduct of Arbitration. All Parties having a claim relating to the same or substantially the same subject matter shall participate in the same arbitration proceeding to allow the resolution of all claims among all such Parties in a single proceeding. The arbitration proceeding shall be conducted in Denver, Colorado, or at such other location as shall be agreed to in writing by all affected Parties. The arbitration process shall generally be conducted by the designated Arbitrator in accordance with the Rules, but the Arbitrator shall have discretion to vary from those Rules in light of the nature or circumstances of any particular Dispute. In all events, unless waived by the affected Parties, the Arbitrator will conduct an arbitration hearing at which such Parties and their counsel shall be present and have the opportunity to present evidence and examine the evidence presented by the other Party(ies). The proceedings at the arbitration hearing shall, unless waived by the affected Parties, be conducted under oath and before a court reporter. The Parties shall cooperate in good faith to permit, and the Arbitrator shall render, a decision in the arbitration proceeding within 30 days following the appointment of the Arbitrator. The Parties shall also endeavor to submit a joint statement setting forth each Dispute to be submitted to arbitration, including a summary of each Party’s position on each Dispute. In addition, the Arbitrator shall require the non-prevailing Party(ies) to pay all reasonable costs and fees, including attorneys’ fees, of the prevailing Party(ies) and costs and fees of the Arbitrator.

7.4 Standards of Conduct. The Parties agree that with respect to all aspects of the arbitration process contained herein they will conduct themselves in a manner intended to assure the integrity and fairness of that process. To that end, if a Dispute is submitted to arbitration, the Parties agree that they will not contact or communicate with the Arbitrator who was appointed as arbitrator with respect to any Dispute either *ex parte* or outside of the contacts and communications contemplated by this Section 7, and the Parties further agree that they will cooperate in good faith in the production of documentary and testimonial evidence in a prompt and efficient manner to permit the review and evaluation thereof by the other Parties.

7.5 Decision. The decision of the Arbitrator with respect to any Dispute shall be final and binding on all Parties and not subject to appeal, in the absence of fraud, and the

prevailing Party(ies) may enforce the same by application for entry of judgment in any court of competent jurisdiction or by other procedures established by law.

7.6 Disputes Related to Material Changes, Draw Requests and Punchlist Items. Notwithstanding anything to the contrary herein, disputes related to Material Changes, the amount of any Draw Requests, or any punchlist item (“Expedited Disputes”) shall all be resolved by an independent, impartial third party qualified to resolve such disputes as determined by the Parties involved in the Expedited Dispute (“Informal Arbitrator”). If such Parties cannot agree on an Informal Arbitrator, then the Constructing Party(ies) involved shall select one registered engineer and Builder, shall select one registered engineer and the engineers so selected by such Parties shall promptly select an independent, impartial third party qualified to act as the Informal Arbitrator and resolve the Expedited Dispute. Within five business days after an involved Party delivers a Dispute Notice, the affected Constructing Party and Builder shall deliver to the Informal Arbitrator a written statement of how such Party believes the Expedited Dispute should be resolved, together with reasonable supporting documentation of such position (“Resolution Notice”). Within 10 business days after receipt of Resolution Notices from both such Parties, the Informal Arbitrator shall approve one of the Parties’ Resolution Notice and shall deliver written notice of such approval to each Party. The decision of the Informal Arbitrator shall be binding on all Parties with respect to the applicable Expedited Dispute. All Parties shall timely cooperate with the Informal Arbitrator in rendering his or her decision. The Party that is not the prevailing party in the resolution of the Expedited Dispute shall promptly pay the Informal Arbitrator’s fee and the prevailing Party’s fees and costs, including reasonable attorneys’ fees incurred in the resolution of any Expedited Dispute. The Parties acknowledge that there is a benefit to the Parties in having work done as expeditiously as possible and that there is a need for a streamlined method of making decisions described in this Section so that work is not delayed.

8. Progress Meetings. From and after the date of this Agreement and until Final Completion of the Improvements, the Parties shall cause their designated representatives to meet within five business days following a request from a Party regarding the status of construction of the Improvements, scheduling and coordination issues, engineering and design issues, and other similar issues. Any Party may change its designated representative under this Agreement at any time by written notice to the other Parties. The initial designated representative for each Party for the purpose of this Section shall be the individual listed on each Party’s respective signature page attached hereto.

9. Builder’s Stormwater Permit Responsibilities. Prior to Builder engaging in any construction activities upon the Lots, Builder shall obtain from the Colorado Department of Public Health, Water Quality Control Division, a Colorado Construction Stormwater Discharge Permit issued to Builder with respect to the Lots. No fewer than five business days prior to the initiation of construction activities by Builder on any of its Lots, Builder shall deliver a copy of at least one of the following documents to Developer:

9.1.1 Such valid Colorado Construction Stormwater Discharge Permit for the Lots;

9.1.2 A signed notice of reassignment of permit coverage (State of Colorado Form COR030000 or current equivalent), that transfers any pre-existing permit coverage for the Lots; or

9.1.3 A signed State of Colorado modification form to add the Lots if Builder has an existing site permit with the State of Colorado within the Development.

Builder shall also obtain from the City a Stormwater Quality Permit issued to Builder by the City for the Lots. Builder shall be responsible to obtain and maintain any State of Colorado dewatering permits if required for Builder's further construction within the Lots. If requested by Developer, Builder shall execute a Notice of Property Conveyance and Change in Responsibility for the Colorado Discharge Permit held by Kinston Metropolitan District No. 2, a quasi-municipal corporation and political subdivision of the State of Colorado, any of its affiliates, or the Metropolitan District with respect to the Lots (the "Permit Holder"). In all cases, Builder shall obtain from the Colorado Department of Public Health & Environment Water Quality Control Division, a Notice of Property Conveyance and Change in Responsibility on a form acceptable to the Colorado Department of Public Health & Environment Water Quality Control Division executed by Builder, for the Colorado Stormwater Discharge Permit held by the Permit Holder with respect to the Lots prior to any construction by Builder on the Lots.

9.2 Constructing Parties' Stormwater Permit responsibilities. The Constructing Parties shall obtain and comply with all necessary permits related to stormwater and erosion control from all Approving Authorities, in relation to the construction, repair, and maintenance of the Improvements.

9.3 Notices and Communications. All notices, statements, demands, requirements, approvals or other communications and documents ("Communications") required or permitted to be given, served, or delivered by or to any Party or any intended recipient under this Agreement shall be in writing and shall be given, if to the Constructing Parties, to the addresses set forth in this Section 9.3, and, if to Builder, to the address set forth on Builder's counterpart signature page attached hereto ("Notice Address"). Any Party entitled to receive notices hereunder may change the address and recipient for notice specified below by giving the other Party three business days' advance written notice of such change. Communications to a Party shall be deemed to have been duly given (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at the Notice Address for such Party; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at the Notice Address for such Party; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid, to the Notice Address specified for such Party. Communications may be sent as a courtesy via electronic mail message but doing so shall not constitute official notice pursuant to this Section, and failure to send a courtesy electronic mail message shall not otherwise impact a notice or other Communications provided under (i), (ii) or (iii) above. The Notice Address for each of the Constructing Parties is as follows:

To Developer:

Centerra East Development, Inc.  
 Attention: Keith Hurand, EVP, Master Planned Communities  
 2725 Rocky Mountain Avenue, Suite 200  
 Loveland, CO 80538  
 E-mail: keith.hurand@mcwhinney.com

with a copy to:

Centerra East Development, Inc.  
 Attention: SVP & General Counsel  
 1800 Wazee St., Suite 200  
 Denver, CO 80202  
 E-mail: [legalnotices@mcwhinney.com](mailto:legalnotices@mcwhinney.com)

with a copy to:

Brownstein Hyatt Farber Schreck, LLP  
 Attention: Gregory A. Vallin  
 675 15<sup>th</sup> Street, Suite 2900  
 Denver, CO 80202  
 E-mail: [gvallin@bhfs.com](mailto:gvallin@bhfs.com)

To Metropolitan District:

Centerra Metropolitan District No. 1  
 Attention: [\_\_\_\_\_], District Manager  
 550 W. Eisenhower Blvd.  
 Loveland, CO 80537  
 E-Mail: [\_\_\_\_\_]

with a copy to:

Icenogle Seaver Pogue, P.C.  
 Attention: Alan D. Pogue  
 4725 S. Monaco Street, Ste. 360  
 Denver, CO 80237  
 E-mail: [APogue@ISP-Law.com](mailto:APogue@ISP-Law.com)

To the City (as a third party beneficiary) with respect to notices under Section 4.6 only:

The City of Loveland  
 Attention: City Attorney, Assistant City Attorney, and City Manager  
 500 E. Third Street, Suite 330  
 Loveland, CO 80537  
 E-Mail: \_\_\_\_\_

To the Escrow Agent:

Fidelity National Title Insurance Company  
 1401 17th Street, Suite 480

Denver, CO 80202  
Attention: Teresa Hott  
E-Mail: \_\_\_\_\_

10. Attorneys' Fees. Except as provided in Section 7.6, should any action be brought in connection with this Agreement, including, without limitation, actions based on contract, tort or statute, the prevailing Party in such action shall be awarded all costs and expenses incurred in connection with such action, including reasonable attorneys' fees. The provisions of this Section shall survive the expiration or termination of this Agreement.

11. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

12. No Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement among the Parties hereto. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a Party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

13. Entire Agreement; Headings for Convenience Only; Not to be Construed Against Drafter; No Implied Waiver. This Agreement and all other written agreements among the Parties constitute the entire agreement among the Parties hereto pertaining to the subject matter hereof. No change or addition is to be made to this Agreement except by written amendment executed by Developer, Metropolitan District and Builder. The headings, captions and titles contained in this Agreement are intended for convenience of reference only and are of no meaning in the interpretation or effect of this Agreement. This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been initially drafted by one of the Parties or its counsel, since all Parties have contributed substantially and materially to the preparation hereof. No failure by a Party to insist upon the strict performance of any term, covenant or provision contained in this Agreement, no failure by a Party to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment owed to a Party during the continuance of any default by one of the other Parties, shall constitute a waiver of any such term, covenant or provision, or a waiver of any such right or remedy, or a waiver of any such default unless such waiver is made in writing by the Party to be bound thereby. Any waiver of a breach of a term or a condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default under this Agreement, from having all the force and effect of a default.

14. Governing Law. This Agreement is entered into in Colorado and shall be construed and interpreted under the law of the State of Colorado without giving effect to principles of conflicts of law which would result in the application of any law other than the law of the State of Colorado.

15. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement and shall not affect the enforceability of the remaining provisions of this Agreement.

16. Assignment; Binding Effect. No Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Parties, which consent may be withheld in any Party's sole and absolute discretion. Notwithstanding the foregoing, (i) Builder may assign, without consent, its rights under this Agreement to a Land Bank (as hereinafter defined) (a "Permitted Land Bank Assignment"), and (ii) such Land Bank may assign, without consent, its rights under this Agreement to Builder or an entity that controls, is controlled by or under common control with Builder (a "Builder Affiliate"), in each case upon 15 days' prior written notice to the other Parties along with documentation satisfactory to Developer to allow Developer confirm compliance with this Section. If following the occurrence of a Permitted Land Bank Assignment, Builder defaults under a Land Bank Agreement (defined below), entitling the Land Bank to transfer the Lots or any portion thereof to a third-party, the Land Bank shall have the right to assign its rights under this Agreement or any portion thereof to a Permitted Builder (defined below) without the other Parties' prior consent, provided that the Land Bank delivers written notice to the other Parties at least 15 days prior to such assignment, along with documentation satisfactory to Developer to allow Developer confirm compliance with this Section. Any assignee of a Party must agree in writing to be bound by the provisions of this Agreement and shall post adequate surety that conforms to the terms of this Agreement (*i.e.*, a new Builder Letter of Credit) to substitute for any surety previously posted by the Party assigning its rights and obligations under this Agreement. The surety of Builder will not be released until such assignee has posted adequate substitute surety that conforms to the terms of this Agreement, as described above. Any assignment or delegation by Builder or attempt to do so in violation of this Section shall be void and shall constitute an event of default hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. "Permitted Builder" means each of the following entities: (i) Taylor Morrison Home Corporation, (ii) Shea Homes Limited Partnership, (iii) Pulte Home Corporation, (iv) Tri Pointe Homes, Inc., (v) The New Home Company Inc., (vi) Brookfield Residential Properties Inc., (vii) KB Home, (viii) Richmond American Homes, (ix) any homebuilder that is actively constructing or selling homes in the Development at the time of a transfer to such homebuilder, and (x) any other homebuilder acceptable to Developer, in its sole and absolute discretion. "Land Bank" shall mean a third-party bona fide land banking organization that engages in the financing of real estate transactions for residential development of similar complexity as the Project that is acceptable to Developer in its reasonable discretion. "Land Bank Agreement" shall mean an option or similar agreement (or agreement related thereto) entered into by and between Builder (or a Builder Affiliate) and the Land Bank granting Builder (or such Builder Affiliate) the option to acquire the Lots from the Land Bank.

17. Counterparts; Copies of Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. This Agreement may be executed and delivered by facsimile or by electronic mail in portable document format (.pdf) or similar means and delivery of the signature page by such method will be deemed to have the same effect as if the original signature had been delivered to the other Party. Upon execution of this Agreement by Developer, Metropolitan District and Builder, Developer shall provide a fully executed copy of this Agreement to Builder for its records.

18. Time of the Essence. Time is of the essence for performance or satisfaction of all requirements, conditions, or other provisions of this Agreement, subject to any specific time extensions set forth herein.

19. Computation of Time Periods. All time periods referred to in this Agreement shall include all Saturdays, Sundays and holidays, unless the period of time specifies business days. If the date to perform any act or give a notice with respect to this Agreement shall fall on a Saturday, Sunday or national holiday, or other day that Escrow Agent is not open for business, the act or notice may be timely performed on the next succeeding day which is not a Saturday, Sunday or a national holiday, or other day that Escrow Agent is not open for business.

20. Number and Gender. When necessary for proper construction hereof, the singular of any word used herein shall include the plural, the plural shall include the singular and the use of any gender shall be applicable to all genders.

21. Remedies. In addition to any other rights and remedies under this Agreement, except with respect to Builder's exclusive remedy set forth in Section 4.6, above, if any Party is in default of any of its obligations under this Agreement beyond any applicable notice or cure periods, the other Parties may avail themselves to any rights and remedies available at law and equity, including the right to repair or cause the repair of any damages to Improvements, but may only recover their actual, out-of-pocket damages (excluding any incidental, consequential or punitive damages) incurred as a result of such default.

22. Jury Waiver. TO THE EXTENT PERMITTED BY LAW, THE PARTIES HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVE, RELINQUISH AND FOREVER FORGO THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THE PROVISIONS OF THIS AGREEMENT.

23. 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 hereof. In the event of any conflict between the terms set forth in this Agreement for any exhibit and the terms set forth in the agreed-upon exhibit, the terms of the agreed-upon exhibit shall control.

*[signature pages follow]*



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first set forth above.

DEVELOPER:

CENTERRA EAST DEVELOPMENT, INC. a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Designated Representative: Jim Niemczyk

METROPOLITAN DISTRICT:

CENTERRA METROPOLITAN DISTRICT NO. 1

By: \_\_\_\_\_  
Kim Perry, President

Designated Representative: Jim Niemczyk

[COUNTERPART SIGNATURE PAGES OF BUILDER ATTACHED HERETO]

\_\_\_\_\_

a \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Lots:

45.5' Lots:

Lots 8 – 12 inclusive, Block 4,  
Lots 1 – 10, inclusive, Block 5,  
Lots 1 – 11, inclusive, Block 6,  
Lots 1 – 3, inclusive, Block 7,  
Lots 1 – 12, inclusive, Lots 16 – 24, inclusive, Block 10,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of Colorado.

50.5' Lots:

Lots 1 – 7, inclusive, Block 4,  
Lots 4 – 8, inclusive, Block 7,  
Lots 1 – 4, inclusive, and Lots 7 – 11, inclusive, Block 8,  
Lots 1 – 4, inclusive, and Lots 11 – 14, inclusive, Block 9,  
Lots 13 – 15, inclusive, Block 10,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of Colorado.

60.5' Lots:

Lots 1 – 8 inclusive, Block 1,  
Lots 1 – 4, inclusive, Block 2,  
Lots 1 – 11, inclusive, Block 3,  
Lots 5 – 6, inclusive, Block 8,  
Lots 5 – 10, inclusive, Block 9,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of Colorado.

Builder's Total Share: \$7,136,000.00

Builder's Public Pro Rata Share: 90.89% (\$6,027,091.00)

Builder's Private Pro Rata Share: 100.00% (\$1,108,909.00)

Builder's Form of Payment of Builder's Total Share:

- Builder's Total Share to be delivered in Good Funds by Builder at Closing and deposited by Developer with Escrow Agent
- Builder's Total Share to be secured by Builder Letter of Credit delivered at Closing

Builder's Notice Address:

To Builder: Lennar Colorado, LLC  
 9193 Jamaica Street, 4<sup>th</sup> Floor  
 Englewood, CO 80112  
 Attention: Jack Beckwitt  
 E-mail: [jack.beckwitt@lennar.com](mailto:jack.beckwitt@lennar.com)

with a copy to:

Lennar Colorado, LLC  
 Attention: Shane Orr  
 9193 Jamaica Street, 4<sup>th</sup> Floor  
 Englewood, CO 80112  
 E-mail: [shane.orr@lennar.com](mailto:shane.orr@lennar.com)

Designated Representative: \_\_\_\_\_

ESCROW AGENT:

By signing below, the undersigned hereby accepts and approves of the provisions of Section 6 of this Lot Development Agreement.

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

List of Exhibits

Exhibit A:	Lots
Exhibit B:	Improvements
Exhibit C:	Required Insurance
Exhibit D:	Finished Lot Standard
Exhibit E-1:	Requirements for Public Contracts (Metropolitan District)
Exhibit E-2:	Requirements for Private Contracts (Developer)
Exhibit F:	Construction Schedule
Exhibit G:	Lot Turnover Checklist
Exhibit H:	Improvements Budget
Exhibit I-1:	Form of Draw Request for Public Improvements
Exhibit I-2:	Form of Draw Request for Private Improvements
Exhibit J:	Form of Engineer's Certificate

Exhibit A  
to  
Lot Development Agreement

**LOTS**

45.5' Lots:

Lots 8 – 12 inclusive, Block 4,  
Lots 1 – 10, inclusive, Block 5,  
Lots 1 – 11, inclusive, Block 6,  
Lots 1 – 3, inclusive, Block 7,  
Lots 1 – 12, inclusive, Lots 16 – 24, inclusive, Block 10,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of  
Colorado.

50.5' Lots:

Lots 1 – 7, inclusive, Block 4,  
Lots 4 – 8, inclusive, Block 7,  
Lots 1 – 4, inclusive, and Lots 7 – 11, inclusive, Block 8,  
Lots 1 – 4, inclusive, and Lots 11 – 14, inclusive, Block 9,  
Lots 13 – 15, inclusive, Block 10,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of  
Colorado.

60.5' Lots:

Lots 1 – 8 inclusive, Block 1,  
Lots 1 – 4, inclusive, Block 2,  
Lots 1 – 11, inclusive, Block 3,  
Lots 5 – 6, inclusive, Block 8,  
Lots 5 – 10, inclusive, Block 9,  
Millennium East Thirteenth Subdivision, City of Loveland, County of Larimer State of  
Colorado.

Exhibit B  
to  
Lot Development Agreement

**IMPROVEMENTS**

**Private Improvements to be constructed by Developer:**

Electric, gas, and telecommunications infrastructure necessary to serve the Lots.

**Public Improvements to be constructed by Metropolitan District:**

All public improvements listed on the following sheets in the Plans.

- Sheet Nos. 1, 2, 4, 6, 7, 8: Civil Construction Plans Traffic Signals on Centerra Blvd at Kinston Parkway and Elk River Drive.
- Sheet Nos. 1 – 24 inclusive: Civil Construction Plans Parcel A-1 Millennium Additions Centerra Regional Pond One Interim Improvements.
- Sheet Nos. 1 – 63 inclusive: L100, L201- L203, L300, L401 - L403, L500 - L503, IR201 – IR205: Civil Construction Plans Millennium East 13th Subdivision.



Exhibit C  
to  
Lot Development Agreement

**REQUIRED INSURANCE**

Constructing Parties or Substitute Constructing Party (as applicable) shall maintain the amounts and types of insurance described below and shall cause the Service Providers to maintain such coverages from insurance companies licensed to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and advertising injury, and Two Million Dollars (\$2,000,000.00) General Aggregate.

B. Automobile Liability Insurance for all motor vehicles operated by or for Constructing Party or Substitute Constructing Party, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each occurrence.

C. Workers Compensation Insurance for all employees of Constructing Party or Substitute Constructing Party as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).

D. With respect to Service Providers that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the Agreement and so long as the insurance is commercially reasonably available, for a period not less than the Government Warranty Period. The professional liability insurance required by this paragraph shall not contain any exclusions or limitations applicable to residential projects.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All liability insurance policies, except workers compensation insurance, shall be written on an occurrence basis.

2. All insurance policies required hereunder except Workers Compensation and Employers Liability shall: (i) name the Parties as "additional insureds" utilizing an ACORD form or equivalent acceptable to Constructing Party or Substitute Constructing Party (as applicable), excluding, however, insurance policies of Service Providers who provide professional services

whose insurance policies do not permit the designation of additional insureds; (ii) be issued by an insurer authorized in the State of Colorado; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least 30 days' prior written notice to the Parties. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the Parties.

3. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.

4. Service Providers shall provide Constructing Party or Substitute Constructing Party (as applicable) with certificates evidencing the insurance coverages required by this Exhibit in the certificate form described in Item 2 of this Exhibit, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Replacement certificates shall be sent to Constructing Party or Substitute Constructing Party (as applicable), as policies are renewed, replaced, or modified.

5. The foregoing insurance coverage must be maintained in force at all times during the construction of the Improvements.

Exhibit D  
to  
Lot Development Agreement

**FINISHED LOT STANDARD**

“Finished Lot Standard” means, without limitation, the following improvements on, to or with respect to the Lots, offsite in connection with the Lots, or in public streets or tracts in the locations as required by all Approving Authorities and utility providers, and substantially in accordance with the Plans so that each Lot is eligible for the issuance of a building permit therefore for the construction of Builder’s intended homes and thereafter the issuance of a certificate of occupancy after proper application and payment of fees therefor by Builder, and after the due and proper completion of such homes thereon, and all other work as specifically provided below:

- (a) overlot grading together with corner pins for each Lot installed in place, graded to match the specified lot drainage template within the Plans;
- (b) water and sanitary sewer mains and other required installations in connection therewith identified in the Plans, including required valve boxes and meter pits, substantially in accordance with the Plans approved by the Approving Authorities, together with appropriate markers;
- (c) storm sewer mains, inlets and other associated storm drainage improvements pertaining to the Lots in the public streets as shown on the Plans;
- (d) curb, gutter, asphalt, sidewalks, street striping, street signage, street lights, traffic signs and traffic signals (if any are required by the Approving Authorities), in the private and/or public streets as shown on the Plans, except that each Builder will be responsible for landscaping and irrigation in the street tree lawn areas located between the back of curb and sidewalk for any Lots acquired by Builder that are adjacent to such street tree lawn areas;
- (e) sanitary sewer service stubs connected to the foregoing sanitary sewer mains, installed into each respective Lot to under and extending past the location of the sidewalk on that Lot, together with appropriate markers of the ends of such stubs;
- (f) water service stubs connected to the foregoing water mains installed into each Lot to under and extending past the sidewalk on that Lot, together with appropriate markers of the ends of such stubs;
- (g) electric lines in an easement on or adjacent to all of the Lots;
- (h) gas lines installed in an easement on or adjacent to all of the Lots; and

(i) telephone and cable lines, and pedestals related to the same, to service all of the Lots installed in the public street adjacent to each Lot or in an easement on or adjacent to such Lot.

Exhibit E-1  
to  
Lot Development Agreement

**REQUIREMENTS FOR PUBLIC CONTRACTS (METROPOLITAN DISTRICT)**

All Contracts entered into between any Services Providers and the Metropolitan District shall:

- i. Allow for the automatic assignment, without need for further action, of all of the Metropolitan District's rights under the Contract (including, without limitation, the warranty and indemnity provisions thereof), on a non-exclusive basis, to [\_\_\_\_\_] ("Builder"), in the event that Builder provides written notice to the Metropolitan District of Builder's election to assume and take over the construction of the Improvements;
- ii. Identify Builder as an intended third-party beneficiary of the Contract;
- iii. Require the Service Provider to name Builder as an additional insured on all required insurance maintained by the Service Provider, except for Workers Compensation Insurance and Professional Liability Insurance;
- iv. Require the Service Providers to provide a warranty on materials and workmanship supplied by such Service Provider for a period coterminous with the warranty period required by the governmental authority to whom the Improvements will be dedicated, if applicable, but in no event less than one year from the date of Final Completion;
- v. Require the Service Provider to perform its work in accordance with the Construction Standard. The "Construction Standard" means: (i) construction and installation in a good, workmanlike manner, and (ii) in substantial conformity with the Contract documents, the applicable requirements of the governmental authority(ies) having jurisdiction over the Development and/or to whom the Improvements will be dedicated (as applicable), and the "Finished Lot Standard" set forth on Exhibit C to the LDA (if applicable);
- vi. Require the Service Provider to indemnify, defend, and hold harmless the Metropolitan District and Builder from all claims and causes of action arising from the negligent acts or omissions or intentional misconduct of the Service Provider or its employees or agents;
- vii. Require retainage in an amount in compliance with Section 24-91-103(1), C.R.S.;
- viii. Provide the Metropolitan District the right, but not the obligation, to pay subcontractors and suppliers of the Service Provider directly or by joint check (to the maximum extent allowable by law); and
- ix. Provide for no limitation on remedies against the Service Provider for a default except: (i) the prohibition of recovery of punitive damages; and (ii) the Contract may provide for the recovery of either consequential damages or liquidated damages for delays.

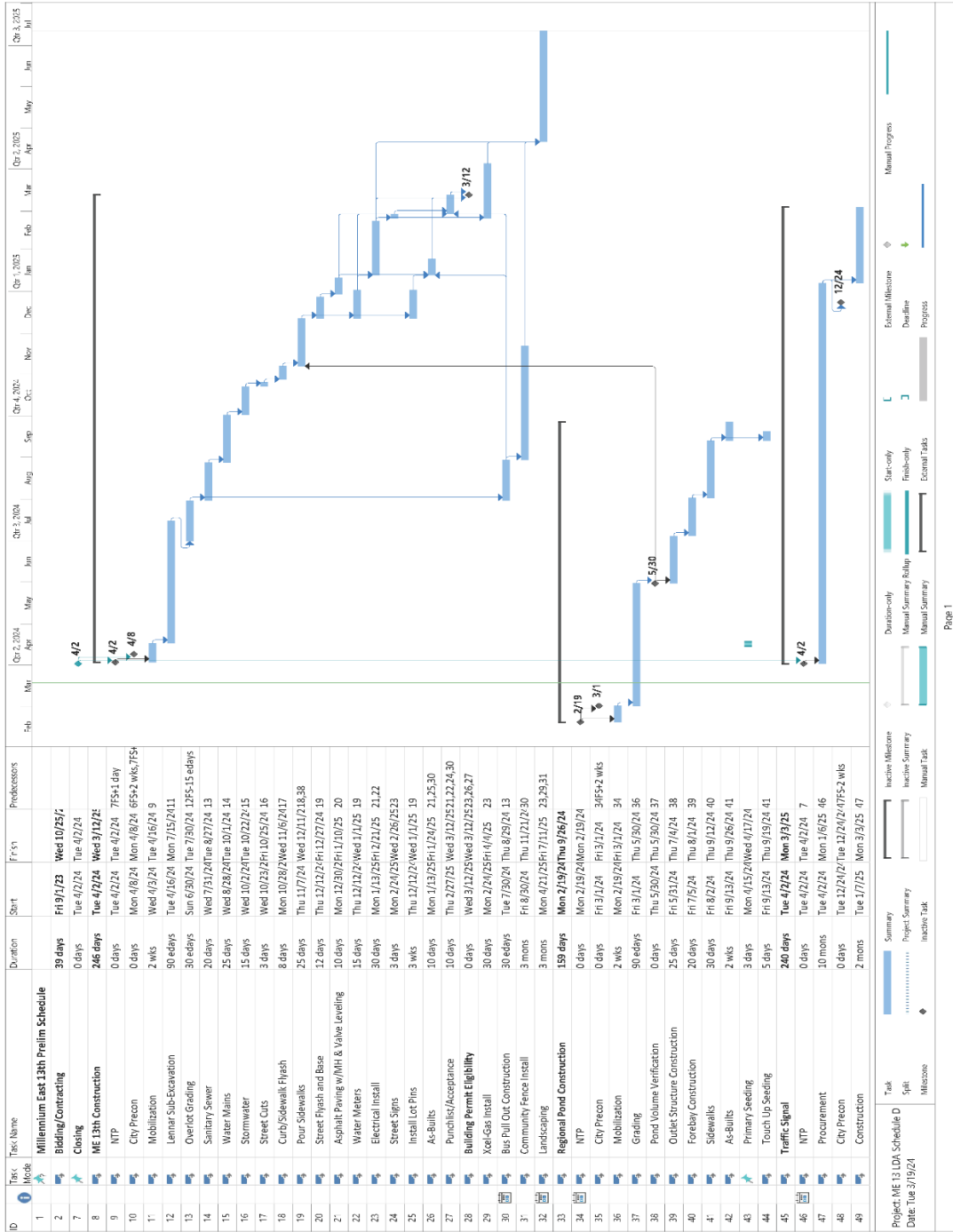
Exhibit E-2  
to  
Lot Development Agreement

**REQUIREMENTS FOR PRIVATE CONTRACTS (DEVELOPER)**

All Contracts entered into between any Services Providers and the Developer shall:

- i. Allow for the automatic assignment, without need for further action, of all of the Developer's rights under the Contract (including, without limitation, the warranty and indemnity provisions thereof), on a non-exclusive basis, to [\_\_\_\_\_] ("**Builder**"), in the event that Builder provides written notice to the Developer of Builder's election to assume and take over the construction of the Improvements;
- ii. Identify Builder as an intended third-party beneficiary of the Contract;
- iii. Require the Service Provider to name Builder as an additional insured on all required insurance maintained by the Service Provider, except for Workers Compensation Insurance and Professional Liability Insurance;
- iv. Require the Service Providers to provide a warranty on materials and workmanship supplied by such Service Provider for a period coterminous with the warranty period required by the governmental authority to whom the Improvements will be dedicated, if applicable, but in no event less than one year from the date of Final Completion;
- v. Require the Service Provider to perform its work in accordance with the Construction Standard. The "**Construction Standard**" means: (i) construction and installation in a good, workmanlike manner, and (ii) in substantial conformity with the Contract documents, the applicable requirements of the governmental authority(ies) having jurisdiction over the Development and/or to whom the Improvements will be dedicated (as applicable), and the "**Finished Lot Standard**" set forth on Exhibit C to the LDA (if applicable);
- vi. Require the Service Provider to indemnify, defend, and hold harmless the Developer and Builder from all claims and causes of action arising from the negligent acts or omissions or intentional misconduct of the Service Provider or its employees or agents;
- vii. Require retainage in an amount of at least 10% of the amounts payable to the Service Provider, until the Service Provider has achieved Final Completion of the entire Improvements and, if applicable, the governmental authority to whom the Improvements will be dedicated has granted initial acceptance of the Improvements;
- viii. Provide the Developer the right, but not the obligation, to pay subcontractors and suppliers of the Service Provider directly or by joint check; and
- ix. Provide for no limitation on remedies against the Service Provider for a default except: (i) the prohibition of recovery of punitive damages; and (ii) the Contract may provide for the recovery of either consequential damages or liquidated damages for delays.

# Exhibit F to Lot Development Agreement CONSTRUCTION SCHEDULE







# Exhibit H to Lot Development Agreement IMPROVEMENTS BUDGET

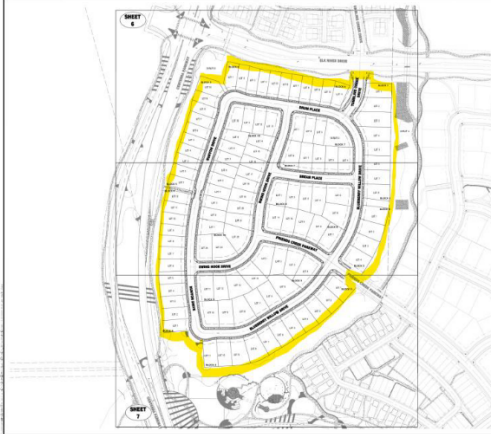
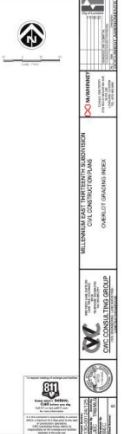
EXHIBIT: LOT DEVELOPMENT AGREEMENT BUDGET- ME 13th PUBLIC and PRIVATE IMPROVEMENTS		
<p>Date: 2/20/24  <b>LOT DELIVERIES:</b>                      Millennium East 13th Subdivision                      - 45.5' SFD Lots (50)                      - 50.5' SFD Lots (32)                      - 60.5' SFD Lots (31)</p>		
PUBLIC IMPROVEMENTS - ME 13th Subdivision		
<b>ITEM</b>	<b>AMOUNT</b>	
Survey / Construction Staking	\$85,865	
Compaction / Materials Testing	\$56,500	
Engineer Support / Record Drawings	\$21,500	
Mobilization / Traffic Control / Removals	\$65,712	
Erosion Control / Environmental	\$68,788	
Overlot Grading - Public Work	\$153,171	
Sanitary Sewer	\$480,634	
Water System	\$715,695	
Storm Drainage	\$314,947	
Concrete	\$793,879	
Streets / Paving / Street Signs	\$870,956	
Landscaping - Water Rights/ Tap Fees	\$102,041	
Landscaping & Irrigation per SDP Sheets L201, L202, L203, L401, L402, L403, IR101, IR 102, IR 103	\$170,000	
District Fence along Centerra Parkway	\$400,000	
Street Lights	\$79,100	
Offsite - Expansion to Regional Pond 1	\$949,847	
Offsite - Traffic Signal (Elk River/Centerra Prkwy)	\$700,000	
Contingency - Offsite (10%)	\$602,854	<b>BUILDER ProRate Share:</b>
<b>PUBLIC IMPROVEMENTS TOTAL</b>	<b>\$6,631,390</b>	<b>\$6,027,091</b>
	<i>ProRate Share % =</i>	<b>90.89%</b>
PRIVATE IMPROVEMENTS - for Private Lot Delivery		
<b>ITEM</b>	<b>AMOUNT</b>	
Private Overlot Grading	\$357,399	
Conduit Allowance / Substructure	\$153,500	
Xcel Natural Gas	\$248,600	
City of Loveland Electric / Street Lights	\$226,000	
Mailboxes	\$22,600	
Contingency (10%)	\$100,810	<b>BUILDER ProRate Share:</b>
<b>PRIVATE IMPROVEMENTS TOTAL</b>	<b>\$1,108,909</b>	<b>\$1,108,909</b>
	<i>ProRate Share % =</i>	<b>100.00%</b>
TOTAL DEVELOPMENT COST		
<b>BUDGET</b>	<b>\$7,740,299</b>	<b>\$7,136,000</b>
	LENNAR - Deferred Payment at Closing	\$7,136,000
	LENNAR - Initial Cash Payment @ Closing	\$4,670,000
	<b>LENNAR - TOTAL Base Purchase Price @ Closing</b>	<b>\$11,806,000</b>

Exhibit I  
to  
Lot Development Agreement

**DRAW REQUEST FORMS**

[See attached]

## Exhibit I-1

## DRAW REQUEST

(FOR PUBLIC IMPROVEMENTS)

DRAW REQUEST NUMBER: \_\_\_\_

DATE: \_\_\_\_\_, 20\_\_

CONSTRUCTING PARTY: Centerra Metropolitan District No. 1

ESCROW AGENT: Fidelity National Title Insurance

DEVELOPMENT: Kinston

---

Reference is made to that certain Lot Development Agreement dated as of \_\_\_\_\_, 20\_\_, by and among Centerra East Development, Inc., a Delaware corporation, Centerra Metropolitan District No. 1, and Builder relating to the above referenced Development (as amended or otherwise modified from time to time, the "Lot Development Agreement"). Capitalized terms used herein without definition have the meanings set forth in the Lot Development Agreement, unless the context requires otherwise.

1. The Metropolitan District requests that Escrow Agent disburse cash in the total amount of \$ \_\_\_\_\_ ("District Progress Payment") from the Public Funds Escrow Account for the Public Improvements line items contained in the Improvements Budget to the Service Provider(s).

2. Developer requests that Escrow Agent disburse cash in the total amount of \$ \_\_\_\_\_ ("Builder Progress Payment") from the Builder Escrow Account for the Builder's Public Portion to Developer.

3. In connection with the requested disbursement of the Progress Payment, the Metropolitan District hereby represents, warrants and certifies to Escrow Agent and Builder as follows:

3.1 Attached are true and correct copies of (a) conditional lien or claim waivers (conditional only on the payment of the amount due) from all Service Providers covered thereunder for the amounts to be paid in connection with the requested disbursement, (b) invoices for all amounts sought to be paid in connection with the requested disbursement, (c) to the extent not previously provided, unconditional lien or claim waivers from all Service Providers paid from prior Draw Requests (for Public Improvements), (d) a Progress Report as of the date of the Draw Request (for Public Improvements), and (e) an engineer's certificate that the Construction Standard has been satisfied for all work that is the subject of the Draw Request (for Public Improvements);

3.2 The Metropolitan District is not subject to an Event of Default under the Lot Development Agreement;

3.3 The Metropolitan District has satisfied all conditions precedent to the funding of the Draw Request (for Public Improvements) as set forth in the Lot Development Agreement;

3.4 The sum of all Budgeted Costs expended to date for Public Improvements does not exceed the total Budgeted Costs, or if such Costs do exceed the Budgeted Costs, attached hereto is a listing of Cost Overruns;

3.5 All Service Providers have been paid or will be paid for their services provided to date, subject to retainage, with the proceeds of this Draw Request (for Public Improvements);

3.6 All insurance required to be maintained by the Metropolitan District remains in full force, in the amounts and types required under the Lot Development Agreement, and issued by insurers as required under the Lot Development Agreement; and

3.7 All Public Improvements covered by this Draw Request (for Public Improvements) have been completed in accordance with the Construction Standard and the applicable Contract(s) and should now be paid, and all Costs incurred in connection with such Improvements either have been paid or will be paid out of the proceeds of this Draw Request (for Public Improvements).

*[remainder of page intentionally left blank; signature pages follow]*

**METROPOLITAN DISTRICT:**

Centerra Metropolitan District No. 1

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**DEVELOPER:**

CENTERRA EAST DEVELOPMENT, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

KINSTON

SCHEDULE 1 TO DRAW REQUEST NUMBER \_\_\_\_

[to be inserted]

## Exhibit I-2

DRAW REQUEST  
(FOR PRIVATE IMPROVEMENTS)

---

DRAW REQUEST NUMBER: \_\_\_\_

DATE: \_\_\_\_\_, 20\_\_

CONSTRUCTING PARTY: CENTERRA EAST DEVELOPMENT, INC.

ESCROW AGENT: FIDELITY NATIONAL TITLE INSURANCE

DEVELOPMENT: Kinston

---

Reference is made to that certain Lot Development Agreement dated as of \_\_\_\_\_, 20\_\_, by and among Centerra East Development, Inc., a Delaware corporation, The \_\_\_\_\_ Metropolitan District No. \_\_\_\_, and Builder relating to the above referenced Development (as amended or otherwise modified from time to time, the "Lot Development Agreement"). Capitalized terms used herein without definition have the meanings set forth in the Lot Development Agreement, unless the context requires otherwise.

1. Developer requests that Escrow Agent make the Progress Payment from the Builder's Initial Escrow Account to the Service Provider(s) and in such amounts as set forth in the attached Schedule 1.

2. In connection with the requested disbursement of the Progress Payment, Developer hereby represents, warrants and certifies to Escrow Agent and Builder as follows:

2.1 Attached are true and correct copies of (a) conditional lien or claim waivers (conditional only on the payment of the amount due) from all Service Providers covered thereunder for the amounts to be paid in connection with the requested disbursement, (b) invoices for all amounts sought to be paid in connection with the requested disbursement, (c) to the extent not previously provided, unconditional lien or claim waivers from all Service Providers paid from prior Draw Requests (for Private Improvements), (d) a Progress Report as of the date of the Draw Request (for Private Improvements), and (e) an engineer's certificate that the Construction Standard has been satisfied for all work that is the subject of the Draw Request (for Private Improvements);

2.2 Developer is not subject to an Event of Default under the Lot Development Agreement;

2.3 Developer has satisfied all conditions precedent to the funding of the Draw Request (for Private Improvements) as set forth in the Lot Development Agreement;

2.4 The sum of all Budgeted Costs expended to date for Private Improvements does not exceed the total Budgeted Costs, or if such Costs do exceed the Budgeted Costs, attached hereto is a listing of Cost Overruns;

2.5 All Service Providers have been paid or will be paid for their services provided to date, subject to retainage, with the proceeds of this Draw Request (for Private Improvements);

2.6 All insurance required to be maintained by Developer remains in full force, in the amounts and types required under the Lot Development Agreement, and issued by insurers as required under the Lot Development Agreement; and

2.7 All Private Improvements covered by this Draw Request (for Private Improvements) have been completed in accordance with the Construction Standard and the applicable Contract(s) and should now be paid, and all Costs incurred in connection with such Improvements either have been paid or will be paid out of the proceeds of this Draw Request (for Private Improvements).

**DEVELOPER:**

CENTERRA EAST DEVELOPMENT, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



KINSTON

SCHEDULE 1 TO DRAW REQUEST NUMBER \_\_\_\_

[to be inserted]

Exhibit J  
to  
Lot Development Agreement

**ENGINEER'S CERTIFICATE**

[See attached]

**FORM OF DISTRICT ENGINEER’S CERTIFICATE**

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

Before me, the undersigned, personally appeared \_\_\_\_\_ who, being by me first duly sworn on oath deposes and says:

1. That he/she is a licensed engineer duly qualified and with sufficient experience to issue a professional opinion respecting the fitness and condition of the improvements, quantities and costs described in Exhibit 1 attached hereto which have been constructed and are proposed to be conveyed or dedicated to \_\_\_\_\_ Metropolitan District No. \_\_\_\_ (the “District”), the City of Loveland (the “City”), County of Larimer (the “County”) or to third parties pursuant to that certain Lot Development Agreement by and between the District, McWhinney Real Estate Services, Inc., and [insert Builder name] dated \_\_\_\_\_, 202\_\_ (the “Agreement”).

2. That he/she has inspected and otherwise examined the improvements described in Exhibit 1 attached hereto (the “Improvements”), and has reviewed the quantities and costs itemized therein.

3. That he/she found the Improvements to be in satisfactory form and condition and that it is his/her professional opinion that the Improvements are fit for the purpose intended by the Agreement and have been installed in conformance with the approve construction plans and specifications and the requirements of the City and County and any other applicable authority and that he/she has no knowledge of any defects in such Improvements.

4. That he/she found the quantities and costs set forth in Exhibit 1 to be reasonable and consistent with costs of similar Improvements constructed for similar purposes and in conformance with the Agreement.

**[ENGINEER]**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
My commission expires: \_\_\_\_\_

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

Exhibit 1 to

# District Engineer's Certificate

## APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER:

PROJECT: [REDACTED]

DOCUMENT G702

APPLICATION NO: 0

PAGE ONE OF

PAGES

Distribution to:

	DISTRICT
	DISTRICT ENGINEER
	CONTRACTOR
	BUILDERS

PERIOD TO: [REDACTED]

VIA DISTRICT:

PROJECT NOS:

CONTRACT FOR:

CONTRACT DATE:

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

- 1. ORIGINAL CONTRACT SUM \$ [REDACTED]
- 2. Net change by Change Orders \$ 0.00
- 3. CONTRACT SUM TO DATE (Line 1 + 2) \$ 0.00
- 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 0.00

- 5. RETAINAGE:
  - a. [REDACTED] % of Completed Work (Column D + E on G703) \$ 0.00
  - b. [REDACTED] % of Stored Material (Column F on G703) \$ Included in above

- Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ 0.00
- 6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) \$ 0.00

- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ [REDACTED]
- 8. CURRENT PAYMENT DUE (Line 3 less Line 6) \$ 0.00

CONTRACTOR:

By: [REDACTED] Date: [REDACTED]

State of: [REDACTED] County of: [REDACTED]  
Subscribed and sworn to before me this [REDACTED] day of [REDACTED]  
Notary Public: [REDACTED]  
My Commission expires: [REDACTED]

## DISTRICT ENGINEERS CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the District Engineer certifies to the district that to the best of their ability, knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ [REDACTED]

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by District	[REDACTED]	[REDACTED]
Total approved this Month	[REDACTED]	[REDACTED]
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order	\$0.00	\$0.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)  
DISTRICT ENGINEER:

By: [REDACTED] Date: [REDACTED]

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702 - APPLICATION AND CERTIFICATION FOR PAYMENT - 1992 EDITION - AIA ©1992 THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, DC 20006-5029

Users may obtain validation of this document by requesting a completed AIA Document D401 - Certification of Document's Authenticity from the Licensee.

# CONTINUATION SHEET

## DOCUMENT G703

PAGE OF PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:

APPLICATION DATE:

PERIOD TO:

DISTRICTS PROJECT NO:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN D O R E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H % (G ÷ C)	I BALANCE TO FINISH (C - G)	J RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)							
	<i>(Fill in &amp; break down contract values)</i>									
	<i>(Add any change order(s) descriptions)</i>									
	<b>GRAND TOTALS</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	\$0.00	\$0.00

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