

**DEVELOPMENT AGREEMENT
SPECIFIC TO:**

**317 EVANS STREET
LYONS, CO 80540**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into and made effective this 9th day of January, 2023, by and between the **TOWN OF LYONS**, a municipal corporation of the State of Colorado, acting by and through its Board of Trustees (the "Town") and **COLORADO LOOKOUT LYONS LLC**, a Colorado limited liability company (the "Developer"). The Town and Developer are collectively referred to as "Parties," or in the singular as "Party." This Agreement includes the attached Exhibits.

RECITALS

- A. The Developer plans to develop the property more particularly described in **Exhibit A** and attached hereto (the "Property").
- B. The Developer expects to be the owner of the Property as of January 17, 2023; it is currently under contract for purchase, closing on January 17, 2023.
- C. The Developer intends to develop the Property as a multi-family housing project ("the Project").
- D. The Developer's Applicant has submitted a Major Development Review (Final PUD Plan) ("MDR") to the Town of Lyons in accordance with the procedure set forth in Article 17 of Chapter 16 of the Lyons Municipal Code ("LMC").
- E. Section 16-17-20(f)(2)(a)(1) of the LMC requires the Planning and Community Development Commission ("PCDC") to conduct a public hearing and make a recommendation to the Board of Trustees ("Town Board"). This occurred on December 12, 2022; the PCDC recommended Approval of the MDR with Conditions in their adopted Resolution 2022-13.
- F. Section 16-17-20(f)(2)(b) of the LMC grants the Town Board the ability to approve, conditionally approve, or deny an MDR. On January 9, 2023, the Town Board conducted its obligations under said Section.
- G. Pursuant to Section 16-17-20(g), the Town may require that a Developer execute a Development Agreement.
- H. Public Infrastructure and Related Facilities ("PIRF") are required to serve the proposed project, potentially including, but not limited to: water taps; water

share acquisition; wastewater service connections; electrical service connections; and right-of-way improvements such as constructing sidewalks and installing landscaping within the right-of-way between the future sidewalk and the street curb, more particularly described in **Exhibit B** and attached hereto (hereinafter, the "Developer Obligations & Cost Estimate"). Completion of some or all PIRF shown in the Developer Obligations & Cost Estimate (Exhibit B) will require investments by the Developer, which can only be supported if there are assurances that the development of the Project, as approved by the Town, will be allowed to proceed to ultimate completion as provided in this Agreement.

- I. The Property currently has six (6) functioning units; the Project envisions temporarily relocating the current residents during the Project construction timeframe. The Developer has estimated costs for the relocation that require substantial capital; the Parties resolve to incorporate a Relocation Plan for current residents who will be returning to the newly constructed Project following completion. This Relocation Plan, which will include funding, relocation strategy(ies), relocation location(s), and a return-to-Lyons process, among other items, will be finalized prior to issuance of a Building Permit by the Town.
- J. This Agreement will provide for the completion of the PIRF and resident relocation and will serve to protect the Town from bearing all of the cost of completing the PIRF and resident relocation expenses on the Project and Property.
- K. The Parties have determined that it is in their mutual interest to establish a framework which will allow the Property to be developed and Project to proceed.
- L. The Parties desire to: (1) set forth the terms and conditions under which the PIRF will be constructed and current residents relocated; (2) set forth the terms and conditions under which and what PIRF and resident relocation will be financed by the Developer; (3) confirm the status of vested property rights of the Developer with respect to the Property; and (4) set forth certain other rights and obligations of the Parties relating to the Project, all on the terms and conditions set forth in this Agreement.
- M. The Town and the Developer have negotiated in good faith to reach the terms provided for herein consistent with the Plan Approval. Town and Developer acknowledge that this Agreement meets the requirements of the approved MDR.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual agreements set forth herein and other good and valuable consideration,

the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- I. DEFINITIONS.** As used herein, the following terms shall have the following definitions:
- 1.1 **Certificate of Occupancy.** A "Certificate of Occupancy" ("CO") shall mean the official Town of Lyons document permitting residential occupancy of the Property following Project construction and inspection, according to the stipulations of the MDR and PIRF.
 - 1.2 **Completion of Improvements.** The "Completion of Improvements" shall mean a thorough and complete review of the Project by the Town Engineer and other Town Staff prior to the Developer requesting to obtain a CO.
 - 1.3 **Construction Drawings.** The "Construction Drawings" or "CDs" shall mean the constructions drawings, which must be approved by the Town Engineer at the time of and in connection with the Major Development Review, prior to construction.
 - 1.4 **Current Resident.** A "Current Resident" shall mean person who is leasing a unit of the Property as of January 9, 2023.
 - 1.5 **Force Majeure.** "Force Majeure" shall mean causes beyond the reasonable control of a Party such as, but not limited to, weather conditions, acts of God, strikes, work stoppages, epidemics, pandemics, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty, or actions of government authorities excluding the Town.
 - 1.6 **Future Resident.** A "Future Resident" shall mean person who is not leasing a unit of the Property as of January 9, 2023.
 - 1.7 **LMC.** The "LMC" means the Lyons Municipal Code, as amended from time to time.
 - 1.8 **MDR.** The "Major Development Review (PUD Final Plan)" or "MDR" shall mean the development application (as defined in Article 17 of Chapter 16 of the LMC), titled *Major Development Review (Final PUD Plan) – 317 Evans Street*, including the site plan, utility plan, grading plan, landscape plan, landscape maintenance plan, photometric plan, architectural elevations, which has been reviewed and approved or conditionally approved by the Town Board in connection with approval of this Agreement. Some of these documents have not yet been reviewed by the Town, but will be provided to and approved by Town Staff prior to the issuance of a building permit for the Project.

- 1.9 **Engineer's Estimate of Cost:** An estimate of costs for the public improvements for the development.
- 1.10 **Performance Security.** The "Performance Security" shall be a letter of credit issued to secure the cost of the Engineer's Estimate of Cost by a bank, or other entity as approved by the Town, maintaining an office or corresponding bank within 50 miles of the Town, which shall have a current rating of 125 or better from IS Financial Services, Inc. unless otherwise approved in writing by the Town Administrator. The letter of credit shall have an expiry date no earlier than one (1) year from the time of issuance and shall provide that it may be drawn upon from time to time by the Town in such amount or amounts as the Town may designate as justified, such amounts not to exceed, in the aggregate, the amount of the letter of credit. Draws under any such letter of credit shall be by a certificate signed by the Town Administrator or his/her designee stating that the Town is entitled to draw the specified amount under the terms of this Agreement. The letter of credit shall substantially conform to the sample letter of credit attached hereto as **Exhibit C** and incorporated herein.
- 1.11 **Public Infrastructure Improvements and Related Facilities.** The "Public Infrastructure and Related Facilities" or "PIRF": "Public Infrastructure" means publicly-owned assets, such as sidewalks, portions of yards in the Right-of-Way, water mains, sewer mains, electric distribution lines, etc; "Related Facilities" means privately-owned infrastructure that has a nexus with public infrastructure, such as water service lines and taps, wastewater service lines and connections, electric service lines and connections, etc. PIRF shall incorporate the items described in **Exhibit B**, the "Developer Obligations & Cost Estimate."
- 1.12 **Relocation Plan.** The "Relocation Plan" is a to-be written document that shall incorporate all necessary components and their associated costs incurred during the construction phase of the Project, including, but not limited to: move out prior to current residential units' demolition; shelter during new residential units' construction; move-in following new residential units' construction. The Relocation Plan shall be completed and agreed upon in writing by both Parties prior to the issuance of a building permit.
- 1.13 **Temporary Certificate of Occupancy.** "Temporary Certificate of Occupancy" ("TCO") shall mean the document allowing for residential occupation of the Property following project construction in the event of a matter beyond the control of the Developer or Town that, in the determination of the Town, warrants allowing for residential occupation of the Property prior to a full completion of all MDR and PIRF-related obligations of the Developer.
- 1.14 **Town Board.** The "Town Board" means the Board of Trustees of the Town.

- 1.15 Vested Property Rights Statute. "Vested Rights Statute" means C.R.S § 24-68-101, *et seq.*, as amended.

DEVELOPER OBLIGATIONS

II. CONSTRUCTION OF MAJOR DEVELOPMENT REVIEW IMPROVEMENTS

- 2.1 Agreement re Construction of Project and PIRF. Developer agrees that if they cause the Project to be constructed, they will construct the Project and agreed upon PIRF in accordance with the MDR and CDs, subject to and in accordance with the terms and provisions of this Agreement.
- 2.2 PIRF Approval as Condition. The obligation of the Developer to construct and complete the agreed upon PIRF items is conditioned upon and shall arise only upon the issuance of a building permit for the Project.
- 2.3 Completion Date. Any agreed upon PIRF shall be fully complete and operational prior to the issuance of a CO for the Project. In the event of adverse weather that does not permit completion of construction, as determined by the Parties, the Town building official may issue a TCO in accordance with applicable provisions of the LMC and Sections 2.10 and 2.3 below.
- 2.4 Warranties of Developer. Developer warrants that the PIRF will be installed in a good workmanlike manner and in compliance with the CDs and requirements of this Agreement, and that the PIRF shall be substantially free of defects in materials and workmanship. All PIRF shall be warranted for a period of one year following the Town's issuance of probationary acceptance of the PIRF (the "Warranty Period").
- 2.5 Title to Public Infrastructure Improvements. The Town shall own surface improvements in the Town Right-of-Way (such as sidewalks and landscaping, for example). The maintenance of Town-owned sidewalks and landscape in the Right-of-Way is the obligation of the Developer. All other PIRF, including without limitation those constructed in the public Right-of-Way (such as buried water service lines, buried wastewater service lines, buried electrical service lines, landscaping according to a future approved Landscape Plan, for example), shall continue to be owned and maintained by the Developer at the Developer's cost.
- 2.6 Inspection. At all times during construction of the PIRF, and until the end of the Warranty Period, the Town shall have the right, but not the duty, to inspect materials and workmanship in order to ascertain conformance with the approved CDs, standards and specifications. Developer shall reasonably cooperate and assist the Town in gaining access to the areas designated for inspection. The Town shall promptly inspect the PIRF so they may be covered/completed in a

reasonable amount of time so as to not add unnecessary expense for the Developer. The Town shall provide notice to the Developer of any inspections to help avoid removal and/or uncovering of completed work. The Parties acknowledge and agree that Colorado Lookout Lyons LLC remains the owner of the Property and shall retain the right of entry onto the Property.

- 2.7 **Water Rights.** Developer and Town agree that Developer will be required to purchase 2.1 shares of Colorado Big Thompson (CBT) water shares or an equivalent number of Lake McIntosh shares or cash-in-lieu as approved by the Board of Trustees. The option to provide Lake McIntosh shares or cash-in-lieu shall only be permitted upon approval by the Board of Trustees.
- 2.8 **Staging Area.** Developer requests use of Town-held property, more formally described as the Right-of-Way at approximately the intersection of 3rd Avenue and Park Street, as well as the parcels held by Town at 318 3rd Avenue and 299 Park Street, Town of Lyons, Colorado, for purposes of temporary construction staging during the to-be-determined Project construction window as approved by the Town Administrator. This property will be returned at minimum to its current state of condition prior to Developer asking for a CO. Developer shall be held liable, and Town held harmless for any damage incurred as a result of Project construction activities. The Town agrees that a temporary construction fence may be erected around the utilized portions of the Town-owned property in order to assist in protecting the Project-related contents therein. Developer acknowledges the environmental sensitivity of these Town-held parcels at 318 3rd Avenue and 299 Park Street and expressly warrants that no hazardous materials will be stored on site. Should any hazardous material leakage or breakage transpire while Town-held property is being utilized for construction staging by Developer, Developer will remedy any and all implications from said leakage or breakage solely at expense of the Developer and will do so within a schedule determined as reasonable by the Town Engineer and Town Staff. Developer agrees to indemnify and hold harmless the Town from any discharge of hazardous materials on the staging area.
- 2.9 **Service Lines.** Developer agrees that all new service lines on the subject Property will be buried underground in accordance with LMC requirements.
- 2.10 **CO.** Until all PIRF are completed for the Property, in compliance with the Town-approved MDR, this Agreement, building permits, and the CDs, the Town shall not issue a CO for the Project, nor shall the Developer make application for said CO. In the event of adverse weather that does not permit completion of construction, as determined by the parties, the Town building official may issue a TCO in accordance with applicable provisions of the LMC.
- 2.11 **Fire Requirements.** Developer will coordinate with the Lyons Fire Protection District (LFPD), and upon completion of construction, the Project shall comply with all requirements under LFPD regulations applicable to the Project.

- 2.12 **Environmental Sustainability.** Developer will incorporate best practices in methods of construction wherever feasible in Project construction.
- 2.13 **Security for Engineer's Estimate of Costs:** Prior to the issuance of a building permit, the Developer shall procure an Engineer's estimate of costs sidewalks and landscaping which shall be submitted to the Town. the Engineer's Estimate of Costs shall be secured by a Letter of which shall substantially conform to the sample letter of credit attached hereto as **Exhibit C** or other form of surety acceptable under the Lyons Municipal Code and which shall be 115% of the Engineer's Estimate of Cost. This fully executed Letter of Credit shall be submitted to the Town prior to the issuance of building permit. If adverse weather that does not permit completion of construction or other conditions beyond the control of the Developer prevents installation of landscaping improvements or other items listed on the Engineer's Estimate of Costs, a TCO may be issued in the sole discretion of the Town Administrator or their designee.
- 2.14 **TCO – Time for Completion.** When a TCO is issued as provided in Section 2.13 above prior to the completion of all PIRF, the time for the completion of the remaining MDR-related improvements shall not exceed one (1) year. Failure by the Developer to complete the work or to request a time extension shall result in a default under the terms of this Agreement. The Town Administrator may grant no more than one extension of not more than one (1) year upon receipt of a written request, accompanied by an extension of the Performance Security.
- 2.15 **Recording Agreement.** After approval of this Agreement by the Town, this Agreement shall be recorded in the office of the Clerk and Recorder of Boulder County, with the recording costs paid by the Developer.

III. COMPLETION OF IMPROVEMENTS

- 3.1 **Approval.** Upon the satisfactory completion of the PIRF, as determined by the Town Engineer and other Town Staff ("Completion of Improvements") and satisfaction of all other requirements to obtain a CO, Developer shall be entitled to obtain a CO for the Project as depicted on the Town Board-approved MDR.
- 3.2 **Release of Performance Security.** The Town will approve release of the Performance Security following Completion of Improvements and issuance of a CO for the Project on the MDR, provided such MDR-related improvements are completed within one (1) year from date of issuance of TCO as may be extended in accordance with Section 2.14 of this Agreement.

TOWN OBLIGATIONS

IV. TOWN APPROVALS

- 4.1 Town Approvals. Any time the Developer is required to submit to the Town any MDR-related improvements for conditional or final acceptance, the Town will administratively approve or disprove such MDR-related improvements as a ministerial act, without further approval by the Town Board or any other Town board or commission.

VESTED PROPERTY RIGHTS

V. PROPERTY RIGHTS VESTED

- 5.1 Vested Property Rights. The MDR constitutes a site-specific development plan as defined in C.R.S. § 24-68-101, *et seq.*, and shall create Vested Property Rights for five (5) years from the effective date of this Agreement. The Vested Property Rights include the rights identified below:
- (a) The right to develop, plan, and engage in land uses within the Property as described in the MDR including the proposed construction of nine residential units, a two-car garage, ten parking spaces, and setbacks of 9' on the north, 13' on the south, 4' on the east and 4' on the west.
 - (b) The right to have the MDR and existing zoning to remain valid for the term of the vested property rights as established by this Agreement.
 - (c) The right to apply for and receive, upon compliance with the terms and conditions of this Agreement and the Town Code, grading permits, building permits, water taps, sewer taps, CO, and all other necessary permits necessary for the Project.

SPECIAL PROVISIONS

VI. SPECIAL PROVISIONS APPLICABLE TO THE MAJOR DEVELOPMENT REVIEW (FINAL PUD PLAN)

- 6.1 Special provisions applicable to the Project are set forth in **Exhibit D**, a copy of which is attached hereto and incorporated herein by reference.

DEFAULTS AND REMEDIES

VII. DEFAULTS AND REMEDIES

- 7.1 **Default by the Developer.** A default by Developer shall exist if Developer initiates physical construction of the Project and then fails to construct the MDR and PIRF in substantial compliance with the CDs and the other requirements of this Agreement.
- 7.2 **Notice of Default.** In the event of a default by Developer, the Town shall give written notice to the Developer, specifying the default and requiring that the default be cured within a reasonable time, as determined by the Town. In case of emergency, the requirement that written notice be provided by the Town specifying the default is waived, and the Town may immediately, but is not required to, respond to the emergency and perform any needed maintenance or repair and bill the Developer for all costs incurred by the Town in responding to the emergency. Any costs not paid by Developer when due shall bear interest at the rate of eight percent (8%) per annum.
- 7.3 **Remedies of Town.** If Developer fails to cure such defaults within the time specified by the Town in the notice of default, the Town may, but is not required to (a) make a draw on the Performance Security in the amount reasonably determined by the Town to be necessary to cure the default in a manner consistent with the approved CDs up to the face amount of the Performance Security; (b) sue the Developer for any remedies in law or in equity, including without limitation specific performance or recovery of any amount necessary to cure the default over and above the amount available under the letter of credit and/or (c) deny or suspend building permits, utility services, or certificates for the Property until the default has been cured. The Town may also seek any other rights or remedy at law or in equity. The rights and remedies of the Town are cumulative and the exercise by the Town of a remedy shall not preclude the exercise by it, at the same or different times, of any other remedy for any other default by the Developer.

MISCELLANEOUS PROVISIONS

VIII. MISCELLANEOUS

- 8.1 **Indemnifications.** To the extent allowed by law, Developer shall indemnify and save harmless the Town from any and all suits, actions, claims, judgments, obligations, or liabilities of every nature and description which arise from an event or occurrence prior to the date of the end of the Warranty Period and which are caused by, arise from or on account of the construction and installation of the MDR and PIRF-related improvements; and any and all suits, actions, claims, or judgments which arise from an event or occurrence prior to

the end of the Warranty Period and which are asserted by or on behalf of contractors or subcontractors working on any aspect of the Project, or third parties claiming injuries resulting from defective improvements constructed by Developer to the extent any such damages or claims are caused by the Developer's negligent or intentional acts or omissions. Developer shall pay any and all judgments rendered against the Town on account of any such suit, action, or claim, together with all reasonable expenses and attorneys' fees incurred by the Town defending such suit, action or claim. The Town agrees that the Developer may also, on its own behalf, become a party to any such action and the Town agrees to execute any documents as may be necessary to allow the Developer to be a party. The Developer is not an agent or employee of the Town.

- 8.2 **Insurance.** Developer shall require that all contractors engaged in the construction of the MDR and PIRF-related improvements maintain worker's compensation insurance. Before proceeding with the construction of the Project, Developer shall provide the Town and Town Engineer with written evidence of property damage insurance and bodily injury insurance in an amount of not less than One Million Dollars (\$1,000,000.00) each, or such other maximum amount of liability as may be specified in the Colorado Governmental Immunity Act, and protecting the Town against any and all claims for damages to persons or property resulting from construction and/or installation of any MDR and PIRF-related improvements pursuant to this Agreement. Additionally, the Developer's policies shall name the Town and its agents, officials and employees as additional insureds. The policy shall provide that the Town shall be notified at least thirty (30) days in advance of any reduction in coverage, termination, or cancellation of the policy. Such notice shall be sent by Certified Mail to the Town Administrator, Return Receipt requested. Developer agrees that any contractors, subcontractors, representatives and agents engaged by or for Developer to construct any improvements shall maintain public liability coverage in limits not less than those described above.
- 8.3 **No Third-Party Beneficiaries.** Except as herein provided, no person or entity, other than a Party to this Agreement, shall have any right of action under this Agreement, including, but not limited to, any lender of the Developer, and materialmen, laborers or other providing work, services, or materials for the MDR and PIRF-related improvements.
- 8.4 **Notices.** Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by Certified or Registered mail, postage and fees prepaid, addressed to the Party to whom such notice is intended to be given at the address set forth on the signature page below, or at such other address as have been previously furnished in writing to the other Party. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

- 8.5 **Further Assurances.** At any time, and from time to time, upon the request of either Party, the other Party agrees to make, execute and deliver or cause to be made, executed and delivered to the requesting Party any and all further instruments, certificates and documents consistent with the provisions of this Agreement as may, in the reasonable opinion of the requesting Party, be necessary or desirable in order to effectuate, complete or perfect the right or the Parties under this agreement.
- 8.6 **Binding Effect.** This Agreement shall run with the land and be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- 8.7 **Headings for Convenience.** All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.
- 8.8 **No Implied Waivers.** The failure by a Party to enforce any provision of this Agreement or the waiver of any specific requirement of this Agreement shall not be construed as a general waiver of this Agreement or any other provision herein nor shall such action act to estop the Party from subsequently enforcing the remainder of this Agreement according to its terms.
- 8.9 **Assignability.** This Agreement, and all of the Parties' rights and obligations hereunder, shall be assignable by either Party with the prior written consent of the other Party hereto, which shall not be unreasonably withheld.
- 8.10 **Severability.** If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of this Agreement as a whole, or any part thereof, other than the part declared to be invalid and there shall be substituted for the affected provision, a valid and enforceable provision as similar as possible to the affected provision.
- 8.11 **No Waiver of Governmental Immunity.** Nothing contained in this Agreement shall in any way waive or limit the rights of either Party under the Colorado Governmental Immunity Act, C.R.S. § 24-20-101, *et. seq.*
- 8.12 **Consent to Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either Party to this Agreement with respect to this Agreement or a letter of credit shall be proper only if such action is commenced in the District Court for Boulder County, Colorado. Developer expressly waives the right to bring such action in or to remove such action to any other court, whether state or federal.
- 8.13 **Force Majeure.** Neither Party shall be liable for failure to perform hereunder if such failure is the result of Force Majeure and any time limit expressed in this

Agreement shall be extended for the period of any delay resulting from any Force Majeure.

- 8.14 Integration and Amendment. This Agreement represents the entire and integrated agreement between the Town and the Developer regarding the subject matter contained in this Agreement and supersedes all prior negotiations, representations, or agreements, either written or oral regarding such subject matter. Any amendments to this Agreement must be in writing and be signed by both the Town and the Developer.
- 8.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement.

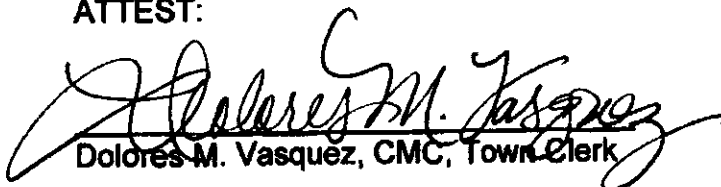
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

TOWN OF LYONS:



Hollie Rogin, Mayor

ATTEST:

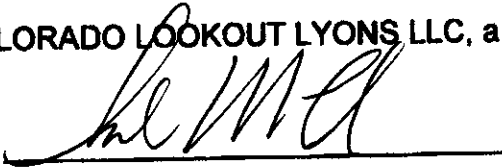


Dolores M. Vasquez, CMC, Town Clerk



DEVELOPER:

COLORADO LOOKOUT LYONS LLC, a Colorado limited liability company

By: 

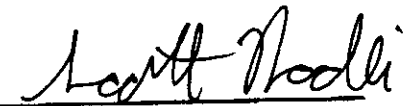
Address:

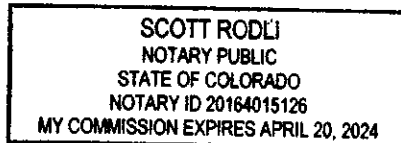
13701 W Jewell Ave, Ste 200-28
Lakewood, CO 80228

STATE OF COLORADO)
COUNTY OF Jefferson)ss.

The foregoing instrument was acknowledged before me this 11th
day of January, 2023 by Andrew McCabe, as the
Manager of Colorado Lookout Lyons LLC, a
Colorado limited liability company.

Witness my hand and official seal:





Notary Public

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

Lots 2-3, Block 24, Town of Lyons, County of Boulder, State of Colorado.

EXHIBIT B

Obligations For MDR and PIRF improvements

Water

- The Developer will pay the \$6,058.50 portion of the water tap fees that will be passed through to Longmont.
The remainder of the water tap fees are hereby waived.

Wastewater

- The sewer connection fees are hereby waived.

Electric

- The Developer will pay the \$4,500 fee for one additional electric service connection.

Sidewalk

- The Developer will install a 4' x 150' sidewalk from the property to the corner of 3rd and Evans Street with an ADA ramp.

Landscaping

- The Developer will replace trees removed from the Town's right of way on the northern boundary of the property, as required by the Lyons Municipal Code.
- The Developer will install ground cover in the Town's right of way on the northern boundary of the property.

Building Permit

- The Developer will pay building permit fee

Planning Review

- The planning review fee is hereby waived.

Park Fee

- The Town agrees to waive the Park Fee.

EXHIBIT C

Letter of Credit



Standby Letter of Credit Application and Agreement

To: International Banking Division Standby Letters of Credit
By: U.S. Bank National Association

LC NO. SLC _____ BANK USE ONLY
Date Rec'd _____

Please issue on our behalf an Irrevocable Standby Letter of Credit ("Letter of Credit") under the terms and conditions set forth below. Please send the Letter of Credit via ☐ SWIFT or ☐ Courier. The Letter of Credit shall be subject to the current revision of (choose one): ☐ the International Standby Practices (ISP), published by the International Chamber of Commerce ("ICC"), or ☐ the Uniform Customs and Practice for Documentary Credits (UCP), published by the ICC.

Party Information

Applicant (or Account Party named in the LC)

In favor of Beneficiary

Name: _____

Name: _____

Address: _____

Address: _____

City: _____ State: _____ Zip: _____

City: _____ State: _____ Zip: _____

Country: _____

Country: _____

Advising Bank (if any)

General Information

Letter of Credit Amount _____ Partial Drawings ☐ Not Allowed

Currency: Select an Row _____ Banking charges outside of U.S. Bank's counters are for account of ☐ Applicant ☐ Beneficiary

To be available by drafts at sight drawn on you or, at your option, by an authenticated SWIFT demand for payment.

Letter of Credit to expire at our counters on _____ (Date)

Letter of Credit Purpose (transaction description)

Documents Required

Additional Conditions

☐ Please issue the Letter of Credit in the attached format signed by the Applicant/Obligor.

We understand this application is subject to the Credit Agreement, the Continuing Reimbursement Agreement for Letters of Credit or other such agreement however filed applicable to your issuance of Letters of Credit on our behalf (the "Agreement"). We represent and warrant to you that we have received a copy of the Agreement and we further acknowledge having read and understood the terms and conditions contained in the Agreement.

We hereby authorize you to issue this Letter of Credit with such variations as you may, in your sole discretion, determine are necessary and not materially inconsistent with this application.

Applicant/Obligor Company Name: _____

Authorized Signer: _____ Date: _____

Authorized Signature: _____

Phone: _____ E-mail: _____

**EXHIBIT D
SPECIAL PROVISIONS**

1. The Developer agrees to make the following terms of affordability:
 - a. For Current Residents temporarily displaced by the Project, to honor their pre-construction rents through year-end 2023; and to cap their rents at 30% of 60% of the U.S. Department of Housing and Urban Development Area Median Income for Boulder County for 10 years from the issuance of a TCO or CO for the project, whichever is sooner.
 - b. For Future Residents, to cap their rents at 30% of 100% of the U.S. Department of Housing and Urban Development Area Median Income for Boulder County for 10 years from the issuance of a TCO or CO for the project, whichever is sooner.
 - c. For 10-years from the issuance of a TCO or CO for the project, whichever is sooner, the Developer will annually provide to the Town a side-by-side comparison of actual rents, Area Median Income, and permissible rents, certifying compliance with the foregoing provisions.
2. The Developer agrees to bear all costs related to the Relocation Plan implementation, including, but not limited to: moving expenses, rent expenses during relocation above the Current Residents' 317 Evans Street rents, and return expenses.
3. The Developer agrees to submit a landscape, irrigation, and landscape maintenance plan to the Town for approval prior to the installation of any vegetation on the site.
4. The Developer will submit for review a utility plan. The Town must approve the utility plan prior to issuance of a building permit.
5. The Developer will submit a photometric plan prior to the issuance of a building permit that satisfies the determined requirements of the Town Engineer.
6. The Developer will submit a grading plan prior to the issuance of a building permit that satisfies the requirements of the Town Engineer.

- 7. The Developer will submit a stormwater management plan prior to the issuance of a building permit that satisfies the requirements of the Town Engineer.**
- 8. The Developer will install fire sprinkler systems per the 2015 International Fire Code for the triplex and quadplex units of the Project, if determined to be required by Town Inspector and LFPD, and will agree in writing to do such prior to issuance of a building permit.**