

Appendix B-1

NOTE: Appendix Forms and Information are for Reference Only. Contact Local Entity Engineer for Original Forms and Current Information.

City of Loveland Reimbursement Forms:

- Reimbursement Agreement for New Street Construction & Related Exhibits
- Agreement for Incomplete Public Improvements Cash Deposit & Related Exhibits
- Agreement for Incomplete Public Improvements Letter of Credit & Related Exhibits
- Agreement for Incomplete Development Improvements Cash Deposit & Related Exhibits
- Agreement for Incomplete Development Improvements Letter of Credit & Related Exhibits

**REIMBURSEMENT AGREEMENT
FOR
NEW STREET CONSTRUCTION**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the CITY OF LOVELAND, COLORADO, a municipal corporation, hereinafter called the “City” and _____, hereinafter called the “Developer”,

W I T N E S S E T H

WHEREAS, the City has required that the Developer provide for and the Developer finds it necessary and desirable to provide for the installation of certain improvements (“Improvements”) which are the subject of this Agreement and which Improvements are described in more detail in Exhibit A, attached hereto; and

WHEREAS, pursuant to the Reimbursement Policy for New Street Construction adopted by the City (“Policy”), the City and the Developer desire to enter into this Agreement in order for the City to attempt to collect a charge per front foot from the owners of abutting properties prior to the issuance of any building permits for the abutting properties;

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

1. **REIMBURSEMENT.**

It is agreed that the Developer shall have an opportunity to be reimbursed from subsequent future development or re-development of property adjacent to and abutting the Improvements installed by the Developer (“Obligated Property”) for a portion of actual costs of the Improvements.

Attached hereto as Exhibit B is a listing of the total certified cost of the Improvements eligible for reimbursement.

Attached hereto as Exhibit C is a description of each Obligated Property and the name, address and telephone number of the owner of each Obligated Property adjacent to and abutting the eligible Improvements. It shall be the Developer’s obligation to maintain the accuracy of this Exhibit and to provide the notice required by the Policy.

Attached hereto as Exhibit D is a calculation of the frontage of each Obligated Property and the reimbursement amount due from each Obligated Property based on the certified costs.

For the purpose of providing an opportunity for reimbursement to the Developer, the City agrees, subject to the provisions contained in this Agreement, to attempt to collect certain sums of money as set forth herein, in addition to all other fees and sums collected by the

City, from those owners who commence subsequent future development or re-development of the Obligated Property prior to the issuance of a building permit on the Obligated Property. Any undeveloped portions, lots, or pieces of property that result from the splitting, subdividing or replatting of any of the Obligated Properties after the date this agreement is recorded are subject to this Agreement. The Developer acknowledges that the issuance of any building permits on any split, subdivided or replatted portion of the Obligated Properties which occurred prior to the date this Agreement is recorded may prevent the applicability of this Agreement to certain portions of the Obligated Properties. The City makes no representations as to the applicability of this Agreement to any portion of the Obligated Properties which may have been split, subdivided, replatted and developed prior to the date this Agreement is recorded.

- a) At, or prior to, the issuance of a building permit for any development or re-development within the Obligated Property, the City shall attempt to collect from the applicable owner the reimbursement amount set forth in Exhibit D subject to adjustment as set forth below.
- b) The sum of money paid by each obligated property shall be the amount, as calculated above, multiplied by the ratio of the Engineering News Record (ENR) construction cost index for Denver for the month in which the reimbursement payment is made, divided by _____, the construction cost index for _____ when the construction cost was paid by the Developer.
- c) Any fees collected by the City shall be payable to the Developer as reimbursement for the costs of installing the Improvements. Within sixty (60) days of receipt of any fees from the owner(s) of the Obligated Property, the City shall provide written notification to the Developer at _____
_____. The City's obligation to pay the collected fees shall be conditioned upon the Developer making written request to the City Engineer for payment of the fees within one year of their collection by the City. Failure to make such a request shall result in the collected fees becoming the sole property of the City.
- d) The obligations of the City under this Agreement in attempting to assess and collect the reimbursement fees described herein are offered solely as an accommodation to the Developer. Accordingly, the City shall not be liable to the Developer for the City's failure in any fashion to collect the monies specified herein and shall have no obligation to commence litigation for the purpose of attempting to make such collection. In the event the City's attempt to collect such charge, including without limitation the City's withholding of building permits, results in the filing of any claim against the City and/or the commencement of litigation against the City, Developer agrees to pay all costs and fees incurred by the City in defense of the same, including without limitation, reasonable attorneys fees. Developer further agrees to indemnify and hold harmless the City from any damages or awards arising from or relating to any such claim or litigation. Prior to the City being required to litigate any claim under this Agreement, the City may require the Developer to pay to the City cash funds or provide the City other collateral acceptable to the City sufficient to cover the amount of any damages

sought in the litigation as well as a reasonable amount to cover the City's anticipated costs and attorneys' fees in the litigation or, if damages are not sought in the lawsuit, then such amount as the City may consider reasonably necessary to ensure payment of all the City's costs and attorneys fees which may result therefrom. Notwithstanding the foregoing, the City shall not commence any litigation to collect any charge under this Agreement without the prior written consent of the Developer.

- e) Payments of fees collected shall be made to the Developer prior to the last day of each year during the term of this Agreement. The Developer's failure to comply with all of the requirements, terms and conditions of the Policy, attached hereto as Exhibit E, including the notice requirements, shall relieve the City of any obligation to impose the fees upon the Obligated Property and to make any payment to the Developer.
- f) In the event that the Developer is in default with regard to any other obligation to the City, the City shall have the right to set off any reimbursement which may be due to the Developer hereunder to satisfy, in whole or in part, any such default.

2. **TERM, EFFECT AND INTEGRATION.**

It is expressly understood and agreed that the terms of this Agreement shall be binding upon and inure to the benefit of the heirs, successors, representatives, and assigns of the parties hereto; and that the reimbursement provisions of this Agreement shall be in force and effect only for a period of 10 years from the date of acceptance of the Improvements unless extended by the City Council, or until maximum reimbursement is made prior to expiration of the term of this Agreement.

This Agreement and any rights hereunder may not be assigned without the written consent of the parties hereto, which consent shall not be unreasonably withheld.

Documents attached to this Agreement are:

- 1. Exhibit A – Description of Improvements;
- 2. Exhibit B – Certified Reimbursement Costs;
- 3. Exhibit C – Description of Obligated Property and list of owners;
- 4. Exhibit D – Calculation of Reimbursement Amounts;
- 5. Exhibit E – Reimbursement Policy for New Street Construction;
- 6. Exhibit F – Construction Improvements Map.

This Agreement constitutes the entire Agreement of the parties, and may be altered, amended or revised only by written agreement of the parties hereto.

City of Loveland Reimbursement Forms
THE CITY OF LOVELAND
A Municipal Corporation

ATTEST:

City Engineer

City Clerk

APPROVED AS TO FORM:

City Attorney

State of Colorado)
)
County of Larimer)

Subscribed and sworn to before me this _____ day of _____, 20____,
by _____, City Engineer and _____, City Clerk.
My commission expires _____.

S E A L

Notary Public

_____, Developer

By: _____

Title: _____

ATTEST:

Corporate Secretary

State of Colorado)

)

County of Larimer)

Subscribed and sworn to before me this _____ day of _____, 20____,
by _____, Corporate _____, and
_____, Corporate Secretary.

My commission expires _____.

S E A L

Notary Public

EXHIBIT A

STREET REIMBURSEMENT AGREEMENT

Description of Improvements:

EXHIBIT A

STREET REIMBURSEMENT AGREEMENT

Description of Improvements:

Public street construction along North Wilson Avenue of which 1/2 of the center 34' for a length of 1074' is adjacent to the properties of Buck First and Second Additions.

EXAMPLE

EXHIBIT B

STREET REIMBURSEMENT AGREEMENT

Certified Reimbursement Costs:

PERMANENT PUBLIC STREET IMPROVEMENTS INSTALLED FOR _____

Date of City Acceptance for the Completed Street Improvements _____

DESCRIPTION OF BASIC CONSTRUCTION AND CERTIFIED COST ELEMENTS:				
QTY	UNIT	ITEM	UNIT COST	EXTENDED COST
	LF	Curb and gutter installed for the roadway		\$ 0.00
	LF	Sidewalk installed along the roadway (within public street right-of-way or pedestrian easement)		\$ 0.00
		Accesses constructed onto the roadway (includes street pans, radii curb returns, and/or handicap ramps)		\$ 0.00
	CY	Excavation removed for the roadway		\$ 0.00
	CY	Fill installed for the roadway		\$ 0.00
	SY	Pavement section installed for the roadway (includes layers of asphalt and base course(s))		\$ 0.00
	SY	Subgrade prep installed for the roadway		\$ 0.00
Cost of permanent drainage facilities installed for the roadway				
Cost of testing materials for construction of the roadway				
Cost of signs, striping, and barricades installed for/on the roadway				
Traffic control costs incurred during and for construction of the roadway				
Actual design costs incurred for the public street improvements				
Actual finance costs incurred for the public street improvements				
Actual administration costs incurred for the public street improvements				
TOTAL COST OF THE PERMANENT PUBLIC STREET IMPROVEMENTS				

EXHIBIT B

STREET REIMBURSEMENT AGREEMENT

Letters with Detailed Breakdown of Eligible Fees and Certification of Payment of Eligible Fees

EXHIBIT B

STREET REIMBURSEMENT AGREEMENT

Certified Reimbursement Costs:

PERMANENT PUBLIC STREET IMPROVEMENTS INSTALLED FOR North Wilson Avenue

Date of City Acceptance for the Completed Street Improvements September 15, 1995

DESCRIPTION OF BASIC CONSTRUCTION AND CERTIFIED COST ELEMENTS:				
QTY	UNIT	ITEM	UNIT COST	EXTENDED COST
0	LF	Curb and gutter installed for the roadway		\$ 0.00
0	LF	Sidewalk installed along the roadway (within public street right-of-way or pedestrian easement)		\$ 0.00
0		Accesses constructed onto the roadway (includes street pans, radii curb returns, and/or handicap ramps)		\$ 0.00
49	CY	Excavation removed for the roadway	\$5.60	\$ 274.40
0	CY	Fill installed for the roadway		\$ 0.00
108	SY	9" Hot Bituminous Pavement section installed for the roadway	\$13.35	\$ 1,441.80
900	SY	1-1/2" Asphalt Overlay Pavement section installed for the roadway	\$2.45	\$ 2,205.00
1015	SY	4" Hot Bituminous Pavement section installed for the roadway	\$6.90	\$ 7,003.50
147	SY	Subgrade prep installed for the roadway	\$1.20	\$ 176.40
Cost of permanent drainage facilities installed for the roadway				\$ 0.00
Cost of testing materials for construction of the roadway				\$ 0.00
Cost of signs, striping, and barricades installed for/on the roadway				\$ 0.00
Traffic control costs incurred during and for construction of the roadway				\$ 1,125.00
Actual design costs incurred for the public street improvements				\$ 800.00
Actual finance costs incurred for the public street improvements				\$ 0.00
Actual administration costs incurred for the public street improvements				\$ 0.00
TOTAL COST OF THE PERMANENT PUBLIC STREET IMPROVEMENTS				\$13,026.10

EXHIBIT B

STREET REIMBURSEMENT AGREEMENT

July 8, 1998

Mr. Greg Muhonen
City of Loveland
Community Services
500 East Third
Loveland, CO 80537

Re: North Wilson Avenue Improvements in the Emerald Glen Subdivision

Dear Mr. Muhonen:

This letter hereby certifies that all fees owed to Connell Resources Inc. for the eligible North Wilson Avenue improvements (See attached Schedule 4) have been paid in full. The fees were paid by Glen Properties, Inc. with check #1104, dated September 13, 1995.

If you have any questions or need further information, please call me at (970) 223-3151.

Sincerely,

Connell Resources Inc.

EXHIBIT C

STREET REIMBURSEMENT AGREEMENT

Description of Obligated Property and List of Owners:

EXHIBIT C

STREET REIMBURSEMENT AGREEMENT

Description of Obligated Property and List of Owners:

Tract A, Buck 1st Addition
Assessor's parcel #9504005001
Book: 8800 Page: 7305

Tract A, Buck 2nd Addition
Assessor's parcel #9504006001
Book: 8800 Page: 7302

Owner of both properties:

JS Buck & Assoc
813 Marble Dr
Fort Collins, CO 80526

EXAMPLE

EXHIBIT D

STREET REIMBURSEMENT AGREEMENT

Calculation of Reimbursement Amounts:

			Total
Owner			
Frontage (ft.)			
% of Total			100%
Share of Costs*	\$0.00	\$0.00	\$0.00
City Fee** (deduction)			(\$0.00)
Reimbursement			\$ 0.00

*Amounts subject to collection by the City of Loveland at or prior to issuance of a building permit for any development or re-development of the above described properties. Amounts subject to adjustment as set forth in the Street Reimbursement Agreement item 1(b).

**\$500.00 or 3%, whichever is greater, service charge will be deducted from the reimbursement to the installing developer when the obligated amount is collected.

EXHIBIT D

STREET REIMBURSEMENT AGREEMENT

Calculation of Reimbursement Amounts:

	Tract A, Buck 1st Addition	Tract A, Buck 2nd Addition	Total
Owner	JS Buck & Assoc.	JS Buck & Assoc.	
Frontage (ft.)	449	625	1074
% of Total	41.81%	58.19%	100%
Share of Costs*	\$5,446.21	\$7,579.89	\$13,026.10
City Fee** (deduction)			(\$500.00)
Reimbursement			\$12,526.10

*Amounts subject to collection by the City of Loveland at or prior to issuance of a building permit for any development or re-development of the above described properties. Amounts subject to adjustment as set forth in the Street Reimbursement Agreement item 1(b).

**\$500.00 or 3%, whichever is greater, service charge will be deducted from the reimbursement to the installing developer when the obligated amount is collected.

EXAMPLE

EXHIBIT E

STREET REIMBURSEMENT AGREEMENT

Reimbursement Policy (Non-Capital Expansion Fee Streets)

General. When any Developer, as a Local Entity-required condition of development, constructs a public street, alley or pedestrian-bike way to serve property through undeveloped areas or areas that may be redeveloped, or constructs a public street, alley or pedestrian-bike way along the perimeter of the property, the entire cost of such construction, including acquisition of all necessary rights-of-way, shall be the responsibility of such person or Developer.

1. Front Footage Charge. If the following conditions are satisfied, the installing Developer may enter into a reimbursement agreement with the Local Entity such that, as a condition of approval of subsequent development or re-development of property adjacent to the newly constructed public street, alley or pedestrian-bike way, the Local Entity may collect a front footage charge from the abutting Developer prior to the issuance of any building permits for the abutting property. The front footage charge shall be established by prorating the total amount of original certified costs to the lineal frontage of all properties abutting the constructed improvement.
2. Notice of Agreement. The Local Entity shall not attempt to make such collection until the reimbursement agreement is properly prepared and executed and the owners of abutting property have received or reasonably should have received notice of the reimbursement agreement.
3. Letter of Intent. Within thirty (30) days of the completion and acceptance by the Local Entity of such improvements, the Developer shall notify the Local Entity in writing of its intent to enter into a proper reimbursement agreement with the Local Entity.
4. Full Payment. All costs for the construction of improvements must be fully paid by the Developer before such person shall be entitled to reimbursement under any agreement established hereunder.
5. Documentation of Costs and Obligated Properties. After written acknowledgement by the Local Entity of receipt of said written intent to enter into a reimbursement agreement, the Developer shall have sixty (60) days to provide the Local Entity Engineer with copies of the following:
 - a. A letter from the Designer with detailed breakdown of all fees that are directly attributable to the street, alley or pedestrian-bike way improvements eligible for reimbursement and a statement certifying that all such fees have been paid in full.

EXHIBIT E

STREET REIMBURSEMENT AGREEMENT

- b. A letter from the Developer's Contractor with a detailed breakdown of costs for all improvements eligible for reimbursement and a statement certifying that all such costs have been paid in full.
 - c. A letter from the Developer's financing office certifying any financial charges assessed that are eligible for reimbursement.
 - d. An accurate map prepared by a licensed Engineer or Surveyor which shows:
 - 1) the location and limits of the eligible street, alley or pedestrian-bike way improvements;
 - 2) the name, address and telephone phone number of the owner of each property abutting the eligible improvements;
 - 3) the frontage of each property (with lineal footage shown);
 - 4) the reimbursement amount due from each property based on the original certified costs, divided by the frontage of all abutting properties, multiplied by the frontage of the individual property;
 - 5) the book, page and reception number from the records of the County Clerk and Recorder or the name of the recorded plat from which the information for each property was obtained; and
 - 6) any other information deemed necessary by the Local Entity Engineer to properly prepare a reimbursement agreement.
6. Reimbursement Agreement Forms. After receipt of written notice from the Local Entity Engineer documenting Certified Costs, the Developer shall provide City three signed original Reimbursement Agreement forms to the Local Entity. (Refer to Appendix B-1 of the Larimer County Urban Area Street Standards for Reimbursement Agreement.) Following execution of the agreement by the Local Entity, two signed originals shall be returned to the Developer, who shall record the agreement with the Larimer County Clerk and Recorder.
7. Notification of Agreement. After execution and recording of the reimbursement agreement, the installing Developer shall certify, by affidavit, that all owners of properties obligated to provide reimbursement have been notified in writing through certified mail with return receipt requested. The Local Entity shall then cause to be published a public notice listing the properties and reimbursement amounts. The Local Entity shall endeavor to provide notice on future plats of property obligated to provide reimbursement of the

EXHIBIT E

STREET REIMBURSEMENT AGREEMENT

recorded agreement, but the failure to provide notice shall not relieve the owner of the platted property of any reimbursement obligation.

8. Inflation Adjustment. The amount of the reimbursement assessed by the Local Entity for each adjacent property as it develops shall be based on the certified costs of the improvements plus an adjustment for inflation based on the construction cost index for Denver, Colorado, as published monthly by "Engineering News Record." The Local Entity Engineer's determination concerning total eligible costs shall be final.
9. Collection. The Local Entity's obligation to reimburse the Developer shall be contingent upon the Local Entity's actual collection of the front footage charge from the abutting developer. The Local Entity shall have no obligation to reimburse any funds that it fails to collect, for whatever reason, provided that the Local Entity made a good faith attempt to collect such funds.
10. Payment. When the front footage charge is collected, the Local Entity shall reimburse the installing developer to the extent of such collection after deducting a service charge of \$500 or three (3) percent of the amount collected, whichever is greater, to cover the Local Entity's legal, engineering and administrative costs.

Funds collected pursuant to a reimbursement agreement shall be paid to such person as identified in the agreement, and if such person cannot be found, to an alternate if designated in the agreement.

11. Limitations. Any right to reimbursement pursuant to this provision shall not exceed a period of ten (10) years from the acceptance by the Local Entity of the street, alley or pedestrian-bike improvements. The Local Entity Governing Body may approve extensions of the reimbursement agreement for additional ten year periods. No such reimbursement shall be made unless the person entitled to reimbursement has fully satisfied their obligations under any other agreements with the Local Entity.

EXHIBIT F

STREET REIMBURSEMENT AGREEMENT

Map:

**AGREEMENT FOR
INCOMPLETE PUBLIC IMPROVEMENTS
WITH CASH DEPOSIT AGREEMENT**

RELATING TO THE DEVELOPMENT OF:

THIS AGREEMENT, dated this _____ day of _____, 200__, between the City of Loveland, Colorado, a Municipal Corporation (hereinafter called "City") and ***** hereinafter called "Developer"),

WITNESSETH:

WHEREAS, Developer has or intends to apply for building permits and certificates of occupancy ("permit") on property legally described as on Exhibit "A" attached hereto and incorporated herein ("property"); and

this form has been updated

WHEREAS, Chapters 16.40 and 18 of the City of Loveland Municipal Code require that certain improvements be made on and in the property and that the Developer comply with other conditions and requirements of the City of Loveland Municipal Code; and

WHEREAS, the City is willing to issue a permit and certificate of occupancy in accordance with the agreement of the Developer herein set forth, and subject to all requirements of the ordinances of the City and other applicable laws, rules and regulations; and

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

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

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

1. All improvements to be installed, work to be done and other improvements described on Exhibit "A" ("improvements"), shall be completed by Developer according to the applicable standards, rules and regulations of the City, and in compliance with the approved Final Development Plans for ***** **Subdivision**, as on file with the City.
2. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be installed or performed by Developer by *****.

3. Developer agrees to and hereby does submit with this Agreement a certified or cashier's check, acceptable to the City in the amount of ***** (\$*****) (Developer's Deposit) which is the estimated cost of satisfaction of the improvement herein described. The City may deposit Developer's Deposit in a City interest bearing account and agrees to hold Developer's Deposit as collateral for Developer's promise to construct the improvements. If Developer does not construct the improvements herein described, and perform all matters herein agreed to be performed, by ***** to the City's satisfaction, the City shall be entitled to use Developer's Deposit as it deems appropriate for the purpose of completing the improvements itself or by contract with a third party. Developer agrees that it is obligated for the actual cost of constructing the improvements and Developer's Deposit is only collateral for Developer's promise to pay such cost. If Developer constructs the improvements and upon inspection and acceptance of the improvement by the City, the City will refund Developer's Deposit, less any interest earned, to the Developer.

4. Developer acknowledges that time is of the essence of this Agreement. Developer's failure to complete the improvements herein described, and perform all matters herein agreed to be performed, to the City's satisfaction by ***** shall be deemed a substantial and material breach of this Agreement.

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

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

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

EXHIBIT "A"

Date: _____

Summary of requirement for property legally described as: **** **Subdivision**
Estimated cost for the following Incomplete Public Improvements:

DESCRIPTION OF ITEMS	TOTAL COST
1.	\$
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
	Subtotal
	\$
	+10% Contingency & Inflation
	* Total
	\$

* Estimate Only

Approved by (Initials):

_____ Developer

_____ City Engineer

Reviewed by: _____

**AGREEMENT FOR
INCOMPLETE PUBLIC IMPROVEMENTS
LETTER OF CREDIT**

RELATING TO THE DEVELOPMENT OF:

THIS AGREEMENT, dated this _____ day of _____, 200__, between the City of Loveland, Colorado, a Municipal Corporation (hereinafter called "City") and ***** (hereinafter called "Developer"),

WITNESSETH:

WHEREAS, Developer has or intends to apply for _____ permits and certificates of occupancy ("permit") on property legally described as on Exhibit _____ hereto and incorporated herein ("property"); and

this form has
been updated

WHEREAS, Chapters 16.40, and 18.46 of the Loveland Municipal Code require that certain improvements be made on and in the area of the property, and that the Developer comply with other conditions and requirements of the City pursuant to said Code; and

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

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

WHEREAS, it is further mutually acknowledged that City is entitled to other assurance that the matters hereinafter agreed to will be performed as agreed by Developer, and in that regard, Developer will furnish to City a letter from a bank or other financial institution acceptable to City.

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

1. All improvements to be installed, work to be done and other improvements described on Exhibit "A" ("improvements"), shall be completed by Developer according to the applicable

standards, rules and regulations of the City, and in compliance with the approved Final Development Plans for the **** **Subdivision** as on file with the City.

2. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be installed or performed by the Developer by ****.

3. It is estimated that the cost of satisfaction of the improvements herein described will not exceed **** (\$*****). Developer will furnish City a letter of credit from a bank or other financial institution ("issuer") acceptable to City, guaranteeing that funds in the amount of the aforesaid estimated cost are held by it for the account of Developer for the purpose of securing Developer's promise to make the required improvements. The letter of credit shall strictly comply with Exhibit "B" attached hereto and incorporated herein. In the event that Developer does not complete the improvements herein described, and perform all matters herein agreed to be performed, by **** to the City's satisfaction, City shall be entitled to draw down such funds under the letter of credit as it deems appropriate for the purpose of completing the improvements itself or by contract with a third party. Should City not require all funds that it draws to complete the required improvements, it shall refund the balance to Developer. However, nothing herein shall in any way limit the Developer's obligations hereunder, and Developer shall, in any event, remain liable for completion of all requirements herein provided for and for payment for the actual cost of all work and materials utilized in the completion of said improvements, notwithstanding the estimated cost in sentence one of this paragraph.

4. Developer acknowledges that time is of the essence of this Agreement. Developer's failure to complete the improvements herein described, and perform all matters herein agreed to be performed, to the City's satisfaction by **** shall be deemed a substantial and material breach of this Agreement.

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

6. This agreement, and the terms, conditions and covenants herein contained, shall be deemed to

APPROVED AS TO FORM

Assistant City Attorney

EXHIBIT "A"

Date: _____

Summary of requirement for property legally described as: **** **Subdivision**
 Estimated cost for the following Incomplete Public Improvements:

DESCRIPTION OF ITEMS	TOTAL COST
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
Subtotal	
+10% Contingency & Inflation	
* Total	

* Estimate Only

_____ Developer

_____ City Engineer

Reviewed by: _____

EXHIBIT "B"

INSERT FINANCIAL INSTITUTION NAME & LETTERHEAD

IRREVOCABLE LETTER OF CREDIT NO. insert financial institution LOC number

ISSUE DATE:

APPLICANT: **Insert name of Developer**

BENEFICIARY: City of Loveland
500 East Third Street
Loveland, CO 80537

AMOUNT: **Insert amount from Exhibit A**

EXPIRATION DATE: **EXPIRATION DATE MUST BE ONE YEAR FROM ISSUE DATE.**

Dear Sir or Madam:

We hereby establish our irrevocable Letter of Credit in your favor in the amount of \$ **insert amount from Exhibit A**. The purpose of this Letter of Credit is to secure performance of an Agreement for Incomplete Public Improvements for **insert subdivision name** dated **leave blank City will fill in when agreement is signed**, 200___ between the City of Loveland and **insert name of Developer**.

You are hereby authorized to draw on sight on **insert name of financial institution**, by drafts, up to the aggregate amount of \$ **insert amount from Exhibit A**. Such total amount may be reduced, at the sole discretion of the City, from time to time, as a result of the completion of a portion of the Incomplete Public Improvements by **insert name of Developer**.

The sole condition for payment of any draft drawn against this Letter of Credit is that the draft be accompanied by a letter, on the City's letterhead, signed by the City Manager, Public Works Director, or other City designee to the effect that **insert name of Developer** is in default of Developer's obligations pursuant to the Agreement for Incomplete Public Improvements. In the event of wrongful dishonor, we will reimburse the City for all court costs, investigative costs and reasonable attorney fees incurred by the City in enforcing this letter of credit. We further agree that jurisdiction and venue for any legal action enforcing this letter of credit shall be in the District Court of Larimer County, Colorado.

We hereby agree with drawers and endorsers, and bona fide holders of drafts negotiated under this Letter of Credit that the same shall be duly honored upon presentation and delivery of the documents as specified above.

Multiple drafts may be presented.

This Letter of Credit will be automatically extended without amendments for one year from the present, and each future expiration date thereof, unless Issuer delivers written notice within ninety

(90) days prior to any such expiration date to the City of Loveland of its intents not to renew this Letter of Credit. Any such notice shall be in writing and shall be delivered with an acknowledged receipt, either in hand or by certified mail.

This Letter of Credit is not transferable.

This Letter of Credit sets forth in full our understanding, and such undertaking shall not in anyway be modified, amended, amplified, or limited by reference to any document, instrument or agreement referred to herein, except for such certificate and draft(s) referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for such certificate and draft(s).

Except so far as otherwise expressly stated herein, this Letter of Credit shall be subject to Article 5 of the State of Colorado Uniform Commercial Code (UCC) and the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (UCPDC). To the extent of any conflict between the UCC and the UCPDC, the UCC shall control.

Signed this _____ day of _____, 200___ on behalf of **insert name of financial institution.**

Name, Title
Name of financial institution

On behalf of **insert name of Developer,** I hereby authorize **insert name of financial institution** to pay the City of Loveland, all, or a portion of this Letter of Credit upon receipt by **insert name of financial institution** of the letter described in paragraph 3 above, and waive any claims or defenses which I may have to the payment to the City of Loveland by **insert name of financial institution.**

Name, Title
Authorized Agent of **insert name of Developer**

**AGREEMENT FOR
INCOMPLETE DEVELOPMENT IMPROVEMENTS
WITH CASH DEPOSIT AGREEMENT**

RELATING TO THE DEVELOPMENT OF:

THIS AGREEMENT, dated this _____ day of _____, 200__, between the City of Loveland, Colorado, a Municipal Corporation (hereinafter called "City") and ***** hereinafter called "Contractor"),

WITNESSETH:

WHEREAS, Contractor has or intends to apply for building permits and certificates of occupancy ("permit") on property legally described as on Exhibit "A" attached hereto and incorporated herein ("property"); and

WHEREAS, Chapters 16.40 and 18.46 of the City Code require that certain improvements be made on and in the area of the property and the Contractor comply with other conditions and requirements of the City Code and

this form has been updated

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

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

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

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

1. All improvements to be installed, work to be done and other improvements described on Exhibit "A" ("improvements"), shall be completed by Contractor according to the applicable standards, rules and regulations of the City, and in compliance with the approved Final Development Plans for ***** Subdivision, as on file with the City.
2. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be installed or performed by Contractor by ***** .

3. Contractor agrees to and hereby does submit with this Agreement a cashier's or certified check, acceptable to the City in the amount of ***** (\$*****) (Contractor's Deposit) which is the estimated cost of satisfaction of the improvement herein described. The City may deposit Contractor's Deposit in a City interest bearing account and agrees to hold Contractor's Deposit as collateral for Contractor's promise to construct the improvements. If Contractor does not construct the improvements herein described, and perform all matters herein agreed to be performed, by ***** to the City's satisfaction, the City shall be entitled to use Contractor's Deposit as it deems appropriate for the purpose of completing the improvements itself or by contract with a third party. Contractor agrees that it is obligated for the actual cost of constructing the improvements and Contractor's Deposit is only collateral for Contractor's promise to pay such cost. If Contractor constructs the improvements and upon inspection and acceptance of the improvement by the City, the City will refund Contractor's Deposit, less any interest earned, to the Contractor.

4. Contractor acknowledges that time is of the essence of this Agreement. Contractor's failure to complete the improvements herein described, and perform all matters herein agreed to be performed, to the City's satisfaction by ***** shall be deemed a substantial and material breach of this Agreement.

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

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

7. Upon execution of this agreement by the parties hereto and upon submittal of the Contractor's Deposit to City, and provided all other conditions not herein contained have been met by Contractor, City agrees to grant the subject permit.

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

CONTRACTOR

By: _____

Title: _____

STATE OF COLORADO)
) ss
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 200__ by _____.

My commission expires _____.

(S E A L)

Notary Public

Address

* * * *

ATTEST

CITY OF LOVELAND

By: _____
Title: Current Planning Manager

By: _____
Title: Administrative Specialist

APPROVED AS TO FORM

Assistant City Attorney

EXHIBIT "A"

Date: _____

Summary of requirement for property legally described as: **** **Subdivision**
Estimated cost for the following Incomplete Development Improvements:

DESCRIPTION OF ITEMS	TOTAL COST
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
	Subtotal
	+10% Contingency & Inflation
	* Total

* Estimate Only

Approved by (Initials):

_____ Contractor

_____ Current Planning Manager

Reviewed by: _____

**AGREEMENT FOR
INCOMPLETE DEVELOPMENT IMPROVEMENTS
LETTER OF CREDIT**

RELATING TO THE DEVELOPMENT OF:

THIS AGREEMENT, dated this _____ day of _____, 200__, between the City of Loveland, Colorado, a Municipal Corporation (hereinafter called "City") and ***** (hereinafter called "Contractor"),

WITNESSETH:

WHEREAS, Contractor has or intends to apply for building permits and certificates of occupancy ("permit") on property legally described as on Exhibit "A" attached hereto and incorporated herein ("property"); and

WHEREAS, Chapters 16.40, and 18.46 of the Loveland Municipal Code require that certain improvements be made on and in the area of the _____ Contractor comply with other conditions and requirements of the City pursuant to _____

this form has been updated

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

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

WHEREAS, it is further mutually acknowledged that City is entitled to other assurance that the matters hereinafter agreed to will be performed as agreed by Contractor, and in that regard, Contractor will furnish to City a letter from a bank or other financial institution acceptable to City.

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

1. All improvements to be installed, work to be done and other improvements described on Exhibit "A" ("improvements"), shall be completed by Contractor according to the applicable

standards, rules and regulations of the City, and in compliance with the approved Final Development Plans for the ******Subdivision** as on file with the City.

2. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be installed or performed by the Contractor by *****.

3. It is estimated that the cost of satisfaction of the improvements herein described will not exceed ***** (\$*****). Contractor will furnish City a letter of credit from a bank or other financial institution ("issuer") acceptable to City, guaranteeing that funds in the amount of the aforesaid estimated cost are held by it for the account of Contractor for the purpose of securing Contractor's promise to make the required improvements. The letter of credit shall strictly comply with Exhibit "B" attached hereto and incorporated herein. In the event that Contractor does not complete the improvements herein described, and perform all matters herein agreed to be performed, by ***** to the City's satisfaction, City shall be entitled to draw down such funds under the letter of credit as it deems appropriate for the purpose of completing the improvements itself or by contract with a third party. Should City not require all funds that it draws to complete the required improvements, it shall refund the balance to Contractor. However, nothing herein shall in any way limit the Contractor's obligations hereunder, and Contractor shall, in any event, remain liable for completion of all requirements herein provided for and for payment for the actual cost of all work and materials utilized in the completion of said improvements, notwithstanding the estimated cost in sentence one of this paragraph.

4. Contractor acknowledges that time is of the essence of this Agreement. Contractor's failure to complete the improvements herein described, and perform all matters herein agreed to be performed, to the City's satisfaction by ***** shall be deemed a substantial and material breach of this Agreement.

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

6. This agreement, and the terms, conditions and covenants herein contained, shall be deemed to

Assistant City Attorney

EXHIBIT "A"

Date: _____

Summary of requirement for property legally described as: ***** **Subdivision**
Estimated cost for the following Incomplete Development Improvements:

DESCRIPTION OF ITEMS	TOTAL COST
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
	Subtotal \$
	+10% Contingency & Inflation
	* Total \$

* Estimate Only

_____ Contractor

_____ Current Planning Manager

Reviewed by: _____

EXHIBIT "B"

INSERT FINANCIAL INSTITUTION NAME & LETTERHEAD

IRREVOCABLE LETTER OF CREDIT NO. insert financial institution LOC number

ISSUE DATE: **

APPLICANT: **Insert name of Contractor**

BENEFICIARY: City of Loveland
500 East Third Street
Loveland, CO 80537

AMOUNT: **Insert amount from Exhibit A**

EXPIRATION DATE: **EXPIRATION DATE MUST BE ONE YEAR FROM ISSUE DATE.**

Dear Sir or Madam:

We hereby establish our irrevocable Letter of Credit in your favor in the amount of \$ **insert amount from Exhibit A**. The purpose of this Letter of Credit is to secure performance of an Agreement for Incomplete Development Improvements for **insert subdivision name** dated **leave blank** **City will fill in when agreement is signed**, 200_____ between the City of Loveland and **insert name of Contractor**.

You are hereby authorized to draw on sight on **insert name of financial institution**, by drafts, up to the aggregate amount of \$ **insert amount from Exhibit A**. Such total amount may be reduced, at the sole discretion of the City, from time to time, as a result of the completion of a portion of the Incomplete Development Improvements by **insert name of Contractor**.

The sole condition for payment of any draft drawn against this Letter of Credit is that the draft be accompanied by a letter, on the City's letterhead, signed by the City Manager, Public Works Director, or other City designee to the effect that **insert name of Contractor** is in default of Contractor's obligations pursuant to the Agreement for Incomplete Development Improvements. In the event of wrongful dishonor, we will reimburse the City for all court costs, investigative costs and reasonable attorney fees incurred by the City in enforcing this letter of credit. We further agree that jurisdiction and venue for any legal action enforcing this letter of credit shall be in the District Court of Larimer County, Colorado.

We hereby agree with drawers and endorsers, and bona fide holders of drafts negotiated under this Letter of Credit that the same shall be duly honored upon presentation and delivery of the documents as specified above.

Multiple drafts may be presented.

This Letter of Credit will be automatically extended without amendments for one year from the present, and each future expiration date thereof, unless Issuer delivers written notice within ninety (90) days prior to any such expiration date to the City of Loveland of its intents not to renew this Letter of Credit. Any such notice shall be in writing and shall be delivered with an acknowledged receipt, either in hand or by certified mail.

This Letter of Credit is not transferable.

This Letter of Credit sets forth in full our understanding, and such undertaking shall not in anyway be modified, amended, amplified, or limited by reference to any document, instrument or agreement referred to herein, except for such certificate and draft(s) referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for such certificate and draft(s).

Except so far as otherwise expressly stated herein, this Letter of Credit shall be subject to Article 5 of the State of Colorado Uniform Commercial Code (UCC) and the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (UCPDC). To the extent of any conflict between the UCC and the UCPDC, the UCC shall control.

Signed this _____ day of _____, 200___ on behalf of **insert name of financial institution.**

Name, Title
Name of financial institution

On behalf of **insert name of Contractor**, I hereby authorize **insert name of financial institution** to pay the City of Loveland, all, or a portion of this Letter of Credit upon receipt by **insert name of financial institution** of the letter described in paragraph 3 above, and waive any claims or defenses which I may have to the payment to the City of Loveland by **insert name of financial institution.**

Name, Title
Authorized Agent of **insert name of Contractor**