

DEVELOPMENT AGREEMENT

The Reserve at Crescent Cove

THIS AGREEMENT is made and entered into this _____ day of February, 2022.

1. Parties

The parties to this Agreement are the City of Evans, a Colorado home rule municipality (“the City”) and Timm Properties 2, a limited partnership (“the Developer”).

2. Recitals

a. Developer is the owner of certain real property located in the City of Evans, Colorado, described on Exhibit "A" (Legal Description) attached hereto and incorporated herein (the “Property”).

b. Developer submitted to the City an application for a Site Plan for multi-family residential uses to be known as The Reserve at Crescent Cove and shown on the Site Plan found in Exhibits B and F.

c. The Development subject to this Agreement shall be titled The Reserve at Crescent Cove. The Development is an approximately 18 +/- acre site located on the south side of 32nd Street between Harbor Lane and 29th Avenue. The Developer contemplates the Development will be used to construct twelve multi-family apartment buildings, one clubhouse and one pool. There will be a total of 288 residential dwelling units.

d. This Development Agreement is for Phase I of the Site Plan. A separate Development Agreement will be needed for Phase II of the Site Plan.

e. Developer acknowledges that approval of the Site Plan along with the subsequent use of the Property will directly impact existing infrastructure and generate the need for both on-site and off-site improvements.

f. Developer has provided Construction Documents for the City Engineer to approve.

NOW, THEREFORE, in consideration of the premises, mutual covenants and obligations contained herein, the sufficiency of which is acknowledged, the parties mutually agree as follows:

3. Definitions

As used in this Agreement, unless specifically stated otherwise, the words and phrases used shall have the meaning as defined in the City Code. For the purpose of this Agreement the following words and phrases shall have the definitions provided for below:

- a. The term “Agreement” refers to this Development Agreement.
- b. The term “City Code” refers to the Municipal Code of the City of Evans, as adopted and as amended from time to time by the City Council.
- c. The term “City Official” refers to and includes the City Manager, City Attorney, City Treasurer, Public Works Director, Community Development Director, and their designated representatives.
- d. The term “Developer” initially refers to Timm Properties 2, a limited partnership (“the Developer”), its agents, representatives, or any other party authorized by the Developer to provide services, construction, or maintenance of any Improvements, as well as any entity that subsequently acquires a fee simple interest of record in any portion of the Property as a transferee, grantee, assignee or successor of Timm Properties 2. “Developer” shall include, collectively, all of the foregoing persons or entities, all of whom shall be jointly and severally liable for the obligations and liabilities of the Developer to the extent such liability relates to the portion of the Property they purchase or otherwise obtain. Notwithstanding the foregoing, the term “Developer” shall not include (1) purchasers of individual subdivided lots or individual residential lots or units or individual non-residential space in an approved Final Plan or Final Plat or (2) holders of a security interest in the Property or a portion thereof.
- e. The term “Development” refers to the overall plan of the Developer to develop the Property.
- f. The Term “Improvements” refers to the improvements more particularly described in Exhibit C, that the Developer is obligated to design, construct, and install at Developer’s sole cost in connection with the development of the Property pursuant to Evans Municipal Code Section 18.08.060, including Road grading and surfacing; Curbs, gutters and driveways; Sidewalks; Sanitary sewer laterals; Storm sewers or storm drainage system, as required; Water distribution system; Street signs at all street intersections; Permanent reference monuments and monument boxes; Street lighting; Underground electric and communication utility lines and services, and all street lighting circuits; Other facilities as may be specified or required by the City. For the purpose of this agreement, improvements does not include

landscaping as required under Evans Municipal Code Section 18.08.070.

- g. The term “Plans and Specifications” shall refer to the engineering and design documents that have been reviewed and approved by the City in connection with the Development. The Site Plan has been recorded and referenced in Exhibit B and the Phasing Plan in Exhibit F. The Construction Documents are referenced in Recital 2.f found on page 1 of this Agreement.

4. Effect of Agreement

- a. Effective date. The effective date of this Agreement shall be the date the Agreement was entered into by City Council.
- b. This Agreement and the other provisions incorporated as part of the Site Plan are intended to prescribe a general plan for the use and development of the Property. However, except as expressly provided herein and in the Site Plan Staff Report, they do not supplant the City’s land use regulations and other ordinances and regulations as they relate to the Property and shall not be construed to limit the authority of the City to adopt different ordinances, resolutions, regulations, rules, policies or codes so long as they apply throughout the City uniformly or to classes of individuals or properties uniformly.
- c. The provisions of this Agreement and the Site Plan reflect the requirements of the City’s utilities as of the effective date of the Agreement. These provisions shall not be construed as a limitation upon the authority of the City to adopt different ordinances, rules, regulations, resolutions, policies or codes which change the charges or costs for any service or class of service or any other charges so long as they apply throughout the City uniformly or to the class of service uniformly or to all users of a particular utility system, such as a particular water system or sewer system, uniformly.
- d. Except as otherwise expressly provided in this Agreement or the Site Plan, the establishment of vested property rights under this Agreement shall not preclude the application on a uniform and non-discriminatory basis of City regulations of general applicability (including, but not limited to, building, fire, plumbing, electrical and mechanical codes) as all of such regulations exist on the date of this Agreement or as they may be enacted or amended after the date of this Agreement. The Developer does not waive its right to oppose the enactment or amendment of any such ordinance, resolution or regulation on the same basis that any other member of the public could present such opposition.

5. Term of Agreement

The term of this Agreement shall be three (3) years from the effective date. After the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect; provided, however, such termination shall not affect (a) any vested rights obtained prior to such termination and contemplated to continue after such termination; or (b) any right arising from City permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement and that were contemplated to continue after termination of this Agreement.

6. Vested Rights

- a. Sections 24-68-101, et seq., C.R.S. , (“the Vested Rights Statute”), provides for the establishment of vested property rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vested Rights Statute has been implemented by the City through the procedures set forth in Sections 18.01.100, et seq., of the City Code.
- b. Pursuant to the provisions of the Vested Rights Statute and Sections 18.01.100, et seq., of the City Code, the parties find that the Site Plan is a site specific development plan for the purposes of developing the Property, vesting in the Developer the right to develop the Property in the manner depicted in the Site Plan.
- c. The vested rights associated with the Development, as set forth in this Section 6, shall run with the land and shall remain in effect throughout the term of this Agreement. No other vested rights are created or intended to be created by this Agreement, the Site Plan, or any of the other documents relating to the Property. Upon expiration or termination of this Agreement all vested rights shall expire, except as otherwise specifically provided by Section 5, above.
- d. Any provisions of this Agreement or the Site Plan to the contrary notwithstanding, the City reserves the right to declare a moratorium upon a reasonable finding by the City Council that such moratorium is necessary to protect the public health, safety or welfare, but a moratorium cannot be declared with respect to the Development for planning purposes.
- e. The City finds the three (3) year duration of such vested property rights to be warranted in light of all relevant circumstances, including, but not limited to, the substantial size of the Property, the scale and phasing of the Development,

economic cycles and market conditions.

7. Improvements. The improvements associated with the development of the Property are described in Exhibit C, Developer Improvements, (“the “Improvements”). Exhibit C includes but is not limited to (1) description of Improvements, (2) Engineer’s estimate of probable costs of Improvements, and (3) Schedule of completion of Improvements. The Improvements Map (Site Plan) is on file with the City of Evans and referenced in Exhibit B. From time to time and upon the City’s request, Developer agrees to keep the City informed of the progress of its work and provide a projection of when Improvements will be installed as well as the approximate cost of the remaining Improvements.

8. Developer’s Obligations To Construct Improvements. Developer shall design, construct and install at its own expense, the Improvements on or before the Estimated Completion Date set forth in Exhibit C, subject to extension as provided for delays due to Force Majeure. Construction of the Improvements shall be in substantial and material conformance with the Plans and Specifications, as reviewed and approved by the Public Works Director or a designated representative, and shall be in compliance with all policies, ordinances, standards and specifications adopted by the City relating thereto in effect at the time of such construction. The City’s review and approval of the Plans and Specifications shall not impose any liability on the City and shall not limit or affect Developer’s responsibility or liability for design, construction and installation of the Improvements. Developer agrees to save and hold the City harmless from any claims, fault or negligence attributable to such design, construction and installation.

a. Acquisition of rights-of-way and easements. Before commencing the construction of any Improvements the Developer shall acquire, at its own expense, good and sufficient rights-of-way or easements, clear of any encumbrances except permitted encumbrances to which the City has consented in advance and in writing, on all lands and facilities, if any, traversed by the Improvements.

b. Operation Standards during construction

1) Hours of operation of construction equipment. The operation of construction equipment outside an enclosed structure (i.e. grading, other surface improvements, underground utilities, either public or private) shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and 4:00 p.m. and 8:00 a.m. on legal holidays and weekends. In situations of need, and upon written request, the hours of operation may be altered by the Public Works Director.

2) Debris in public rights-of-way. The Developer shall, at all times, keep the public right-of-way free from accumulation of waste material or rubbish; or tracking of dirt, sand, gravel caused by its operation. Developer shall remove such rubbish no less than weekly and, at the completion of its work, shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the public right-of-way caused by its operation.

3) Erosion control requirements. Developer shall install temporary and permanent erosion control in the Development to control erosion by both wind and water. Developer shall maintain said erosion controls on a routine basis. By way of explanation and without limitation, said control may consist of seeding of approved grasses, temporary dikes, gabions and/or other devices. In the event that the Developer fails to perform erosion control maintenance, Developer shall have 20 days upon receiving written notice to bring the Development into compliance.

4) Other nuisance mitigation. Developer shall mitigate any nuisance caused by construction activities in connection with development of the Property, including but not limited to noxious odors, excessive dust, particularly on days with high winds, and artificial light intrusion.

5) Standards for subcontractors. Developer hereby agrees that it shall require its subcontractors to comply with the operations standards as set forth in this Section, including but not limited to cooperating with the City's construction inspectors, and ceasing operations when winds are of sufficient velocity to create blowing dust which, in the inspector's opinion, is hazardous to the public health and welfare.

6) Remedies for failure to comply with operation standards. Failure to comply with the Operation Standards set forth in this Section shall be sufficient cause for the City to withhold building permits and/or certificates of occupancy or other approvals or permits until corrected to the satisfaction of the Public Works Director or designee.

9. Development standards. Developer shall comply with all applicable standards related to the improvements found in Exhibit C, Exhibit B and the Plans and Specifications.

10. Security For Construction of Improvements. The Developer's construction and completion of the Improvements shall be assured by Developer providing a Performance Guarantee in the amount of 115% of the estimated cost of the prior to the earlier of (1) issuance of the first permit associated with the Development or (2) commencement of work on the Property. The Developer shall have no direct or indirect ownership or managerial control over the entity

issuing any Performance Guarantee. In the event that prior to the City's initial acceptance of the Improvements, the Performance Guarantee should expire or the entity issuing the Performance Guarantee becomes non-qualifying or the cost of the Improvements is reasonably determined by the City to be greater than the amount of the security provided, then the City shall furnish the Developer with written notice of such condition, and within fifteen (15) days of receipt of such notice the Developer shall provide the City with a substituted qualifying Performance Guarantee or augment the deficient security to achieve 115% of the cost of the Improvements. If such Performance Guarantee is not timely furnished, then development activities including but not limited to the issuance of building permits and certificates of occupancy, may be suspended by the City pending compliance with the provisions of this Section.

11. Testing and inspection.

Developer shall employ (at its own expense) a qualified independent testing company to be approved by the Public Works Director or a designated representative in its reasonable discretion, to perform all testing of materials or construction that may be reasonably required by the City. Developer shall furnish certified copies of test results to the Public Works Director and, upon request by the Public Works Director, release and authorize full access to the Public Works Director of all work-up materials, procedures and documents used in preparing the test results.

At all times during construction of the Improvements and until final acceptance by the City, the City shall have the right, but not the duty, to inspect materials and workmanship utilized for the Improvements at Developer's cost, provided the City's inspector is accompanied by Developer or its designated representative. All materials and work must conform to the approved Plans and Specifications and all applicable regulations. Any material or work not conforming to the Plans and Specifications or other applicable regulations shall be promptly removed, repaired or replaced, at Developer's expense and to the reasonable satisfaction of the Public Works Director.

12. Initial Acceptance of Improvements. Developer shall make written application to the Public Works Director for initial acceptance of the Improvements ("Initial Acceptance") within 30 days of their completion. Such Improvements will be described on a "Developer's Contribution Worksheet" provided by the City Engineer. The Developer shall be responsible for the accuracy and completeness of all information provided. The affidavit, lien waivers and other materials may be reviewed by the City, but the City assumes no responsibility or liability to or for anyone regarding the veracity of the information so provided. Developer's application for initial acceptance shall be accompanied by the following information and materials:

- A. As Built Drawings: One (1) set of surveyed Mylar and one digital/CAD file of the "as built" drawings, certified as to accuracy by the Developer or its architect or Engineer;

- b. Engineer's Certification: Written certification by the Developer's Engineer that the Improvements have been fully constructed and installed in substantial conformance with the Plans and Specifications;
- c. Cost Affidavit: A final affidavit of the Improvements' construction cost including verification reasonably satisfactory to the City Public Works Director;
- d. Improvements Affidavit: Developer shall provide a signed affidavit that the Improvements have been paid for in full;
- e. Lien Waivers: Developer shall provide lien waivers from its general contractor and from all subcontractors, suppliers and materialmen who have furnished labor, material or services for the Improvements.

After the receipt of Developer's written application for initial acceptance, the Public Works Director (or a designated representative) will use reasonable efforts to promptly inspect the Improvements and prepare a detailed written description of all Improvements that are not in compliance with the requirements of the City or the Plans and Specifications and deliver that description to the Developer within 30 days. After curing such defects as are noted on the written statement provided by the Public Works Director to the Developer, the Developer shall make written application to the City for re-inspection of the Improvements, and the Public Works Director will use reasonable efforts to promptly re-inspect such Improvements. No Improvements shall be deemed to be initially accepted by the City until the Public Works Director has certified, in writing, that the Improvements appear to have been completed in accordance with the applicable Plans and Specifications. This shall then constitute Initial Acceptance.

13. Warranty period for Improvements Following Initial Acceptance. Developer shall remain fully responsible for maintenance, repairs, and replacement of the Improvements for a period of two (2) years after their Initial Acceptance by the City. If any of the Improvements fail or are in need of repair or replacement, such failed, repaired, or replaced portions shall be replaced with similar Improvements deemed satisfactory by the Public Works Director in the exercise of his reasonable discretion and the two-year warranty shall begin anew as to the repaired or replaced Improvement upon completion by the Developer, and inspection and approval by the Public Works Director, and the Maintenance Guarantee shall remain in place during such extended warranty period.

14. Maintenance Guarantee During Warranty Period. Developer's application for Initial Acceptance shall be accompanied by a Maintenance Guarantee in a form deemed acceptable to the City in the amount of fifteen percent (15%) of the total costs of the Improvements. The

Maintenance Guarantee shall be subject to the same conditions as those set forth for the Performance Guarantee. Until Final Acceptance of the Improvements by a Certificate of Completion reviewed and approved by the Public Works Director Developer agrees that (a) the Maintenance Guarantee shall not be released; and (b) the Developer shall bear all risks and liability related to any loss, damage, or claims due to defects or failures of any of the Improvements; and (c) the Developer shall perform all maintenance and make all repairs and replacements of all defects or failure of Improvements at Developer's expense which, in the reasonable opinion of the Public Works Director, may be necessary. If, within fifteen (15) days after the Developer's receipt of written notice from a City Official requesting such reasonably required maintenance, repairs, and/or replacements of the Improvements, the Developer shall not have undertaken with due diligence to make same, the City, after providing written notice to Developer, may make such maintenance, repairs, and/or replacements at the Developer's expense. The City shall be entitled to draw upon the Maintenance Guarantee, either before undertaking to make such repairs or at any time thereafter, or the City may charge the Developer for the costs thereof if such charges are not paid by the Maintenance Guarantee. In case of emergency, such written notice shall be waived and the City may proceed as it reasonably deems necessary, at the expense of the Developer or the issuers of the Maintenance Guarantee.

15. Final Acceptance of Improvements. The Developer shall make a written request to the Public Works Director (or a designated representative) for a final inspection of the Improvements no sooner than two (2) years after the City's Initial Acceptance of all of the Improvements for such Phase of Development. Upon receipt of such request the City may, but shall not be obligated to, conduct a final inspection of the Improvements. If the Developer fails to have the Improvements finally accepted as provided in this Section within two years and six months after the City's Initial Acceptance, the City shall have the right, but not the obligation, at any time thereafter to conduct a Final Inspection of the Improvements. If, pursuant to a final inspection requested by the Developer or initiated by the City, any Improvement is found to not conform to this Agreement, the Plans and Specifications, or other applicable regulation or requirement, then the City shall have the rights set forth in this Agreement to remedy such defects. Nothing herein shall be construed or deemed as requiring the City to finally accept and release from the Maintenance Guarantee any Improvement that is defective or damaged. After receipt of satisfactory evidence that the Improvements fully conform to this Agreement, the Plans and Specifications, all applicable regulations and requirements, and that all of the maintenance, repairs, and replacements reasonably requested by City Officials pursuant to the terms of this Agreement have been completed to the reasonable satisfaction of the City, the Public Works Director shall issue a Certificate of Completion, evidencing completion and Final Acceptance of such Improvements. The Maintenance Guarantee provided by the Developer shall be released after the Final Acceptance of

all of the Improvements has been granted and the Certificate of Completion has been issued by the City.

16. Conveyance of rights-of-way, easements and improvements to City. All rights-of-way and easements associated with development of the Property, and the Improvements shall be conveyed to the City at the time of initial acceptance. The documents of conveyance shall be in a form acceptable to the City and shall be furnished to the Public Works Director or their designee for recording. Developer shall reimburse the City for all costs of recording. At the City's request, the Developer shall provide, at its expense, a policy of title insurance insuring title in the City, free and clear of all liens and encumbrances, for all land, property, and easements dedicated or conveyed (except those easements that do not affect the City's use of the property) to the City or for public use.

17. Commitments to Serve From Service Providers. Prior to commencement of construction, Developer shall provide will serve letters or other evidence deemed acceptable by the City's Director of Public Works, indicating the willingness and ability of service providers to supply their respective services to the Development in an amount reasonably needed for the Development, including but not limited to water, waste water, electrical, and natural gas service.

18. Developer Dedications and Impact fees. Developer shall comply with the City Code regarding dedication of impact fees, including but not limited to Section 3.20.010, et seq.

19. Additional Developer Obligations. In addition to its obligations related to the Improvements, Developer further agrees to fulfill its obligations with regard to the items and matters set forth in Exhibit E, attached.

20. Additional Developer Liabilities.

a. Indemnification. To the extent permitted by law, Developer hereby agrees to indemnify and hold the City, City Officials, its employees, agents, representatives, and insurers (collectively, "City Parties") harmless from and against any and all suits, demands, actions, damages, liability, losses, claims, fees, and expenses (including reasonable attorney's fees) resulting or arising in any way from any breach or default of this Agreement or any acts or omissions of the Developer, its employees, agents, consultants, representatives, or subcontractors except to the extent caused by negligence, gross negligence or willful misconduct of the City or one or more City Parties. Developer shall promptly investigate, handle, respond to and provide defense for and defend against any such liability, claims, or demands at the sole expense of Developer. Developer also agrees to bear all reasonable costs, expenses, and attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent

unless they are caused by negligence, gross negligence or willful misconduct of the City or one or more of its officers, agents or employees.

b. Insurance. Developer shall (for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction, or installation of Improvements) maintain such liability insurance including general liability, contractors liability, professional liability, comprehensive automobile liability, worker's compensation insurance and sufficient public liability insurance as will protect the City, City Officials, City's employees, agents and representatives against any and all potential liability, claims, damage, demands, losses and expenses, that may be incurred or asserted. Liability insurance shall be in the minimum amount of three hundred thirty thousand dollars (\$330,000.00) for injury to one person, or nine hundred ninety-thousand dollars (\$990,000.00) for injury to two or more persons in any single occurrence, or such greater amounts as may be established by the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S. as it may be amended. Whenever reasonably requested by City or City Officials, the Developer agrees to submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and which show the City, City Officials, its employees, agents, and representatives as additional insureds. Developer shall not be relieved of any liability, claims, demands or other obligations assumed or set forth in this Agreement by reason of its failure to procure or maintain such insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

c. Drainage Liability. To the extent permitted by law, Developer shall indemnify and hold the City harmless from any liability the City may have on account of any change in the nature, direction, quantity or quality of drainage flow, resulting from the Development. In addition, Developer shall reimburse the City for any and all costs, fees, and expenses, including reasonable attorney's fees, that the City incurs in acquiring any rights of way or easements that the City deems necessary or is required to acquire or condemn or that the City is held to have acquired or condemned for drainage or as a result of or relating in any manner to the Development.

d. Tax Liability. Developer shall pay any outstanding taxes, encumbrances or obligations on any property dedicated or conveyed to the City prior to or at the time of such dedication or conveyance, and shall indemnify and hold the City harmless from any and all encumbrances, obligations, or tax liability incurred prior to the dedication or conveyance to the City.

e. Use Tax. Any and all use tax due on construction and building materials for public facilities shall be paid as provided under Municipal Code including but not limited to Section 3.04.200.

f. Cost Reimbursement to City. Developer shall reimburse City for all reasonable costs incurred for professional consultants including but not limited to engineers, testing companies, contractors, and attorneys reasonably used by the City in connection with the preparation or implementation of this Agreement and in the review and processing of the Application, as well as the design, construction, review, testing, completion, repair, replacement, and approval of the Development.

21. Breach and Remedies

a. Breach of Agreement by Developer. If at any time this Agreement (or any part hereof) has been materially breached by Developer or if satisfactory progress substantially in accordance with Exhibit C, Developer Improvements, has not been made on the design, construction, installation, repair, replacement or maintenance of the Improvements the City may, after 30 days' prior written notice to Developer or such additional period as may reasonably be agreed to by the City in writing in light of the nature of the alleged breach, draw on the Performance Guarantee or Maintenance Guarantee and the City may withhold approval of any or all building permits, certificates of occupancy, water meters, or tap hook-ups for any area within the Development, or other approvals or permits, if Developer then fails to make reasonable progress as reasonably determined by the City, unless such failure is caused by Force Majeure. Notwithstanding these rights and remedies, the City may pursue whatever additional remedies it may have against Developer or anyone, either at law, equity, or pursuant to this Agreement. The City's remedies shall be cumulative.

b. Breach of Agreement by City. If at any time the Developer believes the City is in breach of this Agreement, the Developer shall provide the City with 20 days prior written notice. In the event the City fails to remedy the alleged breach within 20 days or such additional period as may be necessary in light of the nature of the alleged breach, then the Developer remedies are limited to specific performance of this Agreement and shall not include any claim for damages or other monetary relief.

22. Miscellaneous.

a. No Waiver. Delays by the City or Developer in enforcement or the waiver of any one or more breaches of this Development Agreement shall not constitute a waiver of any of the remaining terms or obligations or any future breaches.

b. Severability. If any provisions or parts of this Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair, or

invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

c. Recording of Agreement and Encumbrance on the Property. This Agreement shall be recorded with the Weld County Clerk and Recorder at Developer's expense and shall be a covenant running with and against all the Property, property rights, and improvements contained within the Development in order to put prospective owners, purchasers, successors, assigns, and others acquiring any interest in the Property on notice as to the terms and obligations herein.

d. Binding Effect. Unless otherwise provided herein, this Development Agreement shall be binding upon Developer's heirs, successors, assigns, transferees, and any other person or entity acquiring or purchasing any interest in any part of the Property.

e. Transfer or assignment. In the event of a sale or transfer by Developer of any portion of the Property, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to the transfer or the sale, a written Agreement delineating and allocating the various rights and obligations for the Improvements, has been approved and executed by the City Council. Notwithstanding anything herein to the contrary, Developer shall have the right to transfer and/or assign its rights and interests in this Agreement to any entity that controls, is controlled by, or is under common control with Developer without the approval of the City or City Council, provided the City is given written notice within 10 days of such transfer.

f. Title and Authority. Developer expressly warrants and represents to the City that it is the record owner of the Property and further represents and warrants that the undersigned has full power and authority to enter into this Development Agreement. Developer understands that the City is relying on the representations and warranties contained herein, in its consideration of the application and in entering into this Agreement.

g. Notices. Any notice to Developer or the City, which may be given under the terms of this Agreement, shall be in writing and shall be deemed sufficiently given on the third (3rd) business day following the date such notice is sent by certified or registered U.S. Mail, postage prepaid, return receipt requested, or as of the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt, addressed as follows on the next page:

TO CITY:
Attention: City Manager
1100 37th Street
Evans, CO 80620-2036

TO DEVELOPER:
M. Timm Development, Inc.
233 East Carrillo Street, Suite D
Santa Barbara, CA 93101T

With a copy to
Scotty P. Krob
Krob Law Office LLC
8400 E. Prentice Ave, Penthouse
Greenwood Village, CO 80111

With a copy to:

Any party may change its notice address by providing the other party(ies) notice as set forth in this section.

h. Force Majeure. Whenever a period of time is herein prescribed for an action to be taken or performed by any Party, that Party will not be liable to so perform within such time period due to, and there will be excluded from the computation of such period of time, any delays due to, strikes, riots, acts of God, shortages of labor and materials, war, or any other cause which is beyond the reasonable control of the Party required to take or perform such action.

i. Cooperative drafting and Consultation with Attorney. This Agreement is the product of a cooperative drafting effort by the City and the Developer and shall not be construed or interpreted against either party solely on the basis that one party or its attorney drafted this Agreement or any portion of it. Both parties acknowledge that they understand this Agreement contains legal rights and obligations and further acknowledge that they have had the opportunity to and have consulted with an attorney to the extent they desire to do so.

j. Amendment. This Agreement cannot be modified or revoked except by an instrument in writing signed by the City and the Developer or the then owner of the Property or any portion thereof if there has been an assignment as it relates to the specific Property.

k. No third party beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any legal person other than the Parties, any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. Nothing in this Agreement is intended to interfere with the agreements of the Parties with third parties.

23. **Landscaping.** By executing this Agreement, Developer agrees to be bound by all requirements of Section 18.08.070 of the Evans Municipal Code, including the following:

a. Multifamily residential areas. The City shall not issue building permits for new multifamily dwellings until a landscaping and irrigation plan has been approved by the City for the site. City staff may, at its discretion, issue building permits with the condition that a landscaping and irrigation plan shall be reviewed, approved and implemented prior to issuance of the certificate of occupancy. If weather conditions do not allow for installation of landscaping at the time the certificate of occupancy is requested, or if City staff has other reason to believe the immediate installation of landscaping would jeopardize its viability, such as in the case where additional buildings are yet to be constructed on the same lot, City staff may issue the certificate if the applicant provides both 1) a cost estimate from a local landscaping company for the cost of materials and labor of the landscaping to be reviewed and approved by the City, and 2) a letter of credit or other acceptable security in the amount of one hundred twenty-five (125) percent of the cost estimate. All landscaping improvements shall be inspected by the City for compliance with the approved landscaping and irrigation plan and regulations of this Chapter prior to issuance of a certificate of occupancy or release of the letter of credit, as the case may be.

[Signatures on next page]

IN WITNESS THEREOF and agreeing to be fully bound by the terms of this Agreement the parties have set their hands below on the dates indicated.

CITY OF EVANS

By: _____
Brian Rudy, Mayor

ATTEST:

Julie Kamka, City Clerk

Timm Properties 2, Managing Partner

By: _____

STATE OF COLORADO)
)
COUNTY OF _____)

Acknowledged before me this _____ day of February, 2022 by _____, as
_____ of _____, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

(Seal)

Notary Public

IN WITNESS THEREOF and agreeing to be fully bound by the terms of this Agreement the parties have set their hands below on the dates indicated.

CITY OF EVANS

By: _____
Brian Rudy, Mayor

ATTEST:

Julie Kamka, City Clerk

Timm Properties 2, Managing Partner

By: _____
[Handwritten Signature]

STATE OF COLORADO)
)
COUNTY OF _____)

Acknowledged before me this _____ day of February, 2022 by _____, as
of _____, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

(Seal) _____
Notary Public

*See
attached*

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Barbara)

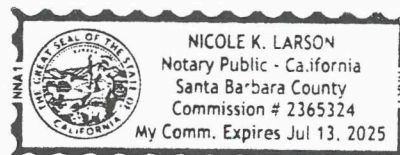
On 2/1/2022 before me, Nicole Larson
(insert name and title of the officer)

personally appeared Milan Timm,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



Exhibits

A – Legal Description

B – Site Plan Recording Information

C – Developer Improvements

 C-1 – Description of Improvements

 C-2 – Engineer’s estimate of probable costs of Improvements

 C-3 – Schedule of completion of Improvements

 C-4 - Improvements map

D –Performance Guarantee

E – Additional Developer Obligations

F- Phasing Plan

Exhibit A: Legal Description

A PLAT OF A PARCEL OF LAND LOCATED IN THE CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO; SITUATE IN THE SOUTHEAST QUARTER OF SECTION 24 TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT 3, THE LANDINGS, AS SHOWN ON THE PLAT THEREOF, RECORDED IN THE OFFICE OF THE WELD COUNTY CLERK AND RECORDER ON NOVEMBER 20, 1997 UNDER RECEPTION NO. 2580174.

SAID TRACT CONTAINS 17.83 ACRES (776,559.13 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.

EXHIBIT B – Site Plan Recording Information

The Site Plan was recorded by the Weld County Clerk and Recorder at Reception
Number _____.

EXHIBIT C: Developer Improvements

Exhibit C-1 – Description of Improvements

- a. Internal Roadways
 - b. All internal travel ways and parking areas are to be privately owned and maintained
 - c. Culverts will be required under access roads to pass site drainage
 - d. Access for Phase 1 will be to 32nd Street on the north, Harbor Lane on the east and Crescent Cove Drive to the south.
 - e. Sewer lines will be generally located under the private drives and will connect to the existing main under Harbor Lane
 - f. Water lines for Phase 1 will be looped through the site and be located under the private drives. The loop will connect to existing mains in Harbor Lane and 32nd Street.
 - g. Storm water will be managed through a series of culverts and interconnected pipes that route flows to a pond in the southeast corner of the site. Water quality will be provided in the pond and then released to a series of offsite swales and ponds which were master planned for the regional area and provide detention for this project.
 - h. Non-potable water system improvements shall include a connection to the City's system, installation of the delivery infrastructure to the project site and improvements to the North Point Pump Station. Improvements to the Pump Station are required to provide the projected demand and pressure to serve the proposed Development. Developer shall reimburse the City for all costs associated with these improvements. These costs shall include but are not limited to design costs, programming of the control panel, specifying and installation of a 3rd pump and related plumbing of the piping.
 - i. Perimeter and internal fencing is not anticipated for this project
 - j. A cluster mailbox location is shown adjacent to the travel way on the east side of the clubhouse.
 - k. Overhead utility lines to be placed underground

l. Bicycle & pedestrian paths and trails, sidewalk improvements, ADA compliance along 29th Avenue, Harbor Lane, and 32nd Street

m. School or public bus stop locations are not anticipated with this project

n. Landscaping and Irrigation. Pursuant to Section 23 of the Agreement, the parties agree that no Certificate of Occupancy or similar authorization by the City will be issued until the landscaping has been completed and initially accepted. However, in the event Developer has not installed and completed the landscaping at the time the Developer requests a Certificate of Occupancy, and the Developer is not reasonably able to complete and install the landscaping at that time due to the season of the year and the anticipation of adverse weather conditions, then and only in that event, the Developer may receive a Certificate of Occupancy if the Developer has completed all other matters required for such Certificate and Developer provides a Performance Guarantee in the amount of 125% of the engineer's estimated cost of constructing and installing the landscaping. The Performance Guarantee for landscaping shall be subject to the same requirements and provisions as set forth in this Agreement in connection with the Performance Guarantee for the other Improvements.

o. Street lights – 1 local on Harbor; 3 arterial on 32nd; 1 arterial on 29th

q. Concrete replacement on 32nd Street

Exhibit C-2 – Engineer’s estimate of probable costs of Improvements

Client: MTIMM

Date: December 2021

Project: RESERVE AT CRESCENT COVE - PHASE 1

No.	Item	Quantity	Units	Unit Cost	Total
I. SANITARY SEWER SYSTEM					
	8" SANITARY SEWER MAIN	2,302	L.F.	\$44.65	\$102,784
	4' MANHOLE	6	EA.	\$5,525.67	\$33,154
	6' MANHOLE	1	EA.	\$6,857.65	\$6,858
				SUBTOTAL	\$ \$142,796
II. WATER SYSTEM					
	8" GATE VALVE	9	EA.	\$1,488.66	\$13,398
	12"X8" TEE	1	EA.	\$777.63	\$778
	8"X8" TEE	2	EA.	\$546.92	\$1,094
	8" CROSS	1	EA.	\$582.97	\$583
	12" GATE VALVE	2	EA.	\$2,936.44	\$5,873
	10" GATE VALVE	1	EA.	\$2,320.62	\$2,321
	12" SOLID SLEEVE	3	EA.	\$422.01	\$1,266
	10" SOLID SLEEVE	1	EA.	\$312.85	\$313
	10"X8" TEE	1	EA.	\$719.10	\$719
	8" SOLID SLEEVE	2	EA.	\$286.65	\$573
	8" C900 PIPE	1,970	L.F.	\$45.18	\$89,005
	8" 45 BEND	4	EA.	\$213.81	\$855
	6" C900 PIPE	45	L.F.	\$42.21	\$1,899
	8" WATER LOWERING	1	EA.	\$3,826.34	\$3,826
	8"X6" SWIVEL TEE	5	EA.	\$380.37	\$1,902
	6" GATE VALVE	5	EA.	\$935.42	\$4,677
	FIRE HYDRANT	5	EA.	\$4,825.00	\$24,125
	2 INCH AIR VAC	1	EA.	\$2,384.20	\$2,384
	AIR VAC VAULT	1	EA.	\$3,400.00	\$3,400
	12" MEGA LUG	11	EA.	\$298.69	\$3,286
	10" MEGA LUG	5	EA.	\$286.29	\$1,431
	8" MEGA LUG	39	EA.	\$220.25	\$8,590
	6" MEGA LUG	8	EA.	\$170.91	\$1,367
	CONNECT TO EXISTING WATER MAIN	2	S.Y.	\$3,000.00	\$6,000
				SUBTOTAL	\$ \$179,665
III. NON-POTABLE IRRIGATION SYSTEM					
	IRRIGATION C900 6" PIPE	880	L.F.	\$42.21	\$37,145
	6" GATE VALVE	2	EA.	\$935.42	\$1,871
	2" BLOW OFF	1	EA.	\$1,945.42	\$1,945
	6" SOLID SLEEVE	1	EA.	\$160.93	\$161
	12" STEEL CASING	23	L.F.	\$163.34	\$3,757
	6" LINE UNDER 29TH AVE	1	EA.	\$13,000.00	\$13,000
	3" IRRIGATION SERVICE	1	EA.	\$17,088.68	\$17,089
				SUBTOTAL	\$ \$74,967
IV. STORM SEWER					
	OUTLET STRUCTURE	1	EA.	\$21,377.65	\$21,378
				SUBTOTAL	\$ \$21,378



Client: MTIMM

Date: December 2021

Project: RESERVE AT CRESCENT COVE - PHASE 1

No.	Item	Quantity	Units	Unit Cost	Total
<i>V. PUBLIC STREET SYSTEM (HARBOR LANE AND 32ND ST IMPROVEMENTS ONLY)</i>					
	HC RAMPS	2	L.S.	\$2,500.00	\$5,000
	5' SIDEWALK	30	L.F.	\$30.00	\$900
	10' SIDEWALK	26	L.F.	\$60.00	\$1,560
	6" VERTICAL CURB & GUTTER	70	L.F.	\$25.00	\$1,750
	CROSS PAN	63	S.Y.	\$70.00	\$4,410
	ASPHALT PAVING (INCLUDING STREET PATCH FOR UTILITY TIES)	160	S.Y.	\$55.00	\$8,800
	STREET LIGHTS (ARTERIAL)	4	S.Y.	\$4,500.00	\$18,000
	STREET LIGHTS (LOCAL)	1	S.Y.	\$4,000.00	\$4,000
		<i>SUBTOTAL</i>		\$	<i>\$44,420</i>
<i>TOTAL PUBLIC IMPROVEMENT COST</i>					<i>\$463,226</i>
115% OF TOTAL					<i>\$532,710</i>

Exhibit C-3 – Schedule of completion of Improvements

Reserve at Crescent Cove Phase 1 Schedule			
Assume February 2022 Start			
Description	Duration	Start	Finish
SITE WORK PREPERATION (WHOLE SITE)			
Mobilization/Site Clearing/Erosion Control	10D	2/14/2022	2/24/2022
Over-Excavation/Overlot Grading	30D	2/24/2022	3/26/2022
Sewer/Water/Storm Systems	70D	3/26/2022	6/4/2022
Site Grading for Curb and Gutter	5D	6/4/2022	6/9/2022
Form and Pour Curb/Gutter/Pans	15D	6/9/2022	6/24/2022
Prep and Recompact for Asphalt	15D	6/24/2022	7/9/2022
Asphalt Bottom and Top Lifts	10D	7/9/2022	7/19/2022
BUILDINGS and CLUBHOUSE PHASE 1 ONLY			
Garages and Trash Enclosures	80D	7/19/2022	10/7/2022
Foundations Buildings	90D	8/1/2022	10/30/2022
Framing and Exterior Systems	160D	9/1/2022	2/8/2023
Interior Finishes	120D	11/1/2022	3/1/2023
SITE IMPROVEMENTS			
Sidewalks and Misc Pads	40D	3/1/2023	5/1/2023
Swimming Pool	60D	3/1/2023	6/1/2023
Landscaping and Irrigation	90D	4/1/2023	8/1/2023

Exhibit D –Performance Guarantee



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IRREVOCABLE LETTER OF CREDIT

Borrower: M. Timm Development, Inc.
233 East Carrillo Street, Suite D
Santa Barbara, CA 93101

Lender: Pacific Premier Bank
17901 Von Karman Avenue
Suite 1200
Irvine, CA 92614
(949) 864-8000

Beneficiary: City of Evans
1100 37th Street
Evans, CO 80620

NO.: 10185

EXPIRATION DATE. This letter of credit shall expire upon the close of business on 02-01-2023 and all drafts and accompanying statements or documents must be presented to Lender on or before that time (the "Expiration Date").

AMOUNT OF CREDIT. Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of Five Hundred Thirty-two Thousand Seven Hundred Ten & 00/100 Dollars (\$532,710.00) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Lender's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below.

WARNING TO BENEFICIARY: PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SINGLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. OTHERWISE, YOU WILL RISK LOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.

DRAFT TERMS AND CONDITIONS. Lender shall honor drafts submitted by Beneficiary under the following terms and conditions: All drafts must (a) be marked "Drawn under Letter of Credit No. 10185 dated February 1, 2022, (b) clearly state the amount to be drawn under this Letter of Credit, (c) be accompanied by the original of this Letter of Credit, (d) be presented to Lender during normal business hours on or before the Expiration Date at Lender's address indicated above (or such other address that Lender may provide Beneficiary in writing), (e) be signed by one purporting to sign on behalf of Beneficiary, and (f) be accompanied by a signed and dated statement substantially as follows:

"The purpose of this Letter of Credit is to secure performance of an Agreement for Incomplete Public Improvements for Reserve at Crescent Cove between the City of Evans and M. Timm Development, Inc."

Upon Lender's honor of such drafts, Lender shall be fully discharged of Lender's obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn.

Beneficiary shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or posing as Beneficiary without Beneficiary's authorization. By paying an amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonapplication or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with dishonor. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit's maximum drawing amount.

USE RESTRICTIONS. All drafts must be marked "DRAWN UNDER Pacific Premier Bank IRREVOCABLE LETTER OF CREDIT NO. 10185 DATED 02-01-2022," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draw under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder.

Partial draws are not permitted under this Letter of Credit.

PERMITTED TRANSFEREES. The right to draw under this Letter of Credit shall be nontransferable, except for:

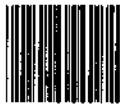
- A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
- B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

TRANSFEREES REQUIRED DOCUMENTS. When the presenter is a permitted transferee (i) by operation of law or (ii) a third party receiving transfer from a legal representative, as described above, the documents required for a draw shall include a certified copy of the one or more documents which show the presenter's authority to claim through or to act with authority for the original Beneficiary.

COMPLIANCE BURDEN. Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of this Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender's prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary's initial and continued approval of such wording.

NON-SEVERABILITY. If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender's entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

GOVERNING LAW. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of California without regard to its conflicts of law provisions, and except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of California.



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**IRREVOCABLE LETTER OF CREDIT
(Continued)**

Loan No: 5680433719

Page 2

EXPIRATION. Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

AUTOMATIC RENEWAL. Notwithstanding any provision herein to the contrary, the Expiration Date of this Letter of Credit shall be automatically extended without amendment for additional periods of one year each from the present or any future anniversary of the Expiration Date, unless thirty (30) days prior to any such date Lender notifies Beneficiary in writing by certified mail at the address shown above that this Letter of Credit will not be extended for such additional period.

Dated: February 1, 2022

LENDER:

PACIFIC PREMIER BANK

By: _____
Authorized Signer

Exhibit E - Additional Developer Obligations

EQR Analysis

The applicant originally projected 17 EQRs for non-potable use which equals approx. 5,540,000 gallons. Recently the applicant increased the projected non-potable use to 6,700,000 gallons or 20.56 EQRs, an increase of 3.56 EQRs. This increase in Non-Potable water dedication increases the deficit of EQRs to complete phases 1, 2 and the Non-Potable system.

To address the deficit, the applicant has proposed completion of Phase 1 (120 units, 42 EQRs) and in addition, all the Non-Potable water system which requires 20.56 EQRs for a total dedication of 62.6 EQRs during development of Phase 1.

The applicant has 100 EQRs available for dedication.

As illustrated by the spreadsheet on the following page, the applicant has sufficient EQRs to complete phase 1 and all the Non-Potable water system ($42 + 20.56 = 62.56$ EQRs) with a remaining 37.44 EQRs to be applied to the development of dwelling units in Phase 2. Phase 2 projects the development of 168 apartment/multi-family dwelling units, requiring 58.8 EQRs. The developer is aware that they will need to acquire an additional 21.4 EQRs and dedicate these to the City.

The Developer is responsible for entering into a new Development Agreement for Phase II of the Reserve at Crescent Cove.

Improvements to North Point Pump Station

The Developer provided an analysis which determined that a third pump is required in the North Point Pump Station to provide non-potable service to the Development. City staff performed an evaluation of the North Point NP Pump station and determined that the current controller was inadequate and outdated (no longer supported by the original supplier) and would need to be replaced in order to facilitate the third pump. Staff has prepared a budgetary estimate of between \$80,000 to \$90,000 to perform the required improvements to the Pump Station. A final cost estimate will be provided by the City after execution of this Development Agreement but prior to commencement of construction activity on site. Developer acknowledges the cost of engineering, design, installation and maintenance of this pump is the Developer's responsibility. Developer is agreeing, by execution of this Agreement, to be billed for the work to be performed by the City. Developer will have thirty (30) days to remit payment.

City of Evans

**Raw Water Dedication Requirements
City Code: Section 13.08.040 Dedication or
Transfer of Water Rights**

**Phase 1 Plus All NP Dedication for The Reserve at Crescent Cove
Apartments**

POTABLE WATER - APPLICATIONS WITH SEPARATE NON-POTABLE SYSTEMS	EQR/Dwelling Unit (Fixed Ratio Set by City)	Proposed Dwelling Units	Total EQR's required
Each Dwelling unit within a Multi-family complex of two or more units in which potable water is used solely in house domestic purposes, and that all outside irrigation shall be provided through a separate non-potable system	0.35	120	42.00

NON-POTABLE WATER	Required Non-potable water per Applicant's Consultants (gals/year)	Resultant Ac-ft of Water at 325,851 gals/ac-ft)	Ratio of EQR's to Ac-ft	Total EQR's required
Each Dwelling unit within a Multi-family complex of two or more units in which potable water is used solely in house domestic purposes, and that all outside irrigation shall be provided through a separate non-potable system	6,700,000	20.56	1.0	20.56

Phase 1 only Sub-Total EQR's Required for Potable Water	42.00
Sub-Total EQR's Required for All Non-Potable Water	20.6
TOTAL Phase 1, All NP Required EQRs	62.6

Phase 2 Only (No Non Potable water as was accounted for in Phase 1)

POTABLE WATER - APPLICATIONS WITH SEPARATE NON-POTABLE SYSTEMS	EQR/Dwelling Unit (Fixed Ratio Set by City)	Proposed Dwelling Units	Total EQR's required
Each Dwelling unit within a Multi-family complex of two or more units in which potable water is used solely in house domestic purposes, and that all outside irrigation shall be provided through a separate non-potable system	0.35	168	58.80

NON-POTABLE WATER	Required Non-potable water per Applicant's Consultants (Ac-ft)	Ratio of EQR's to Ac-ft	Total EQR's required
Each Dwelling unit within a Multi-family complex of two or more units in which potable water is used solely in house domestic purposes, and that all outside irrigation shall be provided through a separate non-potable system	Dedicated in Phase 1	1.0	0.0

Phase 2 only Sub-Total EQR's Required for Potable Water 58.80

Sub-Total EQR's Required for All Non-Potable Water 0.0

TOTAL Phase 2, All NP Required EQRs provided in Phase 1 58.8

Total Phase 1 and 2, plus all NP 121.4

Total Available EQRs 100

Remaining EQRs to be Dedicated prior to commencement of Phase 2 21.4

Exhibit F – Phasing Plan

The Phasing Plan is located in the Site Plan recorded with the Weld County Clerk and Recorder pursuant to Exhibit B.