



#262779

SCOTT DOYLE, RECORDER, LARIMER COUNTY CO  
 RCPTN# 2003-0154012 12/09/2003 15:49:26  
 PAGES - 23 FEE \$116.00 DOC \$0.00

**DEVELOPMENT AGREEMENT AND RESIDUAL LAND USE RESTRICTIONS  
 FOR HIDDEN VALLEY ESTATES II R.L.U.P.**

This Agreement is made this 9 day of December, 2003 between the Board of County Commissioners of Larimer County, Colorado ("County"); the City of Loveland, Colorado ("City"); Backbone Investments, LLC ("Developer"); and Hidden Valley Estates Homeowners' Association ("Association").

WHEREAS, Developer is the owner of certain real property situated in Larimer County, Colorado, described on Exhibit "A1," attached hereto and incorporated herein ("Property"); and

WHEREAS, City is the owner of certain real property situated in Larimer County, Colorado, described on Exhibit "A2," attached hereto and incorporated herein ("Residual Lot E"); and

WHEREAS, County has approved the Hidden Valley Estates II Preliminary Rural Land Plan by Findings and Resolution dated June 3, 2002, and recorded June 26, 2002, at Reception No. 2002068659 of the Larimer County records; and

WHEREAS, Developer and City have submitted to County for approval, execution and recordation a final plat for Hidden Valley Estates II R.L.U.P. which plat includes the Property and Residual Lot E; and

WHEREAS, Developer has been approved to develop the Property in one phase using a defined set of improvements; and

WHEREAS, County has considered the final plat, the proposed development and improvements to the Property, and the requirements to be imposed upon the Property and Residual Lot E by reason of the proposed development and improvement of the Property; and

WHEREAS, County is willing to approve, execute and accept for recordation the final plat upon the agreement of Developer, City, and Association to the matters described in this Agreement; and

WHEREAS, County, Developer, City, and Association mutually acknowledge and agree that the matters described in this Agreement are reasonable conditions and requirements to be imposed by County in connection with its approval, execution and acceptance for recordation of the final plat, and that such matters are necessary to protect, promote and enhance the general welfare.

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained and the approval, execution and acceptance of the final plat for recordation by the County, the parties agree as follows.

This document is being re-recorded on 2/27/04 to correct the Reception number and recording date on Page 2, Paragraph 2.

*J* Please return to  
 RLUC/PLNG  
 12/5/03  
 Page 1

SCOTT DOYLE, CLERK  
 LARIMER COUNTY CO  
 RCPTN# 2004-0018093  
 02/27/2004  
 09:22:31  
 #294447  
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1. **Title of the Development.**

The title of the development is Hidden Valley Estates II R.L.U.P. 02-S1948.

2. **Description of Development and Uses.**

The Plan was developed pursuant to the provisions of the Larimer County Rural Land Use Process. The Plan subdivides 194.11 acres comprised of two parcels described on Exhibits "A1" and "A2" into twelve (12) single-family residential lots and five (5) residual land lots designated Residual Lots A through E. One of the twelve residential lots is the result of the transfer of one residential development unit from a non-contiguous thirty-five acre parcel described on Exhibit "B". The Exhibit "B" parcel is part of the Plan only for purposes of the transfer of this development unit and is not otherwise subject to this Development Agreement or other requirements of the Plan. Transfer of this development unit from the Exhibit "B" parcel extinguishes any and all remaining development rights on Exhibit "B". Any further development of the Exhibit "B" parcel is precluded by the terms of a Notice and Covenant Extinguishing Building Site on Property Located in Section 20, Township 6 North, Range 69 West, Larimer County, Colorado, recorded on 12/9/03 at Reception No. 20030154010 of the Larimer County Records. 2/13/04 20040013789 2-13-04

Lots 1-12 total 60.00 acres and may be sold and developed for single-family residences. Residual Lots A through E total 130.25 acres. Residual Lots A through E will not be allowed any buildings; provided, however, that Residual Lots A through D may be allowed such buildings as are approved in connection with one of the uses described in Section 3 which may be approved by the Board of County Commissioners through the applicable review process. Development and use of Residual Lots A through E are restricted as described in Section 3 below. Lots 1 through 12 and Residual Lots A through E are more fully described on the Plat recorded on 12/9/03 at Reception No. 20030154010 of the Larimer County Records and in the Declaration of Covenants, Conditions and Restrictions recorded on 12/9/03 at Reception No. 20030154013 of the Larimer County Records. 2-19-04

3. **Residual Lots Use Restrictive Covenant.**

a. As a condition of final approval of the Plan, City hereby covenants and agrees that it shall and does hereby dedicate in perpetuity the use of Residual Lot E to open space. This restrictive covenant shall and does hereby preclude any and all development of Residual Lot E, including but not limited to construction of single-family residences, buildings, and structures.

b. As a condition of final approval of the Plan, Developer hereby covenants and agrees that it shall and does hereby dedicate in perpetuity the use of Residual Lots A, B, C, and D to open space. This restrictive covenant shall and does hereby preclude any and all uses and development of Residual Lots A, B, C, and D, including but not limited to construction of single-family residences, buildings, and structures, except as expressly provided below:

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(1) Grazing of livestock, provided that said Residual Lots are managed to prevent overgrazing and soil erosion. The establishment of a feedlot is prohibited. For purposes of this Agreement, "feedlot" is defined as a permanently constructed confined area or facility within which the property is not grazed or cropped annually, and which is used and maintained for purposes of feeding livestock. Nothing in this Section 3(b)(1) shall prevent Developer from seasonally confining livestock into an area for feeding, or from leasing pasture for the grazing of livestock owned by others.

(2) Cutting of trees on a limited and localized basis to control insects and disease, to control invasive non-native species, to prevent personal injury and property damage, and for domestic uses on said Residual Lots such as firewood and construction of permitted buildings and fences. Tree thinning activities may take place to maintain the character and nature of the habitat.

(3) Low impact recreational uses such as bird watching, hiking, cross-country skiing, hunting and fishing. The creation or construction of tennis courts, swimming facilities, or athletic fields are permitted provided they are located within the Recreation Building Envelope designated on the Final Plat. A recreational building not to exceed 5,000 square feet of enclosed floor area for equestrian, swimming, tennis and other athletic activities may be located within the Recreation Building Envelope. Golf courses are prohibited on said Residual Lots.

(4) Maintenance of agricultural ditches, stock ponds or other agricultural improvements.

(5) Storage of agricultural products and by-products in accordance with all applicable government laws and regulations.

(6) Developer may use agri-chemicals on said Residual Lots in accordance with all applicable federal, state or local laws. Notwithstanding the foregoing, the treatment, permanent storage, disposal or release of hazardous materials on, from or under said Residual Lots is prohibited. For the purpose of this Agreement, hazardous materials shall mean any hazardous or toxic material or waste that is subject to any federal, state, or local law or regulation. Notwithstanding anything in this Agreement to the contrary, this prohibition does not impose any liability on County for hazardous materials nor does it make County an owner of said Residual Lots, nor does it permit or require County to control any use of said Residual Lots that may result in the treatment, storage, disposal or release of hazardous materials.

c. Nothing contained herein shall be construed as affording the public access to Residual Lots A, B, C, D, or E, although Developer may permit public access to Residual Lots A, B, C, or D on such terms and conditions as it deems appropriate. Public access to Residual Lot E may be permitted in the sole discretion of City.

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d. The restrictions in Section 3(a), (c), (d), and (e) are covenants running with Residual Lot E and are binding on City, its successors and assigns and all successor owners and transferees of Residual Lot E. The restrictions in Section 3(b), (c), (d) and (e) are covenants running with Residual Lots A, B, C, and D and are binding on Developer, its successors and assigns and all successor owners and transferees of Residual Lots A, B, C, and D. These restrictions may be enforced by the County, City, or by any owner of Lots 1 through 12.

e. This Section 3 as it relates to Residual Lots A, B, C, and D may not be amended except with the express written consent of the County, all owners of Residual Lots A, B, C, and D, and all owners of Lots 1 through 12, after a published notice and hearing before the Board of County Commissioners. However, as it relates to Residual Lot E, Section 3 may be amended with the express written consent of County and City only.

**4. Mineral Interests.**

The Property is not subject to any mineral interests.

**5. Water Rights and Water Interests.**

Non-applicable.

**6. Building Envelopes.**

Developer acknowledges that some or all of the lots in the development (including the Residual Lots) include building envelopes. No building envelope shall be relocated without the express written approval of the Board of County Commissioners of Larimer County. All buildings and structures must be located within the approved building envelopes as shown on the approved final plat. Developer agrees that prior to approval of any footings and foundation installation, Developer or the lot owner or building permit applicant must submit a written certification by a Colorado Licensed Surveyor verifying that the building or structure is located within the building envelope.

A protected natural area is shown on each lot east of the building envelopes as shown on the Final Plat. No trails, all terrain vehicles or horseback riding, fencing, grading, structures, or landscaping other than plant species native to the site is permitted within this area.

**7. Improvements.**

Developer shall design, construct and install at its own expense all infrastructure improvements including but not limited to streets, utilities, drainage facilities, water facilities, flood protection devices and other improvements shown on the final plat or in the supporting documents in accordance with the plans and specifications, as prepared by Developer's licensed engineers and professionals, and approved by County.

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All construction shall be performed in a good and workmanlike manner and in accordance with applicable County standards, rules and regulations governing such construction.

**8. Completion Date.**

There is no provision in this Agreement which requires Developer to construct any infrastructure improvements (i.e., roads, water, utilities, etc.) within a set period of time. Purchasers and potential purchasers of lots within the Hidden Valley Estates II R.L.U.P. 02-S1948 are hereby put on notice through recordation of this Agreement that the County makes no representations, assurances or guarantees concerning when, if ever, such infrastructure improvements will be constructed.

**9. Water Supply.**

Developer shall apply for water service from the City of Loveland as permitted under the City's Municipal Code. If the City approves such service, Developer shall install the water system improvements necessary to service the Property in the manner provided on the approved utility plans. The water system shall be subject to inspection by the City of Loveland during construction. Developer shall submit a letter of acceptance from the City of Loveland for the maintenance and responsibility of all water supply improvements prior to the release of building permits.

**10. Sewage.**

Septic Permits shall be required for individual systems prior to issuance of a Building Permit. The Septic Permit shall be obtained from the Larimer County Health Department.

**11. Trenches.**

Trenches for sanitary sewer and water, storm sewer lines, and utilities shall be compacted in accordance with specifications defined by County or the water and utility service provider. Developer will test trench compaction while work is in progress. A sufficient number of tests shall be made to insure adequate compaction. The test results shall be certified by the soils laboratory and maintained on file at the site by Developer for review by County personnel. In the event adequate compaction testing is not provided, County may order such testing and Developer shall reimburse County for all such costs of testing. No release of building permits shall be made until successful compaction tests are received.

**12. Roads—Private.**

All roads must be completed according to plans accepted by the County Engineer.

Developer shall submit the following items to request the final release of completed road improvements:

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a. A record drawing showing any changes that were made to the approved plans during construction.

b. A statement must be submitted from an engineer registered in Colorado that the road improvements have been completed in substantial compliance with approved plans and specifications and that the documenting engineer or his representative have made regular outside on-site inspections during the course of construction and the field plans used are the same as those approved by County.

No release of building permits shall be made until the above listed items have been submitted and Developers' engineer's certification of approval has been approved by the County.

### **13. Storm Drainage Improvements.**

Developer shall construct all storm drainage improvements as shown on the Final Plat and in the supporting documents for the development, in accordance with the plans and specifications, as prepared by Developer's licensed engineers and professionals, and approved by the County Engineer. Completion of improvements shall be certified by a professional engineer licensed in the State of Colorado, stating that the improvements and facilities have been constructed in substantial conformance with said final development plan documents. Release of the building permits and acceptance by County Engineer is subject to the submittal and approval of Developer's engineer's certification of approval and inspection by the County.

Developer and all subsequent owners shall be prohibited from constructing or storing anything in any drainage easement or in any way disrupting or changing the drainage pattern as initially designed and installed on the Property per the County approved storm water drainage plan. Developer certifies that this prohibition has also been included in Section 3.03 of the Declaration of Covenants, Conditions and Restrictions for the Property.

### **14. Natural Gas OR Propane.**

Developer may provide gas service, either through individual propane tanks or by obtaining such service from a public service provider.

In the event service is obtained through a public service provider, Developer shall construct improvements as required by the public service provider to supply the Property with natural gas utility service. Improvements shall be in accordance with the public service provider's specifications. In no event, however, shall County be responsible for the inspection and/or acceptance of natural gas utility improvements to the Property.

In the event propane tanks are used, it will be the responsibility of the purchaser of each residential lot to provide his/her own propane service.

15. **Electric.**

Developer shall obtain electric service from an electric public service provider. Developer shall construct improvements as required by the electric service provider to supply the Property with electric utility service. Improvements shall be in accordance with the electric service provider's specifications. In no event, however, shall County be responsible for the inspection and/or acceptance of electric utility improvements to the Property.

16. **Telephone.**

Developer shall obtain telephone and communication utilities. Developer shall construct improvements as required by the telephone and communication provider to supply the Property with adequate telephone and communication utilities. Improvements shall be made in accordance with provider's specifications. In no event, however, shall County be responsible for the inspection and/or acceptance of telephone and/or communications cable improvements to the Property.

17. **"As Built" Plans.**

Non-applicable.

18. **Landscaping Improvements.**

Non-applicable.

19. **Erosion Control.**

In order to protect the soil resource and ensure water quality requirements, Developer shall construct erosion control facilities at the commencement of construction. The construction and establishment of acceptable erosion control facilities shall be assured and installed by Developer. If more than 1 acre will be disturbed, a water quality permit must be obtained from the Colorado Department of Public Health and Environment.

20. **Fire Protection.**

Developer agrees the construction of any new single-family residence in the development will require the installation of residential fire sprinklers or a written variance from this requirement from the fire district.

21. **Addressing.**

Developer agrees that individual addressing of the lots in the development is an important factor for identification and safety during construction. Developer agrees to obtain addresses including street name and house numbers for each lot and to install temporary identifying street and address signage by building permit issuance. Developer

and all successor Lot Owners agree that they have no vested or property right in an address and County may change such address at any time.

**22. Additional Conditions.**

Developer agrees that new houses will be setback at least 600 feet away from US 34 and will be required to be kept to the toe of the slope on the east side of the Property.

Developer agrees that a staging area for student bussing will be located at the intersection of Gamble Oak Drive and Hogback Drive.

Developer agrees that passive radon mitigation measures shall be included in construction of residential structures on these lots. The results of a radon detection test conducted in new dwellings once the structure is enclosed but prior to issuance of a certificate of occupancy must be submitted to the Planning Department. As an alternative, a builder may present a prepaid receipt for a radon tester which specifies that a test will be done within 30 days. A permanent certificate of occupancy can be issued when the prepaid receipt is submitted.

Developer agrees that engineered footings and foundations are required for new residential construction.

Developer agrees at time of real estate closing for the initial sale of any residential lot and Residual Lots A through D, it shall provide purchasers with the Code of the West, a County document which addresses differences between urban and rural living in Larimer County.

**23. Developer's Guarantees and Warranty.**

Developer warrants and guarantees that all improvements required to be constructed pursuant to this Agreement shall be free from defects in materials and/or workmanship and shall properly function for the purpose intended for two years following the County's approval of the last improvement to be constructed (the warranty period). Within 30 days after completion of the last improvement(s) required to be constructed under this Agreement, Developer shall send to the Rural Land Use Director a written notice specifying the final completion date. This completion date shall establish the commencement of the 2-year warranty period. Developer shall correct, replace or repair any improvement discovered to be defective or faulty during the warranty period. Any required correction, repair or replacement shall be commenced within thirty (30) days of County's written notice advising Developer of the necessary work.

In the event Developer fails to make the necessary corrections, repairs, or replacements:

a. County and/or any Property owner may commence an action against Developer for specific performance or for money damages for costs of the necessary work; and/or pursue any other legal or equitable action against Developer.



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b. County may withhold building permits.

c. County may make the necessary repairs and assess the costs of such repairs as a lien against any lots which Developer may still own which lien shall be collectible by the County Treasurer in the same manner and with the same priority as general property taxes.

The above remedies shall be cumulative and the election to pursue one shall not preclude the use of another.

In no event, however, shall the County be obligated to make the necessary repairs, corrections or replacements.

#### **24. Inspections.**

Prior to commencing construction, the Developer shall supply to County a schedule of construction.

On-site inspections of installations of improvements shall be performed by Developer's licensed professional engineers. Inspection reports shall be available for review by County upon request. County shall have the authority to halt construction of any portion of the construction that may be found to be out of compliance with the approved plans and specifications for the development. Developer shall cause such work to be corrected and brought into compliance within the time frame set by the County Engineer, and if not so corrected, the County Engineer may declare Developer in default of this Agreement.

#### **25. Issuance of Building Permits.**

a. For purposes of this Agreement, "building permit" shall mean any permit to begin work to construct a building on the Property, including permits for footings and foundations. Except as provided in Subsection 25(b) below, Developer acknowledges and agrees that building permits for individual lots shall only be issued after completion of Section 12 requirements, installation of water facilities, and any necessary storm drainage or detention facilities, and drainage improvements, on and immediately adjacent to the lot for which a Building Permit is sought.

b. Developer desires to construct three model homes. It is acknowledged and agreed by Developer and Larimer County that building permits for said construction may be issued upon completion of Section 12 requirements and written approval from the Loveland Fire Protection Bureau that adequate fire protection for the model home lot(s) and vicinity is provided.

#### **26. Fees.**

Developer shall pay to County at building permit issuance County and Regional Transportation Capital Expansion Fees, Community and Regional Park Fees In Lieu of Dedication, Thompson R2-J School Fees, and Rural Land Use Process fees. The fees

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shall be the amount in effect at the time of building permit issuance. Developer acknowledges and agrees that such fees are roughly proportional to impacts created by this development. Developer shall also pay any other applicable legislatively formulated and duly adopted fees which are in effect and required to be paid at the time of building permit issuance provided such fees are imposed on a broad class of property owners.

**27. Maintenance of Improvements, Common Areas, and Residual Lots A through D.**

a. During the two-year warranty period, Developer shall be solely responsible to maintain, repair and replace any and all improvements in the development (including but not limited to roads, bridges, drainage facilities, utilities) and common areas. Upon expiration of the two-year warranty period, the residential and Residual Lots A through D owners individually and the Association shall be solely responsible to maintain, repair and replace such improvements and common areas. County shall have no liability or obligation for such maintenance, repairs or replacements either during or after the two-year warranty period.

b. The Association shall set and collect dues and assessments from Property owners in an amount sufficient to carry out its maintenance responsibilities.

c. Owner(s) of Residual Lots A through D shall be solely responsible to maintain said Residual Lots. Such maintenance shall be in accordance with the Management Plan approved and on file at the Rural Land Use Center. County, or its designee, is authorized to enter on to said Residual Lots from time to time to monitor and inspect said Residual Lots to insure compliance with the Management Plan.

d. In the event the County determines that the responsible entity/person(s) has failed to adequately maintain the improvements, common areas or Residual Lots A through D, County shall so notify the responsible entity/person(s) in writing. Such notice shall specifically state the manner in which the entity/person(s) has failed to maintain the improvements, common areas or said Residual Lots and the steps that must be taken to come into compliance. The notice shall include a demand that such deficiencies in maintenance be cured within thirty (30) days of the date of the notice and shall also state the time and place of a hearing before the Board of County Commissioners, which shall be held within fifteen (15) days of the notice.

At such hearing, the County may modify the terms of its original notice as to the deficiencies, and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice, or in the modifications thereof, are not cured within said thirty days or any extension thereof, the County, in order to preserve the taxable values of the property contained within the development, and to prevent the improvements, common areas, or Residual Lots A through D from becoming a public nuisance and public liability, may undertake to maintain the same for a period of at least one year.

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Before expiration of the maintenance period, the County, upon its initiative or upon the written request of the responsible entity/person(s) may call a public hearing before the Board of County Commissioners upon notice to such responsible entity/person(s) and to the Property owners. At the hearing, the responsible entity/person(s) shall show cause why maintenance by the County shall not, at the election of the County continue for an additional set period. If the Board determines that the responsible entity/person(s) is ready and able to maintain the improvements, common areas, or Residual Lots A through D, the County shall cease to maintain the improvements, common areas, or said Residual Lots. If the Board determines the responsible entity/person(s) is not ready and able to maintain the improvements, common areas, or said Residual Lots, the County may, in its discretion, continue such maintenance for a succeeding set period subject to a similar hearing and determination prior to the expiration of such period.

The cost of such maintenance by the County and the costs of enforcement incurred by the County, including but not limited to monitoring, inspections, and legal fees, shall be paid the owners of the Property that have a right to enjoyment or use of the improvements involved or Residual Lots A through D. Any unpaid costs shall become a lien upon said properties. The County shall file a notice of such lien in the office of the County Clerk and recorder upon the properties affected by such lien and shall certify such unpaid costs to the County Treasurer for collection, enforcement and remittance in the manner and with the same priority as provided by law for the collection, enforcement and remittance of general property taxes.

**28. Declaration of Covenants.**

Developer and Association certify that Sections 6.0 of the Declaration of Covenants, Conditions and Restrictions for the Property provide for a regular maintenance program and adequate funding for maintenance, repairs and replacements of improvements (including roads, drainage facilities, landscaping) and common areas and means of enforcement; continuous safety inspections and immediate follow-up maintenance to correct unsafe conditions; the receiving and processing of complaints.

Developer and Association agree that the Association shall not be dissolved without the written consent of the Board of County Commissioners of Larimer County and certify that the Bylaws and Section 7.02 of the Declaration of Covenants, Conditions and Restrictions includes this prohibition.

Residual Lot E shall be excluded from the Declaration of Covenants, Conditions and Restrictions. City shall not be a party to, nor shall it be bound by, said Declaration of Covenants, Conditions and Restrictions.

**29. Liability/Indemnity.**

County's review and approval of any plans, reports, or drawings or County's inspection and approval of any improvements constructed by Developer under this Agreement does not constitute a representation, warranty, or guarantee by County that

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such improvements are free from defects or will operate adequately for the purpose intended. Current and successor owners of the Property assume responsibility for all maintenance, repairs, or replacements of improvements, including, but not limited to roads, bridges, drainage facilities, utilities, common areas and Residual Lots A through D.

Developer agrees to indemnify and hold County, its officers, employees and assigns harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance, condition or quality of work at the development of the Property pursuant to this Agreement. Developer further agrees to aid and defend County in the event County is named as a defendant in an action concerning the performance, condition or quality of work pursuant to this Agreement, except where such suit is brought by Developer against County. Developer acknowledges it is not an agent or employee of County.

Nothing in this Agreement shall be construed as a waiver, either express or implied, of the immunities, rights, benefits, and protections afforded County or City under the Colorado Governmental Immunity Act.

### **30. Default/Remedies/Enforcement.**

Upon default of the provisions of this Agreement, the parties agree that this Agreement may be specifically enforced by any party or any party may proceed in any other manner authorized by law for a breach of contract. In addition, the County may:

- a. Issue a written notice to Developer, Association, or City to appear and show cause why the subdivision shall not be vacated. Giving notice shall be deemed complete upon mailing same certified mail to the address stated herein. The notice shall designate the date, time and place the Board of County Commissioners will conduct a hearing to consider vacation of the plat. The hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the notice.
- b. Proceed in the manner described in the Larimer County Land Use Code or State Statutes for a violation of the State or local subdivision regulations.
- c. Withhold building permits.
- d. Pursue any other remedy allowed by law or in equity.

The remedies set forth herein are cumulative and the election to use one shall not preclude use of another.

In the event of default by Developer or Association, Developer and Association agree to pay all expenses incurred by County occasioned by said default, including, but not limited to, reasonable attorney's fees in enforcing this Agreement.

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**31. Applicability of Other Regulations and Conditions.**

This Agreement and the terms, conditions and covenants contained herein shall be deemed to complement and shall be in addition to the conditions and requirement of the Larimer County Land Use Code Rural Land Use Process and other applicable laws, rules and regulations, notwithstanding anything contained or referred to the contrary.

**32. Periodic Reviews.**

County may conduct periodic reviews of the status of the development as appropriate to monitor and enforce the terms of this Agreement.

**33. Binding Effect of Agreement.**

This Agreement is intended to provide for the orderly construction and maintenance of structures and other improvements on the Property. This Agreement shall be a servitude running with the Property and Residual Lot E. Those owners of the Property or Residual Lot E, or any portion of the Property or Residual Lot E, who obtain title subsequent to the date of this Agreement, their heirs, successors, assigns or transferees, and persons holding under Developer or City shall comply with the terms hereof.

This Agreement shall survive annexation. Notwithstanding annexation, this Agreement may only be amended as provided in Section 38 below.

In the event City transfers title to Residual Lot E and is thereby divested of all equitable and legal interest in the Property, City shall be released from liability under this Agreement with respect to any breach of the terms and conditions of this Agreement occurring after the date of any such transfer of interest. In such event, the succeeding owner(s) of Residual Lot E shall be bound by the terms of this Agreement.

In the event Developer transfers title to the Property and is thereby divested of all equitable and legal interest in the Property, Developer shall be released from liability under this Agreement with respect to any breach of the terms and conditions of this Agreement occurring after the date of any such transfer of interest. In such event, the succeeding Property owner(s) shall be bound by the terms of this Agreement.

**34. Notations and Recordation.**

Developer and City shall note on the final subdivision plat, as a plat note, and in a disclosure statement the existence of this Agreement by reference to Reception Number and Film Number as recorded by the Larimer County Clerk and Recorder. Developer and City shall note on the final subdivision plat and in the disclosure notice the entity/person(s) responsible for maintenance of the improvements, landscaping, common areas and Residual Lots. Developer shall file for recording with the Larimer County Clerk and Recorder this Agreement and any deeds and/or other documents required as part of the final plat approval of this development by the Board of County Commissioners.

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**35. Subordination.**

Developer shall cause all lenders, lienholders or other persons or entities who have any interest in the Property to subordinate their interest to this Agreement.

**36. Conflict with Other Documents.**

In the event of a conflict between the terms or conditions of this Agreement and the Declaration of Covenants, Plat Notes, Disclosure Notice, or Findings and Resolution, any homeowners' covenants, any Conservation Easement or Management/Use Plan, this Agreement shall control.

**37. Severability.**

If any part, terms, or provision of this Agreement is held by a court to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, terms, or provision and the rights of the parties will be construed as if the part, terms, or provision was never part of this Agreement.

**38. Amendment.**

Except for Section 3, this Agreement may be amended by mutual consent of the County and 9 of the property owners (based on each of the 17 lots having one vote per lot) provided such amendment is in writing. Section 3 as it relates to Residual Lots A, B, C, and D may be amended only with the written consent of the County and 100% of the owner(s) of Residual Lots A through D and Lots 1-12 (based on each of the 16 lots having one vote per lot), after published notice and a hearing before the Board of County Commissioners. However, as it relates to Residual Lot E, Section 3 may be amended with the express written consent of County and City only.

**39. Controlling Law.**

This Agreement shall be governed by the laws of the State of Colorado.

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**LARIMER COUNTY:**

**Board of County Commissioners of  
Larimer County, Colorado**

Thomas S. Bender  
Chair

ATTEST:

[Signature]  
Deputy Clerk to the Board

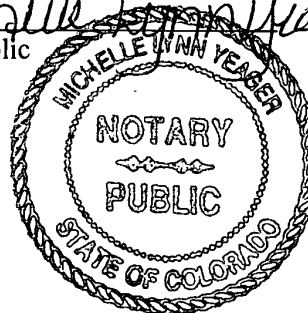
(STATE OF COLORADO)  
(COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 9th day of December, 2023 by Thomas Bender as Chair of the Board of County Commissioners of Larimer County, Colorado.

Michelle Wynn Yeager  
Notary Public

Witness my hand and official seal

My Commission Expires: 1-30-04



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CITY OF LOVELAND, COLORADO:

By: Don F. Williams  
Don F. Williams, City Manager

ATTEST:

Donna Visconti  
City Clerk



APPROVED AS TO FORM:

Shawn. Cline  
City Attorney, Asst.

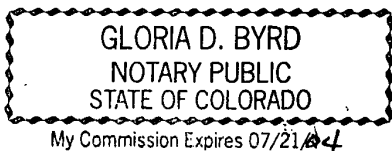
STATE OF COLORADO) SS.  
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 5th day of  
December, 2003 by Don F. Williams as City Manager of the City of  
Loveland, Colorado.

Gloria D. Byrd  
Notary Public

Witness my hand and official seal.

My commission expires:



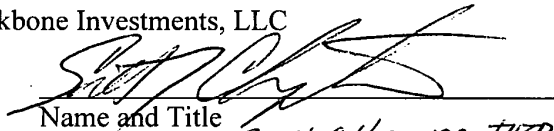


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**OWNER/DEVELOPER:**

Backbone Investments, LLC

By:



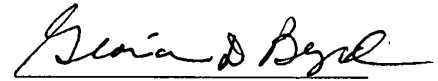
Name and Title

*Scott Charpentier - Backbone Investments LLC  
MANAGING MANAGER*

STATE OF COLORADO)

COUNTY OF LARIMER) SS.

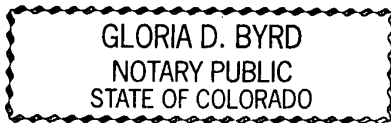
Acknowledged before me this 5th day of December, 2003 by  
Scott Charpentier



Notary Public

Witness my hand and official seal.

My commission expires:



My Commission Expires 07/21/04

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**ASSOCIATION:**

Hidden Valley Estates Homeowners' Association

By:

*Scott Charpentier*  
Name and Title SCOTT CHARPENTIER BARBONE INVESTMENTS LLC  
MANAGING MANAGER

ATTEST:

*James A. Hingos*  
Corporate Secretary

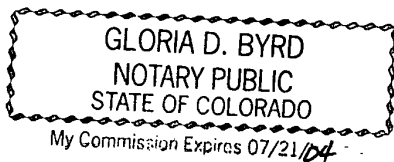
STATE OF COLORADO)  
COUNTY OF LARIMER) SS.

Acknowledged before me this 5th day of December, 2003 by  
Scott Charpentier as Managing Manager of Hidden Valley Estates Homeowners  
Association, Inc. and James A. Hingos as Secretary of Hidden Valley Estates  
Homeowners Association, Inc.

*Gloria D. Byrd*  
Notary Public

Witness my hand and official seal.

My commission expires:



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Exhibit "A1"

A TRACT OF LAND SITUATE IN SECTIONS 5, 8 AND 17, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH P.M., COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, AND CONSIDERING THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 8 TO HAVE AN ASSUMED BEARING OF S01°30'12"E AS DETERMINED BY MONUMENTS FOUND AT THE CENTER QUARTER CORNER AND AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE S00°06'42"W, 201.89 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE COURSES:

1. N78°08'12"W, 56.77 FEET;

2. ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 5,773.75 FEET, AN ARC LENGTH OF 120.93 FEET, A CENTRAL ANGLE OF 01°12'00", AND A CHORD WHICH BEARS N78°44'12"W, 120.92 FEET;

3. N79°20'12"W, 223.81 FEET;

THENCE N31°09'27"W, 144.09 FEET;

THENCE S89°46'08"W, 545.03 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES:

1. N68°55'25"W, 171.30 FEET;

2. N85°25'11"W, 145.13 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 8; THENCE ALONG SAID WEST LINE, N00°26'48"W, 1223.99 FEET TO THE SOUTHWEST SIXTEENTH CORNER OF SAID SECTION 8;

THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 8, N00°26'38"W, 1298.07 FEET TO THE WEST SIXTEENTH CORNER OF SAID SECTION 8;

THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 8, N00°49'02"W, 358.04 FEET;

THENCE S89°10'58"W, 339.89 FEET;

THENCE N00°49'02"W, 333.72 FEET;

THENCE S89°10'58"W, 230.20 FEET;

THENCE N00°49'02"W, 1,707.47 FEET;

THENCE N89°10'58"E, 570.08 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 8;

THENCE ALONG SAID WEST LINE, N00°49'02"W, 144.42 FEET TO THE WEST SIXTEENTH CORNER OF SECTIONS 5 AND 8;

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THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5, N01°38'14"E, 613.31 FEET;  
THENCE S89°29'53"E, 1,246.33 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5;  
THENCE ALONG SAID EAST LINE, S02°13'42"W, 613.47 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 8;  
THENCE ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8, S01°30'14"E, 2,541.51 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 8;  
THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 8, S01°30'12"E, 2,583.88 FEET TO THE POINT OF BEGINNING.

ALSO: A TRACT OF LAND LOCATED IN SAID SECTION 17; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, AND CONSIDERING THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 8 TO HAVE AN ASSUMED BEARING OF S01°30'12"E, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE S25°14'41"W, 306.19 FEET TO THE POINT OF BEGINNING;  
THENCE S58°58'51"W, 30.77 FEET;  
THENCE S51°28'51"W, 45.00 FEET;  
THENCE S46°38'51"W, 73.00 FEET;  
THENCE N31°16'09"W, 153.75 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;  
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34 THE FOLLOWING TWO COURSES:  
1. S79°12'44"E, 134.09 FEET;  
2. ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 5,679.95 FEET, AN ARC LENGTH OF 63.94 FEET, A CENTRAL ANGLE OF 00°38'42", AND A CHORD WHICH BEARS S78°53'23"E, 63.94 FEET TO THE POINT OF BEGINNING.

EXCEPT a tract of land located in the West half of Section 8 and the Southwest Quarter of Section 5, Township 5 North, Range 69 West of the 6<sup>th</sup> P.M. County of Larimer, State of Colorado. More particularly described as follows:

Commencing at the West Sixteenth Corner of Section 8, Township 5 North, Range 69 West and considering the West line to bear N00°49'02"W with all other bearings relative thereto;

Thence N00°49'02"W, 358.04 feet to the Point of Beginning.  
Thence S89°10'58"W, 339.89 feet;  
Thence N00°49'02"W, 333.72 feet;  
Thence S89°10'58"W, 230.20 feet;  
Thence N00°49'02"E, 1707.47 feet;

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**Exhibit "A1" (con't)**

Thence N89°10'58"E, 570.08 feet;

Thence S00°49'02"W, 2014.19 feet to the Point of Beginning. Said described land contains 1,086,829.15 sq.ft., 24.95 acres more or less.

SAID DESCRIBED TRACT CONTAINS 169.16 ACRES, MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY NOW ON RECORD OR EXISTING.

Also known as Lots 1-12 and Residual Lots A-D, Hidden Valley Estates II R.L.U.P. 02-S1948.

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**Exhibit "A2"**

A tract of land located in the West half of Section 8 and the Southwest Quarter of Section 5, Township 5 North, Range 69 West of the 6<sup>th</sup> P.M. County of Larimer, State of Colorado. More particularly described as follows:

Commencing at the West Sixteenth Corner of Section 8, Township 5 North, Range 69 West and considering the West line to bear N00°49'02"W with all other bearings relative thereto;

Thence N00°49'02'W, 358.04 feet to the Point of Beginning.

Thence S89°10'58"W, 339.89 feet;

Thence N00°49'02'W, 333.72 feet;

Thence S89°10'58"W, 230.20 feet;

Thence N00°49'02"E, 1707.47 feet;

Thence N89°10'58"E, 570.08 feet;

Thence S00°49'02"W, 2014.19 feet to the Point of Beginning.

SAID DESCRIBED TRACT CONTAINS 24.95 ACRES, MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY NOW ON RECORD OR EXISTING.

Also known as Residual Lot E, Hidden Valley Estates II R.L.U.P. 02-S1948.

EXHIBIT "B"

12  
23  
93/23  
A parcel of land in Section 20, Township 6 North, Range 69 West, of the 6th P. M., described as follows:

Beginning at the East quarter corner of Section 20,  
thence North 00 degrees 22 minutes 18 seconds East 1,316.39 feet,  
thence North 00 degrees 22 minutes 02 seconds East 1,314.98 feet,  
thence South 87 degrees 10 minutes 27 seconds West 1,298.31 feet,  
thence South 87 degrees 11 minutes 11 seconds West 1,297.33 feet,  
thence South 87 degrees 10 minutes 26 seconds West 1,967.11 feet,  
thence South 36 degrees 46 minutes 17 seconds East 277.74 feet,  
thence South 04 degrees 50 minutes 32 seconds East 220.10 feet,  
thence South 13 degrees 14 minutes 55 seconds East 136.91 feet,  
thence South 11 degrees 38 minutes 19 seconds East 196.76 feet,  
thence South 22 degrees 27 minutes 44 seconds East 290.72 feet,  
thence South 34 degrees 21 minutes 39 seconds East 227.38 feet;  
thence South 32 degrees 23 minutes 06 seconds East 485.22 feet,  
thence South 13 degrees 24 minutes 45 seconds East 410.81 feet,  
thence South 00 degrees 01 minutes 28 seconds West 259.38 feet,  
thence South 14 degrees 21 minutes 33 seconds West 319.88 feet,  
thence North 87 degrees 02 minutes 53 seconds East 3,808.18 feet to the true Point of beginning.

EXCEPTING THEREFROM That portion of the North half of said Section 20 described as follows:

Beginning at the North quarter corner of said Section 20;  
thence along the North line of the Northeast Quarter North 87 degrees 11 minutes 11 seconds East, 482.91 feet;  
thence departing from said line South 02 degrees 49 minutes 34 seconds East, 567.89 feet;  
thence South 87 degrees 10 minutes 26 seconds West, 1,520.00 feet;  
thence North 02 degrees 49 minutes 34 seconds West, 568.00 feet to the North line of the Northwest Quarter of said Section;  
thence along said North line North 87 degrees 10 minutes 26 seconds East 1,037.09 feet to the Point of Beginning.

County of Larimer, State of Colorado.