

**DEVELOPMENT AGREEMENT
SKYLINE ESTATES CONDOMINIUMS**

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THIS AGREEMENT is entered into and made between Jacksonville Beach Development Company, a Colorado Corporation, whose address is 650 S. Cherry Street #920, Denver, Colorado 80246, hereinafter referred to as the "Owner/Developer", and the CITY OF ARVADA, COLORADO, a municipal corporation, whose address is 8101 Ralston Road, Arvada, Colorado 80002, hereinafter referred to as the "City." This Development Agreement ("Agreement") shall be effective following execution by the Owner/Developer and immediately upon approval by the City of Arvada as evidenced by the signature of the Community Development Director on the date indicated below.

RECITALS AND REPRESENTATIONS:

WHEREAS, the Owner/Developer has submitted a final development plan to the City of Arvada for the following parcel of land, described as follows:

TRACT H – SKYLINE ESTATES FILING NO. 1

CONTAINING: 16.02 ACRES MORE OR LESS

WHEREAS, the Owner/Developer will be developing Skyline Estates Condominiums, a 229 unit Condominium complex on the above described property and the development and construction plans include public improvements as shown on City Job No. 3129.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements of the parties, the approval by the City of Arvada of the final development plan of Skyline Estates Condominiums and other good and valuable considerations, the sufficiency and adequacy of which are hereby acknowledged by the parties, the parties agree as follows:

1. **IMPROVEMENT PLANS.** The Owner/Developer upon final approval of the final development plan of Skyline Estates Condominiums shall immediately deliver to the City Engineer eleven (11) copies of plans for the construction of street improvements, water line facilities, sanitary sewer facilities, and irrigation facilities in said proposed Skyline Estates Condominiums, as required by the City on its action accepting the final development plan. Said plans, following approval by the City Engineer, shall be constructed as approved; provided however, that no approval of said plans is conferred by this Agreement. Further, the Owner/Developer agrees to file with the City an original or black line copy of the as-built construction plans of said public improvements upon their completion and the as-built plans shall be delivered to the City prior to commencement of the one-year warranty for said public improvements.
2. **RIGHTS-OF-WAY.** The Owner/Developer shall comply with all applicable provisions of Chapter 27, Article V, Section 27-200 through 27-226 of the Arvada City Code, entitled "Rights-of-Way". This article contains requirements including,

but not limited to, Owner/Developer escrow for public improvements in public rights-of-way and street surface restoration for public streets.

3. DETENTION PONDS the Owner/ Developer shall be responsible for designing, financing and constructing Detention Ponds in the northeast and northwest corners of the site as illustrated in City Job No.3129 associated with the development of the property. The Owner/Developer, or a successor homeowners association, shall be responsible for the maintenance of the Detention Ponds as depicted in the final plans.
2. LAND DEDICATION. The Owner/Developer has satisfied the land dedication fee in accordance with Section 7.11.5 of the Land Development Code by dedicating a 16.7-acre park as part of Skyline Estates Filing No.1 Subdivision.
3. PARK DEVELOPMENT FEE. The Owner/Developer shall pay a per unit park development fee prior to approval of the final development plan. This fee is currently \$876.80 for each dwelling unit, for a total of \$200,878.
4. SCHOOL LAND DEDICATION. The Owner/Developer shall pay a school land dedication fee of \$126,553.00 in accordance with Section 7.12.4 of the Land Development Code, prior to approval of the final development plan for Skyline Estates Condominiums.
5. ELEVATION. Elevations of the proposed buildings submitted, as part of the development plan must be those constructed, with minor modifications, unless an amendment to the plan is approved. Elevations shall meet or exceed the Building Design Requirements of Section 6.6.2 and 6.6.4 of the Land Development Code except for the waiver of allowing one building to exceed the requirement of only five primary structures in a row with the same garage facade.
6. MECHANICAL EQUIPMENT. All rooftop and wall mounted mechanical equipment must be screened in accordance with Section 6.6.1.G of the Land Development Code
7. TRASH ENCLOSURES. Prior to issuance of a certificate of occupancy, the non-combustible trash enclosure must be installed with a gate that is also constructed of non-combustible material.
8. PARKING FOR THE HANDICAPPED. The Owner/Developer agrees to provide handicapped parking for the site as set forth in Section 6.16.C.2 of the Land Development Code.
9. LANDSCAPING FOR THE DEVELOPMENT. The Owner/Developer must provide landscaping for each building or group of buildings per the approved final landscaping plan prior to Community Development Department approval of the first certificate of occupancy for a unit in a building or group of buildings.

The Owner/Developer acknowledges that the City has adopted the City of Arvada Water Conservation Program due to the Declared Drought Emergency ("Emergency") which impacts the viability of installing and maintaining the landscaping as illustrated on the approved landscape plans for Skyline Estates

Condominiums. During this Emergency, no new seed or sod watering is permitted for irrigated turf areas. The City recommends that installation of irrigated turf be delayed until further notice from the City to proceed. The Owner/Developer shall deposit funds with the City for escrow in an amount equal to 110% of the estimated cost of improvements not installed due to the Declared Drought Emergency, including, but not limited to irrigated turf, trees, shrubs, mulch, edger and weed barrier. Upon notification from the City to proceed, the Owner/Developer shall complete installation of the remaining improvements in accordance with the approved Final Plans for Skyline Estates Condominiums, within ninety (90) days. During this state of Emergency, the City still encourages the installation of trees and shrubs, if they are drip irrigated or hand watered. However, the City may not have any water available for the irrigation of these landscape materials installed at this time. If the Owner/Developer proceeds with the installation of any plantings at this time, it is done at the Owner/Developer's sole risk. 3

Installation of irrigation systems and other hard surface areas (such as fencing, playground equipment, covered shelters, or other such amenities) shall be completed by the Owner/Developer, at its sole expense, prior to the issuance of the first Certificates of Occupancy within a building or group of buildings in the Skyline Estates Condominiums project, unless the improvements have been delayed due to reasons beyond the Owner/Developer's control, such as adverse weather conditions. The Owner/Developer shall deposit funds with the City for escrow in an amount equal to 150% of the estimated cost of the remaining hard surface site elements (including irrigation systems, fencing and other elements as noted above) that are not installed prior to issuance of certificates of occupancy. A landscape contractor, acceptable to the City, shall make a determination of the estimated cost of improvements. The City, at its sole discretion and upon the City's rejection of an estimate provided by the Owner/Developer, may obtain an estimate of the costs of landscaping. Such estimate shall be binding upon the Owner/Developer in determining the amount of funds to be escrowed for purposes of this paragraph.

The City shall release its interest in the escrowed funds only upon completion of landscaping obligations for a building or group of buildings by the Owner/Developer and approval of such by the City. In the event that the Owner/Developer defaults upon its obligations as specified in this paragraph, following the escrow of funds, the City may apply all funds toward the completion of the Owner/Developer's landscaping obligations. For the purpose of applying such funds toward the completion of the Owner/Developer's landscaping obligations "completion" shall mean and include the cost of labor, materials, contract management, and administration. The City shall refund the escrowed funds not applied to completion of landscaping required by the final landscape plan upon application and verification of entitlement. The method and manner in which the City elects to undertake and complete the landscaping obligations of the defaulting Owner/Developer shall be within the sole discretion of the City; provided, however, that nothing herein shall obligate the City to install or complete the landscaping improvements and nothing herein shall prevent, prohibit, or limit the remedies available to the City to enforce the Owner/Developer's obligations under this paragraph.

When landscaping is installed, the Owner/Developer, its successors, or assigns, shall maintain, at their sole expense, the landscaping, fencing, and recreational amenities (collectively referred to as "landscaping") as illustrated on the approved final plans for Skyline Estates Condominiums. The Owner/Developer its successors, or assigns shall maintain said landscaping in perpetuity pursuant to the approved final plans, regardless of whether the landscaping actually installed, fails to specifically conform to the requirements of the approved final plans and regardless of whether the Owner/Developer or the City installs the landscaping.

10. RETAINING WALL HEIGHT. Maximum height of the proposed retaining walls for the development will be limited to 8' in height as approved by Planning Commission and City Council as part of the preliminary development plan.
11. BRICK ON DETACHED GARAGES. The Owner/Developer agrees to provide a 30" brick veneer band, as shown on the garage elevations, around the bottom of the entire structures as required by Planning commission and City Council.
12. FENCING ON THE RETAINING WALLS. The Owner/Developer agrees to provide a 42" vinyl coated chain-link fence on the top wall of all series of retaining walls for safety purposes as part of the approval of the preliminary development plan by Planning Commission and City Council.
13. EROSION CONTROL. The Owner/Developer shall comply with applicable provisions of the Arvada City Code entitled "Soil Erosion and Sediment Control," Chapter 15, Article IV, sections 15-50 through and including 15-58.
14. WAIVER. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
15. BINDING EFFECT AND JOINT AND SEVERAL OBLIGATIONS. The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns thereof and shall constitute covenants running with the described property. In the event that all or part of the Property is sold, transferred, or otherwise conveyed through any means whatsoever to additional or multiple parties, all additional owners shall be jointly and severally liable and responsible for all terms, conditions, and obligations set forth in this Agreement.
16. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the signatories hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the signatories that any person or entity other than the signatories receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

17. GOVERNING LAW AND ENFORCEMENT. This Agreement shall be governed by the laws of the State of Colorado. The parties agree and acknowledge that this Agreement may be enforced at law or in equity. In addition to any other available remedies, it is understood and agreed that the City may withhold or revoke any permits or certificates, including but not limited to building permits and certificates of occupancy, for any lot within the Property in the event of a breach of this Agreement by the Owner/Developer.
18. ATTORNEY'S FEES. If the Owner/Developer breaches this Agreement, the Owner/Developer shall pay the City's reasonable costs and attorney's fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.
19. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement. 5
20. INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.
21. ASSIGNMENT. All or part of the obligations or responsibilities set forth in this Agreement shall not be assigned by the Owner/Developer without the express written consent of the City of Arvada.
22. SEVERABILITY. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
23. RECORDATION OF AGREEMENT. The City shall record this Agreement with the Clerk and Recorder's Office of the appropriate county. The Owner/Developer shall pay the actual cost incurred for recordation of this Agreement upon request by the City.
24. DELAYS. The parties have executed this contract such that completion of the improvements shall be subject to strikes, accidents, acts of God, weather conditions which justify a delay construction in light of standard practices in the building profession, inability to secure labor, fire regulations or restrictions imposed by any government or governmental agency, or other delay resulting from events which are beyond the control of the delaying party and which are agreed to by the parties as justifying delay.
25. INCORPORATION OF EXHIBITS. Unless otherwise provided in this Agreement, exhibits referenced in this Agreement shall be incorporated into this Agreement for all purposes.

26. REVIEW OF REFERENCED DOCUMENTS. The parties hereto hereby understand and acknowledge that the public documents referenced in this Agreement, including but not limited to the Arvada City Code, Land development Code, Subdivision Regulations, and Engineering Specifications, were available prior to the execution of this Agreement, and are presently available, for review and inspection at the Arvada City Hall, Engineering Department, 8101 Ralston Road, Arvada, Colorado, from 8:00 a.m. through 5:00 p.m., Monday through Friday.

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


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CITY OF ARVADA, a municipal corporation



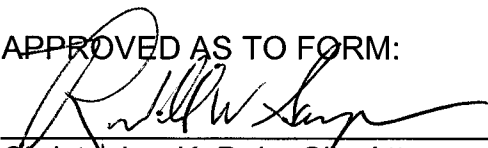
Mike Elms, Community Development Director
8101 Ralston Road
Arvada, Colorado





Christine A Koch
City Clerk

APPROVED AS TO FORM:



for Christopher K. Daly, City Attorney

