

LANDSCAPING MAINTENANCE AGREEMENT

AGREEMENT RELATING TO THE MAINTENANCE OF LANDSCAPING IMPROVEMENTS IN THE _____ DEVELOPMENT.

THIS AGREEMENT, entered into as of this ____ day of _____ 20____, by and between the CITY OF GILLETTE, WYOMING, (hereinafter called CITY), and _____, (hereinafter called DEVELOPER).

WITNESSETH:

- 1) That the DEVELOPER has installed and the CITY has approved the installation of the required landscaping improvements for a Commercial Development Project described as _____, (hereinafter called PROJECT); with a street address of: _____;
- 2) That the DEVELOPER of any development that requires the approval of a landscape plan shall submit surety by performance bond, certificate of deposit, letter of credit, or other security approved in writing by the City Attorney satisfactory to the City in the amount of 100% of the value of a bona fide contract to purchase and replace all of the living plant materials required for landscaping. Such contract shall be submitted to the City along with the financial security at the time of the application for the Certificate of Occupancy, and shall be reviewed and approved by the Parks Superintendent; and
- 3) That the financial security shall remain in force for a period of thirty-six (36) months from the date of completion of the landscape installation by the DEVELOPER. The financial security shall be released if, at the end of the thirty-six (36) months, the City finds that all required landscaping is properly installed, maintained, and living; and
- 4) That the DEVELOPER grants the CITY permission to enter upon the PROJECT site to cause the installation, replacement, or maintenance of any of the required landscaping that has not been properly installed or maintained by the DEVELOPER during the effective period of the financial security; and shall use the proceeds of the financial security to pay for such installation, replacement, or maintenance.
- 6) That the DEVELOPER has furnished to the CITY a guarantee of the proper maintenance of the living plant materials in the following form: performance bond, certificate of deposit, an Irrevocable Letter of Credit, in the amount of _____ (\$_____). That the

expiration date of the guarantee is not less than thirty-six (36) months after the completion of the installation of landscape improvements by the DEVELOPER. Other types of Financial Guarantees approved by the City Attorney may be provided in-lieu of the guarantees mentioned above.

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. All landscaping improvements designated on Addendum "A" to this AGREEMENT, attached hereto and incorporated herein by this reference, and being a list of the living plant material and replacement costs, as approved by the Parks Superintendent, shall be maintained by the DEVELOPER, according to plans and specifications prepared by _____, and submitted and approved by the Parks Superintendent and/or City of Gillette Parks and Beautification Board.
2. All living plant material designated on Addendum "A" shall be maintained by the DEVELOPER for thirty-six (36) months from the completion of the installation of landscape improvements by the DEVELOPER. The end date of the maintenance period shall be _____.
3. The Parks Superintendent shall periodically inspect the condition of the living plant material during the thirty-six (36) month maintenance period to determine if the plant material is in compliance with the installation specifications.
4. The Parks Superintendent shall notify the DEVELOPER in writing if any of the living plant material fails an inspection and shall allow the DEVELOPER a reasonable period of time to replace defective material. The DEVELOPER shall notify the Parks Superintendent when the corrective action has been taken and schedule a follow-up inspection to determine if the replacement material meets specifications. Should the DEVELOPER not replace the defective material in the timeframe stipulated by the deficiency notice, the City will cause for the installation, replacement, or maintenance of any of the landscaping identified in the deficiency notice and shall use the proceeds of the financial security to pay for such installation, replacement, or maintenance. In the event the amount of the financial guarantee is not sufficient to complete the improvements as designated in Addendum "A" to the approval of the Parks Superintendent, then the DEVELOPER shall be liable for any such insufficiency. In the event the CITY does bring legal action to enforce such liability, then it shall be entitled to all its costs of suit and reasonable attorney fees. The liability of the institution issuing an Irrevocable Letter of Credit shall not exceed the face amount thereof.
5. The estimated cost of maintaining and replacing the living plant material is agreed to be that set forth on Addendum "A". The financial guarantee in the amount of _____ (\$ _____) is to guarantee that the funds are available for the maintenance and replacement of all living plant material described in Addendum "A". Upon final inspection and

LANDSCAPING MAINTENANCE AGREEMENT

Page 3

completion of the thirty-six (36) month maintenance period for all living plant material, this AGREEMENT shall become null and void and of no force and effect, in which event the financial guarantee for the maintenance of the living plant material shall be returned to the DEVELOPER.

- 6. With this agreement The DEVELOPER grants the CITY permission to enter upon the PROJECT site to cause the installation, replacement, or maintenance of any of the required landscaping that has not been properly installed or maintained by the DEVELOPER during the effective period of the financial security; and shall use the proceeds of the financial security to pay for such installation, replacement, or maintenance.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT in duplicate, each of which is deemed an original, as of the date first above written.

CITY OF GILLETTE, WYOMING

Parks Superintendent

DEVELOPER:

DEVELOPER NAME & TITLE
Notary Required

STATE OF WYOMING)
) ss.
County of Campbell)

The foregoing instrument was acknowledged before me by _____, DEVELOPER, this ____ day of _____, 20__.

Witness my hand and official seal.

Notary Public

My Commission Expires:

State of Wyoming)
) ss.
County of Campbell)

On the ___ day of _____, 20___, personally appeared before me
_____, Parks Superintendent of the City of Gillette, Wyoming,
whom I know personally to be the signer of the above and he acknowledged that he
signed it.

Witness my hand and official seal.

Notary Public

My Commission expires:

ADDENDUM "A"

Summary and Engineer's Estimate of Costs of Living Plant Material for the _____ Development, as approved by the City Parks Superintendent.

IMPROVEMENTS	ESTIMATED COSTS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PREPARED BY: _____ Date

APPROVED BY: _____
Parks Superintendent Date