

SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of _____, 2022, between PDP Packsaddle Development, LLC, a Texas Limited Liability Company, hereinafter called the "Developer"; and the BOARD OF COUNTY COMMISSIONERS of Clear Creek County, CO hereinafter called the "County".

W I T N E S S E T H:

WHEREAS, the Developer, as a condition of approval of the final plat of the SADDLEBACK MOUNTAIN SUBDIVISION, Clear Creek County, Colorado wishes to enter into a Subdivision Improvements Agreement as provided for by Section 30-28- 137, C.R.S., as amended, and the Clear Creek County Subdivision Regulations; and

WHEREAS, pursuant to the same authority, the Developer is obligated to provide security or collateral sufficient in the judgment of the Board of County Commissioners to make reasonable provision for completion of certain public improvements set forth on Exhibit 11A" attached hereto and incorporated herein; and



WHEREAS, the Developer wishes to provide collateral to guarantee performance of this Agreement, including construction of the above-referenced public improvements, by means of a plat restriction on the plat and a letter of credit.

NOW THEREFORE, in consideration of the following mutual covenants and agreements, the Developer and the County agree as follows:

1. The Developer agrees to construct and install at its sole expense all of those public improvements as set forth on Exhibit "A" attached hereto.
2. The Developer agrees that all of those certain public improvements to be completed as identified on Exhibit "A" shall be constructed in compliance with the following:
 - a. All final plat documents submitted prior to or at the time of final plat approval.
 - b. All laws of the United States, State of Colorado, Clear Creek County, and its various agencies, affected special districts and/or servicing authorities.
 - c. Such other designs, drawings, maps, specifications, sketches and other matters submitted to and approved by any of the above-stated governmental entities.
3. Security. To secure and guarantee performance of its obligations as set forth herein, the Developer

agrees to provide security and collateral in the form of:

- a. A covenant and plat restriction on sale, conveyance or transfer which reads as follows:

"As a condition of approval of this plat by the Board of County Commissioners of Clear Creek County and to meet the requirements of Section 30-28-137, C.R.S., as amended, no conveyance, sale, or transfer of title of this entire subdivision, or of any lot, lots, tract or tracts of land identified hereon, shall be made, nor any building permit or certificate of occupancy be issued by the County of Clear Creek until a Phase 4 CERTIFICATE OF COMPLIANCE has been granted by Clear Creek County, State of Colorado, duly recorded by the Clerk and Recorder of said same County, certifying that:

- i. Those public improvements as set forth in Exhibit "A" of this Subdivision Improvements Agreement, as recorded in the records of the Clear Creek County Clerk and Recorder, or that portion of said improvements as shall be necessary to totally serve specific lot(s) or tract(s) covered by a particular Certificate of Compliance, have been properly designed, engineered, constructed and accepted as meeting the standards of the County of Clear Creek, applicable special district, and applicable servicing authorities, or, that a substituted security or collateral authorized pursuant to Section 30-28-101, C.R.S., as amended, pursuant to subsection (b) hereof, has been submitted to and accepted by Clear Creek County, which is sufficient in the judgment of the County to assure completion of all public improvements as set forth in Exhibit "A" of this Subdivision Improvements Agreement as recorded or any portion thereof necessary to serve the specific lot(s) or tract(s) to be covered by a particular Certificate of Compliance and to assure said improvements are completed in accordance with reasonable design and time specifications, and,
- ii. The applicable special district or servicing authority has certified in writing to Clear Creek County that all necessary water taps needed to serve the specific lot(s) or tract(s) to be covered by a particular Certificate of Compliance have or will in fact be issued by such district or authority.

These restrictions on conveyance, sale or transfer of title of this entire subdivision or any lot, lots, tract or tracts of land identified hereon shall run with the land and shall extend to and be binding upon the heirs, executors, legal representatives and assigns of the Developer and shall be enforceable pursuant to the provisions of Section 30-28-137, C.R.S., as amended."

- b. Letter of Credit. Developer shall post a letter of credit from an accredited financial institution in favor of the County as collateral, which letter of credit shall always be in an amount of at least equivalent to phase in progress on said public improvements, and at 1.15 times the amounts set forth in Exhibit "A" hereto. Said letter of credit for phase in progress shall not be released in part or in whole until the determination of phase completion or incremental completion is made by the County in accordance with paragraph 5 hereof. In the event of an uncured default by the Developer in completion of the public improvements set forth in Exhibit "A" hereto, and in the event that the County would call upon the letter of credit, as set forth in paragraph 5 hereof said letter of credit funds shall be applied to the items not

completed as set forth in Exhibit "A" with the County being entitled to an additional ten (10) percent administration fee, of the amount of the items not completed, provided, however, the County reserves the option not to complete the items of default as set forth in Exhibit "A" whereupon the County would release the letter of credit less a ten (10) percent administration fee of the amount of the items not completed.

4. It is mutually agreed, pursuant to the provisions of Section 30-28-137(3), C.R.S., as amended, that the County or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of this Subdivision Improvements Agreement, shall have the standing to bring an action in any District Court to compel the enforcement of this Subdivision Improvements Agreement on the sale, conveyance or transfer of any such lot, lots, tract or tracts of land or of any provision of part 1 of article 28 of title 30, C.R.S., as amended. Such standing shall include the right to compel rescission of any sale, conveyance or transfer of any lot, lots, tract or tracts of land contrary to the provisions of any such restrictions set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by the County where so required or otherwise prior to commencement of construction on any such lot, lots, tract or tracts of land.

5. It is further mutually agreed that, pursuant to the provisions of Section 30-28-137(2), C.R.S., as amended, as improvements are completed, or distinct phases of any such improvement, the Developer may apply to the County for a release of part or all of the collateral deposited with the County. Upon inspection and approval, the Board shall release said collateral. If the County determines that any of such improvements are not constructed in substantial compliance with specifications, it shall furnish the Developer a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the County determines that the Developer will not construct any or all of the improvements in accordance with all of the specifications, the County may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.


 5. In consideration of approval of the plat, Developer hereby consents and authorizes employees and agents of Clear Creek County, including but not limited to employees or agents of a landscaping or other appropriate construction firm, to enter onto the property contained within the plat referenced herein to install, maintain and/or replace landscaping pursuant to the approved landscape plan and the landscaping of

Exhibit "A", and/or to construct, maintain and/or replace public improvements required by the plat or this Agreement as shown on Exhibit "A". Clear Creek County agrees to give reasonable notice of entry during normal business hours. Developer hereby unconditionally waives and releases Clear Creek County, and any employee or agent of Clear Creek County, from any claims or other legal liability, whether arising from contract, or negligence, that arise out of or are attributable to installing, maintaining and/or replacing the landscaping and/or public improvements set forth above. This consent shall run with the land and be binding on all assigns, successors in interest, heirs, personal representatives and any other subsequent owners of the subdivided property. This consent applies to all agents and employees of Clear Creek County.

7. The County has previously agreed to approval of the final plat of SADDLEBACK MOUNTAIN SUBDIVISION subject to the terms and conditions of this Agreement.

8. Additional Provisions: The Developer will comply with the following additional provisions:



Saddleback Metropolitan District ("District"). The District shall provide those services:

- i. as set forth in the District Service Plan approved by the Clear Creek Board of County Commissioners in Resolution R-95-86 attached hereto as Exhibit B;
- ii. as set forth on the Final Plat;
- iii. insure that measuring devices are existing and operational on all wells within the Subdivision;
- iv. insure that water consumption is in compliance with the augmentation plan; and
- v. appoint a subdivision committee that meets periodically to discuss wildfire planning and mitigation.



Recreation District. No land dedications or fees in lieu thereof will be provided by the Developer to the Clear Creek Metropolitan Recreation District as the Saddleback Mountain Subdivision provides for approximately 30% of the property being dedicated to open space public use and with public access thereto, the public access of which will be maintained and governed by the Saddleback Metropolitan District.

c. **Clear Creek Fire Authority.**

i. Fees in Lieu/Land Dedication.



ii. Emergency Vehicle Pullouts.



- (1) The Developer shall provide for emergency vehicle pullouts at intervals of 600 feet along those roads where the right-of-way width is less than sixty (60) feet. Such pullouts shall be field located and approved by the Fire

Authority.

- (2) The Developer shall ensure that the pullouts are adequately posted and used only by emergency vehicles and not utilized for off-street parking.
- (3) Pullouts shall be installed at the Developer's expense and maintained by the Metro District.

iii. Emergency Helicopter Evacuation Pads.

- (1) Any Phase 4 cul-de-sac, as shown on the Final Plat, shall also be used as helicopter evacuation pads.
- (2) Helicopter evacuation pads shall be stabilized by the Developer and maintained by the Metro District. Such stabilization material shall be magnesium chloride or another treatment acceptable to the County Road and Bridge Supervisor. For safety reasons, no overhead obstructions, such as power lines, shall exist.



iv. Road Signage.

- (1) The Developer shall be responsible for ensuring that each road within the development is identified at every intersection with signage that meets Model Uniform Traffic Code standards. Such signage shall be field located and approved by the Fire Authority.
- (2) The Metro District shall be responsible for maintenance of road signage.

v. Residential Address Signage.

- (1) The Developer shall be responsible for ensuring that address numbers or address markers are placed on all residential dwellings in such a position as to be plainly visible and legible from the road fronting the lot.
- (2) The Metro District shall be responsible for ensuring that such signage is properly maintained by the owner.

vi. ISO Ratings.

Developer has provided evidence that fire insurance will be available, however, prior to conveying any portion of a lot, the Metro District shall provide a notice, acceptable to the Fire Authority, to all future land owners that they should expect; (a) an ISO rating of 9 or 10; (b) that fire insurance may be very expensive to obtain; and (c) emergency response time may be extended.

vii. Emergency Egress.



Pursuant to Commissioners' Resolution R97-13, Emergency Egress is being provided via the loop road that serves the property which is deemed more than adequate as an emergency egress route.

viii. Progress.

The Developer shall provide regular updates to the Fire Authority with regard to major milestones and any activities that may obstruct access to completed areas of the development.

e. **Colorado Division of Transportation Access Permit.**

- i. The Developer shall, at its own expense, act as the permittee and apply for a new Access Permit to access the south side of 1-70 Right-Of-Way and U.S. 40, at the Floyd Hill Interchange from the Colorado Division of Transportation.
- ii. As a stipulation of the Access Permit, the Developer shall, contribute a pro rata share of fees in lieu of development to CDOT to contribute to the US 40 improvements presently planned for implementation directly by CDOT.

f. **Roads.**

- i. Estimation of the quantities to complete all road construction is set forth in Exhibit A hereto.
- ii. All earth-disturbing activities must comply with the County's adopted Best Management Practices (BMPs) and must obtain a County BMP Permit, prior to issuance of any County Driveway Permit.
- iii. The surveyed road centerline will be located, prior to issuance of any County permit.
- iv. A Colorado licensed Professional Engineer who specializes in geotechnical engineering with a minimum of five (5) years geological experience/background shall be on-site during all phases of the road construction to ensure proper construction techniques are performed to insure stability of the road and the cut and fills.
- v. A stamped, written statement, from the Colorado licensed Professional Engineer who specialized in geotechnical engineering with a minimum of five (5) years geological experience/background verifying that the roads have been constructed per his/her recommendations must be provided prior to issuance of any County Building Permit, for any lot or parcel accessed by such roads, and prior to any release of financial guarantees.
- vi. A stamped, written statement, from the Colorado licensed Professional Engineer verifying that the road has been constructed per the approved design, prior to issuance of any County Building Permit, for any lot or parcel accessed by such roads and prior to any release of financial guarantees.
- vii. Off-site road improvements shall be provided by the Developer as follows:



- (1) Saddleback Drive from Santa Fe Mountain Road to the intersection with Saddle Ridge Road. The Developer will improve this road section to County standards at 100% cost to the Developer.

Completion. Said offsite road improvements shall be completed prior to the first building permit for Phase I.

The Developer has included the cost for this Item 2 in Exhibit A, as a part of Item A Private Roads, 60' Right-Of-Way, in Phase construction.

Impact Fees. A total of \$126,400 in impact fees shall be paid by the Developer by Phase to cover the total cost of County adopted impact fees

for the Subdivision. The Developer shall pay \$14 70 (\$126,400/86) times the number of lots in each phase to be submitted with the first building permit for that phase. In consideration for the aforesaid impact fees, the County shall be the responsible party to timely complete offsite road improvements for the following segments:

- Saddleback Drive from Elk Valley Drive Intersection to Santa Fe Mountain Road.
- Sloughed off portion of Saddleback Drive east of Elk Valley Drive towards the sales office.

vii. A Geotechnical Site Analysis and Report prepared by a professional engineer registered in Colorado, whose expertise is soils engineering shall be provided:

(1) Soil Sampling. Soil samples shall be taken at the proposed subgrade elevation and shall represent the soil of the subgrade. All boring depths shall extend a minimum of three (3) feet below the proposed subgrade elevation. The boring locations shall not exceed a distance of five hundred (500) feet between borings, with a minimum of two (2) borings per roadway. If more than one (1) soil type is encountered in the boring, they shall be logged and tested separately. All design shall be based on the worst soil encountered from the standpoint of subgrade support. The soils report must demonstrate the adequateness of the structural section.

(2) Soils Report. A County **Pioneering Permit** shall be issued for the sole purpose of soil sampling and the submission of a soils report. The report shall be submitted to the County Planning Department for review and approval prior to issuance of any County Road Construction Permit. The report shall minimally include: a description of site soil types, locations, and characteristics with supporting soil maps, soil logs and other information needed to determine soil suitability for proposed development; constraints on development based on the findings; slope stability analysis to include fracture and joint sets; and analysis and evaluation of such information with recommendations regarding structural constraints, erosion control, and a determination of the adequacy of the structural characteristics of the soil as they relate to the proposed development.

viii. As Builts. As Builts, including the limits of the road cut and fill slopes, both within and without the District road easement, shall be provided prior to obtaining any building permits.

f. **Residential Driveways will meet the following requirements, as approved in resolution R-99-54 through a variance:**

i. Residential Driveways. Residential driveways shall be constructed to the specifications of the County adopted Amendment to Chapter 14 of the Uniform Building Code for wildfire mitigation. Driveway standards prohibit grades in excess of ten (10) percent. Driveways between eight (8) to ten (10) percent shall not exceed 150 feet in length. Grades of eight (8) percent or less have no length requirement. The minimum inside turning radius at any point of any driveway shall be thirty (30) feet. The surface width shall be a minimum of twelve (12) foot driving surface not including drainage. All residential driveways shall also comply with this Agreement and must obtain a County Driveway Permit and may be required to obtain a County Best Management Practices (BMPs) Permit. The Developer or the Saddleback Metropolitan District shall be responsible for providing the lot owner

with this information. The construction of residential driveways shall be the responsibility of the lot owner. Every attempt will be made to maintain design standards as outlined in this section; however, when design standards cannot be met, a driveway will nevertheless be provided. In this case, structures served by the driveway must have 300 points of wildfire mitigation. In this case, structures served by the driveway must have 300 points of wildfire mitigation.

Residential Parking: Residential parking areas along the roads with the subdivision shall be provided where private residential driveways cannot be constructed to the County adopted amendment to Chapter 14 of the Uniform Building Code (UBC) for wildfire hazard mitigation. When the UBC standard cannot be provided, two (2) on-site residential parking areas shall be designated and located off the road easement. Where such off road easement parking areas are required, "as built" drawings will have to be submitted showing the location of such. The Developer or the Saddleback Metropolitan District shall be responsible for providing the lot owner with this information. The construction of residential parking areas shall be the responsibility of the lot owner.

- ii. All earth-disturbing activities must comply with the county's adopted Best Management Practices (BMPs) and must obtain a County BMP Permit, prior to issuance of any driveway permit.
- iii. Stability of driveways crossing a 1.5:1 slope and the proposed driveway's associated cut and fill slopes which will be steeper than 1.5:1 as required in section 5.A.4.e of the County Subdivision Regulations will be addressed.
- iv. Prior to application for any County Building Permit, for any lot or parcel, applicable State, Federal, and County permits must be obtained.



- g. **Road Vacation.** A complete application for a Road Vacation shall be submitted for the portion of road from Station 26 + 52 on Steeldust Lane to Station 17 + 44 on Saddleback Drive within ten (10) days of the approved Final Plat.
- h. **Wildfire Mitigation.** The Developer, at its expense, shall ensure that the Wildfire Pre-Attack Plan, prepared by the Colorado State Forest Service dated Spring 1995, shall be fully implemented.
- i. **Revegetation Plan.** The Developer shall provide the Revegetation Plan at its cost as set forth in the Final Plat Development Report, Revegetation Plan (item 11-9) and Exhibit "A" hereto, to include weed management during the first 2 years of maintenance thereof.
- j. **Phasing.** After completion of each phase, the County Planning Director and the Development Site Inspector shall review and confirm that the construction and performance is in compliance with the stipulations and conditions as outlined in the recorded documentation, which are detailed below, prior to commencement of the subsequent phase. Any noncompliance with such stipulations and conditions must be addressed to the satisfaction of the County Planning Director and the Development Site Inspector prior to beginning of the next phase.
 - i. Public improvements as outlined in Exhibit "A" of the Subdivision Improvements Agreement and detailed in the construction and drainage drawings.
 - ii. Identification and removal of beetle infested trees which occur in open tracts.
 - iii. Fuelbreaks, in accordance with the Wildfire Pre-Attack Plan, simultaneous with

road construction.

- iv. Thinning for open tracts, in accordance with the Wildfire Pre-Attack Plan.
- v. Installation of cisterns for emergency service water storage.
- vi. Best Management Practices (BMPs), in accordance with the Revegetation Plan.
- vii. Compliance with the County Noxious Weed Management Plan.
- viii. Implementation of the Compensatory Mitigation and Wildlife Habitat Enhancement Plan concurrent with the time line and work to be performed in the Wildfire Hazard Mitigation Plan.

9. The parties hereto mutually agree that this Agreement may be amended from time to time, provided that such amendment is in writing and signed by all parties hereto.

10. The parties hereby stipulate and represent that all procedures necessary to authorize the execution of this Agreement have been performed, and that the persons signing for each of the parties has been authorized to do so.

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