

CITY OF EVANS CHARGE BACK AGREEMENT

THIS CHARGE BACK AGREEMENT is made and entered into this _____ day of _____, 20_____, by and between the CITY OF EVANS, a Colorado municipal corporation, hereafter known as "the City" and _____, hereafter known as "the Owner".

WHEREAS, the City of Evans Municipal Code provides that the City be reimbursed for the cost of the time spent for engineering, planning, surveying, testing, inspection, hydrological and legal services during project review and construction, hereafter "Consultants' Time".

WHEREAS, this obligation to reimburse the City for Consultants' Time exists regardless of whether the project is approved, completed, and/or regardless of whether the Owner chooses to complete the project to City standards as a whole; and

WHEREAS, this Agreement memorializes the obligation by the Owner to the City to reimburse the City for all Consultants' Time as set forth in the Evans Municipal Code for the project.

NOW, THEREFORE, in consideration of the recitals and mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner agree as follows:

1. Reimbursement. Owner agrees to reimburse the City, regardless of completion of the Owner's project, regardless of approval of the Owner's project, and/or regardless of whether the City's land review process as a whole is completed, for all Consultants' Time, as set forth in the City of Evans Municipal Code, for all such costs incurred by the City which are incurred as a result of, or which are otherwise related to, Owner's project.
2. Deposit. At the time of the execution of this Agreement, the Owner shall deposit with the City the sum of \$_____, as determined by the Community Development Director. The deposit, and any additional amounts deposited with the City pursuant to this Agreement, shall be used to reimburse the City for the amounts described in Paragraph 1 of this Agreement. If the deposit is depleted prior to the completion of the project, the Owner shall promptly deposit additional monies with the City in an amount specified by the City, but not to exceed the amount of the original deposit less any remaining deposit held by the City. The parties understand and agree that the amount deposited with the City is an estimate of the costs only, and that the Owner shall pay the amounts provided for in Paragraph 1 of this Agreement through the initial deposit and additional deposits, if necessary. If such additional amounts are not deposited when necessary, the City may suspend or terminate the work described in Paragraph 1 of this Agreement, until such additional amounts are deposited with the City, as provided herein. Additional amounts shall be deposited as determined by the City to cover outstanding balances prior to recommencement of any work described herein.
3. Remedies. In the event Owner fails to reimburse the City for all Consultants' Time as set forth in the Evans Municipal Code, the City shall have remedies including the following:
 - A. The filing of a lien on the property which is or was the subject of the proposed development upon which the City has not been reimbursed for Consultants' Time; and/or

- B. The refusal to issue a building permit for any portion of the proposed development upon which the City has not been reimbursed; and/or
- C. The refusal to issue a certificate of occupancy for any portion of the proposed development upon which the City has not been reimbursed; and/or
- D. The refusal to accept any further land use applications from any Owner which has failed to reimburse the City for Consultants' Time for any project; and/or
- E. Any other remedies as set forth in the Evans Municipal Code.

- 4. Attorney Fees. Should this Agreement become the subject of litigation to resolve a claim of default of performance by the Owner and a court of competent jurisdiction determines that the Owner was in default in the performance of the Agreement, the Owner shall pay the attorney fees, expenses and court costs of the City.
- 5. Severability. If any provision of this Agreement is invalid, illegal or unenforceable, such provision shall be severable from the rest of this Agreement, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 6. Governing Law. This Agreement shall be governed by and construed in all respects according to the laws of the State at Colorado.
- 7. Headings. Headings of the sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part hereof.
- 8. Modifications. No amendments to or modifications of this Agreement shall be made or be deemed to have been made, unless such amendments or modifications are made in writing and executed by the party to be bound thereby

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

CITY OF EVANS, COLORADO

By: _____ Date: _____ / _____ / _____
Community Development Director

OWNER

Signature: _____ Date: _____ / _____ / _____

Printed Name: _____

Title: _____

Company: _____

Address: _____

Phone #: _____