

**CITY OF CENTENNIAL/SOUTHGLENN**  
**MASTER DEVELOPMENT AGREEMENT**

**DATED: June 5, 2006**

**Approval of this Agreement constitutes a vested  
property right pursuant to Article 68 of Title 24,  
C.R.S., as amended.**

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## MASTER DEVELOPMENT AGREEMENT

### STREETS AT SOUTHGLENN

This Master Development Agreement (this "Agreement") is entered into by the City of Centennial, Colorado, a Colorado statutory city ("Centennial"), the Centennial Urban Redevelopment Authority, a body corporate and politic of the State of Colorado ("CURA"), AW Southglenn, LLC, a Delaware limited liability company ("Developer"), and the Southglenn Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Article 1 of Title 32 of the Colorado Revised Statutes ("District"). Centennial, CURA, Developer and District collectively may be referred to as "Parties."

### RECITALS

A. Developer owns or will own certain real property generally known as the Southglenn Mall site, as more particularly described on Exhibit A (the "Property").

B. Developer desires to redevelop the Property as a retail-based, mixed-use project, which may include:

1. Commercial uses, including general and specialty retail uses;
2. Multi-family residential uses;
3. Entertainment and restaurant uses; and
4. Office and community business uses.

C. Developer submitted to Centennial an application for a Master Development Plan ("MDP"), as such term is defined in Section 1.1, for the Property, a copy of which is on file in the Land Use Services Office of the City of Centennial and made a part hereof by reference.

D. Centennial is willing to approve and execute said MDP upon the agreement of Developer and the District to the matters hereinafter described, and subject to all the requirements, terms and conditions of the ordinances, rules, regulations and standards of Centennial including but not limited to the Centennial Land Development Code (including zoning and subdivision regulations), the Centennial Roadway Design and Construction Standards, Storm Drainage Design and Technical Criteria, Stormwater Quality Regulations, and all other governing regulations (Collectively, the "Standards") in effect at the time the Construction Plans (as hereinafter defined) are approved by Centennial. To the extent that the MDP deviates from the Standards, the MDP shall govern.

E. By separate agreement and upon adoption of the MDP, Centennial has delegated its land use and building inspection authority over the Project to the Centennial Urban Redevelopment Authority to implement and administer Centennial's zoning, subdivision and building regulations contained in the Centennial Municipal Code to process and take action on

all administrative site plan applications and other applicable permits and occupancy certificates affecting the Project.

F. Centennial has estimated and the Parties have discussed establishing a maximum limit on fees imposed by CURA for land use review services and building inspections associated with review and approval of the ASPs and with the permitting and inspection of major elements of the Project as more specifically set forth in this Agreement.

G. The Vested Property Rights Statute (as defined in Section 1.1) provides for the establishment of vested property rights in order to advance the purposes stated therein and authorizes Centennial to approve this Agreement providing for vesting of property development rights for a period of three years.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

### ARTICLE I DEFINITIONS AND GENERAL PROVISIONS

1.1 Definitions. The following terms shall have the meanings indicated below:

A. Administrative Site Plan or "ASP". The subsequent plan or plans approved administratively by the Centennial Urban Redevelopment Authority following approval of the MDP consisting generally of a site development plan, drainage plan, traffic impact study and other plans and information specified in Article III of this Agreement.

B. Administrative Site Plan Improvement Agreement. The agreement(s) that may be entered into upon ASP approval as described in Section 3.6 of this Agreement.

C. Affiliate. Any entity owned, controlled, managed, or under common ownership by, directly or indirectly, Developer and any entity in which Developer is a member, shareholder, or joint venturer.

D. Agreement. This Master Development Agreement dated June 5, 2006.

E. Centennial. The City of Centennial, a municipal corporation of the State of Colorado.

F. Centennial Land Development Code. The City of Centennial Land Development Code as initially adopted by reference by Ordinance No. 2001-06 and readopted and codified in the Centennial Municipal Code by subsequent ordinances, including the Centennial Roadway Design and Construction Standards, Storm Drainage Design and Technical Criteria, Stormwater Quality Regulations, and all other governing regulations adopted by Centennial, and as may be amended from time to time. Section references to the Land Development Code herein refer to the sections of the City of Centennial Land Development Code.

G. Centennial Municipal Code. The City of Centennial Municipal Code, including the Land Development Code, as in effect on the Effective Date (or where this Agreement expressly states otherwise, at the particular time stated).

H. Centennial Urban Redevelopment Authority. The urban renewal authority formed in accordance with C.R.S. §31-25-101 *et. seq.* by City Council pursuant to Resolution No. 2005-R-73. The Centennial Urban Redevelopment Authority may be referred to herein as the "CURA;" references to CURA include, as applicable, CURA-designated staff and consultants.

I. City Council. The City Council of Centennial.

J. Commons Area. The area of the Project depicted on Sheet 20 of the MDP serving as a central park feature of the Project with provision for amenities including but not limited to playground, lawn areas, fountain, stone benches, outdoor fireplace and cafe seating.

K. Comprehensive Plan. The adopted comprehensive or master plan for the City of Centennial including any sub-area plans, as amended.

L. District. The Southglenn Metropolitan District, a quasi-municipal corporation and political subdivision of the state organized pursuant to Article 1 of Title 32 of the Colorado Revised Statutes.

M. Effective Date. The date first set forth above on the cover page of this Agreement, which shall be the date on which City Council takes final action to adopt an ordinance approving this Agreement and authorizing the Mayor to execute this Agreement on behalf of Centennial.

N. Exhibits. The following Exhibits to this Agreement, each of which are incorporated by reference into and made a part of this Agreement:

- Exhibit A – Legal Description of Property.
- Exhibit B – Collateral Posting Requirements
- Exhibit C – List of Public Improvements

O. Final Plat. The final plat, and subsequent final plats or replats, submitted by Developer for the Property and processed by Centennial pursuant to the requirements and procedures set forth in the Land Development Code.

P. Land Use Services Director or "Director". The person appointed to oversee the land use services department and designated by CURA to render administrative approvals and take such other actions as specified in this Agreement, or such Director's designee.

Q. Master Development Plan of "MDP". The Centennial-approved Master Development Plan for the Property as incorporated herein by reference and approved pursuant to Ordinance No. 2006-O-09, as such MDP may be properly amended in accordance with the Centennial Land Development Code and this Agreement. The MDP shall include the plan exhibit, approved drainage, grading, demolition, landscaping, and lighting plans, and all other associated plans and drawings, including the Streets at Southglenn Architectural Design

Guidelines dated April 12, 2006 and Streets at Southglenn Tenant Sign Criteria dated April 13, 2006 submitted by the Developer as part of the MDP application.

R. Project. The proposed development of the Property as generally described in Recital B and in the MDP.

S. Project Plan. This Agreement and the MDP, as approved by City Council, together with any ASPs for the Property which Centennial processes and approves as a "site specific development plan" (as defined in the Vested Property Rights Statute) after the Effective Date, and which collectively and individually shall constitute "site specific development plans" establishing vested property rights in accordance with the Vested Property Rights Statute and this Agreement.

T. Property. The real property described on Exhibit A attached to this Agreement consisting of approximately 68.46 acres.

U. Retail Use. A use for which the primary and predominate activity is the display and retail sales of goods, merchandise and/or services subject to local sales tax imposed by Centennial.

V. Site Civil Construction Drawings. The plans, drawings and information submitted by the Developer from which the public and private improvements for the Project are built.

W. Vested Property Rights. The rights described in Section 6.3 of this Agreement.

X. Vested Property Rights Regulations. Section 11.1.4913 of the Centennial Land Development Code in effect as of the Effective Date.

Y. Vested Property Rights Statute. Sections 24-68-101, et seq. of the Colorado Revised Statutes in effect as of the Effective Date.

1.2 Covenants. The provisions of this Agreement shall constitute covenants or servitudes that shall touch, attach to and run with the land comprising the Property. The burdens and benefits of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the Parties to this Agreement, except as otherwise provided herein.

1.3 Term of Agreement. The term of this Agreement shall commence upon the Effective Date and continue until all obligations related to the development of the Property have been satisfied, or this Agreement has been otherwise terminated as provided herein. Once all obligations related to development of the Property have been satisfied in accordance with the terms of this Agreement, the Parties shall execute and record written documentation evidencing the same.

1.4 Amendment of Agreement. Except as otherwise set forth in this Agreement, this Agreement may be amended or terminated only by mutual consent of Centennial, CURA and Developer in writing following the public notice and public hearing procedures required for

approval of this Agreement, if any may be applicable. For the purposes of any amendment to Article IV of this Agreement, written consent of the District shall also be required. Any successor to the Developer's interest in any portion of the Property shall also constitute the "Developer" for purposes of amending this Agreement relative only to the portion of the Property owned and only so long as such amendment does not impose greater obligations or decrease the benefits under this Agreement for any other owner of a portion of the Property. An amendment to any component of the Project Plans other than this Agreement shall not constitute or require an amendment to this Agreement.

## ARTICLE II MASTER DEVELOPMENT PLAN; ZONING

2.1 Zoning. The Property shall be zoned MU-PUD as provided in this Agreement and the MDP, provided the MDP meets all current regulations of Centennial.

A. Requirement for Retail Use. In accordance with the MDP, the Project shall include, at full build-out based upon the site plan on Sheet 5 of the MDP, a minimum of 909,815 square feet of building area devoted to Retail Use ("Minimum Retail"). The Developer's satisfaction of the requirement for Minimum Retail is a principal and material element of this Agreement. Should CURA determine, through the progression of ASP submittals, proposed amendments to the MDP, or otherwise, that the Project does not or likely will not provide the Minimum Retail, it shall immediately notify Developer in writing of CURA's determination of deficiency. If Developer does not respond to CURA's written notice within ten (10) business days or Developer is unable to confirm to the reasonable satisfaction of CURA that the Minimum Retail will be met for the Project, CURA may suspend processing of future ASPs for the Project until either: (1) the Developer provides reasonable documentation and evidence, to the satisfaction of CURA, that the Project does or will satisfy the Minimum Retail; or (2) the Developer submits an application and receives approval from Centennial for a major amendment to the MDP in accordance with the process set forth in Section 2.3(A) below.

B. Maximum Residential Density. In accordance with the MDP, there shall be a maximum of 350 residential dwelling units within the Property. The Parties recognize and agree that residential use of the Property is secondary to meeting the requirement for Minimum Retail. A proposed increase above the maximum 350 dwelling units shall require the Developer to submit an application and receive approval from Centennial for a major amendment to the MDP in accordance with the process set forth in Section 2.3(A) below.

C. Building Height. No building height shall exceed 100 feet. For purposes of this section, building height shall mean the vertical distance from the average finished grade immediately adjacent to the structure to the highest point of the structure, including rooftop appurtenances. In accordance with Sheet 2 of the MDP, building heights shall be restricted to specific lots as shown on Sheet 7 of the MDP as follows:



Lots:	Maximum Building Height:
1, 2, 3*, 4, 11, 12, 13 and 14	50 feet
5, 6, 7, 8, 9 and 10	100 feet

\* The Parking Structure and theater sign marquee on Lot 3 shall be permitted to have a maximum building height of 75 feet.

2.2 Temporary Uses and Structures. In accordance with Centennial Ordinance No. 2006-O-03, the Developer is permitted to locate one or more temporary structures on the Property for the period of construction of the Project, but in no event shall temporary structures be permitted beyond December 31, 2008. All temporary structures shall meet applicable requirements of Centennial's building codes, as may be amended from time to time. Temporary structures may be located within required building setbacks upon a finding by the City's Chief Building Official, in consultation with the Centennial Land Use Services Department, that the location and operation of such temporary structures is not detrimental to the health, safety and welfare of the residents of Centennial. Temporary Uses associated with construction and marketing of the Project also may be permitted provided that: (a) the duration of any temporary use does not extend beyond December 31, 2008; (b) the temporary use is consistent with the goals and intent of the MDP, as determined by Centennial in its reasonable discretion; and (c) the temporary use otherwise conforms with all applicable building, zoning and subdivision regulations. Upon completion of the Project, but in no event later than December 31, 2008, unless a different time period is mutually agreed upon between Centennial and Developer, Developer shall cause all temporary structures and uses to be removed from the Property.

2.3 Amendments to MDP. Amendments to the MDP shall be processed as either a "Major Amendment" or a "Minor Amendment" in accordance with the following process:

A. Major Amendments.

1. Applicability. A Major Amendment to the MDP shall mean and include any one of the following:

- (i) any increase in the number of approved residential dwelling units;
- (ii) any decrease in Minimum Retail;
- (iii) addition of or a change in the uses permitted or authorized by the MDP;
- (iv) an increase in building height above the maximum applicable building height standard;

(v) a decrease of more than five percent (5%), or any increase greater than five percent (5%), in the amount of open space depicted by the MDP;

~~(vi)~~<sup>v</sup> the inclusion of property into the Project that was not depicted as within the MDP; or

(vii) any other proposed modification that is determined by the Land Use Services Director in its reasonable discretion to constitute a major deviation from or major change to the intent or scope of the approved MDP based on sound planning and zoning principles.

2. Application Process. Application for a Major Amendment to the MDP shall be submitted to the Land Use Services Department and processed in accordance with Section 11.1.4903 of the Land Development Code concerning initial MDP applications. The Land Use Services Director may waive one or more application requirements determined by the Director to not be applicable or to be unnecessary based on the nature of the request for amendment.

3. Approval. Following a public hearing, preceded by public notice as set forth in Section 11.2A.200 (Appendices) of the Land Development Code, Planning and Zoning Commission may recommend, and City Council may approve, conditionally approve, or deny the Major Amendment application. Planning and Zoning Commission may make a positive recommendation and City Council may approve a Major Amendment upon a finding that:

(i) the amendment is consistent with the Comprehensive Plan;

(ii) the amendment is consistent with the intent of the overall design and mixed-use concept of the MDP;

(iii) the amendment will provide public benefits to the Project and the City as a whole;

(iv) the amendment is determined by both CURA and the District to not present the likelihood that the Project will not meet the requirements of this Agreement or any financial obligations of CURA or the District concerning the Project; and

~~(v)~~<sup>v</sup> the amendment is compatible with or will not materially and adversely affect existing development on adjacent properties, or measures will be taken to substantially buffer or otherwise substantially mitigate any incompatibility or adverse impacts.

B. Minor Amendments.

1. Applicability. A Minor Amendment to the MDP shall mean and include any modification to the MDP not deemed a Major Amendment as defined in subsection A above.

2. Application Process. Application for a minor amendment to the MDP shall be submitted to the Land Use Services Department and processed in accordance with Section 11.1.5314 of the Land Development Code concerning administrative amendments. The Land Use Services Director may waive one or more application requirements determined by the Director to not be applicable or to be unnecessary based on the nature of the request for amendment.

3. Approval. The Director of Land Use Services may approve, conditionally approve, or deny the minor amendment application. The Director may approve a minor amendment upon a finding that:

- (i) the amendment is consistent with the Comprehensive Plan; and
- (ii) the amendment is consistent with the intent of the overall design and mixed-use concept of the MDP.

### ARTICLE III. ADMINISTRATIVE SITE PLANS

3.1 ASP Submittals. Notwithstanding anything in the Land Development Code to the contrary, this Article shall set forth the process for submittal, review, approval and post-approval action on ASPs for the Project. An ASP may cover proposed development of a single or multiple lot(s), and may include a single or multiple structure(s). An ASP application must comply with all requirements of the MDP, and must comply with the assumptions and limitations of the drainage and traffic studies/reports then in effect for the MDP. A specific site, lot or structure may have only one approved ASP in effect at any given time for that lot, site or structure. Approval of an ASP application shall constitute rescission of any previously approved ASP for the lot(s) or structure(s) covered by the new ASP. If a previously approved ASP covers any portion of the Property covered by a subsequently approved application, that portion of the prior ASP approval is rescinded. No Site Civil Construction Documents may be submitted until the ASP for that portion of the MDP has been submitted to and undergone one round of review by CURA. Building permit applications may be submitted concurrently with the ASP submittal at the Developer's risk.

3.2 ASP Application Process. The ASP application shall include: (1) a completed application form; (2) proof of ownership; and (3) an original drawing in black ink on 24" x 36" paper of the drawing containing the following information at a level of detail consistent with final construction drawings:

A. Project name, type of proposal, legal description of the land area within the ASP, acreage contained within the ASP, date of the drawing, scale, and north arrow and MDP location map.

B. Setbacks, including parking and building, distances between structures, parking ratios and other parking criteria and unobstructed open space.

C. The approximate graphic location, dimensions, lot coverage, maximum heights and gross floor area of all existing and proposed structure(s).

D. The graphic location of public areas, parks, plazas, if any, to be provided within the ASP.

E. Specific signage plan, if no master sign plan has been approved for the Project.

F. Existing and proposed right-of-way widths for all existing/proposed internal and external roadways within and immediately adjacent to the ASP.

G. Existing and proposed public and/or private roadways and their conceptual points of access to adjacent and/or external roadways.

H. Existing and proposed finished grade topography with contour intervals of two feet (2') or less, tied to U.S.G.S. datum.

I. Documentation of conformance with the master traffic study, in the form of a letter update certified by the Developer's engineer as accurate, complete and current as of the date of the letter, which shall be valid for all ASP applications submitted within twelve (12) months of such letter update.

J. Documentation of conformance with the Master Drainage Report approved with the MDP (Slaughterhouse Gulch on west or Big Dry Creek on east), in the form of a Phase III drainage report for the site(s) covered by the submittal. A drainage report, complying with Centennial's content and certification requirements for Phase III drainage reports, that demonstrates: (i) that the site plan drainage and infrastructure will comply with the Master Drainage Report approved with the MDP; (ii) that sufficient capacity exists, or will be constructed in advance of the projected drainage impacts for all on-site and off-site drainage conveyance facilities required to serve the development described in the application and a description of any proportional allocation of facility costs attributable to other off-site sources of drainage; (iii) that sufficient on-site volume exists to detain the drainage from the Site in conformance with the applicable Master Drainage Report approved with the MDP; (iv) an accounting of the on-site utilization and capacity of the regional detention facilities serving the application which shows available volume to detain the drainage from the developed Site, through graphical and tabular analyses which include the total volume of the facilities, the flows from all sources, the volume available presently and after development as depicted in the application, and the volume remaining after the proposed development.

K. Specific locations of fire lanes for access by emergency vehicles, sidewalks, and outdoor trash receptacle systems.

L. Specific locations for utilities, easements (including dimensions thereof), and connections of utilities to building(s) if known.

M. Description of uses proposed for site.

N. Applicable standard and special notes as required by Centennial which regulate the development.

O. If the site has not received Final Plat approval at the time of submittal or an amendment to the approved Final Plat is necessary, the Developer shall submit a drawing depicting the site and foundation after Final Plat approval.

P. Specific building coverages (footprints) and size and a calculation of the amount of open space.

Q. Specific site lighting photometric plan.

R. Specific landscape plan showing locations, sizes and types of all proposed landscaping materials, including fences, walls, planters and any other landscaping features.

S. Specific architectural elevations of all sides of proposed structures which show building heights, colors and textures of materials to be used on the exterior of the proposed buildings.

T. ASP Improvement Agreement, if required pursuant to Section 3.5 of this Agreement.

U. Owner(s) of Record signature block.

V. Land Use Services Director, or Designee, signature block.

### 3.3 ASP Approval.

A. Application Review. Within ten (10) days of receipt of an ASP application, the Land Use Services Director shall determine whether such application is deemed complete and, if incomplete, shall provide the Developer with written notice of the deficiencies. Unless the Land Use Services Director provides written notice of deficiencies within ten (10) days after the submittal date, the ASP application shall be deemed complete as and when submitted for purposes of triggering the review period deadline specified herein. Upon submittal of a complete ASP application, the Land Use Services Director shall have forty-five (45) days in which to review and approve or deny said application unless a different review period is agreed to by the Developer and Land Use Services Director. The review period shall be tolled for any period during which the Land Use Services staff is waiting for the Developer to respond to written comments or requests for supplemental information. An uncured submittal deficiency may justify denial of the application regardless of when the deficiency was detected during the review period. An application which is not affirmatively approved or denied within the applicable or

agreed upon review period shall be deemed approved and the Land Use Services Director shall execute any documents necessary to effect such approval.

B. Approval Criteria. The Land Use Services Director shall approve an ASP application that complies with the MDP, the applicable provisions of the Land Development Code, and with the assumptions and limitations of the traffic and drainage studies submitted to and approved by CURA.

C. Effect of Approval. Upon approval of an ASP and execution of a reproducible mylar of the same by the Land Use Services Director, a building permit for that portion of the MDP may be issued provided the permit is found to be in conformance with the approved MDP and applicable ASP. No Certificate of Occupancy shall be issued until the public improvements related to such ASP have either been constructed and approved by CURA without undue delay and within ten (10) days of CURA's final inspection of the improvements, or appropriate collateral for such improvements has been accepted by CURA.

3.4 Appeal of Denial of ASP. In the event the Land Use Services Director administratively denies an ASP submitted by the Developer, Developer shall be entitled to appeal said administrative denial to City Council pursuant to the following process.

A. A denial of an ASP shall be documented in writing and provided to the Developer via certified or registered mail within ten (10) days of the decision in accordance with the notice provision of Section 7.3. The written decision shall state the reason for denial.

B. The Developer shall submit a written notice of appeal of an ASP denial within ten (10) days of receipt of notice of the denial decision by the Land Use Services Director.

C. Centennial shall schedule the appeal before City Council at its next regularly scheduled meeting, provided there is at least ten (10) days prior to the next regular Council meeting in order to include such appeal on the Council agenda. If the appeal cannot be heard at the next regular City Council meeting, Centennial shall schedule said appeal to be considered at the next available regular or special City Council meeting.

D. The appeal shall be considered as an administrative matter and shall not be required to follow any public notice, posting, or publication requirements. In acting on the appeal, City Council shall grant to the Land Use Services Director's decision a presumption of correctness and the burden of proof shall be on the Developer. City Council shall take final action on the appeal and may overturn the decision of Centennial Land Use Services Director only if it finds the Director's decision is unreasonable and contrary to the intent or express provisions of the MDP, or that the Director erred in denying the ASP based on a review of the intent and provisions of the MDP, Centennial's Land Development Code and other applicable provisions of Centennial's regulations and ordinances.

3.5 ASP Improvement Agreements. ASP Improvement Agreements are intended to supplement this Agreement and describe and insure construction of public improvements located within the property described in an ASP. The Parties do not anticipate or expect that every ASP will require an ASP Improvement Agreement. CURA may demand, and the Developer and

District shall negotiate in good faith and execute, an ASP Improvement Agreement where: (1) there exist public improvements within the property described in the ASP; and (2) CURA determines that this Agreement does not provide sufficient specificity or guarantee of performance to insure timely completion of the public improvements. Matters that may be subject to the terms and conditions of an ASP Improvement Agreement include, but are not necessarily limited to, clarification of the obligations of the Developer and/or the District with respect to public improvements, timing of construction, fees in lieu payment(s), collateral (if any), methods of enforcing completion of public improvements and other matters associated with the public improvements within a particular ASP. ASP Improvement Agreements may be administratively approved by the Land Use Services Director with the consent of the Executive Director for CURA who may consult with an attorney representing CURA, and upon such approval, shall be deemed to amend this Agreement and appended hereto.

3.6 ASP and Building Inspection Fees. CURA and its land use services provider (URS Corporation) and building inspection service provider (Colorado Inspection Agency Inc.) have reached agreement concerning the costs and expenses to be charged to CURA for the land use and building inspection services (collectively, the "CURA Services") contemplated by the Project. For purposes of this section: (1) "land use services" include CURA's review, processing, and approval of ASPs, including Grading, Erosion and Sediment Control (GESC) and utility plan review, as conforming to applicable state and local land use regulations; (2) "building inspection services" include CURA's processing of building permit applications and review of Site Civil Construction Drawings for improvements necessary to complete the core and shell of structures contemplated by the MDP. The Parties recognize and understand that the ability to determine with certainty the actual costs of CURA Services necessary to complete the Project is dependent upon the accuracy of the assumptions used in determining the estimates of the costs and expenses. By way of example only, an increase in the currently projected number of ASPs, deviation in the currently anticipated amount of building square footage, and substantial changes in the preliminary design or layout will directly affect the cost and expenses of providing CURA Services. Deviations from the assumptions underlying the current estimates will result in higher or lower actual costs and expenses for the Services. Developer shall pay all costs and expenses incurred by CURA in providing the CURA Services subject to the provisions of this section and Agreement. At this time, and based on the best information and assumptions available for the Project, the Parties anticipate or estimate that the total costs for CURA Services shall be as follows:

Land Use Services (MDP, Final Plat, 15 ASPs, GESC Inspections, CURA staff Project Coordination Meetings):	\$663,825.00
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Building Permitting and Inspection and Permitting (including CURA issuance of certificates of occupancy but not including inspection or permitting by other health, safety, or fire organizations other than the City or CURA):	\$846,238.00
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CURA and Centennial agree to cap or limit the total fees for CURA Services to the amounts stated above subject to the following assumptions and understandings:

A. Not more than 15 ASPs are to be submitted to CURA. In the event that more than 15 ASPs are to be submitted, the Developer shall inform CURA in writing prior to submission and CURA and the Developer shall negotiate in good faith a reasonable modification in the cost of land use services for the processing of the additional ASP(s). Such negotiation shall consider the degree to which there are reductions in costs for land use services attributable to other ASPs.

B. No material changes in the proposed uses, layout, or building design will be made following submission of an ASP but prior to approval of the ASP that effectively renders the ASP materially different than initially submitted to CURA. In the event of a material change in a submitted ASP, CURA shall inform the Developer in writing of the additional costs for processing and the Developer shall pay such additional costs prior to ASP approval. Changes in layout or building design made by the Developer in response to a written direction of CURA staff shall not be considered a material change within the meaning of this section.

C. Total square footage of structures depicted within the MDP will not be increased by more than 10%. In the event that an increase in square footage is anticipated, the Developer shall inform CURA in writing and CURA and the Developer shall negotiate in good faith a reasonable modification in the cost of CURA Services for the processing of the additional square footage. Such negotiation shall consider the degree to which there are reductions in square footage and resulting cost savings for CURA Services attributable to other structures within the MDP.

D. The complexity or effort associated with CURA Services is not proportionately dissimilar to that experienced in other mixed use or larger commercial projects in terms of: CURA staff review time; number or length of meetings; and number of required submissions of revised plans prior to final approval (a typical application involves not more than an initial application submission and one revised submission following CURA staff comment). In the event that the Developer believes that the actions of CURA staff in performing CURA Services is adding unreasonable complexity or inefficiency to the delivery of CURA Services, the Developer shall notify CURA in writing detailing its specific concerns and the Developer and CURA shall negotiate in good faith a resolution of the Developer's concerns and/or a reasonable modification in the cost of CURA Services. Unless otherwise mutually agreed, any modification of costs shall be equally divided between CURA and the Developer; it being the intent of the Parties to each be responsible for ensuring the efficient processing of CURA Services.

The cap or limitation on the costs of CURA Services does not include the following services, which shall be subject to additional charges and fees to be paid by the Developer in accordance with the charges and fees generally charged by CURA and the City for such services:

1. Any amendment of the approved MDP.
2. Any amendment of the approved Preliminary Plat.
3. Any amendment of the approved Final Plat.



4. Any amendment of an approved ASP.
5. Building inspection and permitting for tenant finish beyond the core and shell construction.
6. Review of extraordinary engineering issues and design solutions not customarily encountered with a typical mixed use development.
7. Sign permits for tenants and uses.
8. Contractor licensing or business licensing fees and charges.

On or before June 15, 2006, the Developer shall notify CURA of its election of one of the following payment methods for CURA Services:

(i) CURA shall invoice the Developer not more often than once each month for costs and expenses incurred by CURA in providing the CURA Services. The Developer shall cause the invoice to be paid within thirty (30) days.

(ii) The Developer shall make a once monthly deposit of funds with CURA and CURA shall maintain such deposited funds in a segregated interest bearing account (the "CURA Service Account"). The Developer shall make deposits with CURA in amounts sufficient to maintain a monthly CURA Service Account balance of not less than \$40,000. CURA shall deduct from the CURA Service Account such amounts sufficient to pay monthly invoices for CURA Services. Funds remaining in the account upon completion of the Project shall be paid to the Developer (or the Developer's designee).

Final action on any pending matter may be withheld until outstanding costs and expenses have been reimbursed to CURA, including withholding processing or approval of ASPs, building permits and occupancy certificates.

#### ARTICLE IV GENERAL DEVELOPMENT

4.1 General Development. Developer has the right, upon final approval of the MDP and subsequent ASPs, to develop the Property subject to the terms and conditions of this Agreement, the MDP, approved ASPs, and the Centennial Municipal Code, as they may be amended, modified, or repealed.

4.2 Final Plat. Centennial agrees to approve the Final Plat for the Property provided that Developer meets the requirements of the MDP, the Centennial Municipal Code and regulations promulgated thereunder, including dedication requirements as described in Section 5.1 below, and that all fees charged by or through CURA for processing of such Final Plat are paid unless otherwise agreed to in writing.

4.3 Applicable Regulations. Any construction related to development of the Property shall be subject to the Centennial Municipal Code, and specifications and rules and regulations of Centennial including the construction specifications for land development improvement and public works manuals generally applicable and in effect at the time Developer and/or District submits applicable construction plans, except as the requirements and standards are modified by this Agreement. Changes in these regulations and requirements subsequent to the date of this Agreement shall not be applied to the Project or Property.

4.4 Collateral. As the District will assume design, construction, ownership and/or maintenance obligations of the required public improvements, neither CURA nor Centennial shall require posting of collateral to ensure completion of such improvements except with respect to the improvements located in Centennial rights-of-way and otherwise provided herein. It is the intent of the Parties that the District, as a political subdivision of the state and quasi-municipal corporation, shall be independently responsible for ensuring completion of the required public improvements in conformance with Centennial Municipal Code. Collateral in the form of a letter of credit, as provided in Exhibit B, shall be required for public improvements constructed by Developer and/or District located within Centennial rights-of-way as specifically identified in the ASP Improvement Agreements.

A. Notwithstanding the foregoing, if CURA determines, in its sole and reasonable discretion, at any time during the construction of the Project that required public improvements are not being constructed and completed roughly commensurate with construction of the private improvements or that construction of the public improvements is not progressing in accordance with the terms of this Agreement, the Centennial Municipal Code, or the Standards, then CURA may provide written notice to Developer of its intention to demand posting of collateral. Within thirty (30) days of written notice from CURA, Developer shall provide written confirmation in terms of a construction schedule or other evidence of the progress of construction of public improvements to the reasonable satisfaction of CURA. If Developer fails to provide such written confirmation within the thirty (30) day cure period or such written confirmation is inadequate to address CURA's concerns, as CURA determines in its sole and reasonable discretion, CURA may require, within thirty (30) days of the date of a written demand, Collateral to be posted by the Developer and/or the District for the remaining public improvements in an amount equal to the estimated costs of construction of the unconstructed improvements plus a fifteen percent (15%) contingency. The terms of the Collateral are set forth in Exhibit B and further shall provide that said Collateral shall not expire prior to the final acceptance of the public improvements set forth in this Agreement unless it is released in whole or in part by CURA. In the event Collateral is not maintained, through final acceptance of the public improvements, Developer and/or District shall be in default of this Agreement and CURA may make demand on the then existing Collateral and pursue other remedies as may be provided in the Centennial Municipal Code or otherwise available by law.

B. Retainage. If Collateral is required pursuant to this Section, CURA shall not release the remaining or final ten percent (10%) of the total amount of the Collateral until the improvements have been granted final acceptance by CURA for full maintenance purposes.

4.5 Public Improvements. The applicable ASP and ASP Improvement Agreement, if applicable, will set forth the specific on-site public improvements for that portion of the Project.

A general description of the proposed public improvements, as currently contemplated, are described in Exhibit C, attached hereto and incorporated herein.

A. Public Improvement Installation Procedure. The following procedure shall be followed regarding installing and inspecting all public improvements:

1. Developer and/or District shall submit detailed and complete Site Civil Construction Drawings to CURA for review and approval where such Site Civil Construction Drawings comply with all applicable Standards. Construction shall not begin without CURA's approval of Site Civil Construction Drawings. CURA's approval or rejection of Site Civil Construction Drawings shall be communicated to the Developer within fifteen (15) days of CURA's receipt of complete Site Civil Construction Drawings.

2. There shall be an on-site pre-construction meeting between Developer and/or District engineer and construction manager, CURA's engineer and construction inspector, foremen of all general contractors and sub-contractors, and Developer's and/or District's geotechnical engineer for the purpose of establishing appropriate lines of communication and other necessary details of the project.

3. Developer and/or District must contract with a registered geotechnical engineer to provide inspection, and testing if required by CURA, during the construction process. Copies of all testing must be provided to CURA. Developer must provide CURA with written verification of compliance with all geotechnical specifications.

4. Developer and/or District and/or District shall give one (1) week notice to CURA in advance of beginning construction of any improvements, describing the type of improvement to be made and the time schedule for construction or installation.

5. If CURA reasonably determines that construction or installation is not complying with approved plans, CURA shall provide written notice of the deficiencies to Developer and/or District whereupon Developer and/or District shall have thirty (30) days from the date of such written notice to cure the deficiencies. In the event any deficiency presents a health or safety risk, CURA may require the Developer and/or District to stop work until corrections are made to remedy the health or safety risk. Should Developer and/or District dispute CURA's decision, it may appeal that decision according to the appeals procedure provided by the Uniform Building Code in effect within Centennial.

6. Developer and/or District shall perform testing and allow CURA to inspect construction or installation at times and frequencies determined necessary by CURA in its sole discretion provided that such times and frequencies are not unreasonable.

7. No excavation, facility or improvement, including water and sewer service connections, shall be covered until inspected by CURA or the applicable service provider within a reasonable period of time, unless such inspection is waived in writing.

B. Ownership of Improvements. Subject to any provisions of the Centennial Municipal Code relating to acceptance of public improvements for maintenance purposes, upon completion of construction of the improvements described in the Final Plat and/or ASP Improvement Agreement and located in rights-of-way dedicated to Centennial, all such improvements shall become the sole property of Centennial and/or CURA, free and clear of all liens, encumbrances, and restrictions. Developer and/or District shall furnish to CURA lien waivers and/or satisfactory proof that all claims and payments to be made in connection with construction of said improvements have been satisfied. All other improvements referenced in this Agreement shall be owned and maintained by Developer and/or the District and their respective successors and assigns.

C. Standards of Acceptance of Public Improvements. CURA, on behalf of Centennial, shall accept the improvements in Centennial rights-of-way identified in the Final Plat and/or applicable ASP Improvement Agreement as dedicated public improvements which are constructed under this Agreement for full maintenance in accordance with its regulations and under the following terms and conditions:

1. As soon as the applicable improvements covered by this Agreement are installed in accordance with the terms of this Agreement, Developer and/or District shall send a letter to the Director of the Land Use Services Department, requesting probationary acceptance in accordance with Chapter 11 of the Roadway Design and Construction Standards. When improvements are determined to be constructed in accordance with the approved Site Civil Construction Drawings, the Land Use Services Director will send a letter to Developer granting probationary acceptance of public improvements. The probation period will be stated in this letter and will normally terminate one year from the date of probationary acceptance. If Collateral has been posted in accordance with Section 4.4, CURA will submit its statement allowing a reduction of the Collateral to not less than 10% of the original value of the applicable improvements.

2. Public improvements constructed pursuant to this Agreement are eligible for final acceptance in accordance with Chapter 11 of the Roadway Design and Construction Standards. Requests for final acceptance may be received by CURA no sooner than nine (9) months following the probationary acceptance date. After inspection, CURA will identify and provide a written list of deficiencies based on a physical inspection of the public improvements. Developer and/or District shall correct all of said deficiencies to Centennial's satisfaction within six (6) months from the date said deficiency list was issued. When all of said deficiencies have been corrected, CURA will grant a final acceptance to Developer and/or District within the time period provided in the Roadway Design and Construction Standards. CURA will also then submit its statement allowing the reduction of the Collateral by the remaining ten percent (10%) of the cost of applicable public improvements.

D. Underground Utilities and As-built Surveys. All water and sewer mains and service stub-outs, storm sewer, drainage, electricity, natural gas and telephone lines shall be installed underground prior to construction of any overlaying street, curb, sidewalk, pedestrian/bicycle path or gutter to prevent unnecessary pavement cuts. In addition, Developer

and/or District shall provide an as-built survey of all public improvements and utilities prepared by a professional land surveyor showing horizontal and vertical locations in digital format as specified by CURA to be able to be integrated in the Centennial geographic information system. Such survey will constitute a condition precedent to the release of any construction performance bond/security.

E. Construction Site Maintenance. During construction, Developer and/or District shall use proper dust and erosion control and maintain streets and roads in such a manner that they may be reasonably traveled upon. When CURA determines in its sole discretion that dust emanating from the Property or erosion control related to construction activities or other construction site maintenance is unacceptable or creates a hazard, CURA will issue written notice to Developer and/or District and Developer and/or District shall have five (5) days to remedy the construction site maintenance deficiency or cause abatement measures to be taken. If CURA determines that the Developer and/or District fails in at least three separate instances to properly maintain the construction site in conformance with this section, CURA may order construction to cease until such time as Developer and/or District take effective abatement measures to reduce the likelihood of future site maintenance deficiencies. Developer may secure construction areas within the Property from the general public during construction. Any damage to Centennial rights-of-way or other public property caused by Developer's and/or District's construction activities associated with the Project shall be remedied to the satisfaction of Centennial within thirty (30) days of written notice by Centennial to the Developer and District.

## ARTICLE V MITIGATION

5.1 Mitigation. Developer and District agree to properly mitigate the impacts of development of the Project regarding the need for increased public services and facilities. To the extent this Agreement addresses mitigation also addressed in the Centennial Municipal Code, this Agreement's mitigation requirement shall be deemed to satisfy the requirements of the Centennial Municipal Code for the Project for the period of time contemplated by Article VI. Centennial has determined that, due to the size of the Project, land dedication and public improvements for schools, parks or other public purposes are not desired nor feasible at the location of the Project, Developer and District shall mitigate the following services and areas of concern by payment of a fee at the time of Final Plat approval:

A. Public Parks and Other Public Purpose Impacts. The Parties agree that development of the Project will increase the need for park and other public amenities in and around the Project. Consequently, South Suburban Park and Recreation District has agreed upon payment of \$1,057,500.00 to South Suburban Park and Recreation District by the District (based on a land value of \$203,123.20 per acre and 329 residential dwelling units). This amount shall be adjusted upward at the time of ASP submittals based on a value of \$2153 per unit if more than 329 dwelling units are constructed. Such fee shall be paid at the time of Final Plat approval directly to the South Suburban Park and Recreation District or, if paid to Centennial or CURA for remittance to the South Suburban Park and Recreation District, shall be considered by Centennial or CURA as a payment on behalf of another governmental entity within the meaning of Article X, Section 20 of the Colorado Constitution. The City elects to waive any required fee in lieu of dedication for other public purposes.

B. School Impacts. The Property is located within the Littleton School District. The Parties agree that development of the Project will increase the need for public services and facilities in and around the Project as could otherwise be provided by the District. The Littleton School District has agreed upon payment of \$337,997.00 to Littleton School District (based on a value of \$203,123.20 per acre and 329 residential dwelling units). This amount shall be adjusted upward or downward at the time of ASP submittals based on the actual number of dwelling units to be constructed on the Property. Such fee shall be paid at the time of Final Plat approval directly to the Littleton School District or, if paid to Centennial or CURA for remittance to the School District, shall be considered by Centennial or CURA as a payment on behalf of another governmental entity within the meaning of Article X, Section 20 of the Colorado Constitution.

C. Transportation Impacts.

1. Any dedications of rights of the way to Centennial for the benefit of the public are depicted in the Final Plat. No additional dedications will be required as a result of this Agreement except in the following circumstances: (i) dedications that may be necessary to provide public access to the Property due to modification or amendment of the MDP; or (ii) as a result of dedications required by the Centennial traffic improvement project associated with East Arapahoe Road and South University Boulevard intersection ("TIP") currently projected for completion in coordination with the completion of the Project. Nothing in this Agreement shall be construed to obligate Centennial or CURA to complete the TIP or to complete the TIP in coordination with the completion of the Project, however, Centennial and CURA will undertake best efforts to complete the TIP project by September 1, 2008. Developer understands and acknowledges that the Centennial TIP, once constructed, will provide substantial benefit to the Project in terms of improved traffic flow, signalization, vehicular and pedestrian access, and intersection circulation, and hereby agrees to dedicate upon request, at no cost to Centennial, CURA or the TIP, additional property adjacent to East Arapahoe Road or South University Boulevard necessary for the TIP. In the event Developer is required to dedicate additional right-of-way for the TIP, Centennial shall agree, in conformance with City Ordinance No. 2005-O-26, that such dedication shall not impair or render the Property non-conforming in terms of setback or otherwise. In no event shall Centennial require more than fifteen feet (15') width of property for TIP right-of-way purposes along East Arapahoe Road and South University Boulevard.

2. Indemnification. Developer shall hold harmless and indemnify Centennial from any costs, attorney's fees, or damages resulting from Developer's modification or restriction of legal access to adjacent lands, if any, including any modifications or restrictions approved by Centennial as part of any land development approval.

D. Storm Water Drainage. Developer agrees to properly mitigate the development impacts to storm water drainage systems as determined at the time of ASP approvals.

5.2 Mitigation Commitment. Developer and District agrees that the mitigation provisions of this Agreement, including the payment of monies as specified herein, are imposed by contract, independent of the continued validity or any invalidity of any of the provisions of the Centennial Municipal Code, subdivision, zoning and building regulations or other regulations. Further,

Developer and District agree that the mitigation provisions of this Agreement are both reasonable and binding commitments on the part of Developer and reasonably relate to the Parties' estimate of the extent and timing of impacts that are expected to occur from development of the Property and are in rough proportion to such impacts. However, no payment of actual out of pocket costs or expenses shall be required to pay mitigation caused by any phase of the Project or ASP that is not actually developed and substantially built out as called for in the MDP.

## ARTICLE VI VESTED RIGHTS

6.1 Vesting of Property Rights. This Agreement, the MDP and each amendment to any of the foregoing, shall constitute an approved "site-specific development plan" as defined in the Vested Property Rights Statute and Section 11.1.4913 of the Land Development Code, and shall establish vested property rights pursuant to the Vested Property Rights Statute to develop the Project in the manner contemplated by such documents for a period of three (3) years. The Parties recognize and understand that the Centennial Municipal Code may impose certain applications, processes, and procedures necessary to vest rights in accordance with this Agreement and such processes and procedures are not waived by this Agreement.

6.2 Compliance with General Regulations. Subject to the terms, conditions and limitations of the Vested Property Rights Statute except as this Agreement expressly provides otherwise, the establishment of vested property rights pursuant to this Agreement shall not preclude the application, on a uniform and non-discriminatory basis, of Centennial regulations of general applicability (including, but not limited to, building, fire, natural gas, housing, water, utilities, computer services, electrical, plumbing and wastewater treatment codes, the Centennial Municipal Code, and other Centennial rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the Effective Date.

6.3 Property Rights Vested. Subject to the terms, conditions and limitations of the Vested Property Rights Statute, subject to compliance with the Centennial Municipal Code, and except as this Agreement expressly provides otherwise, the rights identified below shall constitute vested property rights under this Agreement pursuant to the Vested Property Rights Statute:

A. The right to develop, plan and engage in land uses within the Property in the order, at the rate and at the time that market conditions dictate, in a manner that is substantially consistent with the terms and conditions of this Agreement (including each provision hereof) and the Project Plan.

B. The right to commence and complete development of the Project in the manner contemplated in the MDP (including, without limitation, the right to develop the Project with the uses and densities specified on the MDP and the right to receive all CURA approvals and permits necessary for the development of the Project) with conditions, standards and dedications which are no more onerous than those imposed by Centennial upon other developers in Centennial on a uniform, non-discriminatory and consistent basis.

C. The right to apply for and, upon compliance with the applicable terms and conditions of the Project Plan, to receive grading permits, building permits, certificates of occupancy, and other permits necessary for the timely development, construction and occupancy of improvements within the Project.

D. Except as the Vested Property Rights Statute or this Agreement expressly provides otherwise, no initiated or referred zoning, subdivision, land use or other legal or administrative action that would directly or indirectly have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Developer's rights set forth in this Agreement shall apply to or be effective against the Property or the Project.

6.4 Term of Vested Property Rights. In recognition of the tax revenues and other benefits Centennial will derive from development of the Project, the substantial investment and time required to complete the development of the Project and related infrastructure and public facilities, the term of the Vested Property Rights shall commence on June 15, 2006 and shall continue until June 14, 2009 (the "Term"). After expiration of the Term, the Property shall continue to be subject to the ordinances, rules and regulations of Centennial, and the Vested Property Rights shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect (a) any common-law vested rights obtained prior to such termination; or (b) any other right, whether characterized as vested or otherwise, arising from this Agreement, permits, approvals, zoning, or other land use approval for the Property or the Project which were granted or approved prior to, subsequent to, concurrently, or in conjunction with the approval of this Agreement.

## ARTICLE VII MISCELLANEOUS

7.1 Contractual Obligations. Developer and District agree that the provisions and requirements of this Agreement are entered into with full knowledge, free will and without duress. Developer and District agree and desires that the agreements contained herein regarding the payment of fees, installation of public improvements and conditions for zoning, subdivision and building approvals, including the incorporation of provisions of the Centennial Municipal Code and specifications, rules and regulations promulgated thereunder, are imposed by contract, independent of the continued validity or invalidity of any of the provisions of the Centennial Municipal Code, subdivision, zoning and building or other regulations. The agreements to pay fees, and construct public improvements or provide security are reasonable and binding commitments on the part of Developer and District and reasonably relate to estimated extent and timing of impacts that are expected to occur from the development of the Property, and are in rough proportion to such impacts.

7.2 Assignment. This Agreement may not be assigned or delegated by Developer or the District without the written consent of Centennial and CURA. Such consent shall not be unreasonably withheld provided the assignee agrees to and meets all the obligations of Developer under this and related agreements and approvals. No assignment requiring



Centennial's and CURA's consent shall be effective unless such assignment is made in writing delivered to Centennial and CURA and such consent by Centennial and CURA is evidenced upon such written assignment by signature of the Mayor for the City of Centennial and the Chairperson for CURA. Any assignment of all or any portion of the Property by Developer for the following purposes shall not require Centennial's or CURA's prior consent: (i) assignment to an Affiliate, (ii) assignment as the result of a merger or the sale of substantially all of Developer's assets, or (iii) assignment to the holder of a deed of trust or mortgage encumbering all or any portion of the Property. In such event, the assignee shall be deemed the "Developer" under this Agreement. The sale of individual residential dwelling units or individual lots within the Property shall not: (i) constitute an assignment of this Agreement, (ii) obligate individual residential unit owners under any term or condition of this Agreement; and (iii) thus, not require Centennial's or CURA's prior consent.

7.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is intended to be given at the address set forth below, or at such other address as may be subsequently furnished to the other Party as provided herein. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

To Centennial:

City of Centennial  
Land Use Services Department  
12503 East Euclid Drive, Suite 200  
Centennial, Colorado 80111

With copies to:

Robert C. Widner  
City Attorney  
12503 E. Euclid Dr., Suite 200  
Centennial, CO 80111

To CURA:

Centennial Urban Redevelopment Authority  
Attn: John L. Pazour, Executive Director  
12503 East Euclid Drive, Suite 200  
Centennial, Colorado 80111

With copies to:

Collins, Cockrel & Cole P.C.  
Attn: Robert Cole, Esq.  
390 Union Boulevard, Suite 400  
Denver, Colorado 80228

To Developer:

AW Southglenn LLC  
Attn: Donald G. Provost  
5460 South Quebec Street, Suite 100  
Greenwood Village, CO 80111

With copies to:

Brownstein Hyatt & Farber, P.C.  
Attn: Robert Kaufmann, Esq.  
410 17<sup>th</sup> Street, Suite 2200  
Denver, Colorado 80202

To District:

Southglenn Metropolitan District  
Attn: David J. Goldberg  
5460 South Quebec Street, Suite 100  
Greenwood Village, CO 80111

With copies to:

Grimshaw & Harring  
Attn: Rick Kron, Esq.  
1700 Lincoln Street, Suite 3800  
Denver, Colorado 80203

7.4 Paragraph Captions. The captions of the paragraphs are set forth only for convenience and reference and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

7.5 Interpretation. Where appropriate, words in the singular include the plural and vice-versa.

7.6 Additional Documents or Action. The Parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

7.7 Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, each of the Parties and their respective legal representatives, successors and assigns. This Agreement touches and concerns the land, constitutes covenants running with the land and shall bind the Property and all subsequent Developers until all provisions are satisfied. Any Party may record this Agreement in the real property records of Arapahoe County, Colorado.

7.8 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall, unless amended or modified by mutual consent of the Parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining.

7.9 Integration and Amendment. This Agreement represents the entire Agreement between the Parties and there are no oral or collateral Agreements or understandings except as otherwise referred to herein. This Agreement may be amended only by an instrument in writing signed by the Parties in accordance with the requirements of Section 1.4 of this Agreement.

7.10 Indemnification. Developer and District shall and do hereby indemnify and hold Centennial and CURA harmless from any third party claims it may have on account of any change in direction, nature, quality, or quantity of historical drainage flow, resulting from the development of the Property, or from construction of streets and storm sewers within or serving the Property, or damages to the Property or any improvements constructed thereon resulting from natural conditions including but not limited to expansive soils, geologic hazard, wildfire hazard or flood hazard. The protections afforded Centennial and CURA by this provision shall be perpetual and shall not cease upon the completion of the obligations imposed herein or termination of this Agreement, unless expressly released by Centennial.

7.11 Contractors. Developer and/or District shall ensure that all general contractors and sub-contractors that complete work on the Property are informed about the terms and conditions relevant to the construction and build-out of the Project, including, the CURA's right to inspect construction activities on the Property.

7.12 Estoppel Certificates. Centennial and CURA, at any time and from time to time upon not less than ten (10) days' prior written notice from Developer, agree to execute and deliver to Developer a statement in the form provided by Developer (a) certifying that this Agreement is unmodified and in full force and effect, or, if modified, stating the nature of such modification

and certifying that this Agreement, as so modified, is in full force and effect, (b) acknowledging that there are not, any uncured defaults on the part of Developer hereunder, or specifying such defaults if they are claimed, (c) acknowledging the amount of the collateral provided by Developer, and (d) containing such other information regarding this Agreement as Developer reasonably requests.

## ARTICLE VIII BREACH

8.1 Default by Centennial or CURA. Except as provided in Section 2.2 herein, a "breach" or "default" by Centennial or CURA under this Agreement shall be defined as: (a) any zoning, land use or other action or inaction, direct, indirect or pursuant to an initiated measure, taken after the Effective Date without Developer's consent, that alters, impairs, prevents, diminishes, imposes a moratorium on development, delays or otherwise adversely affects any development, use or other rights of Developer under this Agreement in a material manner except upon the discovery of natural or man-made hazards on or in the immediate vicinity of the Property that could not have been reasonably discovered at the time of Centennial's approval of a "site-specific development plan" and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or (b) Centennial's failure to fulfill or perform any material obligation of Centennial contained in this Agreement.

8.2 Default by Developer or District. A "breach" or "default" by Developer or District shall be defined as Developer's failure to fulfill or perform any material obligation of Developer or District contained in this Agreement.

8.3 Notices of Default. In the event of a default by any Party under this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of such default, at the address specified in Section 7.3 above and the defaulting party shall have twenty (20) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 20-day period and the defaulting party gives written notice to the non-defaulting party within such 20-day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such 20-day period to cure such default, provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure.

8.4 Developer's Breach. Upon breach by Developer or District, until any security is invoked or until the breach is otherwise remedied, Centennial, by and through CURA, shall have the right to refuse to issue for any phase of development building permits, certificates of occupancy, temporary certificates of occupancy, or approve any application or request for approval for that portion of the Property identified in an ASP in which the default is alleged to occur. Upon such breach and written order from Centennial, Developer shall also cease any development activity within the ASP in which the default is alleged to occur, including construction pursuant to a previously issued approval, authorization or permit. Any amounts due and owing to Centennial under this Agreement that are not paid in a timely manner may be certified to the Arapahoe County Treasurer for collection with taxes.

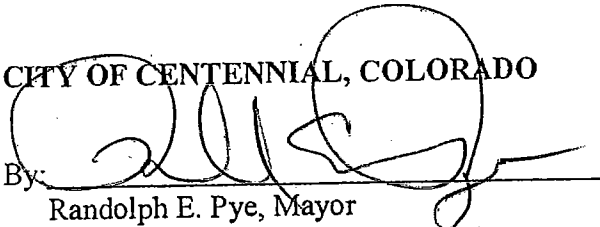
8.5 Waiver of Breach. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.

8.6 Remedies. The Parties hereby acknowledge that this Agreement may be enforced in law or in equity by a decree of specific performance, damages, foreclosure of liens for unpaid amounts, or other such legal and equitable relief as may be available under the laws and statutes of the State of Colorado.

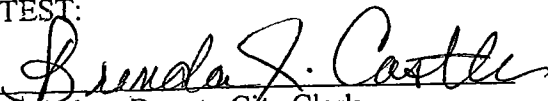
8.7 Attorney's Fees. If any action is filed or maintained by any Party to this Agreement, the substantially prevailing party shall be awarded its reasonable costs and attorney's fees, which rights shall survive termination of this Agreement.

Dated this 5<sup>th</sup> day of June, 2006.

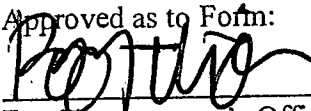
**CITY OF CENTENNIAL, COLORADO**

By:   
Randolph E. Pye, Mayor  
12503 E. Euclid Avenue, Suite 200  
Centennial, Colorado 80111

ATTEST:

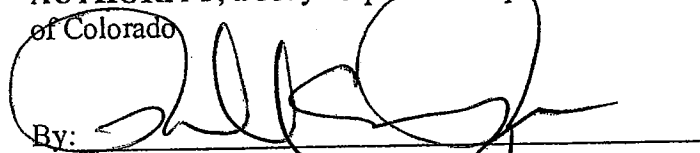
  
City Clerk or Deputy City Clerk

Approved as to Form:


  
For City Attorney's Office

THE AUTHORITY:

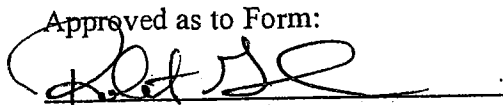
**THE CENTENNIAL URBAN REDEVELOPMENT  
AUTHORITY, a body corporate and politic of the State  
of Colorado**

By:   
Randolph E. Pye, Chairperson

ATTEST:

  
CURA Secretary

Approved as to Form:

  
CURA General Counsel

DISTRICT:

THE SOUTHGLENN METROPOLITAN DISTRICT,  
a quasi municipal corporation and political subdivision of  
the State of Colorado

ATTEST:

District Secretary

By: \_\_\_\_\_

Approved as to Form:

Attorney for District

DEVELOPER:

AW SOUTHGLENN, LLC

By: \_\_\_\_\_

Title: Authorized Signatory

STATE OF COLORADO )

) ss.

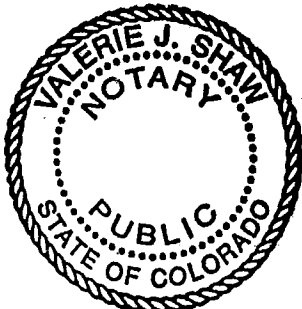
COUNTY OF ARAPAHOE )

The foregoing Master Development Agreement was acknowledged before me this 27<sup>th</sup>  
day of July, 2006, by David J. Goldberg, as  
Authorized Signatory of AW Southglenn, LLC

Witness my hand and official seal.

My commission expires: 01/14/2009

Valerie J. Shaw  
Notary Public



My Commission Expires 01/14/2009

**EXHIBIT A**  
**Property Description**

PORTIONS OF BLOCK 47, SOUTHGLENN-SIXTH FILING AND TRACT A, BLOCK 50, SOUTHGLENN-SEVENTH FILING, ALL OF LOT 1, BLOCK 1, SEARS SOUTHGLENN ADMINISTRATIVE REPLAT, ALL OF LOT 1, BLOCK 1, SOUTHGLENN-ELEVENTH FILING, ALL OF LOT 1, BLOCK 1, SOUTHGLENN-TWELFTH FILING AND ALL OF LOT 2, BLOCK 47, 1ST REPLAT OF SOUTHGLENN-SIXTH FILING LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF CENTENNIAL, COUNTY OF ARAPAHOE, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 26 AND CONSIDERING THE EAST LINE OF SAID NORTHEAST ONE-QUARTER TO BEAR SOUTH 00 DEGREES 14 MINUTES 30 SECONDS WEST WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE SOUTH 81 DEGREES 32 MINUTES 01 SECONDS WEST, A DISTANCE OF 505.82 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHEAST CORNER OF LOT 2, BLOCK 47, 1ST REPLAT-SOUTHGLENN SIXTH FILING AND A POINT ON THE SOUTH RIGHT-OF-WAY OF ARAPAHOE ROAD; THENCE THE FOLLOWING EIGHT (8) COURSES ALONG SAID LOT 2, BLOCK 47:

- 1)SOUTH 00 DEGREES 34 MINUTES 05 SECONDS EAST, A DISTANCE OF 285.93 FEET;
- 2)ALONG THE ARC OF A 58.39 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 37 DEGREES 30 MINUTES 09 SECONDS, AN ARC DISTANCE OF 38.22 FEET AND HAVING A CHORD WHICH BEARS SOUTH 14 DEGREES 06 MINUTES 19 SECONDS WEST, A DISTANCE OF 37.54 FEET TO A POINT OF REVERSE CURVATURE;
- 3)ALONG THE ARC OF A 29.83 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 58 DEGREES 10 MINUTES 03 SECONDS, AN ARC DISTANCE OF 30.28 FEET AND HAVING A CHORD WHICH BEARS SOUTH 09 SECONDS 34 MINUTES 40 SECONDS WEST, A DISTANCE OF 29.00 FEET;
- 4)SOUTH 23 DEGREES 37 MINUTES 12 SECONDS EAST, A DISTANCE OF 42.42 FEET;
- 5)ALONG THE ARC OF A 17.40 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 40 DEGREES 28 MINUTES 58 SECONDS, AN ARC DISTANCE OF 12.29 FEET AND HAVING A CHORD WHICH BEARS SOUTH 44 DEGREES 29 MINUTES 45 SECONDS EAST, A DISTANCE OF 12.04 FEET;
- 6)SOUTH 83 DEGREES 14 MINUTES 26 SECONDS EAST, A DISTANCE OF 59.06 FEET;
- 7)SOUTH 87 DEGREES 19 MINUTES 44 SECONDS EAST, A DISTANCE OF 119.45 FEET;
- 8)SOUTH 87 DEGREES 08 MINUTES 29 SECONDS EAST, A DISTANCE OF 256.26 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SOUTH UNIVERSITY BOULEVARD, SAID POINT ALSO BEING A POINT ON THE EAST LINE OF SAID LOT 2;

THENCE SOUTH 00 DEGREES 14 MINUTES 30 SECONDS WEST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1437.65 FEET TO A POINT ON THE EAST LINE OF LOT 1, BLOCK 1, SEARS SOUTHGLENN ADMINISTRATIVE REPLAT, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 2, BLOCK 1, SEARS SOUTHGLENN ADMINISTRATIVE REPLAT; THENCE THE FOLLOWING TWO (2) COURSES ALONG SAID LOT 1, BLOCK 1:

- 1) NORTH 89 DEGREES 45 MINUTES 29 SECONDS WEST, A DISTANCE OF 175.00 FEET;
- 2) SOUTH 00 DEGREES 14 MINUTES 31 SECONDS WEST, A DISTANCE OF 335.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 1, SAID POINT ALSO BEING A POINT ON THE NORTH RIGHT-OF-WAY LINE OF EAST EASTER AVENUE;

THENCE NORTH 89 DEGREES 45 MINUTES 29 SECONDS WEST ALONG SAID NORTH AND SOUTH LINES, A DISTANCE OF 1249.49 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS, AN ARC DISTANCE OF 23.56 FEET AND HAVING A CHORD WHICH BEARS NORTH 44 DEGREES 45 MINUTES 29 SECONDS WEST, A DISTANCE OF 21.21 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH RACE STREET; THENCE THE FOLLOWING FOUR (4) COURSES ALONG SAID EAST RIGHT-OF-WAY LINE:

- 1) NORTH 00 DEGREES 14 MINUTES 31 SECONDS EAST, A DISTANCE OF 934.58 FEET;
- 2) ALONG THE ARC OF A 850.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 16 DEGREES 43 MINUTES 52 SECONDS, AN ARC DISTANCE OF 248.21 FEET AND HAVING A CHORD WHICH BEARS NORTH 08 DEGREES 07 MINUTES 25 SECONDS WEST, A DISTANCE OF 247.33 FEET TO A POINT OF REVERSE CURVATURE;
- 3) ALONG THE ARC OF A 800.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 15 DEGREES 58 MINUTES 04 SECONDS, AN ARC DISTANCE OF 222.95 FEET AND HAVING A CHORD WHICH BEARS NORTH 08 MINUTES 30 SECONDS WEST, A DISTANCE OF 222.23 FEET;
- 4) NORTH 00 DEGREES 31 MINUTES 18 SECONDS WEST, A DISTANCE OF 751.50 FEET;

THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 35 SECONDS, AN ARC DISTANCE OF 23.56 FEET AND HAVING A CHORD WHICH BEARS NORTH 44 DEGREES 28 MINUTES 59 SECONDS EAST, A DISTANCE OF 21.22 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF ARAPAHOE ROAD, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 2, BLOCK 47; THENCE NORTH 89 DEGREES 29 MINUTES 17 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 2, BLOCK 47 AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 1054.58 FEET TO THE POINT OF BEGINNING.)



**EXHIBIT B**  
**COLLATERAL POSTING REQUIREMENTS**

- A. The Developer shall provide CURA with construction cost estimates for all costs and expenses associated with the construction and completion of all public improvements, including landscape improvements, to be constructed by Developer in accordance with this Agreement. Such cost estimate shall be submitted with the applicable ASP. The purpose of said cost estimates is only for determining the amount of security to secure Developer's obligations under this Agreement ("Collateral") and may be revised from time to time to reflect actual costs. Such cost estimates shall include a cost contingency of fifteen percent (15%) of the total estimated construction costs of the public improvements.
- B. In order to secure the performance of the construction and installation of the improvements herein agreed by Developer, the Developer and/or District shall provide CURA with Collateral in the form of a cash deposit or one or more irrevocable letters of credit ("Letter of Credit") in a form approved by CURA in the total amount of one hundred percent (100%) of the estimated cost for completion of all the applicable improvements and landscape improvements. A Letter of Credit form of Collateral shall be issued by a Colorado bank, or other financial institution doing business in Colorado that is acceptable to CURA in its reasonable discretion. Developer and/or District shall ensure that the Collateral remains unencumbered and free from claims of others so that any requests of CURA for payment or enforcement may be immediately and unequivocally honored without cost to CURA. Such security shall be maintained, in the amount required by this Agreement, and subject to partial releases as contemplated in Section 4.4 of this Agreement, through final acceptance of the Improvements by Centennial and or CURA. If at any time prior to final acceptance, CURA determines that the Collateral is not sufficient to cover all costs of construction of the improvements, Developer shall be required to post additional or supplemental Collateral in an amount deemed sufficient and approved by CURA to pay for all costs of construction, including any administrative costs and contingency amount.
- C. If Developer fails to perform or observe any obligation or condition to be performed by Developer under this Agreement in respect to the improvements, and such default remains uncured for more than thirty days after Developer's receipt of written notice thereof from Centennial, Centennial may cure the default at Developer's expense and draw on the Collateral from time to time to pay the costs incurred in connection therewith. In the event Developer fails to complete, install or perform any portion of work and/or improvements in a particular phase within the period set forth in this Agreement, subsequent ASP Improvement Agreement, or any period of time otherwise agreed upon by the Developer and Centennial, Centennial may complete such remaining work and improvements within a reasonable time by such means and in such manner as it may deem

advisable, at Developer's expense. Centennial shall be entitled to draw against such Collateral to pay for Centennial's costs and expenses incurred in contracting for said work and improvements, including the cost of obtaining required permits from the City or any other applicable jurisdiction plus a five percent (5%) administrative fee, plus legal expenses incurred, to cover costs associated with completing the improvements described herein.

- D. In the event the amount of Collateral is not sufficient for Centennial to complete the improvements as determined by Centennial in its sole discretion, Centennial shall be entitled to reimbursement from Developer upon demand for such cost overruns, including but not limited to labor and material costs as well as engineering and legal fees. In the event the Developer fails to maintain Collateral in the amount required pursuant to the terms of this Agreement through final acceptance of the improvements, Developer shall be in default of this Agreement and Centennial shall be authorized to make demand on the then-existing Collateral.

**EXHIBIT C**  
**LIST OF PUBLIC IMPROVEMENTS, AS MAY BE AMENDED AND SUPPLEMENTED**  
**BY FUTURE ASP IMPROVEMENT AGREEMENTS**

**PUBLIC IMPROVEMENT PRE-CONSTRUCTION ACTIVITIES**

- Acquisition costs
- Lease buyouts and terminations
- Relocation costs
- Appraisal costs and attorney's fees
- Eminent domain costs
- Demolition Costs

**SITE WORK**

- Site Utilities
- Sanitary Sewer and appurtenances,
- Waterlines and appurtenances
- Underground Detention and appurtenances
- Temporary Stormwater Quality facilities and appurtenances
- Permanent Stormwater Quality facilities and appurtenances
- Storm Sewer and appurtenances
- Mobilization
- Casing Pipes
- Utility Demo
- Earthwork
- Light Pole Bases
- Paving and Surfacing
- Site Concrete
- Fences & Gates
- Modular Retaining Walls
- Signage
- Landscaping
- Reinforcing
- Cast-In-Place Concrete
- Masonry Screen Wall
- Monument Signs
- Misc. Steel
- Temporary Partitions
- Electrical
- Public Art
- Contingency
- Engineering Fee
- Construction Management Fee

**PARKING DECKS**

- Parking Deck South

Parking Deck North  
Public Art  
Contingency  
Engineering Fee  
Construction Management Fee

**SPECIAL CONSTRUCTION**

Weather Protection  
Water Quality  
Plaza Feature  
Erosion Control  
Site Monumentation & Amenities  
Public Art  
Contingency  
Engineering Fee  
Construction Management Fee

**OFF SITE ARAPAHOE ROAD, RACE STREET, EASTER AVENUE & UNIVERSITY  
BOULEVARD**

Traffic Control  
Selective Demolition  
Earthwork  
Paving & Surfacing  
Site Concrete  
Traffic Signals  
Public Art  
Contingency  
Engineering Fee  
Construction Management Fee