

**RESIDENTIAL LANDSCAPING AND EXTERIOR IMPROVEMENTS COMPLIANCE DEPOSIT AGREEMENT FOR  
BARTON CREEK RESERVE**

**THIS AGREEMENT** is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ (“Owner”), whose address is \_\_\_\_\_, and the Board of Directors of the Barton Creek Reserve (BCR) Homeowners Association (“HOA”), represented by the Design Review Board (“DRB”), whose address is P.O. Box \_\_\_\_\_, Breckenridge, Colorado 80424, Attention: Mary Hart, DRB Administrator.

**I. GENERAL**

1.1 Owner owns Lot \_\_\_\_ within Barton Creek Reserve Subdivision, (“Subdivision”), with a residential address of \_\_\_\_\_, referenced herein as the Property. Said Property is included into the HOA boundaries, subject to the Barton Creek Reserve Declaration, Barton Creek Reserve Design Guidelines, the Barton Creek Reserve Bylaws, and any and all other HOA materials that dictate the governance and development of property within the Subdivision (“HOA Materials”).

1.2 Owner is presently proceeding with certain residential development of the Property that will require HOA Design Review Board approval, and also mandates approved landscaping and other exterior improvements (“Project”). Said exterior improvements are required by the HOA Materials for the benefit of the HOA, the Owner, and subsequent owners within and adjacent to the Property, and accordingly are required by the HOA to be properly completed and accepted prior to securing a Certificate of Compliance for the HOA. Any exterior improvements required by DRB Final Plan approval that remain unfinished due to weather conditions only will be set forth in a letter of Conditional Certificate of Compliance to be provided to Owner, and may hereafter be referred to as the “Exterior Improvements” or “Improvements”.

1.3 If Owner has completed residential construction on the Property, but has not completed the mandated Exterior Improvements, yet desires to obtain a Conditional Certificate of Compliance (“CCC”) from the HOA, the HOA is willing to provide such a CCC to the Owner, subject to collection of Compliance Deposit to guarantee and secure the proper completion and establishment of the Exterior Improvements on a timely basis. Accordingly, this Agreement and Compliance Deposit will provide security to assure completion of the Improvements on Owner's Project, and will serve to protect the HOA from the risk of Owners failing to complete such Improvements.

**II. CONSTRUCTION OF IMPROVEMENTS**

2.1 Agreement to Construct Improvements. Subject to and in accordance with the terms and provisions of this Agreement, Owner agrees to cause the Improvements to be constructed and completed, in accordance with the provisions of this Agreement. Such compliance shall be determined by Administrator or such other agent of the HOA.

2.2 DRB Preliminary Approval. A Preliminary Approval for the design of Improvements on the Property shall not be issued until this Agreement is fully executed, and security for completion of the Improvements is provided to the HOA, as provided for herein.

2.3 Construction Standards. The Improvements shall be constructed in accordance with this Agreement, the authorized DRB approval, and the HOA Materials.

2.4 Completion. The Improvements shall be completed prior to issuance of a Certificate of Compliance.

**III. COMPLIANCE DEPOSITE FOR COMPLETION OF IMPROVEMENTS**

3.1 Deposit of Security for Owner Obligations. To secure the performance of the obligations of Owner under this Agreement to complete the Improvements, Owner shall deposit with the HOA a Compliance Deposit of \$3900 at the time of Preliminary Review, which Security shall be deposited and held in HOA account until issuance of a Certificate of Compliance following installation of all required Improvements within the Project. The Security shall be retained by the HOA until satisfaction of Owner's obligations under this Agreement.

3.2 Certificate. Until the Improvements are completed for the Property in compliance with the HOA approved plans, the HOA is under no obligation to issue a CCC, release the Compliance Deposit, or otherwise approve Owner's Project.

**IV. ACCEPTANCE OF IMPROVEMENTS.**

4.1 Final Acceptance. Upon final completion of the Improvements, Owner shall be entitled to obtain final acceptance thereof by the HOA (“Final Acceptance”) in accordance with the following provisions.

a) Owner shall give notice to the DRB Administrator requesting a final inspection of such particular Improvements (“Final Inspection Notice”). The DRB shall inspect such Improvements and, if the HOA Agent finds that said Improvements have been properly installed and remained substantially free of defects in materials and workmanship, to the extent required in this Agreement, the HOA Agent shall promptly issue a written Final Acceptance of the Improvements.

b) At the time of Final Acceptance of the Improvements, Owner shall be entitled to a full release of the Compliance Deposit, as related to the HOA’s role under this Agreement. No interest will be provided on Deposit.

c) The sum value of the final release of the Compliance Deposit for the Improvements may be reduced by the costs of the DRB Administrator to conduct inspections, administration, etc.

**V. DEFAULTS AND REMEDIES**

5.1 Notice of Default. In the event a default by Owner is believed to exist, the DRB shall give written notice thereof to Owner, specifying the default and specifying a reasonable time within which Owner shall be required to cure the default.

5.2 Remedies of HOA. If Owner fails to cure such default within the time specified above, the HOA shall be entitled to (a) make a draw on the Deposit for the amount reasonably determined by the HOA to be necessary to cure the default in a manner consistent with the approved plans up to the amount of the Security; (b) sue the Owner for recovery of any amount necessary to cure the default over and above the amount available under the Security, including court costs, witness fees and reasonable attorneys' fees; and, (c) refuse any further approvals or other allowance from the HOA to the Owner until such time as the subject default is cured.

5.3 Attorney’s Fees. If an action is brought to enforce this Agreement, the prevailing party at trial or upon appeal shall be entitled to costs, expert witness fees and reasonable attorney's fees.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year above written.

**OWNER**

\_\_\_\_\_  
(Name of Owner)

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

Title:\_\_\_\_\_

**DESIGN REVIEW BOARD ADMINISTRATOR, as appointed by BOARD OF DIRECTORS, Barton Creek Reserve HOA**

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

\_\_\_\_\_, DRB Administrator