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AGREEMENT IN FURTHERANCE OF ANNEXATION

FOR

OLD SUGAR MILL FARM EAST ADDITION

TO THE CITY OF LONGMONT, COLORADO

January 9, 1996

28-2

AGREEMENT IN FURTHERANCE OF ANNEXATION FOR OLD SUGAR MILL FARM EAST ADDITION TO THE CITY OF LONGMONT, COLORADO

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EXHIBIT A

LEGAL DESCRIPTION

28.4

AGREEMENT IN FURTHERANCE OF ANNEXATION
FOR
OLD SUGAR MILL FARM EAST ADDITION
TO THE CITY OF LONGMONT, COLORADO

THIS AGREEMENT is entered into this 9th day of January, 1996, by and between the City of Longmont, Colorado, a Municipal Corporation, hereinafter called "City," and Roger L. Pomainville, whose mailing address is 655 4th Avenue, Longmont, Colorado 80501, John S. McCoppin and Eilen Sue McCoppin, whose mailing address is 12594 State Highway 119, Longmont, Colorado 80503, James B. Wiegand and Janet S. Collins, whose mailing address is 10077 East County Line Road, Longmont, Colorado 80503, John D. Carter and Martha L. Carter, whose mailing address is 10033 East County Line Road, Longmont, Colorado 80503, Larry Ohmie, whose mailing address is 10007 East County Line Road, Longmont, Colorado 80503, and Glen Mosell, whose mailing address is P.O. Box 878, Niwot, Colorado 80544, hereinafter called "Owners."

THE PARTIES' RECITALS ARE AS FOLLOWS:

The Owners have submitted to the City a petition for annexation, known as the Old Sugar Mill Farm East Addition. The legal description of land subject to this Agreement is attached as Exhibit A and hereinafter called the "Property;" and

As an inducement to the City, subject to any limitations in the Longmont Municipal Charter, the Owners are willing to perform the terms and conditions of this Agreement upon approval and recording by the City of the annexation ordinance or ordinances for the Property with the County Clerk and Recorder; and

The parties desire to state their duties and responsibilities regarding the annexation and development of the Property; and

The parties shall not construe this Agreement to bind or limit the full exercise of the City Council's discretion in the legislative decision of whether or not to annex the Property; and

The concept plan for this annexation is depicted as the preliminary development plan. The concept plan (preliminary development plan) describes and depicts the Owners' intention to develop and use the Property in a manner consistent with PUD-MU zoning; the plan is hereinafter called the "Concept Plan;" and

The City shall retain full authority to act in the public interest in exercising its municipal police powers, including amendments or modifications of the zoning and Concept Plan; and

Nothing in this Agreement shall impose additional terms and conditions requiring an election under C.R.S. § 31-12-112.

IN CONSIDERATION of the recitals, mutual promises, and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

ARTICLE ONE
INTENSITY OF DEVELOPMENT AND LAND USE MIX

1.1 Concept Plan. The Owners' Concept Plan generally conforms to the Longmont Area Comprehensive Plan (LACP). All future development on the Property shall conform to the Concept Plan and all applicable Longmont Municipal Code provisions in effect at the time of development and building permit application. If the Concept Plan does not conform to all applicable provisions of the Longmont Municipal Code at the time of development, the Owners shall apply for an amendment to the Concept Plan.

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1.2 Affordable Housing. The Owners agree that a minimum of ten percent of the Property used for residential uses shall be designated and developed for affordable housing as defined in the Longmont Municipal Code.

2 ARTICLE TWO
PHASING

2.1 The Concept Plan proposes development of the Property in one or more phases. The Owners shall develop the Property according to the phasing plan established with the final plat and final development plan, unless amended with consent of the City.

2.2 Unless the City agrees otherwise in writing, the Owners shall satisfy all participation costs, improvements, dedication requirements, and other applicable requirements of the Longmont Municipal Code, for each phase before its development. Development may occur simultaneously in more than one phase.

3 ARTICLE THREE
DRAINAGE

3.1 Drainage Plan.

3.1.1 In conformance with City standards and specifications, the Owners shall control all storm water runoff greater than that historically generated from the Property. The Owners shall not alter historic flows in any manner that would adversely impact upstream or downstream properties.

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3.1.2 The Owners, at Owners' sole expense, shall prepare a master drainage plan. The master drainage plan shall show the location and extent of all drainage system improvements, including but not limited to, collection and detention facilities. If the master drainage plan results in changes to drainage or irrigation facilities affecting other property or facility owners, the Owners must obtain written consent from each property or facility owner for the changes before the City will approve of the plan. The Owners shall construct all improvements in an appropriate sequence to meet the demands development of the Property generates. The Owners shall meet all City standards and specifications in effect at the time of construction. The City may require the Owners to update the master drainage plan for the Property with review of each final plat to determine the configuration, timing, and responsibility for the improvements.

3.2 Drainage Improvements.

3.2.1 The master drainage plan, as approved by the City, shall state the Owners' responsibility for on-site drainage improvements. The master drainage plan may include construction of facilities to convey, collect and detain irrigation and storm water.

3.2.2 The master drainage plan, approved by the City, shall also state the Owners' responsibility for off-site improvements. The Owners' Memorandum of Agreement for Public Improvements (MOAPI) will address these responsibilities in detail, including any proportionate reimbursements from adjacent and/or benefitting property owners or as stated in Longmont Municipal Code then in effect.

3.2.3 If any portion of the Property lies within a floodplain, as defined by the Federal Emergency Management Agency (FEMA), the Owners are responsible for all the necessary design and submittal materials to FEMA for proposed changes to the floodplain

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designation. Any submittal to FEMA must be reviewed and approved by the City before submittal to FEMA.

3.2.4 Detention ponds, private storm sewers, and other drainage facilities shall be owned and maintained by the Owners, or a homeowners' association unless otherwise stated in the MOAPF.

ARTICLE FOUR
STREETS AND TRANSPORTATION

4.1 Dedication of Rights-of-Way. Subject only to encumbrances acceptable to the City, the Owners shall dedicate at the time of final platting, or by special warranty deed upon request by the City, the following rights-of-way consistent with the "City of Longmont Public Improvements Design Standards and Construction Specifications" and as depicted on the Concept Plan:

4.1.1 A minimum of 60 feet of right-of-way from centerline of County Line Road adjacent to the east Property boundary; and

4.1.2 Right-of-way necessary for Great Western Way consistent with a City approved traffic study.

4.1.3 Any rights-of-way necessary for the public street system, as required by the City

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