

**DEVELOPMENT AGREEMENT  
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN  
REGARDING VESTED RIGHTS**

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made as of \_\_\_\_\_, 2009 (the "Effective Date"), by and between CDN RED ROCKS, L.P., a Colorado limited partnership, and TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership, Terry Bartholomew, Jerry H. Crispe and Tharaldson Motels II of Las Vegas Inc. (collectively, the "Owners"), and the CITY OF LAKEWOOD, a municipal corporation of the State of Colorado (the "City").

**Recitals**

A. Owners own real property consisting of approximately \_\_\_\_ acres, located within the City, as described on Schedule 1 attached hereto (the "Property"), and zoned pursuant to the *Red Rocks Business Park Official Development Plan dated \_\_\_\_\_, 19\_\_*, (as may be amended, the "ODP").

B. On \_\_\_\_\_, 2009, the City approved a master plan for the Property known as the *Solterra Centre Official Development Plan* ("ODPM").

C. The Site Specific Development Plan ordinance found in Article 18 of Title 17 of the City's Municipal Code (the "Vested Rights Ordinance"), and the Vested Property Rights Statute found in Sections 24-68-101, et seq. of the Colorado Revised Statutes in effect as of the Effective Date (the "Vested Rights Statute"), provide for the establishment of vested property rights in order to advance the purposes stated therein, and authorize the City to enter into development agreements with landowners providing for the vesting of property development rights for period of greater than three (3) years.

D. It is the desire of the Parties to cause the development rights of the Property created under the ODPM to vest as more particularly set forth herein.

NOW, THEREFORE, considering the foregoing recitals and in consideration of the mutual promises and covenants hereinafter set forth, the Owners and the City agree as follows:

**Agreement**

1. **Vested Rights.** The ODPM constitutes an approved "Site Specific Development Plan" (as defined in the Vested Rights Ordinance and the Vested Rights Statute) and creates vested property rights to develop the Property in the manner contemplated by the Site Specific Development Plan. Subsequent approvals in connection with the development contemplated by the Site Specific Development Plan, if and when properly approved in due course by the City, shall likewise be vested for the balance of the Term (as defined below).

2. **Term.** The term of the statutory vested rights shall be twenty-five (25) years, commencing on the effective date of ordinance O-200\_\_-\_\_ approving this Agreement (the "Term"). In accordance with Section 17-18-7 of the Vested Rights Ordinance, the Term is

warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the commercial development, economic factors and market conditions.

3. Remedies; Referendum. Any action that deprives, revokes, diminishes or impairs the vested rights provided herein shall entitle Owners to an action for injunction or specific performance and/or monetary damages as set forth in C.R.S. 24-68-105; provided, however, that Owners agree to first pursue specific performance, and if granted, shall have no right to pursue damages; and only if a court denies specific performance shall Owners be entitled to pursue damages. Adoption of this Agreement is subject to referendum pursuant to the Vested Rights Statute. In the event such a referendum is filed and succeeds in overturning City Council's approval of Ordinance O-200\_\_-\_\_, the vested rights created under this Agreement shall be null and void, provided, however, that none of the development rights for the Property or approvals granted to owners under the ODPM shall be affected thereby.

4. Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by telecopier or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

**CITY OF LAKEWOOD**

ATTEST:

\_\_\_\_\_  
Margy Greer, City Clerk

\_\_\_\_\_  
Michael J. Rock,  
City Manager

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Jay N. Hutchinson, Director  
Department of Public Works

APPROVED AS TO FORM:

\_\_\_\_\_  
Timothy P. Cox  
Office of the City Attorney

\_\_\_\_\_  
Kathy Hodgson, Director  
Department of Community Resources

\_\_\_\_\_  
Anne Heine, City Engineer  
Department of Public Works

DEVELOPMENT AGREEMENT  
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**CDN RED ROCKS, L.P.**, a Colorado limited  
partnership

By: CDN Canada Development Inc., its general  
partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_)  
\_\_\_\_\_)ss.  
\_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2009, by \_\_\_\_\_, as \_\_\_\_\_ of CDN Canada Development Inc.,  
general partner of CDN Red Rocks, L.P., a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Signatures continued on following page]



DEVELOPMENT AGREEMENT  
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**Terry Bartholomew**

By: Terry Bartholomew, owner

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

Name: \_\_\_\_\_

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

\_\_\_\_\_)  
\_\_\_\_\_)ss.  
\_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, as \_\_\_\_\_ as owner.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Signatures continued on following page]

DEVELOPMENT AGREEMENT  
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**Jerry H. Crispe**

By: Jerry H. Crispe, owner

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

Name: \_\_\_\_\_

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

\_\_\_\_\_)  
\_\_\_\_\_)ss.  
\_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, as \_\_\_\_\_ as owner.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Signatures continued on following page]

DEVELOPMENT AGREEMENT  
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**Tharaldson Motels II of Las Vegas, Inc.**

By: Darwin Horan, Power of Attorney for Gary  
Tharaldson, President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_)  
\_\_\_\_\_)ss.  
\_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, as \_\_\_\_\_ by Darwin Horan, Power of Attorney for Gary Tharaldson, President, Tharaldson Motels II of Las Vegas, Inc.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Signatures continued on following page]

## SCHEDULE 1

(Legal description of the Property)

### Property:

#### PARCEL 1

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 25 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 25 TO BEAR SOUTH 89°09'07" WEST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE SOUTH 89°09'07" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 618.36 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 89°09'07" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 953.70 FEET TO A NON-TANGENT POINT ON A CURVE;

THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 6°47'51", A RADIUS OF 550.00 FEET, THE CHORD OF WHICH BEARS NORTH 67°55'51" EAST, A DISTANCE OF 65.21 FEET TO A POINT ON A CURVE;

THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 85°10'39", A RADIUS OF 15.00 FEET, THE CHORD OF WHICH BEARS NORTH 28°44'27" EAST A DISTANCE OF 20.30 FEET;

THENCE NORTH 13°50'53" WEST A DISTANCE OF 44.73 FEET TO A POINT ON A CURVE;

THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 50°25'14", A RADIUS OF 462.50 FEET, THE CHORD OF WHICH BEARS NORTH 39°03'30" WEST A DISTANCE OF 394.00 FEET;

THENCE NORTH 64°16'07" WEST A DISTANCE OF 163.77 FEET TO A POINT ON A CURVE;

THENCE ALONG A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 39°20'00", A RADIUS OF 732.50 FEET, THE CHORD OF WHICH BEARS NORTH 44°36'07" WEST A DISTANCE OF 493.04 FEET;

THENCE SOUTH 65°03'50" WEST ALONG A NON-TANGENT LINE A DISTANCE OF 344.60 FEET;

THENCE SOUTH 30°50'53" EAST A DISTANCE OF 327.00 FEET;

THENCE NORTH 89°09'07" EAST A DISTANCE OF 225.00 FEET;

THENCE SOUTH 00°34'17" EAST A DISTANCE OF 400.00 FEET TO A POINT ON SAID SOUTHERN LINE OF THE SOUTHWEST QUARTER OF SECTION 25;

THENCE SOUTH 89°09'07" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 532.05 FEET TO THE SOUTHWEST CORNER OF SECTION 25;

THENCE SOUTH 89°54'08" WEST A DISTANCE OF 350.44 FEET;

THENCE NORTH 02°37'50" WEST A DISTANCE OF 107.00 FEET;

THENCE NORTH 11°22'44" WEST A DISTANCE OF 194.30 FEET;

THENCE NORTH 11°22'30" WEST A DISTANCE OF 194.73 FEET;

THENCE NORTH 11°22'07" WEST A DISTANCE OF 54.87 FEET;

THENCE NORTH 11°22'17" WEST A DISTANCE OF 1,748.46 FEET TO A POINT ON A CURVE;

THENCE ALONG A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 01°33'22", A RADIUS OF 7,601.94 FEET, THE CHORD OF WHICH BEARS NORTH 10°35'37" WEST A DISTANCE OF 206.45 FEET;

THENCE NORTH 14°18'31" EAST ALONG A NON-TANGENT LINE A DISTANCE OF 27.61 FEET;

THENCE NORTH 09°44'05" EAST A DISTANCE OF 74.17 FEET;

THENCE NORTH 16°45'39" WEST A DISTANCE OF 240.69 FEET TO A NON-TANGENT POINT ON A CURVE;

THENCE ALONG A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 07°05'28", A RADIUS OF 7,601.94 FEET, THE CHORD OF WHICH BEARS NORTH 03°45'08" WEST A DISTANCE OF 940.25 FEET;

THENCE NORTH 02°21'18" EAST ALONG A NON-TANGENT LINE A DISTANCE OF 679.50 FEET;

THENCE NORTH 04°54'59" EAST A DISTANCE OF 213.45 FEET;

THENCE NORTH 89°43'37" EAST A DISTANCE OF 845.36 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25;

THENCE NORTH 89°11'47" EAST ALONG THE SOUTH LINE OF THE NORTH HAVE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25 A DISTANCE OF 291.40

FEET TO A NON-TANGENT POINT ON A CURVE;

THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 06°16'51", A RADIUS OF 1534.24 FEET, THE CHORD OF WHICH BEARS SOUTH 15°14'42" WEST A DISTANCE OF 168.10 FEET;  
THENCE SOUTH 15°41'14" WEST ALONG A NON-TANGENT LINE A DISTANCE OF 106.83 FEET TO A NON-TANGENT POINT ON A CURVE;  
THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 09°29'04", A RADIUS OF 1581.11 FEET, THE CHORD OF WHICH BEARS SOUTH 03°16'22" WEST A DISTANCE OF 261.43 FEET TO A POINT ON A CURVE;  
THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 11°15'29", A RADIUS OF 1533.18 FEET, THE CHORD OF WHICH BEARS SOUTH 07°06'35" EAST A DISTANCE OF 300.77 FEET;  
THENCE SOUTH 12°44'32" EAST A DISTANCE OF 160.54 FEET;  
THENCE SOUTH 17°11'47" EAST A DISTANCE OF 135.01 FEET;  
THENCE SOUTH 12°44'21" EAST A DISTANCE OF 883.45 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 25;  
THENCE SOUTH 89°08'00" WEST ALONG SAID NORTH LINE A DISTANCE OF 4.46 FEET;  
THENCE SOUTH 11°22'05" EAST A DISTANCE OF 489.37 FEET TO A POINT ON A CURVE;  
THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 04°53'54", A RADIUS OF 863.50 FEET, THE CHORD OF WHICH BEARS SOUTH 13°49'02" EAST A DISTANCE OF 73.80 FEET TO A NON-TANGENT POINT ON A CURVE;  
THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 07°39'30", A RADIUS OF 863.50 FEET, THE CHORD OF WHICH BEARS SOUTH 20°06'37" EAST A DISTANCE OF 115.33 FEET;  
THENCE SOUTH 12°44'19" EAST A DISTANCE OF 14.47 FEET;  
THENCE SOUTH 36°59'42" EAST A DISTANCE OF 15.17 FEET TO A NON-TANGENT POINT ON A CURVE;  
THENCE ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 09°56'46", A RADIUS OF 863.50 FEET, THE CHORD OF WHICH BEARS SOUTH 30°47'23" EAST A DISTANCE OF 149.71 FEET;  
THENCE SOUTH 65°08'28" WEST ALONG A NON-TANGENT LINE A DISTANCE OF 10.25 FEET;  
THENCE SOUTH 24°51'32" EAST A DISTANCE OF 30.00 FEET;  
THENCE NORTH 65°08'28" EAST A DISTANCE OF 16.58 FEET;  
THENCE SOUTH 38°36'30" EAST A DISTANCE OF 421.80 FEET;  
THENCE SOUTH 37°33'38" EAST A DISTANCE OF 220.28 FEET;  
THENCE SOUTH 37°33'46" EAST A DISTANCE OF 229.27 FEET;  
THENCE SOUTH 36°59'47" EAST A DISTANCE OF 64.97 FEET;  
THENCE SOUTH 37°22'38" EAST A DISTANCE OF 4.67 FEET;  
THENCE SOUTH 36°59'42" EAST A DISTANCE OF 1,299.40 FEET TO THE POINT OF BEGINNING;

PARCEL CONTAINING 6,530,705.05 SQUARE FEET, OR 149.92 ACRES, MORE OR LESS.

PARCEL 2

LOT 1, BLOCK 7 AND TRACT A, SPRINGFIELD GREEN, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL 3

COMMENCING AT THE NORTHEAST CORNER OF SECTION 26 AND CONSIDERING THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26 TO BEAR SOUTH 00°33'37" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE SOUTH 61°16'36" WEST, A DISTANCE OF 1385.97 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 04°00'32" WEST A DISTANCE OF 481.99 FEET;  
THENCE NORTH 21°05'10" WEST A DISTANCE OF 213.51 FEET;  
THENCE NORTH 32°22'47" WEST A DISTANCE OF 331.81 FEET;  
THENCE NORTH 89°43'37" EAST A DISTANCE OF 288.21 FEET TO THE POINT OF BEGINNING;

PARCEL CONTAINING 62,325.10 SQUARE FEET, OR 1.43 ACRES, MORE OR LESS.