



PITCHFORK

SUBDIVISION IMPROVEMENTS AGREEMENT

This Agreement is entered into this 4th day of August, 2000, between the Town of Mt. Crested Butte, Colorado (hereinafter "Town"), and Coburn Development, Inc., a Colorado corporation (hereinafter "Developer").

WHEREAS, the subdivision regulations of the Town provide that no final plat showing improvements not yet completed shall be approved until the Developer has submitted a subdivision improvement agreement guaranteeing the construction of the uncompleted required improvements; and

WHEREAS, the subdivision regulations provide that suitable collateral, in an amount stipulated in the subdivision improvements agreement, shall accompany the final plat submission to ensure completion of the improvements according to design and time specifications, which collateral may be in the form of an irrevocable letter of credit adequate to guarantee the completion of the improvements or other suitable form; and

WHEREAS, the Developer herein proposes to file the final plat of Pitchfork (hereinafter "Subdivision") which will require the completion of construction of a road system, a water system, a sanitary sewer collection system and an electrical system; and

WHEREAS, the parties hereto mutually agree that the Developer shall furnish an irrevocable letter of credit adequate to guarantee the completion of the required improvements or other suitable collateral.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, the parties agree as follows:

1. **REQUIRED IMPROVEMENTS**. That the Developer, as a condition of approval by the Town of the final plat of the Subdivision, hereby agrees to construct the following improvements not later than the dates set forth hereafter:

A. **Streets, Drainage and Utilities**. The following improvements, the unit costs for which are detailed on attached **Exhibit A**, to be built in accordance with plans and specifications of Del-Ment Consultants, Inc. as



previously approved by the Town and the Mt. Crested Butte Water and Sanitation District, at a total estimated cost of \$1,133,462, with a date of completion of December 1, 2001, except for paving, which shall be completed by November 1, 2002:

<u>Item</u>	<u>Item Cost</u>	<u>Running Total</u>
Mobilization	\$ 18,500	\$ 18,500
Earthwork	140,750	159,250
Sewer System	268,517	427,767
Water System	227,305	655,072
Storm Drain System	105,252	760,324
Shallow Utilities	41,667	801,991
Street Construction	184,839	986,830
Concrete Construction	146,632	1,133,462

B. **Retaining Walls.** Retaining walls adjacent to the bike path within the Subdivision to be built in accordance with the plans and specifications of Del-Mont Consultants, Inc. as previously approved by the Town, at a total estimated cost of \$22,000 and with a date of completion of December 1, 2001.

C. **Electrical Service.** Underground electrical distribution lines within the Subdivision to be built in accordance with the plans and specification of Del-Mont Consultants, Inc. as previously approved by the Town, at a total estimated cost of \$112,000 and with a date of completion of December 1, 2001.

D. **Bus Stop and Shelter.** A bus stop and shelter within the Subdivision to be built in accordance with plans and specifications previously approved by the Town, at a total estimated cost of \$8,000 and with a date of completion of December 1, 2001.

E. **Gazebo.** A gazebo adjacent to Lot 12 to be built in accordance with plans and specifications previously approved by the Town, at a total estimated cost of \$4,850 and with a date of completion of December 1, 2001.



F. **Erosion Control.** Erosion control during construction, at a total estimated cost of \$8,500.00.

G. **Lot Corner Surveying.** Surveying and setting corners for all lots at a total estimated cost of \$4,950.

The total estimated cost of construction for all of the above services, including a 10% contingency, is estimated to be \$1,299,938 as set forth on attached **Exhibit A** and incorporated herein by reference.

2. **Default in Performance.** The applicable procedures required under the ordinances of the Town pertaining to the inspection and acceptance of the above improvements shall pertain under this Agreement. In the event of any default by Developer, the Town may apply to the District Court for Gunnison County for the appointment of a receiver to operate the Developer's business for the sole purpose of completing the construction of the required improvements, and such receiver shall have authority to perform all acts reasonably necessary to construct such improvements, including use of the irrevocable letter of credit for the above purposes. Alternatively, the Town may elect either to complete the construction of such improvements in the manner provided, or it may hire a third party to complete such work in such manner.

3. **Security.** To guarantee the performance of this Agreement, the developer shall, upon recording of the Plat for the Subdivision in the Gunnison County records, deliver an irrevocable letter of credit to the Town as security to guarantee the completion of the construction of the aforesaid improvements or other suitable collateral, and which shall be available to such receiver or the Town, as the case may be, to pay for any and all expenses, including court costs, legal fees, court-determined receiver's allowances, and other costs of the receivership, if any, which may be incurred in completing the construction of the improvements, whether such funds are advanced directly to the Developer, or to a receiver, or to the Town, as the case may be.

4. **Date of Completion.** The improvements shall be completed as set forth in paragraph 1, subject to:

A. Any extension of time granted in accordance with the provisions of paragraph 6 hereof; and

B. Acts of God and any cause beyond the reasonable control of Developer including, without limitation, labor disputes, laws, regulations or orders of any governmental entity, orders of court, inability to obtain any required authorization, acts of war or conditions arising out of or attributable to war, riot, civil strife, insurrection or rebellion, strike, fire, explosion, earthquake, storm, flood, or other adverse weather condition, delay or failure by suppliers or materialmen, contractors, or sub-contractors or shortage of or inability to obtain labor, supplies or materials.

5. **Release of Security.** Upon partial completion of the construction of the improvements, the Developer, upon submitting a statement of partial completion certified by Developer's registered professional engineer, shall be entitled to written release by the Town, within five (5) days following the engineer's certification, of so much of the security as shall be proportional to the work completed based on the engineer's estimate set forth on **Exhibit A**, less twenty-five percent (25%) thereof as retainage ("Retainage"). Upon full completion of the construction of all required improvements as set forth in paragraph 1, above, all securities shall be released and returned to the Developer, within five (5) days following the engineer's certification, less only the required Retainage. The Developer may obtain a release of the twenty-five percent Retainage upon furnishing substitute collateral satisfactory to the Town to guarantee the Retainage amount.

6. **Extension of Time.** If the Developer is unable to complete the construction of the required improvements within the allotted time, he may obtain a reasonable extension of time within which to do so upon the following conditions:

A. That an unconditional guarantee or other security satisfactory to the Town is given to guarantee the construction of the improvements within the new time period requested; and

B. That the Town determines that it would not be detrimental to the interests of the Town or the owners of the units in the Subdivision to allow such extension.

7. **Standards of Performance.** The parties agree that the Developer shall construct the water system and sewage collection system referred to in subparagraph 1A, above, in accordance with the requirements of the Mt. Crested Butte Water and Sanitation District. When such work has been done



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by the Developer or his authorized contractor, inspected and certified to by the Mt. Crested Butte Water and Sanitation District, Developer's obligation to the Town shall be at an end and Developer's guarantee shall be surrendered for cancellation. Developer agrees that he will not complete the improvements in such manner that the improvements may be covered up or otherwise unavailable for inspection without first having the same inspected by the Mt. Crested Butte Water and Sanitation District.

8. **Notice of Litigation.** Nothing contained in this section shall prevent either party from obtaining a judicial determination of the violation of its rights under this section; provided, however, that thirty (30) days notice in writing must be given to the other party, advising the other party of the alleged violation, and if the matter is not resolved by the parties within such thirty-day period, then the other party shall be free to resort to legal action as to the matters stated in the notice.

9. **Time of Essence.** It is mutually agreed that time of performance is an essential part of this Agreement, and that all the terms, covenants and conditions herein shall extend to and become obligatory upon the successors and assigns of the respective parties hereto.

10. **Assignment.** The Developer shall not have the right to assign his duties and obligations, rights and privileges under this Agreement to any third party without the prior written consent of the Town, which consent may be withheld by the Town unless the prospective assignee can demonstrate to the Town's satisfaction financial ability to fully perform all of the Developer's duties and obligations under this section.

11. **Attorneys' Fees.** It is agreed that if any action is brought in a court of law by any party to this Agreement as to the enforcement, interpretation, construction or arbitration of this Agreement or any document provided for herein, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

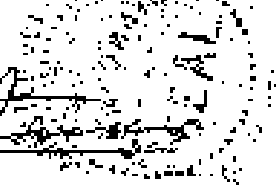
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

DEVELOPER

Coburn Development, Inc., a Colorado corporation

By: William E. Coburn II
William Coburn, II, President

**TOWN OF MT. CRESTED BUTTE,
COLORADO**

By: Charles [Signature] 

Gothic Option

At Grand Bau Colorado

EXHIBIT A

Engineer's Opinion of Infrastructure Construction Cost

Based Upon Data Available On 27 June, 2000

Unit Prices Derived Directly From JCI Pricing.

This Summary Does Not Include:

- Water & Sewer Tap Fees
- Gunnison County Electric Association Charges
- U.S. West Charges
- Greasey Gas Charges
- Cable TV Charges
- Surveying
- Quality Assurance Inspection & Testing

Trench Excavation & Backfill for Power, Gas, & Telephone Are Included.

Item	Quantity	Unit	Unit Price	Item Cost	Group Cost	Running Total
Mobiles	1	ea	\$10,000.00	\$10,000		
Stormwater Discharge Permit & Erosion Contr	1	ea	\$8,500.00	\$8,500		
					\$18,500	\$18,500

EARTHWORK

Normal excavation volume = 15500 cy
 Assume topsoil stripping reduces excavation volume by 3000 cy, and increases fill volume by 2500 c.y.
 Adjusted excavation volume = 12500 cy
 (Subtract 3000 cy from Normal Volume)
 Normal fill volume = 13000 cy
 Adjusted fill volume (add 2500 cy) = 14500 cy
 Increase Borrow From North Lots by 2000 c.y. to Balance Cut & Fill

Strip Topsoil @ Deep 6.5 acres (Store On or Adjacent the Site)	6500	cy	\$4.60	\$24,750		
Excavation	14500	cy	\$4.00	\$58,000		
Fill, Place & Compact. Inc Grada Control	14500	cy	\$4.00	\$58,000		
					\$140,750	\$159,250

SEWER SYSTEM

Sanitary Sewer, 8" PVC	3041	lf	\$26.00	\$79,066		
SS Manholes	25	ea	\$2,975.00	\$74,375		
SS Services, 4"	51	ea	\$170.00	\$8,670		
SS Services, 6"	12	ea	\$850.00	\$10,200		
Gothic Road Crossing, Inc Permitted Right	80	lf	\$100.00	\$8,000		
Connect Existing Sewer @ WWTTP Entrance	1	ea	\$8,500.00	\$8,500		
Strip Uphill AS - AS	100	lf	\$125.00	\$12,500		
Strip Uphill to Snowfall	100	lf	\$125.00	\$12,500		
Connect Existing @ Snowfall	1	ea	\$5,500.00	\$5,500		
Submain System / 6" ADS & 6" PVC	3081	lf	\$4.00	\$12,324		
Submain System Gravel/Stone Around Bedding	3081	lf	\$2.50	\$7,702		
Low Pressure Air Test	21	ea	\$100.00	\$2,100		
Abandon & Re-Route Existing 24" Ridge Sp	1	ea	T & M	\$0		
					\$268,517	\$427,767

WATER SYSTEM

Water Main, 8" D.I.P.	3037	lf	\$27.00	\$81,999		
Water Main, 6" D.I.P.	184	lf	\$24.00	\$4,416		
Pressure Reducing Valve & Vault	1	ea	\$15,000.00	\$15,000		
Water Services, 3/4"	51	ea	\$750.00	\$38,250		
Water Services, 1"	12	ea	\$850.00	\$10,200		
Valves & Boxes, 8"	14	ea	\$650.00	\$9,100		
Valves & Boxes, 6"	4	ea	\$650.00	\$2,600		
Fire Hydrant Only	5	ea	\$2,750.00	\$13,750		
(Tees, Valves, Pipes Separate Items)						
Flanges & Thrust Blocks	37	ea	\$450.00	\$16,650		
Cross Gothic Rd	80	lf	\$100.00	\$8,000		
Connect Existing Water	2	ea	\$2,500.00	\$5,000		
Strip Uphill to Gothic	50	lf	\$70.00	\$3,500		
Strip Uphill to Snowfall	100	lf	\$50.00	\$5,000		
Testing & Commission	1	ea	\$2,500.00	\$2,500		
					\$227,305	\$655,072

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GOTHIC OPTION

Revision Date 27 June 2004

STORM DRAIN SYSTEM

Storm Sewer	-			
12" ADS	275	M	\$20.00	\$5,500
15" ADS	873	M	\$23.00	\$19,959
18" ADS	122	M	\$25.00	\$3,075
24" ADS	384	M	\$27.00	\$10,308
30" ADS (Added Str. Varsity Price)	128	M	\$32.00	\$4,128
36" ADS	178	M	\$35.00	\$6,160
Single Inlet	8	ea	\$1,500.00	\$12,000
Double Inlet	5	ea	\$2,500.00	\$12,500
Minor Inlets Lots 7 - 11 (Est Unit Cost)	Deleted	ea		\$0
Minor Inlet @ Rear Path Parcel	1	ea	\$1,000.00	\$1,000
Storm Drain Manhole	8	ea	\$1,750.00	\$14,000
Surface Channel, Grass Swale	Deleted	ft		\$0
Surface Channel, Gravel	159	ft	\$15.00	\$2,385
Surface Channel, Rock	365	ft	\$35.00	\$12,775
Energy Diss. Structure for 30" ADS	1	ea	\$8,750.00	\$8,750
				<u>\$105,232</u>
				<u>\$760,324</u>

SHALLOW UTILITIES

Power, Phone, CTV, & Gas Trenching
Excavation & Backfill Only. No Hardware or Installation.

Power Trench Exc, Bed, Backfill, & Compact	4902	lf	\$4.25	\$20,834
Phone in Common Trench with Power	- 0 -			
CTV in Common Trench with Power	- 0 -			
Gas Trench Exc, Bed, Backfill, & Compact	4902	lf	\$4.25	\$20,834
				<u>\$41,667</u>
				<u>\$801,991</u>

STREET CONSTRUCTION

Subgrade Prep	4234	sq	\$2.50	\$10,584
Subbase Gravel	4777	ln	\$17.50	\$83,601
Base Course Gravel	1526	ln	\$18.50	\$28,232
Asphalt Pavement	643	ln	\$82.00	\$52,772
(Includes Final Blade & Roll Subgrade)				<u>\$164,839</u>
				<u>\$966,830</u>

CONCRETE CONSTRUCTION

Utility Pan (3' x 6') & 5" Thick Fillets	1638	sq	\$35.00	\$57,584
Concrete Parking, 5' x 11'	1820	sq	\$30.00	\$54,600
Subgrade Prep for Concrete Parking	1820	sq	\$2.50	\$4,548
Base Course Gravel for Concrete Parking	321	ln	\$18.50	\$5,932
Paved Parking, 2" Thick x 8.5' Wide	114	ln	\$62.00	\$7,058
Subgrade Prep for Concrete Parking	1016	sq	\$2.50	\$2,540
Base Course Gravel for Paved Parking	611	ln	\$18.50	\$11,203
Sidewalk (4") To & Around Traffic Circle	777	sq	\$30.00	\$23,310
Subgrade Prep for Sidewalk	277	sq	\$2.50	\$692
Base Course Gravel for Sidewalk	55	ln	\$18.50	\$1,013
				<u>\$146,532</u>
				<u>\$1,133,482</u>



CONSTRUCTION COST BREAKDOWN

FOR

Pitchfork Bus Stop

Preliminary Estimate
Revised Estimate

Preliminary
\$8,000.00
\$0.00



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Plans, Specs	141-0130	\$600.00	X
Engineering	141-0130	\$200.00	X
Plan Check Fee	143-1060	\$200.00	X
Building Permit Fee	143-1010	\$500.00	X
Material Transportation	143-7005	X	X
Foundation Survey	143-2021	\$100.00	X
Foundation Excavation	143-2031	\$300.00	X
Concrete Pumper	143-3425	na	X
Foundation Labor	143-2120	\$1,200.00	X
Foundation Concrete	143-2110	incl	X
Mesh & Rebar	143-2150	incl	X
Waterproofing	143-2200	na	X
Drain	143-2230	incl	X
Backfill/Grading	143-2001	incl	X
Structural Slab	143-3405	na	X
Gypcrete	143-3430	na	X
Framing Materials	143-3110	\$1,500.00	X
Ext. Trim & Siding Mat	143-4010	incl	X
Framing Labor	143-3120	\$1,600.00	X
Equipment	144-9500	na	X
Ext. Trim & Siding Labor	143-4020	incl	X
Roofing	143-4010	\$600.00	X
Gutter/ Downspout	143-3511	na	X
Masonry Trim	143-4810	na	X
Flatwork Material	143-3410	na	X
Flatwork Labor	143-3420	na	X
Electrical Labor & Material	143-6720	na	X
Electrical Fixtures	143-6710	na	X
Insulation & Labor	143-4700	na	X
Paint Labor & Material	143-4920	\$1,200.00	X
Site Organization	143-7001	na	X
Walks/Patio Brick	143-7313	na	X
TOTALS		\$8,000.00	\$0.00