

SUBDIVISION IMPROVEMENTS AGREEMENT

This Agreement is entered into as of July, 22, 1994 in Gunnison County, Colorado as follows:

1. PARTIES. The parties to this Agreement are:

River Green Properties Limited Partnership, a Colorado limited partnership, hereafter termed the "Developer", and

The Board of County Commissioners of Gunnison County, Colorado, hereafter termed the "County".

2. PURPOSE. The Developer as an appropriate condition of approval of the final plat of River Green pursuant to Land Use Change No. 1324-39 wishes to enter into a Subdivision Improvements Agreement as provided under Section 20-28-137, Colorado Revised Statutes, and under Section 5-403 of the Gunnison County Land Use Resolution. As an appropriate condition to final plan approval of said subdivision, the County has required the Developer to make reasonable provisions for completion of certain public improvements set forth on Exhibit A attached hereto. The Developer wishes to provide collateral to guarantee performance of this Agreement, as required under the above-quoted authority, by means of a restriction on sale of any lots within River Green. Therefore, in consideration of the mutual covenants hereafter set forth, the Developer and the County have entered this Agreement to memorialize their understanding. As additional consideration the Developer agrees to pay to the County the sum of \$1,325.41. This payment represents the Developer's proportionate cost of the 1988 improvements made to the Brush Creek Road between its intersection with State Highway 135 and the Skyland turnoff. The County and the Developer have mutually agreed the proportionate cost shall be 2.4%.

3. PUBLIC IMPROVEMENTS. The Developer agrees to construct and install, at the Developer's sole expense, all of those public improvements set forth on Exhibit A attached hereto by not later than October 31, 1994, acts of God and any causes beyond the reasonable control of the Developer excepted, including without limitation labor disputes, laws, regulations, or orders of any governmental entity, orders of court, inability to obtain any required authorization, act of war or conditions arising out of or attributable to war, riot, civil strike, insurrection or rebellion, fire, explosion, earthquake, storm, flood or other adverse weather condition, delay or failure by suppliers or materialmen, contractors, or subcontractors, shortage of or inability to obtain labor, supplies or materials.

4. STANDARD OF CONSTRUCTION. The Developer agrees that all of the public improvements to be completed as cont'd on Exhibit A attached hereto and incorporated herein shall be constructed in compliance with the following:

a. All engineering plans and specifications submitted prior to the time of final plat approval by the Developer to the County as identified on Exhibit A attached hereto and incorporated herein;

b. All laws of the United States, State of Colorado, Gunnison County, and its various agencies, and affected special districts;

c. Such other designs, drawings, maps, specifications, sketches and other matters submitted to and approved by any of the above described governmental entities;

d. To secure and guarantee performance of its obligations as set forth herein, the Developer agrees to provide security and collateral in the form of the following covenant which shall be recorded in the office of the Clerk and Recorder of Gunnison County, Colorado, with regard to the land subject to LUC No. 1984-89:

As a condition of approval of the final plat of River Green recorded at Reception No. 435925 in the office of the Clerk and Recorder of Gunnison County, Colorado by the Board of County Commissioners of Gunnison County, Colorado and to meet the requirements of Section 30-28-137, Colorado Revised Statutes, and of Section 5-409 of the Gunnison County Land Use Resolution, no conveyance, sale or transfer of title of all of the subdivided lots or of any lot, lots, tract or tracts of land identified on the plat thereof, except only the conveyance of common areas to the River Green Property Owners Association, a Colorado non-profit corporation, and except a conveyance of the undivided entirety of the N1/2SE1/4SW1/4 of Section 1, Township 14 South, Range 86 West, Sixth Principal Meridian (being the entirety of the real property within River Green) shall be made nor any building permit nor certificate of occupancy be issued by Gunnison County, Colorado until a Certificate of Compliance has been granted by Gunnison County, Colorado and duly recorded in the office of the Clerk and Recorder of Gunnison County, Colorado certifying that:

(i) those public improvements as set forth in Exhibit A of the Subdivision Improvements Agreement, recorded at Reception No. _____ of the records of Gunnison County, Colorado, have been properly constructed, inspected by a certified public engineer at the Developer's expense, and accepted by the County as meeting the standards of Gunnison County, Colorado, and/or applicable special districts;

(ii) That a substituted security or collateral authorized pursuant to Section 30-28-101, Colorado Revised Statutes, has been submitted to and accepted by the County which is sufficient in the sole discretion of the County to assure completion of all public improvements as set forth on Exhibit A of said Subdivision Improvements Agreement recorded at Reception No. _____ and to assure that said improvements are completed in accordance with reasonable design and time specifications.

Those restrictions on conveyance, sale or transfer of title of River Green or any lot, lots, tract, or tracts of land thereon shall not be deemed to prohibit the Developer entering into contracts in which the closings of lot or tract sales are contingent upon and shall occur after full compliance with the provisions of the foregoing covenant which contracts shall provide that the Developer remains fully obligated for performance of all of the terms and conditions of this Subdivision Improvements Agreement, and shall run with the land and shall extend to and be binding upon the heirs, executors, legal representatives, successors and assigns of the Developer, and shall be enforceable pursuant to the provisions of Section 30-28-137, Colorado Revised Statutes.

5. ENFORCEMENT. It is mutually agreed, pursuant to the provisions of Section 30-28-137(3), Colorado Revised Statutes, that the County or any purchaser of any lot, lots, tract or tracts of land subject to the foregoing restriction shall have the authority to bring an action in the District Court of Gunnison County, Colorado to compel the enforcement of this Agreement upon the sale, conveyance, or transfer of any such lot, lots, tract or tracts of land restricted hereby. Such authority shall include the right to compel rescission of any sale, conveyance or transfer of any lot, lots, tract, or tracts of land contrary to the provisions of such restrictions. The prevailing party in such litigation shall be entitled to recovery of its reasonable attorneys' fees and costs incurred.

6. RELEASE OF COLLATERAL. In the event the Developer pledges substituted security pursuant to Paragraph 4(d)(ii), it is further mutually agreed that, pursuant to the provisions of Section 30-28-137(2), Colorado Revised Statutes, that as improvements are completed, the Developer may apply to the County for the release of part or all of the collateral deposited with the County. Upon inspection and approval, which shall be at the Developer's expense, the County shall release collateral only upon making a determination that the remaining collateral is sufficient to guarantee completion in accordance with reasonable design and time specifications. If the County determines that any of such improvements are not constructed in substantial conformity with specifications, it shall furnish the Developer a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the County determines that the Developer will not construct any or all of the improvements in accordance with all of the applicable specifications, the County may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with such specifications.

7. RECORDING This Subdivision Improvements Agreement shall be recorded by and at the expense of the Developer immediately following the final plat of River Green. Any encumbrance upon the LLa to the real property within River Green created by such recording may only be extinguished by the subsequent recording of a resolution of the Board of County Commissioners of Gunnison County, Colorado confirming that all of the terms and conditions hereof have been fully satisfied and the Developer's collateral hereunder released.

IN WITNESS WHEREOF, the parties have herunto set their hands and seals this day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By *Paul R. Fritz*
Chairman

RIVER GREEN PROPERTIES LIMITED
PARTNERSHIP, a Colorado limited
partnership

By *Noel Andress*
Noel Andress, as general partner

By *Karen Saville-Andress*
Karen Saville-Andress, as general partner

EXHIBIT A

The extension of State River Drive from its terminus set forth on the recorded plat of Skyland, Initial Filing across B.L.M. lands to River Green, and the road system within River Green, as set forth in the "River Green Subdivision State River Drive Plan & Profile" prepared by Summit Engineering Co., Inc., dated February 27, 1985 consisting of two sheets.

The sewer main lines within River Green and the connecting line to the existing sewer line of the East River Regional Sanitation District within Skyland, Initial Filing as set forth in the "East River Regional Sanitation District-Gunnison County, Colorado Interceptor Pipeline" prepared by Nielson Drago Engineers dated December 4, 1984 consisting of one sheet (13A/14).

All culverts on State River Drive as set forth in the "Drainage Map for River Green Subdivision" prepared by Summit Engineering Co., Inc., undated, and consisting of one sheet.

The water system for River Green, including all facilities decreed under Case No. B4CW119 of the Division 4 Water Court, and in particular the CUP Well, CRP Ditch, the CBP Pump and Pipeline, and the CBP Pond, the latter in accordance with the "River Green Augmentation Plan: CBP Pond" prepared by Dezman Consulting Engineers dated March 16, 1985 consisting of four sheets.

The electrical system serving River Green as specified by the Gunnison County Electric Association, Inc.

The telephone system serving River Green as specified by U.S. West Communications