

**DEVELOPMENT IMPROVEMENTS AGREEMENT**

**Planning File No. SUB-2013-369**

1. **Parties:** The parties to this Development Improvements Agreement ("Agreement") are **Heritage Estates, LLC**, ("Developer") and the **City of Grand Junction, Colorado** ("City").

For valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The Effective Date of the Agreement shall be the date that it is signed by the Public Works & Planning Director, which shall be no sooner than recordation of the final plat or final plan approval whichever first occurs.

**RECITALS**

The Developer seeks permission to develop property, described on Exhibit A attached and incorporated by this reference ("the Property" or "Property"). The Property, known as **Heritage Estates Subdivision - Filing 6** has been reviewed and approved under Planning file number: **SUB-2013-369** ("Development" or "the Development").

The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements to the Property and limiting the harmful effects of substandard development.

A further purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself; this Agreement is not executed for the benefit of materialmen, laborers or others providing work, services or material to the Developer and/or the Property or for the benefit of the owner(s), purchaser(s) or user(s) of the Property.

The mutual promises, covenants and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and City's land development ordinances and regulations.

**DEVELOPER'S OBLIGATION**

3. **Improvements:** The Developer shall design, construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit B attached and incorporated by this reference ("Improvements" or "the Improvements").

3a. On and after the Effective Date of this Agreement the Developer agrees to pay the City for its Administration and Inspection of the Development. The hourly rate for those services is \$45.00/hour. Administration and Inspection includes but is not limited to the time expended by the City's planner, engineer, construction inspector and attorney in directing, advising, correcting and enforcing by means other than litigation, this agreement and/or the approved development plan. Making disbursements and calling/collecting Guarantees are Administration and Inspection services and shall be charged at \$45.00/hour. See, paragraph 19 concerning attorneys' litigation fees.

3b. The scope of this project is such that the City may have to engage independent consultants(s) to adequately provide inspection services; Developer agrees to pay such costs, in addition to all others for which Developer is responsible hereunder.

3c. The Developer's obligation to complete the Improvements is and shall be independent of any obligations of the City contained herein.

4. **Security:** To secure the performance of its obligations under this Agreement the Developer shall supply a guarantee. The Developer is required to post security in an amount of \$ **285,356.95** (120% of the amount for the Improvements) in a form and with terms acceptable to the City ("Guarantee"). The Guarantee shall be in the form of a cash deposit made to the City, a letter of credit or a disbursement agreement in a form and with content approved by the City Attorney. The Guarantee specific to this Agreement is attached as Exhibit C and is incorporated by this reference as if fully set forth.

**Select one: Plat**

5. **Standards:** The Developer shall construct the Improvements according to the City's standards and specifications.

6. **Warranty:** The Developer shall warrant the Improvements for one year following Acceptance by the City. "Warrant" or "Warranty" as used herein means the Developer shall take such steps and incur such costs as may be needed so that the Improvements or any portion or phase thereof as repaired and/or replaced, shall comply with the Development's construction plans and/or site plan, City standards and specifications at the end of the warranty period. The Developer shall warrant each repaired and/or replaced Improvement or any portion or phase thereof for one year following Acceptance of such repair and/or replacement.

6a. Upon Acceptance the Developer shall provide a Maintenance Guarantee in an amount of \$ **47,559.49** (Line G2, Exhibit B, City Security).

6b. The Maintenance Guarantee shall be secured by a letter of credit, cash escrow or other form acceptable to the City.

7. **Commencement, Completion and Abandonment Periods:** The Developer shall commence work on the Improvements within 30 days from the Effective Date of this Agreement; that date is known as the "Commencement Date."

7a. The Developer shall complete the Improvements by the end of the twelfth month from the Effective Date of this Agreement; that date is known as the "Completion Date."

7b. The Developer shall not cease construction for any period of more than 60 consecutive days. If construction is ceased for 60 or more consecutive days the Director may deem the Development abandoned ("the Abandonment Period").

7c. The Commencement date and the Completion Date are as follows:

**Commencement Date:**

**Completion Date: 11/01/2014**

8. **Compliance with Law:** The Developer shall comply with all applicable federal, state and local laws, ordinances and regulations when fulfilling its obligations under their Agreement. When necessary to protect the public health, safety or welfare, the Developer shall be subject to laws, ordinances and regulations that become effective after the Effective Date.

9. **Notice of Defect:** The Developer by and through his/her/its engineer shall provide timely written notice to the issuer of the Guarantee and the Director when the Developer and/or his/her/its engineer has knowledge, that an Improvement or any part or portion of any Improvement either does not conform to City standards or is otherwise defective.

9a. The Developer shall correct all non-conforming construction and/or defects within thirty (30) days from the issuance of the notice by his/her/its engineer of a/the defect.

10. **Acceptance of Improvements:** The City shall not accept and/or approve any or all of the Improvements until the Developer presents a document or documents for the benefit of the City showing that the Developer owns the Improvements in fee simple, or as accepted by the City Attorney, and that there are no liens, encumbrances or other restrictions on the Improvements other than those that have been accepted by the City Attorney.

10a. Approval and/or acceptance of any Improvement(s) does not constitute a waiver by the City of any right(s) that it may have on account of any defect in or failure of the Improvement that is detected or which occurs after approval and/or acceptance.

10b. Acceptance by the City shall only occur when the City Engineer, sends a writing to such effect ("Acceptance").

11. **Reduction of Security:** Upon Acceptance of any Improvement(s) the amount which the City is entitled to draw on the Guarantee shall be reduced by an amount of **\$237,797.46** (Line G1, Exhibit B, Total Improvement Costs).

11a. At the written request of the Developer, the City shall execute a certificate verifying Acceptance of the Improvement and thereafter waiving its right to draw on the Guarantee to the extent of such amount. A Developer in default under this Agreement has no right to such certification.

12. **Use of Proceeds:** The City shall use funds deposited with it, drawn or guaranteed pursuant to this Agreement only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements or paying Administration and Inspection fees.

13. **Events of Default:** The following conditions, occurrences or actions shall constitute

a default by the Developer:

13a. Developer's failure to complete each portion of the Improvements on or before the Completion Date;

13b. Developer's failure to demonstrate reasonable intent to correct defective construction of any Improvements within the applicable warranty period;

13c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer. In such event the City may immediately declare a default without prior notification to the Developer;

13d. Notification to the City, by any lender with a lien on the Property, of a default by Developer on any obligation to such lender. In such event, the City may immediately declare a default without prior notification to the Developer.

13e. With regard to the Property or any portion thereof: initiation of any foreclosure action regarding any lien or encumbrance; or initiation of mechanics lien(s) procedure(s); or assignment or conveyance of the Property in lieu of foreclosure. In such event the City may immediately declare a default without prior notification to the Developer.

13f. Notification to the City from the bank issuing the Guarantee that it will not renew the Guarantee at a time when security is still required hereunder and no substitute collateral acceptable to the City has been provided by the Developer.

13g. Except as provided, the City may not declare a default until written notice has been sent to the Developer at the address shown in the development file. Notice is and shall be deemed effective two calendar days after mailing thereof by first class United States mail, postage prepaid.

14. **Measure of Damages:** The measure of damages for breach of this Agreement by the Developer shall be the reasonable cost of satisfactorily completing the Improvements, plus reasonable expenses. Expenses may include but are not limited to contracting costs, collection costs and the value of planning, engineering, legal and administrative staff time devoted to the collection/completion of the Improvements. For Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit B shall be *prima facie* evidence of the minimum cost of completion; however, the maximum amount of the Developer's liability shall not be established by that amount or the amount of the Guarantee.

15. **City's Rights Upon Default:** When any event of default occurs, the City may draw on the Guarantee or proceed to collect any other security to the extent of the face amount of the Guarantee less eighty percent (80%) of the estimated cost (as shown on Exhibit B) of all Improvements for which the City has given its Acceptance and no warranty work is reasonably required. The City may also exercise its rights to disbursement of loan proceeds or other funds under the City improvements disbursement agreement.

15a. The City shall have the right to complete Improvements itself or it may contract with a third party for completion.

15b. The Developer grants to the City, its successors, assigns, agents, contractors and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, reconstructing, maintaining, inspecting and repairing the Improvements.

15c. The City may assign the proceeds of the Guarantee or other funds or assets that it may receive in accordance with this Agreement to a subsequent developer or lender that has acquired the Property by purchase, foreclosure or otherwise.

15d. That developer or lender shall then have the same rights of completion as the City if and only if the subsequent developer or lender agrees in writing to complete or correct the Improvements and provides to the City reasonable security for that obligation.

15e. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

**16. Indemnification:** The Developer expressly agrees to indemnify and hold the City, its officers, employees, agents and assigns ("City") harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained by any person or entity in connection with or on account of the performance or non-performance of work at the Property and/or the Improvements and/or the Development that is being done pursuant to this Agreement.

16a. The Developer further agrees to aid and defend the City in the event that the City and/or the Improvements is named as a defendant in an action concerning the performance of work pursuant to this Agreement except for a suit wherein the Developer states claim(s) against the City.

16b. The Developer is not an agent, partner, joint venturer or employee of the City.

**17. No Waiver:** No waiver of any provision of this Agreement by the City shall be deemed or constitute a waiver of any other provision nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the City and the Developer; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful or other act by the Developer or the acceptance of any Improvement.

**18. Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City by the City Manager or his designee and by the Developer or his/her/its authorized officer. Such amendment or modification shall be properly notarized before it may be deemed effective.

**19. Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to

costs, including reasonable attorney's fees and expert witness fees, from the opposing party. The City shall be entitled to claim the value of its in-house attorneys at the rate of \$125.00 per hour. If relief is awarded to both parties the attorney's fees may be equitably divided between the parties by the decision maker.

**20. Vested Rights:** This Agreement does not guarantee, represent or certify that the Developer is entitled to any other approval(s) required by the City, before the Developer is entitled to commence development beyond the scope of this Agreement or to transfer ownership of the Property being developed.

**21. Integration:** This Agreement, together with the exhibits and attachments thereto constitutes the entire Agreement between the parties. No statement(s), promise(s) or inducements(s) that is/are not contained in this Agreement shall be binding on the parties.

**22. Third Party Rights:** No person or entity who or which is not a party to this Agreement shall have any right of action under or be a beneficiary of this Agreement.

**23. Time:** For the purpose of computing the Abandonment Period and Commencement and Dates, such times in which war, civil disasters or acts of God occurs or exist shall not be included if such prevents the Developer or City from performing its obligations under the Agreement. The Developer must notify the City in writing if/when it asserts impossibility of performance under this paragraph. The City may reject the Developer's assertion, if it finds, in writing that the condition(s) that the Developer asserts do not exist.

**24. Severability:** If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision. The rights of the parties shall be construed as if the part, term or provision was never part of the Agreement.

**25. Benefits:** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld but any unapproved assignment is void.

**25a.** Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also shall be binding on the heirs, successors and assigns of the Developer and shall be a covenant(s) running with the Property.

**25b.** There is no prohibition on the right of the City to assign its rights under this Agreement.

**25c.** Upon written request from the Developer the City shall expressly release the original Developer's Guarantee and/or contract obligations if it accepts new security from any developer or lender who obtains the Property, however, no other act of the City shall constitute a release of the original Developer from his liability under this Agreement.

**25d.** When the City has issued its Acceptance regarding the Improvements, the City agrees to state the same in writing, with appropriate acknowledgments.

25e. The City shall sign a release only after all warranty periods, as extended by litigation, repair or alteration work, have expired.

26. **Notice:** Any notice required or permitted by this Agreement shall be deemed effective two calendar days after deposit with the United States Postal Service, first class, postage prepaid and addressed as follows:

If to Developer:	<b>Heritage Estates, LLC</b>	Name/Developer/Company (continued)
	<b>2350 G Road</b>	Address (Street and Mailing) Address (continued)
	<b>Grand Junction, CO 81505</b>	City, State & Zip Code
	<b>(970) 255-8853</b>	Telephone Number
	<b>(970) 245-1452</b>	Fax Number
	<b>kkerk@BlueStarIndustries.com</b>	E-mail Address

If to City: Office of the City Attorney  
250 North 5th Street  
Grand Junction, CO 81501

CC: Planning Division  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

27. **Recordation:** Developer shall pay the costs to record a memorandum of this Agreement (Exhibit D) in the records of the Mesa County Clerk and Recorder's Office. The Developer may, at his/her/its option record the entire agreement.

28. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the City's sovereign or other immunity under any applicable law.

29. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any action commenced by either party to this Agreement whether arising out of or relating to the Agreement, the Guarantee, the Maintenance Guarantee or any action based arising out of or under this Agreement shall be deemed to be proper only if such action is commenced in Mesa County, Colorado.

29a. The Developer expressly waives his/her/its right to bring such action in or to remove such action to any other court whether state or federal.

30. **Liability before Acceptance:** The City shall have no responsibility or liability with respect to any street or other Improvement(s), notwithstanding the use of the same by the public, unless the street or other Improvement shall have received Acceptance by the City.

30a. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the

edge of gutter on the side of the street nearest the property to enable an initial two way traffic operation without on-street parking.

30b. Developer shall also construct and pay for end-transitions, intersection paving, drainage facilities and adjustments to existing utilities necessary to open the street to traffic.

30c. The City shall not issue its written Acceptance with regard to any Improvement(s) including any street, storm drainage facility, sewer, water facility or other required Improvement(s), until the Developer:

- (i) furnishes to the City Engineer as-built drawings in reproducible form, blue line stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specification;
- (ii) provides written evidence to the City Engineer under signature of a qualified expert that the earth, soils, lands and surfaces upon in and under which the Improvement(s) have been constructed or which are necessary for the Improvements are free from toxic, hazardous and other regulated substances or materials;
- (iii) provides written evidence to the City Attorney that the title to lands underlying the Improvements are free and clear from all liens and encumbrances, except those items and encumbrances which may be approved in writing by the City Attorney; and
- (iv) provides written evidence, certified by the Developer's engineer, that the work was systematically inspected and tested and that the materials and the compaction of the materials that are required to be compacted, were in conformance with City-approved plans and specifications.

By: **JOHN DAVIS, AS PRESIDENT FOR BLUE STAR CONSTRUCTION, INC., AS MANAGER OF HERITAGE ESTATES, LLC**

 12-6-13  
 Developer's Signature Date

Developer's Name: John Davis

Corporate Attest: \_\_\_\_\_

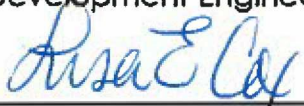
**City of Grand Junction**

 Dec. 10, 2013  
 Signature Date

Project Manager

 12/9/13  
 Signature Date

Development Engineer

 12-10-2013  
 Signature Date

Director or Planning Manager



Type legal description below.

**EXHIBIT A**

NW4SE4NE4 & S2SE4NE4 SEC 4 1S 1W EXC BEG 2637FT N OF SE COR SD SEC 4 N 88DEG41' W 280FT N ODEG28' W 456FT S 87DEG51' W 374FT N 2DEG14' W 184FT S 89DEG12' E 664FT S 623FT TO BEG & ALSO EXC THAT PTN OF A PARCEL OF LAND LYG IN S2SE4NE4 SD SEC 4 DESC-FOLLS BEG N 89DEG50'54SEC W 30FT FR E4 COR SD SEC 4 N 89DEG50'54SEC W 924.71FT S 82DEG17'43SEC W 367.27FT N 89DEG52'54SEC E 991.43FT N ODEG00'38SEC W 50FT S 89DEG52'54SEC E 988.14FT N 82DEG17'43SEC E 403.95FT N 89DEG52'42SEC E 641.5FT S ODEG26'16SEC E 31.95FT S 88DEG39'16SEC E 249.99FT S ODEG01'44SEC W 17.71FT TO BEG

## EXHIBIT B

### IMPROVEMENTS COST ESTIMATE

DATE: 8/5/2013 (revised 10/01/13)  
 DEVELOPMENT NAME: HERITAGE ESTATES FILING 6  
 LOCATION: 24 3/4 Road, Grand Junction, CO  
 PERSON PREPARING: dls

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>A. SANITARY SEWER</b>					
1	8" PVC Sanitary Sewer Main	LF	589	\$ 20.00	\$ 11,780.00
2	" PVC Sanitary Sewer Main	LF			\$ -
3	" PVC Sanitary Sewer Main	LF			\$ -
4	Sewer services	EA	14	\$ 400.00	\$ 5,600.00
5	Sanitary Sewer Manhole	EA	3	\$ 2,500.00	\$ 7,500.00
6	Sanitary Sewer Drop Manhole	EA			\$ -
7	Connection to Existing Manhole	EA	0	\$ 1,000.00	\$ -
8	Concrete Encasement	LF	20	\$ 20.00	\$ 400.00
<b>Subtotal Part A Sanitary Sewer</b>					<b>\$ 25,280.00</b>
<b>B. DOMESTIC WATER</b>					
1	4 " PVC Water Main	LF			\$ -
2	8" PVC Water Main	LF	696	\$ 30.00	\$ 20,880.00
3	10" PVC Water Main	LF	200	\$ 35.00	\$ 7,000.00
4	4 " Gatevalve	EA			\$ -
5	8" Gatevalve	EA	1	\$ 1,200.00	\$ 1,200.00
6	10" Gatevalve	EA	1	\$ 1,500.00	\$ 1,500.00
7	Water Services (copper)	EA	14	\$ 500.00	\$ 7,000.00
8	Connect to Existing Water Line	EA	0	\$ 1,500.00	\$ -
9	Fire Hydrant with Valve	EA	1	\$ 2,500.00	\$ 2,500.00
10	Utility Adjustments	EA			\$ -
11	Blowoff	EA	2	\$ 500.00	\$ 1,000.00
12	UTE Water Tap Fee	EA			\$ -
<b>Subtotal Part B - Domestic Water</b>					<b>\$ 41,080.00</b>
<b>C1 STREETS</b>					
1	4" PVC Utility sleeves	LF	740	\$ 15.00	\$ 11,100.00
2	8" PVC irr. sleeves	LF	44	\$ 20.00	\$ 880.00
3	Xcel (Gas & Electric) Services	EA	14		\$ -
4	Qwest and Bresnan Services	EA	14		\$ -
5	Aggregate Base Course (Class 6) (6" Compacted Thickness)	CY		\$ 20.00	\$ -
6	Aggregate Base Course (Class 6) (12" Compacted Thickness)	CY	1,401	\$ 20.00	\$ 28,020.00
7	Hot Bituminous Paving, Grading (3" thick)	TON	348	\$ 90.00	\$ 31,320.00
8	Hot Bituminous Paving, Grading (5" thick)	TON	127	\$ 90.00	\$ 11,430.00
9	Hot Bituminous Paving, Patching (___" Thick)	SY			\$ -
10	Geotextile	SY	489		\$ -
11	Concrete Curb (___" Wide by ___" High)	LF			\$ -

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
12	Concrete Curb and Gutter (2' wide)	LF			\$ -
13	Concrete Curb and Gutter (1.5' wide)	LF			\$ -
14	Monolithic, Vertical Curb, Gutter and Sidewalk (7' Wide)	LF	200	\$ 20.00	\$ 4,000.00
15	Drive Over Curb, Gutter, and Sidewalk (6.5' Wide)	LF	1,338	\$ 20.00	\$ 26,760.00
16	Concrete Sidewalk ( ' Wide)	LF			\$ -
17	Concrete Gutter and Driveway Section (6" Thick)	SY			
18	Concrete Drainage Pan (6' Wide, 6" Thick)	LF	28	\$ 15.00	\$ 420.00
19	Concrete Corner Fillet	EA	2	\$ 2,500.00	\$ 5,000.00
20	Concrete Curb Ramp	SY			\$ -
21	8" Comb. Cross pans, Fillets & ADA Ramps	SF			\$ -
22	Concrete Driveway ( 6" Thick)	SY			\$ -
23	Driveway/Concrete Repair	SY			\$ -
24	Retaining Walls	LF			\$ -
25	Street Signs	EA	6	\$ 400.00	\$ 2,400.00
26	Striping (New, Remove/Replace)	LF			\$ -
27	Street Lights	EA	2		\$ -
28	Signal Construction or Reconstruction	LS			\$ -
29	Flowable Fill	CY			\$ -
30	End of the Road Barrier	EA	6	\$ 1,000.00	\$ 6,000.00
<b>C2 BRIDGES</b>					
					\$ -
1	Box Culvert Pre-Cast	LS			\$ -
2	Box Culvert Cast-in-Place	LS			\$ -
3	Wingwalls	LS			\$ -
4	Parapet Wall	LS			\$ -
5	Railing (handrail, guardrail)	LS			\$ -
<b>Subtotal Part C - Streets and Bridges</b>					<b>\$ 127,330.00</b>
<b>D1 EARTHWORK</b>					
1	Mobilization	LS			\$ -
2	Clearing and Grubbing	AC		\$ 1,000.00	\$ -
3	Unclassified Excavation	CY		\$ 2.00	\$ -
4	Unclassified Embankment	CY		\$ 3.00	\$ -
5	Import Material	CY			\$ -
<b>D2 REMOVALS AND RESETTING</b>					
1	Removal of Asphalt	SY			\$ -
2	Removal of Miscellaneous Concrete	SY			\$ -
3	Remove Curb and Gutter	LF			\$ -
4	Removal of Culverts	LF			\$ -
5	Remove Structures	EA			\$ -
6	Remove Signs	EA			\$ -
7	Remove Fence	LF			\$ -
8	Adjust Manhole	EA	4	\$ 250.00	\$ 1,000.00
9	Adjust Valvebox	EA	5	\$ 150.00	\$ 750.00
10	Relocate or Adjust Utilities	LS			\$ -
11	House & Garage Demo	LS			\$ -

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>D3 EROSION CONTROL, SEEDING, AND SOIL RETENTION</b>					
1	Sod	SY		\$	-
2	Seeding (Native)	AC		\$	-
3	Seeding (Bluegrass/Lawn)	SY or AC		\$	-
4	Hydraulic Seed and Mulching	SY or AC		\$	-
5	Soil Retention Blanket	SY		\$	-
6	Silt Fence	LF		\$ 2.00	\$ -
7	Straw Waddles	LF		\$ 3.00	\$ -
8	Temporary Berms	LF	10	\$ 2.00	\$ 20.00
9	Inlet Protection	EA	2	\$ 500.00	\$ 1,000.00
10	Sediment Trap/Basin	EA		\$	-
11	Monthly Maintenance/Inspection	Month		\$	-
12	Watering (Dust Control)	LS		\$ 2,000.00	\$ -
13	Temporary Irrigation			\$	-
<b>D4 STORM DRAINAGE FACILITIES</b>					
1	Finish Grading (incl. Swales, and Ponds)	LS		\$ 5,000.00	\$ -
2	18" ADS Storm Drain Pipe	LF		\$ 20.00	\$ -
3	15" Storm Drain Pipe	LF		\$	-
4	18" RCP Storm Drain Pipe	LF		\$ 40.00	\$ -
5	24" RCP Storm Drain Pipe	LF		\$ 40.00	\$ -
6	30" RCP Storm Drain Pipe	LF	177	\$ 50.00	\$ 8,850.00
7	12" ADS Flared End Section	EA		\$ 1,000.00	\$ -
8	" Flared End Section	EA		\$	-
9	48" Storm Drain Manhole	EA		\$ 3,000.00	\$ -
10	60" Storm Drain Manhole	EA	1	\$ 5,000.00	\$ 5,000.00
11	72" Storm Drain Manhole	EA		\$	-
12	Manhole with Box Base	EA		\$	-
13	Connection to Existing MH	EA		\$	-
14	Single Curb Opening Storm Drain Inlet	EA		\$ 1,500.00	\$ -
15	Double Curb Opening Storm Drain Inlet	EA		\$ 1,800.00	\$ -
16	Triple Curb Opening Storm Drain Inlet	EA		\$ 1,000.00	\$ -
17	Detention Area Outlet structure	EA		\$ 5,000.00	\$ -
18	Rip-Rap D <sub>50</sub> = 6"	CY	16	\$ 200.00	\$ 3,200.00
19	Sidewalk Trough Drain	EA		\$	-
20	Pump Systems including Electrical	LS		\$	-
21	Concrete V-pan (2' wide x 6" thick)	LF		\$ 4.00	\$ -
22	24" FES	EA		\$ 1,600.00	\$ -
<b>Subtotal Part D - Grading and Drainage</b>					<b>\$ 19,820.00</b>
<b>E1 IRRIGATION</b>					
1	Connect to Existing Pipe	LS		\$	-
2	3" PVC Irrigation Pipe	LF	630	\$ 3.00	\$ 1,890.00
3	4" PVC Irrigation Pipe	LF	436	\$ 4.00	\$ 1,744.00
4	Fittings and Valves	LS		\$	-
5	Services	EA	14	\$ 10.00	\$ 140.00
6	Pump System and Concrete Vault	LS		\$	-
7	Irrigation Structure	EA		\$	-
8	Vacuum Relief and/or Air Release Valve	EA		\$	-
					\$ -
<b>E2 LANDSCAPING</b>					
					\$ -
1	Design/Architecture	LS		\$	-
2	Earthwork	CY		\$	-
3	Hardscape Features	LS		\$	-
4	Plant Material & Planting	LS	1	\$ 6,000.00	\$ 6,000.00
5	Irrigation System	LS		\$	-

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
6	Curbing	LF			\$ -
7	Retaining Walls & Structures	LF			\$ -
8	1 Year Maintenance Agrmnt.	LS			\$ -
9	Topsoil	CY			\$ -
<b>Subtotal Part E - Landscaping and Irrigation</b>					<b>\$ 9,774.00</b>
<b>Subtotal Construction Costs</b>					<b>\$ 223,284.00</b>
<b>F. MISCELLANEOUS ITEMS</b>					
1	Construction staking/surveying	%	2.00%	\$ 223,284.00	\$ 4,465.68
2	Developer's inspection cost	%		\$ 223,284.00	\$ -
3	General construction supervision	%		\$ 223,284.00	\$ -
4	Quality control testing	%	2.00%	\$ 223,284.00	\$ 4,465.68
5	Construction traffic control	%	0.00%	\$ 223,284.00	\$ -
6	City inspection fees	%	0.50%	\$ 223,284.00	\$ 1,116.42
7	As-builts	%	2.00%	\$ 223,284.00	\$ 4,465.68
<b>Subtotal Part F - Miscellaneous Items</b>					<b>\$ 14,513.46</b>
% = Percentage of total site construction costs					
<b>G. COST SUMMARY</b>					
<b>1 Total Improvement Costs</b>					<b>\$ 237,797.46</b>
<b>2 City Security (20%)</b>					<b>\$ 47,559.49</b>
<b>3 Total Guarantee Amount</b>					<b>\$ 285,356.95</b>
<b>NOTES</b>					
<ol style="list-style-type: none"> <li>All prices shall be for items complete in place and accepted.</li> <li>All pipe prices shall include excavation, pipe, bedding, backfill, and compaction.</li> <li>Water main shall include pipe, excavation, bedding, backfill, bends, and appurtenances not itemized elsewhere.</li> <li>All concrete items shall include Aggregate Base Course where required by the drawings.</li> <li>Fill in the pipe type for irrigation pipe and sleeves.</li> <li>Reconditioning shall be calculated to at least 6" outside of back of walk on both sides.</li> <li>Units can be changed if desired, simply annotate what is used.</li> <li>Additional lines or items may be added as needed.</li> </ol>					
<p><i>[Signature]</i> 12-6-13  Signature of Developer Date  (if corporation, to be signed by President and attested to by Secretary together with the corporate seals.)</p>					
<p>I have reviewed the estimated costs and time schedule shown above and, based on the construction drawings submitted to date and the current cost of construction, I take no exception to the above.</p>					
<p><i>[Signature]</i> 12/9/13  City Development Engineer Date</p>					
<p><i>[Signature]</i> 12-10-2013  Community Development Date</p>					

**RECORDING MEMORANDUM**

**Exhibit D**

City of Grand Junction  
Public Works and Planning Department

File Number: **SUB-2013- 369**

This memorandum relates to and confirms that certain Development Improvements Agreement and/or Maintenance Guarantee concerning land in Mesa County, Colorado, is by and between **Heritage Estates, LLC** (Developer) and the City of Grand Junction (City) pertaining to **Heritage Estates - Filing 6** (Project), located at **25 Road & F 1/2 Road**

The Developer of the Project was required by law to install and construct certain public and private improvements, the completion of which was guaranteed by a Development Improvements Agreement and/or Maintenance Guarantee. The Project is required to be constructed in accordance with the approval by the City pursuant to and in accordance with the Zoning and Development Code all as more fully detailed and described in City of Grand Junction development file number **SUB-2013- 369**

The Developer and the City of Grand Junction by and through the signatures of the undersigned have determined and agreed to the type, quality and amount of improvements required and/or necessitated by the approval of the Project and that the improvements are guaranteed by and through the Development Improvements Agreement and /or Maintenance Guarantee. Furthermore, the Developer and the City agree that the Development Improvements Agreement and/or Maintenance Guarantee are contractual in nature and that the obligations under the Development Improvements Agreement and/or Maintenance Guarantee shall not be assigned except as provided in the agreement(s).

**By virtue of this notice being recorded in the land records of the Mesa County Clerk and Recorder, subsequent owners and/or those that claim by, through or under the Developer are on notice of the Developer's obligations under the agreement(s).**

NOW THEREFORE, the Developer and an official of the City of Grand Junction, both possessing and representing by their signatures that they possess sufficient authority, do hereby memorialize the relative, rights and obligations contained in the Development Improvement Agreement and/or Maintenance Guarantee herein characterized.

**DEVELOPER:**

By: 

Date: **12-7-13**

Type Name: **L. John Davis**

**CITY OF GRAND JUNCTION:**

In accordance with the above, I hereby certify that the Development Improvement Agreement and/or Maintenance Guarantee are made of record by this memorandum and that the same may be inspected and/or copied at the City of Grand Junction, Public Works & Planning Department, 250 North 5<sup>th</sup> Street, Grand Junction Colorado.



Date: **12-10-2013**

Public Works and Planning Department

# Recording Fee

<b>Date</b>	December 9, 2013
<b>Plan File No.</b>	SUB-2013-369
<b>Project Name</b>	Heritage Estates Subdivision, Filing 6
<b>Project Location</b>	25 Road and F 1/2 Road
<b>Purpose of DIA</b>	Public & Private
<b>Payee Name</b>	Heritage Estates, LLC
<b>Payee Mailing Address</b>	2350 G Road
<b>Payee City, State Zip Code</b>	Grand Junction, CO 81505
<b>Payee Telephone No.</b>	255-8853
<b>DIA Completion Date</b>	November 1, 2014
<b>Project Planner</b>	Lori Bowers
<b>Project Engineer</b>	Eric Hahn

## ACCOUNTING INFORMATION

	AMOUNT	DATE	REFERENCE (Cash or Check)
<b>RECORDING FEE COLLECTED</b>	\$ 22.00	12/09/13	Cash
<b>RECORDING FEE FOR RECORDING RECORDING MEMORANDUM</b>	\$ 11.00	12/10/13	
<b>RECORDING FEE FOR RECORDING RELEASE OF RECORDING MEMORANDUM</b>	\$ -		
<b>BALANCE</b>	\$ 11.00		

<b>Mesa County Clerk Escrow</b>
---------------------------------



**Sheila Reiner**  
 Clerk and Recorder  
 200 S. Spruce St.  
 Grand Junction, CO 81501  
 (970)-244-1679



**Print Date:**  
 12/10/2013 1:19:12 PM

Transaction #: 178516  
 Receipt #: 2013071779  
 Cashier Date: 12/10/2013 1:19:12 PM

Mailing Address:  
 P.O. BOX 20,000-5007  
 Grand Junction, CO 81502  
 (970)-244-1679

www.mesacounty.us

Customer Information	Transaction Information	Payment Summary
(CITYOFGJ) CITY OF GRAND JCT  COM DEVELOP 250 N 5TH ST GRAND JCT, CO 81501 Escrow Balance: \$198.00	Date Received: 12/10/2013 Source Code: Over The Counter Return Code: Over The Counter Trans Type: Recording	Total Fees \$11.00 Total Payments \$22.00 Escrow Deposit \$11.00

1 Payments	
CASH	Heritage Estates Subdivision Filing 6 SUB-2013-369 \$22.00

1 Recorded Items	
(MEMO) MEMORANDUM	BK/PG: 5554/883 Reception Number: 2676833 Date: 12/10/2013 1:19:11 PM From: To:
Recording @ \$10 per page \$1 Surcharge	1 \$11.00
Escrow Deposit	11 \$11.00

0 Search Items
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0 Miscellaneous Items
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**DEED OF TRUST**

THIS DEED OF TRUST is entered into this 7<sup>th</sup> day of April, 2014 between Sonshine IV Construction & Development, LLC, a Colorado limited liability company (Grantor), whose address is 2350 G Road, Grand Junction Colorado 81505, and the Public Trustee of the County of Mesa, State of Colorado, for the benefit of the City of Grand Junction (Beneficiary), whose address is 250 North 5<sup>th</sup> Street, Grand Junction, Colorado 81501.

**Witness that** the Grantor, to secure the obligations of Developers Blue Star Industries, LLC and Heritage Estates, LLC under that certain Development Improvements Agreement dated December 10, 2014 (SUB-2013-369 Filing 6) between Heritage Estates LLC and the City of Grand Junction and to secure said Developer’s performance obligations for Filing 6 related to the aforementioned Grand Junction Planning File Number, hereinafter referred to as Agreement, in the principle sum of forty-seven thousand four hundred forty-nine and 99/100 Dollars (\$47,449.99), hereinafter referred to as the Secured Indebtedness, payable to the Beneficiary, does hereby grant and convey unto said Public Trustee the following described property situate in the County of Mesa in the State of Colorado, to wit:

Lot 1 and Lot 7, Greystone Estates II

referred to herein as “the Property” or “property.”

TO HAVE AND TO HOLD the same, together with all appurtenances, in trust nevertheless, in case of default on the obligations in the Agreements, or any part thereof, or in the performance of any covenants hereinafter set forth, then the Beneficiary may demand the property be sold by filing a notice of election and demand for sale with the Public Trustee. The Public Trustee shall mail and publish a combined notice of sale and grantor’s rights in compliance with Colorado law. Such legal notice is to be published as required by law in a newspaper in the county or counties where the property is located. A copy of the combined notice shall be mailed to all persons entitled to receive notice as required by law. It shall then be lawful for the Public Trustee to sell the property at auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of the sale the Trustee shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon, and pay the principle sum above referenced to the

Beneficiary, rendering the overplus, if any, to the Grantor; and the Trustee shall execute and deliver to the purchaser a confirmation deed to the property no later than nine days after the date of sale, or if later, the expiration of all redemption periods and the receipt by the Trustee of all statutory fees and costs. The Beneficiary may purchase the property or any part thereof at such sale.

The Grantor covenants that at the time of the delivery of these presents, Grantor is seized of the property in fee simple, and that the property is free of encumbrances, except for that certain Deed of Trust recorded at Book 5556 Page 119 of the records of the Mesa County Clerk and Recorder in favor of the same Beneficiary.

The Grantor also covenants that the Grantor will keep all buildings, whether now existing or hereafter constructed, insured with a company approved by the Beneficiary for fire and extended coverage in an amount equal to the Secured Indebtedness with loss payable to the Beneficiary, will deliver a copy of the policy to the beneficiary and will pay all taxes and assessments against the property and amounts due on prior encumbrances. If Grantor fails to pay insurance premiums, taxes and amounts due on prior encumbrances, the Beneficiary may pay the same and all amounts shall become additional indebtedness due hereunder; and in the case of foreclosure, the Grantor will pay attorney's fees of \$1,500.00 for in-house counsel, or the total reasonable attorney's fees charged to Beneficiary by contracted counsel.

Should the Beneficiary be made a party to any action affecting this deed of trust or the title to the property the Grantor agrees that all court costs and reasonable attorney's fees shall become additional indebtedness due hereunder; and the Grantor does hereby waive and release all claims in the property of a homestead exemption or other exemption now or hereafter provided by law.

If all or any part of the property or an interest therein is sold or transferred by the Grantor without Beneficiary's prior written consent excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant, or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Beneficiary may, at Beneficiary's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Beneficiary shall have waived such option to accelerate if, prior to the sale or transfer, Beneficiary and the person to whom the property is to be sold or transferred reach agreement in writing that such person will assume all obligations contained in the Agreements secured hereby.

It is agreed that in the case of default of the Grantor on any of the obligations under the Agreements or a breach of any of the covenants herein, then the Secured Indebtedness may at the option of the Beneficiary become due and payable at once, anything in the Agreements to the contrary notwithstanding, and possession of the property will thereupon be delivered to the



Ms. Kim Kerk

August 6, 2014

Email address: kkerk@bluestarindustries.com (This letter sent by email only; hardcopy will NOT follow.)

RE: Project Name: Heritage Estates, Filings 5 - 7  
Project Number: SUB-2013-365, SUB-2013-369, SUB-2013-388

Dear Ms. Kerk:

On July 21, 2014, representatives from the Public Works Division conducted an initial inspection of the public improvements at Heritage Estates, Filings 5 - 7. The following items were found to be deficient and must be addressed before the City can issue Initial Acceptance and begin the one-year warranty for these public improvements:

Filing 5:

1. Check all street signs and stop signs for placement and correct height of sign.
2. Repair or replace the broken or damaged concrete at the back of walk in front of 2482 Wolcott, and 2488 Wolcott.
3. At the east filing boundary between Filing 5 and Filing 6, the expansion joints in the curb-gutter-walk are separating. The gap on the east side of the street can probably be caulked, the gap on the west side must be repaired or replaced. Contact Mark Barslund (201-1362) to discuss the correct way to make this repair.
4. Since the GVDD drain is now piped and filled to the south boundary of this subdivision, the storm runoff that is collected and conveyed along the west side of 24¾ Road is prevented from being discharged into the drain. The design engineer must examine the field conditions and propose a solution to this drainage problem.
5. Must install end-of-road markers at the south end of 24¾ Road.
6. Check all expansion joints at filing boundaries. Repair as necessary.

Filing 6:

7. Check all street signs and stop signs for placement and correct height of sign.
8. Backfill and compact as necessary to establish final grade behind the sidewalk, throughout the filing.
9. Raise utility boxes to final grade, as necessary.
10. Raise fire hydrants to meet City specs, as necessary.
11. Install sanitary sewer cleanouts for each lot, per current City specs.
12. Check all expansion joints at filing boundaries. Repair as necessary.

Filing 7:

13. Check all street signs and stop signs for placement and correct height of sign.
14. Backfill and compact as necessary to establish final grade behind the sidewalk, throughout the filing.
15. Regrade the detention pond to final grade, per the approved construction drawings.
16. Secure the grate of the pond outlet structure with galvanized hardware.
17. At the corner of Chalisa & Demense, grout the area between the top of the inlet boxes and bottom of grate frame to create a smooth flowing surface into the box.
18. Install concrete collars to secure the rings of all storm or sewer manholes that are not within the paved right-of-way.
19. At the west end of Demense, south side of the street, replace the curb-gutter-walk at the pavement joint. Contact Mark Barslund (201-1362) to establish the limits of this repair.
20. At the west end of Demense, conduct a flow test of the north flowline to verify the gutter has positive drainage toward the inlets. Mark Barslund must observe this test, contact him to coordinate schedules.

21. Repair or replace the damaged curb-gutter-walk on the north side of Demense. Contact Mark Barslund (201-1362) to establish the limits of this repair.
22. Caulk all concrete joints in the fillets and valley pan at the intersection of Little Rose and Demense.
23. Recent heavy rains have undercut the handicap ramp on the east corner of Little Rose and Demense. Before making any repairs, the contractor must contact Mark Barslund (201-1362) to inspect the damage and provide guidance regarding the necessary repairs.
24. Install sanitary sewer cleanouts for each lot, per current City specs.
25. Check all expansion joints at filing boundaries. Repair as necessary.
26. Install end-of-road markers at the east end of Demense.
27. Install "No Parking" signs along the east side of 24<sup>3</sup>/<sub>4</sub> Road between Orion Way and Wolcott Ave. Contact Sandy Mallory (244-1567) in the Traffic Division for guidance and specifications.
28. The City Planner may have specific requirements regarding the remaining landscaping that must be completed. Please contact Lori Bowers at 256-4033.

In addition to the field items listed above, the following paperwork must also be addressed:

1. If any fees have been deferred, they must be paid.
2. Submit final as-built drawings.
3. Submit a final pond certification letter, once pond construction is complete.
4. Submit all final compaction tests, concrete & asphalt tests, sewer air tests.
5. The sewer TV inspections are under review. Results will be provided when they are available.
6. Submit acceptance letters from Ute Water. **(Received 8/1/14)**
7. Submit a Maintenance Guarantee secured with adequate financial instrument in the amounts of **\$56,900** for Filing 5, **\$47,559** for Filing 6, and **\$48,391** for Filing 7.

Once the above issues are resolved and you have verified that the Planning Division has no further concerns, City staff will release any remaining DIA securities and begin the one-year warranties. Thank you for your efforts in closing this project.

Sincerely,



Eric Hahn, PE  
Development Engineer

Electronic copy:

Lori Bowers, Senior Planner  
Mark Barslund, Development Inspector  
Mary Sparks, Senior Admin. Assistant

**DISBURSEMENT AGREEMENT**  
**(Improvements Guarantee)**

**Planning File No. SUB 2013-369**

**DEVELOPER: Blue Star Industries, LLC**

**BANK: Timberline**

**PROPERTY: Heritage Estates, Filing 6**

**DISBURSEMENT AMOUNT:** For the construction of improvements to the Property in an amount not to exceed \$ **237,797.46** .

This Agreement is entered into by and between **Blue Star Industries, LLC** ("Developer"), **Timberline** ("Bank") and the City of Grand Junction, Colorado ("City").

**RECITALS**

Developer has been required by the City to construct certain improvements to **Heritage Estates, Filing 6** ("Improvements") in accordance with the Zoning and Development Code, Improvements Agreement and subdivision approval.

The Bank has agreed to loan funds to the Developer for construction of the improvements.

The City Engineer has approved an estimate of the costs of the Improvements and that amount or an amount not to exceed \$ **237,797.46** , whichever is greater, shall be referred to as the "Funds."

The parties desire to secure the full and complete performance of the Developer's obligations and to secure that the Funds are disbursed only to pay for the Improvements.

NOW, THEREFORE, THE PARTIES AGREE:

1. **BANK PROMISES.** Bank shall dedicate or set aside the Funds on behalf of Developer and for the City's benefit within twenty-four hours of execution of this Disbursement Agreement.

Bank warrants: that the Funds are to be held in trust solely to secure Developer's obligations under the Improvements Agreement; that the Bank shall act as agent of the City in holding the Funds; that the Funds will not be paid out or disbursed to, or on behalf of, the Developer except as set forth in this document and/or as set forth in the Improvements Agreement; and that the Bank may not modify or revoke its obligation to

disburse funds to or on behalf of the Developer or the City. The Bank warrants that the Funds are and will be available exclusively for payment of the costs of satisfactory completion of the Improvements.

2. **DISBURSEMENT PROCEDURES.** The Funds shall be advanced for payment of costs incurred for the construction of Improvements on the Property in accordance with the Improvements List/Detail attached to the Improvements Agreement, the terms of which are incorporated by this reference. All disbursements must comply with the following procedures:

a) **Request for Advance.** Developer shall deliver to the Bank a written request for the disbursement of funds on forms acceptable to the Bank. Such requests shall be signed by Developer, Developer's General Contractor, Project Engineer and Architect, if applicable, and the City Engineer. By signing the request for disbursement the Developer is certifying: that all costs for which the advance is being requested have been incurred in connection with the construction of the Improvements on the Property; that all work performed and materials supplied are in accordance with the plans and specifications submitted to and approved by the City; that the work has been performed in a workmanlike manner; that no funds are being requested for work not completed, nor for material not installed; the Project Engineer has inspected the Improvements for which payment is requested; and that such improvements have been completed in accordance with all terms, specifications and conditions of the approved plans. Attached hereto is the list of those individuals, and their respective signatures, required to sign the above described request(s) for disbursement of funds.

(b) **Documentation, Waivers and Checks.** Each request for disbursement of funds shall be accompanied by: (i) one original and one copy of each invoice to be paid; (ii) checks drawn on Developer's construction loan account with the Bank, made payable to the payee(s) and for the amount of each invoice presented for payment; (iii) lien waivers in a form approved by the Bank prepared for signature by each payee; and (iv) postage paid envelopes addressed to each payee for the mailing of checks presented to the Bank.

The Bank shall verify its receipt of all lien waivers relating to any prior disbursements, which lien waivers shall be properly executed and contain no alterations or modifications from those lien waivers that have been previously presented to the Bank.

Upon approval by Developer, the Project Engineer and the Bank of the invoices being presented to the Bank, the Bank shall advance funds into the checking account designated for the payment of the invoices and mail the checks to the payee(s) in the envelopes presented to the Bank, together with lien waivers and copies of supporting invoices.

Under no circumstances shall the Bank make a disbursement for the payment of an invoice if it in good faith believes that: (i) the work has not been completed; (ii) the work has not been completed in a workmanlike manner; (iii) written approval has not been received from the Project Engineer; or (iv) any lien waiver has been altered or modified or has not been returned to the Bank.

(c) **Default.** Upon default of the Developer on any obligation to the Bank or under the Improvements Agreement, the Bank shall disburse no funds to, or at the direction of, the Developer except to the City under the terms of the Improvements Agreement. The Bank shall immediately notify the City, in writing, of any event of default or event of default as provided for in the Improvements Agreement and/or as provided herein.

(d) **Disbursement to City.** In the event the Improvements are not satisfactorily and timely constructed, or upon any default or event of default, the City Engineer shall notify the Bank to immediately cease disbursement of funds to the Developer and disburse the full amount of the remaining undisbursed funds to the City. Upon such notice, the Bank shall promptly honor the demand of the City Engineer to disburse the Funds to the City or a third party or parties designated in writing by the City. Upon final completion and acceptance of the performance required under the Improvements Agreement, the City shall refund to the Bank any funds disbursed, if any, which are not actually expended to pay all costs, expenses and liabilities, including attorney fees, incurred in completing the Improvements.

3. **DEVELOPER CONSENT:** The Developer, consents to disbursements and other actions authorized and provided for by the terms of this Agreement and/or the Improvements Agreement.


4. **LIABILITY FOR LOSS:** If the Bank fails to disburse funds in accordance with the procedures set forth, and the City suffers loss or damage, the Bank shall be liable to the City for the City's direct and consequential damages and all fees, costs and expenses, including attorney's fees.

5. **BINDING EFFECT:** This Agreement shall be binding on the heirs, successors, receivers and assigns of all parties and shall terminate when the City has accepted the Improvements and has recorded a release of the Improvements Agreement.

6. **IMMUNITY:** Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under applicable state law.

**Dated:**

By (Bank): Timberline Bank

  
\_\_\_\_\_

Banker's Signature

Banker's Name and title: Louise Goodman, AVP

By (Developer):

  
\_\_\_\_\_

Developer's Signature

Developer's Name and title: John Davis,

MGR of Heritage Estates LLC  
Page 3 of 4 Updated: 1/1/2013

Address:

633 24 Road  
Grand Junction CO  
81505

Address:



By (City of Grand Junction):

  
\_\_\_\_\_  
Planning Division

Pursuant to the terms of the foregoing Disbursement Agreement (Improvements Guarantee) by and between Developer, \_\_\_\_\_ as Bank and the City of Grand Junction, the following are the individuals authorized to sign written requests for the disbursement of the Funds:

**Developer:**

Name: Kim Kerk

  
\_\_\_\_\_  
Signature

Name: Sunni Gagler

  
\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

**Developer's General Contractor:**

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

\_\_\_\_\_  
Signature

**Developer's Project Engineer:**

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

\_\_\_\_\_  
Signature

**Developer's Architect:**

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

\_\_\_\_\_  
Signature

**City Development Engineer:**

Name: ERIC HAHN

  
\_\_\_\_\_  
Signature