

DIN94FL1

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	DEVELOPMENT IMPROVEMENTS AGREEMENT
NAME OF CONTRACTOR:	DINOSAUR ENTERPRISES INCORPORATED
PROJECT/SUBDIVISION:	THE FALLS FILING 1
ADDRESS:	28.5 AND PATTERSON ROAD
TAX PARCEL NO:	2943-072
FILE #:	FP-1994-069
CITY DEPARTMENT:	PUBLIC WORKS AND PLANNING
YEAR:	1994
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are DINOSAUR ENTER INC ("the Developer") and THE CITY OF GRAND JUNCTION, Colorado ("the City").

THEREFORE, 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 will be the date that this agreement is recorded which is not sooner than recordation of the _____

RECITALS

The Developer seeks permission to develop property within the City to be known as FALLS #1, which property is more particularly described on Exhibit "A" attached and incorporated by this reference (the "Property"). The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the development and limiting the harmful effects of substandard developments. The purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the development or for the benefit of the purchasers or users of the development. The mutual promises, covenants, and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and the City's land development ordinances.

DEVELOPER'S OBLIGATION

3. **Improvements:** The Developer will 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. The Developer agrees to pay the City for inspection services performed by the City, in addition to amounts shown on Exhibit B. The City estimates that \$ _____ will be required for City inspection of the required improvements. The Developer's obligation to complete the improvements is and will be independent of any obligations of the City contained herein.

4. **Security:** To secure the performance of its obligations under this Agreement (except its obligations for warranty under paragraph 6), the Developer will enter into an agreement which complies with either option identified in paragraph 28, or other written agreement between the City and the Developer.

5. **Standards:** The Developer will construct the Improvements according to the standards and specifications required by the City Engineer or as adopted by the City.

#69 94
Original
Do NOT Remove
From Office

6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of twelve (12) months from the date that the City Engineer accepts or approves the improvements completed by the Developer.

7. **Commencement and Completion Periods:** The improvements, each and every one of them, will be completed within _____ from the Effective Date of this Agreement (the "Completion Period").

8. **Compliance with Law:** The developer will comply with all relevant federal, state and local laws, ordinances, and regulations in effect at the time of final approval associated with the development when fulfilling its obligations under this Agreement.

9. **Notice of Defect:** The Developer's Engineer will provide timely notice to the Developer, contractor, issuer of security and the City Engineer whenever inspection reveals, or the Developer's Engineer otherwise has knowledge, that an improvement does not conform to City standards and any specifications approved in the development application or is otherwise defective. The developer will have thirty (30) days from the issuance of such notice to correct or substantially correct the defect.

10. **Acceptance of Improvements:** The City's final acceptance and/or approval of improvements will not be given or obtained until the Developer presents a document or documents, for the benefit of the City, showing that the Developer owns the improvements in fee simple and that there are no liens, encumbrances, or other restrictions on the improvements. Approval and/or Acceptance of any improvements does not constitute a waiver by the City of any rights it may have on account of any defect in or failure of the improvement that is detected or which occurs after the approval and/or acceptance.

11. **Use of Proceeds:** The City will use funds deposited with it or drawn pursuant to any written disbursement agreement entered into between the parties only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements.

12. **Events of Default:** The following conditions, occurrences or actions will constitute a default by the Developer during the Completion Period:

- a. Developer's failure to complete each portion of the Improvements in conformance with the agreed upon time schedule; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;

- c. 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;
- d. Notification to the City, by any lender with a lien on the property, of a default on an obligation; the City may immediately declare a default without prior notification to the Developer;
- e. Initiation of any foreclosure action of any lien or initiation of mechanics lien(s) procedure(s) against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure; the City may immediately declare a default without prior notification to the Developer.

13. **Measure of Damages:** The measure of damages for breach of this Agreement by the Developer will be the reasonable cost of satisfactorily completing the Improvements plus reasonable City administrative expenses. For improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of a letter of credit, the subdivision improvements disbursement agreement or cash escrow establish the maximum amount of the Developer's liability.

14. **City's Rights Upon Default:** When any event of default occurs, the City may draw on the letter of credit, escrowed collateral, or proceed to collect any other security to the extent of the face amount of the credit or full amount of escrowed collateral, cash, or security less ninety percent (90%) of the estimated cost (as shown on Exhibit "B") of all improvements previously accepted by the City or may exercise its rights to disbursement of loan proceeds or other funds under the improvements disbursement agreement. The City will have the right to complete improvements itself or it may contract with a third party for completion, and 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, and repairing such improvements. Alternatively, the City may assign the proceeds of the letter of credit, the improvements disbursement agreement, the escrowed collateral, cash, or other funds or assets to a subsequent developer (or a lender) who has acquired the development by purchase, foreclosure or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished improvements and provides reasonable security for the obligation. In addition, the City may also enjoin the sale, transfer, or conveyance of lots within the development, until the improvements are completed or accepted. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

15. **Indemnification:** The Developer expressly agrees to indemnify and hold the City, its officers, employees and assigns 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 of work at the development or the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement except where such suit is brought by the Developer against the City. The Developer is not an agent or employee of the City.

16. **No Waiver:** No waiver of any provision of this Agreement by the City will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will 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 will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

17. **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 authorized officer. Such amendment or modification will be properly notarized before it may be effective.

18. **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, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker.

19. **Vested Rights:** The City does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the City, if any, before the Developer is entitled to commence development or to transfer ownership of property in the development.

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

21. **Time:** For the purpose of computing the Abandonment and Completion Periods, and time periods for City action, such times in which war, civil disasters, or acts of God occur or exist will not be included if such times prevent the Developer or City from performing its obligations under the Agreement.

22. **Severability:** If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

23. **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. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer, and shall be a covenant(s) running with the Property. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will expressly release the original Developer's guarantee or obligations under the improvements disbursement agreement if it accepts new security from any developer or lender who obtains the Property. However, no other act of the City will constitute a release of the original Developer from his liability under this Agreement.

24. **Notice:** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer:

DINOSAUR ENTR. INC.
Box 2743
GRAND-JUNCTION, Ca, 81502

If to City:

City of Grand Junction
Community Development Director
250 N. 5th Street
Grand Junction, Colorado 81501

25. **Recordation:** Developer will pay for any costs to record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

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

27. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, letter of credit, improvements disbursements agreement, or cash escrow agreement or any action to collect security will be deemed to be proper only if such action is commenced in Mesa County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

28. The **improvements guarantee** required by the City Code to ensure that the improvements described in the improvements agreement are constructed (to city standards) may be in the form of an agreement: (I) between a bank doing business in Mesa County and the City or as described in (II), below. The agreement between a bank and the City

(I) shall provide, among other things, for the bank to guarantee and warrant to the City that it shall:

- a. have available money equal to the estimated costs of the required improvements, in an amount equal to the amount agreed upon in the Improvements Agreement;
- b. only pay such amounts to contractors who have constructed required Improvements;
- c. only pay such amounts after the bank has received the written approval of the City Engineer, or his designee; the City Engineer shall inspect within three (3) working days of request;
- d. in the event the bank disburses without the City Engineer having approved such disbursement, the Bank shall pay, in addition to all other sums it would otherwise be obligated to pay, to the City the amount of the wrongful disbursement if the City Engineer determines that the work is not acceptable, based on the approved plans and specifications. The City shall use such money to cause the work to be constructed in accordance with the approved plans and specifications;

II. An alternative agreement may be executed for a development which is expected to require not more than 10 transactions shall contain the following provisions:

- a. The Finance Department of the City will act as disbursing agent and will account for disbursements to Developer contractors as required improvements are completed and accepted.
- b. The City will accept a cash deposit from the Developer equal to the City approved estimate of the required improvements, for purposes of securing and guaranteeing the construction of the required sewer, water, streets, and on-site improvements in the development plan. Such deposit(s), currently estimated at approximately \$_____ shall be given to the City's Finance Department, commingled with other funds of the City and specifically invested in the short term market. Interest income shall be allocated to the Developer's escrow account monthly, in the same manner as other short-term investments of the city.
- c. Such interest income shall be used to reimburse the General Fund of the City for accounting and transaction costs incurred in making payments to the appropriate contractors. For purposes of this agreement, the City's costs shall be one hundred dollars (\$100.00) for each check disbursement or other transaction which is made. In any event the amount retained by the City for

its transaction costs shall not be less than two percent (2%) of the amount deposited. After all required improvements have been made and accepted by the City, any surplus funds remaining in the account (in excess of the two percent minimum or the calculated transaction costs) shall be returned to the developer within thirty (30) days of said acceptance date. Any transaction costs which are not covered by the amount of the deposit plus accrued interest shall be paid to the City by the Developer in like manner within thirty (30) days of completion of the improvements. No guarantee as to the level of interest income or rate of return on the funds so deposited is either implied or made in this agreement; the City agrees only to keep the funds invested as with other City funds.

d. in any event, the Developer promises to construct the required improvements to the satisfaction of the City Engineer, in accordance with the approved plans and specifications.

29. a. Conditions of 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 improvements shall have been accepted by the City.

Prior to requesting final acceptance of streets, storm drainage facilities, or other required improvements, the Developer shall furnish to the City Engineer as-built drawings in reproducible form and copies of results of all construction control tests required by City specifications.

b. Phased Development: 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 his side of the street to enable an initial two-way traffic operation without on-street parking. That Developer is also responsible for end-transitions, intersection paving, drainage facilities, and adjustments to existing utilities necessary to open the street to traffic.

Attest:

City of Grand Junction
250 North Fifth Street
Grand Junction CO 81501

Stephanie Nye
City Clerk

By: _____
Mark K. Achen
City Manager

Attest:

TYPE LEGAL DESCRIPTIVE(S) BELOW, USING ADDITIONAL SPACES AS NECESSARY. USE SINGLE SPACING WITH A ONE INCH MARGIN ON EACH SIDE.

Exhibit A

IMPROVEMENTS LIST/DETAIL

DATE: _____
 NAME OF DEVELOPMENT: _____
 LOCATION: _____
 PRINTED NAME OF PERSON PREPARING: _____

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	_____	_____	_____	_____
4. Sewer Services (incl. trenching, bedding, & backfill)	_____	_____	_____	_____
5. Sanitary sewer manhole(s)	_____	_____	_____	_____
6. Connection to existing manhole(s)	_____	_____	_____	_____
7. Aggregate Base Course	_____	_____	_____	_____
8. Pavement replacement	_____	_____	_____	_____
9. Driveway restoration	_____	_____	_____	_____
10. Utility adjustments	_____	_____	_____	_____
II. DOMESTIC WATER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)	_____	_____	_____	_____
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	_____	_____	_____	_____
5. Connect to existing water line	_____	_____	_____	_____
6. Aggregate Base Course	_____	_____	_____	_____
7. Pavement Replacement	_____	_____	_____	_____
8. Utility adjustments	_____	_____	_____	_____
III. STREETS				
1. Clearing and grubbing	_____	_____	\$	1000 ⁰⁰
2. Earthwork, including excavation and embankment construction	1111	_____	1.98/cy	_____
3. Utility relocations	_____	_____	_____	_____
4. Aggregate sub-base course (square yard)	_____	_____	_____	_____
5. Aggregate base course (square yard)	_____	_____	_____	_____
6. Sub-grade stabilization	1960 cy	_____	\$ 8/cy	15680 ⁰⁰
7. Asphalt or concrete pavement (square yard)	1006 cy	_____	\$ 25.5/cy	25653 ⁰⁰
8. Curb, gutter & sidewalk (linear feet)	2200 L.F	_____	\$ 14/L.F	30,800 ⁰⁰
9. Driveway sections (square yard)	_____	_____	_____	_____
10. Crosspans & fillets	841 S.F	_____	\$ 2.25/SF	1892.25
11. Retaining walls/structures	_____	_____	_____	_____
12. Storm drainage system	_____	_____	_____	_____

- 13. Signs and other traffic control devices _____ 500⁰⁰
- 14. Construction staking _____ 1700⁰⁰
- 15. Dust control _____
- 16. Street lights (each) _____

IV. LANDSCAPING

- 1. Design/Architecture _____
- 2. Earthwork (includes top soil, fine grading, & berming) _____
- 3. Hardscape features (includes walls, fencing, and paving) _____
- 4. Plant material and planting _____
- 5. Irrigation system _____
- 6. Other features (incl. statues, water displays, park equipment, and outdoor furniture) _____
- 7. Curbing _____
- 8. Retaing walls and structures _____
- 9. One year maintenance agreement _____

V. MISCELLANEOUS

- 1. Design/Engineering _____
- 2. Surveying _____
- 3. Developer's inspection costs _____
- 4. Quality control testing _____
- 5. Construction traffic control _____
- 6. Rights-of-way/Easements _____
- 7. City inspection fees _____
- 8. Permit fees _____
- 9. Recording costs _____
- 10. Bonds _____
- 11. Newsletters _____
- 12. General Construction Supervision _____
- 13. Other _____
- 14. Other _____

MISCELLANEOUS 2000⁰⁰

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ FIRST PHASE 81,425⁰⁰

Elabim Tappeter FOR DINOSAUR ENT. INC.

4/7/94

SIGNATURE OF DEVELOPER
(If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

DATE

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

CITY ENGINEER

DATE

COMMUNITY DEVELOPMENT

DATE

MEMORANDUM OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
File #

1682439 12:06 PM 05/17/94
MONIKA TODD CLK&REC MESA COUNTY CO

This memorandum relates to an improvements agreement and guarantee dated 4/15 1994, by and between DINO SAUR ENT. INC (Developer) and the City of Grand Junction (City) pertaining to Falls, Filing #1 (Project) in the City of Grand Junction.

Whereas, Developer is required to install and construct certain public and private improvements as a condition of approval of the Project, which completion is guaranteed by an improvements agreement and guarantee in the sum of \$ 94,000, and

Whereas, the City of Grand Junction and other agencies possessing regulatory authority over the Project and/or the improvements to be constructed, must inspect the improvements and accept the same before the improvements agreement and guarantee are released or if not constructed the City may use the proceeds or collateral of the guarantee to install the improvements, and

Whereas, the existence of the improvements agreement and guarantee may affect certain rights, responsibilities and actions of the Developer, the City or any other person or entity,

NOW THEREFORE, this memorandum is recorded to be notice to the world of the existence of said improvements agreement and guarantee. This memorandum is not a complete summary of the improvements agreement and guarantee. Provisions of this memorandum shall not be used to interpret the terms or provisions of the improvements agreement and/or guarantee. In the event of conflict between this memorandum and the unrecorded improvements agreement and/or guarantee, the unrecorded improvements agreement and guarantee shall control. The improvements agreement and guarantee may be inspected at the City of Grand Junction Community Development Department, 250 N. 5th Street, Grand Junction, CO.

CITY OF GRAND JUNCTION:

Larry Tu 5/16/94
* Director of Community Development date

DEVELOPER:

Elwin S. [Signature] 5/16/94
date

After recording mail to:

c/o Community Development Department
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

B 2072
P 305

original on file
with City Clerk

DISBURSEMENT AGREEMENT
(Improvements Guarantee)

DEVELOPER:

BANK:

PROPERTY:

DISBURSEMENT AMOUNT: For the construction of the improvements to the Property shall be in an amount not to exceed \$ 94,000⁰⁰.

This Agreement is entered into by and between DINOSAUR ENT. INC. ("the Developer"), GRAND VALLEY NATIONAL BANK ("Bank") and the City of Grand Junction, Colorado ("the City").

RECITALS

Developer has been required by the City to construct certain improvements to THE FAUS-FLING # ONE ("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 subdivision and improvements.

The City Engineer has approved an estimate of the costs of the Improvements and that amount or an amount not to exceed \$ 94,000⁰⁰, whichever is greater, shall be referred to as the "Funds."

The parties desire to secure the performance of the Developer's obligations and 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 forty eight 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 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.

A. DISBURSEMENT PROCEDURES. Funds shall be advanced for payment of costs incurred for the construction of Improvements on the Property in accordance with the Improvements List/Detail, evidenced as "Exhibit A." All disbursements must comply with the following procedures:

(1) **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 shall certify 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 completed in a workmanlike manner; that no funds are being requested for work not completed or for material not installed; and that Project Engineer has inspected the improvements for which payment is requested; and that such has been completed in accordance with all terms, specifications and conditions of the approved plans.

(2) **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 account with the Bank, made payable to the payee and for the amount of each invoice presented for payment; and (iii) lien waivers in a form approved by the Bank prepared for signature by each payee.

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 Architect; or (iv) any lien waiver has been altered or modified or has not been returned to the Bank.

(3) **Default.** Upon default of the Developer on any obligation to Bank or under the Improvements Agreement, Bank shall disburse no funds to, or at the direction of, the Developer except to the City under the terms of the Improvements Agreement. Bank shall

immediately notify the City, in writing, of any event of default as provided for in the Improvements Agreement as provided herein.

(4) **Disbursement to City.** In the event the improvements are not satisfactorily and timely constructed, or upon any default, the City 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 to disburse the funds to the City or a third party or parties.

DEVELOPER CONSENT: The Developer consents to disbursements and other actions authorized and provided for by the terms of this Agreement.

LIABILITY FOR LOSS: If the Bank fails to disburse funds in accordance with the procedures set forth and the City suffers loss, the Bank shall be liable to the City for the City's direct and consequential damages.

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.

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

Dated this 5 day of MAY, 1994.

(BANK)

By:

John W. Miller Pres
Title

Grand Valley National Bank
Address

(DEVELOPER)

By:

William Zymmler for DINO SAUR INC

CITY OF GRAND JUNCTION

By:

Mark K. Achen
Mark K. Achen, City Manager

ATTACHMENT A

Pursuant to the terms of the Disbursement Agreement (Improvements Guarantee) by and between DINOSAUR ENT. INC Developer, GRAND VALLEY NATIONAL BANK as Bank, and the City of Grand Junction, the following are the individuals authorized to sign written requests for the disbursement of funds under paragraph A 1 of the Agreement:

DEVELOPER:

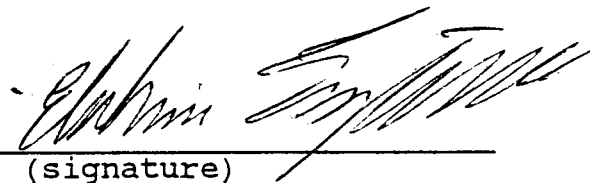
(name) EBRAHIM SEGAATOLESAMI
(signature)

(name) _____
(signature)

(name) _____
(signature)

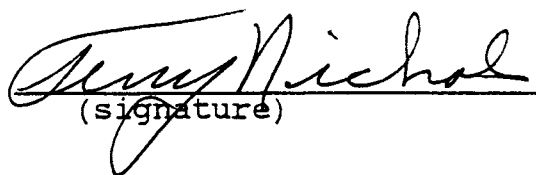
DEVELOPER'S GENERAL CONTRACTOR:

EBRAHIM - SEGAATOLESAMI
(name)


(signature)

DEVELOPER'S PROJECT ENGINEER:

TERRY NICHOLS
(name)


(signature)

DEVELOPER'S ARCHITECT:

(name)

(signature)

CITY ENGINEER:

J. Don Newton
(name)


(signature)

dw:cl:disburseK
December 1, 1993

IMPROVEMENTS LIST/DETAIL

DATE: APR-15-94

NAME OF DEVELOPMENT: DIVOSAUR ENT, INC

LOCATION:

PRINTED NAME OF PERSON PREPARING: EAE-ESLAMI

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	_____	_____	_____	_____
4. Sewer Services (incl. trenching, bedding, & backfill)	_____	_____	_____	_____
5. Sanitary sewer manhole(s)	_____	_____	_____	_____
6. Connection to existing manhole(s)	_____	_____	_____	_____
7. Aggregate Base Course	_____	_____	_____	_____
8. Pavement replacement	_____	_____	_____	_____
9. Driveway restoration	_____	_____	_____	_____
10. Utility adjustments	_____	_____	_____	_____
II. DOMESTIC WATER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)	_____	_____	_____	_____
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	_____	_____	_____	_____
5. Connect to existing water line	_____	_____	_____	_____
6. Aggregate Base Course	_____	_____	_____	_____
7. Pavement Replacement	_____	_____	_____	_____
8. Utility adjustments	_____	_____	_____	_____
III. STREETS				
1. Clearing and grubbing	_____	_____	_____	_____
2. Earthwork, including excavation and embankment construction	_____	_____	_____	4000 ⁰⁰
3. Utility relocations	_____	_____	_____	2199 ⁷⁵
4. Aggregate sub-base course (square yard)	_____	_____	_____	_____
5. Aggregate base course (square yard)	_____	_____	_____	17,400 ⁰⁰
6. Sub-grade stabilization	_____	_____	_____	5618 ⁶⁰
7. Asphalt or concrete pavement (square yard)	_____	_____	_____	25,653 ⁰⁰
8. Curb, gutter & sidewalk (linear feet)	_____	_____	_____	30,800 ⁰⁰
9. Driveway sections (square yard)	_____	_____	_____	_____
10. Crosspans & fillets	_____	_____	_____	1892 ²⁵
11. Retaining walls/structures	_____	_____	_____	_____
12. Storm drainage system	_____	_____	_____	4000 ⁰⁰

13. Signs and other traffic control devices				500 ⁰⁰
14. Construction staking				1200 ⁰⁰
15. Dust control				
16. Street lights (each)				
IV. LANDSCAPING				
1. Design/Architecture				
2. Earthwork (includes top soil, fine grading, & berming)				
3. Hardscape features (includes walls, fencing, and paving)				
4. Plant material and planting				
5. Irrigation system				
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)				
7. Curbing				
8. Retaining walls and structures				
9. One year maintenance agreement				
V. MISCELLANEOUS				
1. Design/Engineering				
2. Surveying				
3. Developer's inspection costs				
4. Quality control testing				100 ⁰⁰
5. Construction traffic control				
6. Rights-of-way/Easements				
7. City inspection fees				700 ⁰⁰
8. Permit fees				
9. Recording costs				
10. Bonds				
11. Newsletters				
12. General Construction Supervision				
13. Other				
14. Other				2000 ⁰⁰

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ FIRST PHASE \$93,963.62

[Handwritten Signature]
SIGNATURE OF DEVELOPER
(If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

[Handwritten Signature]
Sec.

5/16/94
DATE

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

[Handwritten Signature]
CITY ENGINEER

5-16-94
DATE

[Handwritten Signature]
COMMUNITY DEVELOPMENT

5-16-94
DATE

KP

March 30, 1995



Mr. Ebe Eslami
P.O. Box 2743
Grand Junction, CO 81502

City of Grand Junction, Colorado
250 North Fifth Street
81501-2668
FAX: (303) 244-1599

Subject: The Falls Filing One

Dear Mr. Eslami:

A final inspection of the streets and drainage facilities in Subdivision was conducted on August 8, 1994. As a result of this inspection, a list of remaining items was given to you for completion. These items were reinspected on January 20, 1995 and found to be satisfactorily completed.

"As Built" record drawings and required test results for the streets and drainage facilities were received on January 20, 1995. These have been reviewed and found to be acceptable.

In light of the above, the streets and drainage improvements are accepted for future maintenance by the City of Grand Junction.

This acceptance is subject to a warranty of all materials and workmanship for a period of one year beginning January 20, 1995.

Thank you for your cooperation in the completion and acceptance of this project.

Sincerely,

A handwritten signature in cursive script that reads "Jody Kliska".

Jody Kliska, P.E.
City Development Engineer

cc: Don Newton
Doug Cline
Walt Hoyt
Kathy Portner

MEMORANDUM

TO: Don Newton, City Engineer
Bill Cheney, City Utilities Engineer
Hank Masterson, Fire Inspector
Ute Water
Grand Junction Drainage

FROM: Kathy Portner, Community Development

DATE: February 27, 1995

RE: Release of Improvements Agreement, Falls Filing #1

Attached is a Release of Improvements Agreement and Guarantee for the completion of improvements along 28 1/2 Road in the Falls, Filing #1. If all infrastructure improvements are completed to your satisfaction, please sign the attached release and return to the Community Development Department, 250 N. 5th Street, G.J. 81501. If you have questions you can call me at 244-1446.

RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
FILE #69-94

1717539 10:59 AM 05/18/95
MONIKA TODD CLK&REC MESA COUNTY CO

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated 5/16/94 1994, and recording at Book 2072, Page 305 of the land records of Mesa County, Colorado, by and between Dinosaur Ent., Inc. (Developer) and the City of Grand Junction (City) pertaining to The Falls, Filing #1; 28 1/2 Rd. (Project).

Whereas, Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of an Improvements Agreement and Guarantee, and

Whereas, the City of Grand Junction and all other agencies possessing regulatory authority over the Project and/or the improvements have inspected the improvements and have accepted the same,

NOW THEREFORE, officials of the City of Grand Junction and other officials duly representing their agencies, possessing and representing by their signatures, affixed thereto, that they possess sufficient authority to accept improvements and release the portion of the guarantee pertaining to the improvements under their jurisdiction, do accept, sign and release said improvements agreement and guarantee.

CITY OF GRAND JUNCTION:

By: [Signature] 3-23-95
City Engineer Date

5/8/95
Christine M. Stokes [Signature] 5/12/95
Central G. V. Sewer Dist. City Utilities Manager Date

[Signature] 4/21/95
Fire Marshal Date

UTE WATER:

By: [Signature] 3-22-95
Date

GRAND JUNCTION DRAINAGE:

By: N.A.
Date

In accordance with the above signatures, I hereby certify that the Improvements Agreement & Guarantee and the recording evidencing the agreement and guarantee, at Book 2072, Page 305 of the Mesa County land records, have been completed and accepted and in accordance with the provisions of the Grand Junction Zoning and Development Code are hereby released.

[Signature] May 17, 1995
Director of Community Development Date

The foregoing instrument was executed before me this 17th day of MAY, 1995 by Larry Timm, Director of Community Development for the City of Grand Junction, Colorado.

Witness my hand & official seal.

[Signature]
Notary Public

My commission expires 9-20-97.

