

FPC91IA

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: DEVELOPMENT IMPROVEMENTS AGREEMENT,
PROMISSORY NOTE & RELEASE OF OBLIGATION

NAME OF AGENCY OR CONTRACTOR: FIRST PRESBYTERIAN CHURCH

STREET ADDRESS/PARCEL NAME/SUBDIVISION: 27 1/2 ROAD
IMPROVEMENTS

CITY DEPARTMENT: ADMINISTRATIVE SERVICES

YEAR: 1991

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are First Presbyterian Church, a Colorado non-profit corporation, 622 White Avenue, Grand Junction, Colorado 81501 ("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 this Agreement is December 23, 1991.

RECITALS

The Developer seeks permission to develop property in the City to be known as the First Presbyterian Church (the "Project"), 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 that the developer pay for the required improvements. The purpose of this Agreement is to protect the City from the cost of paying for the project improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the Project or for the benefit of buyers in the Project. 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 agrees to pay, as set forth below for the estimated costs required to design, construct and install, the street improvements on 27 1/2 Road and Cortland Avenue as listed on Exhibit "B" attached and incorporated by this reference. Developer obligation is limited to the amount herein stated regardless of the actual cost.

4. **Security:** To secure the performance of its obligations under this Agreement, the Developer and the City agree as follows:

a. Because construction of the required half street improvements on both Cortland and 27 1/2 Road is not now practicable, the parties agree that Developer will instead pay to the City the estimate of such costs. Such payment shall satisfy Developer's obligation in this regard.

b. Developer shall pay such estimate as follows:

i. \$8,500 upon execution hereof;

ii. based on a ten year term and interest at nine percent per annum, monthly payments of \$652.39 beginning on February 1, 1992 and \$652.39 the first of each month thereafter until the full \$51,500 is paid in full.

iii. in the event Developer receives funds pursuant to that Commercial Contract to Buy and Sell Real Estate dated June 19, 1991, as it may be amended, Developer shall pay such sums forthwith to the City up to the total amount due pursuant hereto. In the event of such additional payment(s), the monthly payments of \$652.39 shall not change, i.e., the monthly payments shall continue to be timely paid until the full \$51,500.00 has been paid in full.

c. Developer shall execute and deliver to the City a note, a copy of which is attached.

5. **Measure of Damages:** The measure of damages for breach of this Agreement by Developer will be the reasonable cost of satisfactorily completing the identified Improvements.

6. **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.

7. **Attorney's Fees:** Should the City be required to use the services of an attorney or to resort to litigation to enforce the terms of this Agreement or to collect any sums due hereunder, the City will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the Developer.

8. **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 of the project or to transfer ownership of property in the project.

9. **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.

10. **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.

11. **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.

12. **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: 622 White Avenue
Grand Junction, CO 81501

If to City: City of Grand Junction
Finance Director
250 N. 5th Street
Grand Junction, Colorado 81501.

13. **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.

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

15. **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, project improvements disbursements agreement, or cash escrow agreement will be deemed to be proper only if such action is commenced in District Court for 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.

16. The **improvements guarantee** required by the City Code to ensure that the required improvements is satisfied by this Agreement.

Attest:

Neva B. Lockhart, CMC
Neva B. Lockhart
City Clerk

City of Grand Junction
250 North Fifth Street
Grand Junction, CO 81501
By: Mark K. Achen
Mark K. Achen
City Manager

Attest:

James F. Terlouw
James F. Terlouw
Secretary

First Presbyterian Church,
a Colorado non-profit corporation
By: John Bacheldor
John Bacheldor
President

[dwimpafp]

Recorded at _____ Office _____
Deception No. _____

RECORDER'S STAMP

Two Ours, Notchkiss 8th day of April 1986

Between The First State Bank of Notchkiss

RECEIVED DEC 01 10 01 AM '86
BY T. J. SAWYER, CLERK, MISSOURI

BOOK 1559 PAGE 413

A corporation duly organized and existing under and by virtue of the laws of the State of Colorado of the first part, and
The First United Presbyterian Church, a Non-Profit Corporation duly organized and existing under and by virtue of the laws of the State of Colorado of the second part; whose legal address is 622 White Avenue Grand Junction, Colorado 81501

WITNESSETH That the said party of the first part, for and in consideration of the sum of One Hundred and One Thousand and 00/100 (\$101,000.00) DOLLARS to the said party of the second part in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged and acknowledged, both granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the said party of the second part, its successors and assigns forever, all the following described or parcel of land, situate, lying and being in the County of Mesa and State of Colorado, to-wit:

A tract of land located in the Northwest Quarter of the Northeast Quarter of Section 1, Township 1 South, Range 1 West of the Ute Meridian, being more particularly described as follows: Beginning at the SW corner of said NW 1/4 of said Section 1; thence North 80°03'10" East 738.70 feet; thence South 89°38'46" East 511.16 feet; thence South 00°03'10" East 273.20 feet; thence South 89°38'41" East 9.00 feet; thence South 00°03'10" West 99.99 feet; thence South 10°27'44" East 95.94 feet; thence South 00°03'10" West 86.00 feet; thence North 89°55'41" East 14.80 feet; thence South 00°03'10" West 86.00 feet; thence South 00°09'10" East 55.00 feet; thence South 00°03'10" West 152.00 feet; thence North 89°55'41" West 545.74 feet to the point of beginning, together with water of Grand Valley Water Users' Association appurtenant to the above-described property.

also known as street and number

TOGETHER with all and singular the hereditaments and appurtenances thereto in anywise relating, and the revenues and revenues, remainders and remainders, rents, issues and profits thereof, and all claims, rights, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, as in and to the above bargained premises, with the hereditaments and appurtenances.

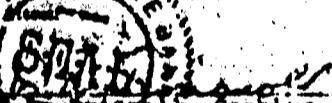
TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances unto the said party of the second part, its successors and assigns forever. And the said

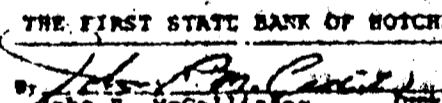
party of the first part, for itself, its successors and assigns, both covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the making and delivery of these presents it is well seized of the premises above conveyed, or of good, pure, perfect, absolute and indivisible estate of inheritance, in law, in fee simple, and both good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, encumbrances and incumbrances of whatever kind or nature except:

EXCEPT all rights-of-way, reservations, restrictions, easements, covenants and conditions, visible and of record, and except 1986 taxes payable in 1987,

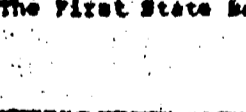
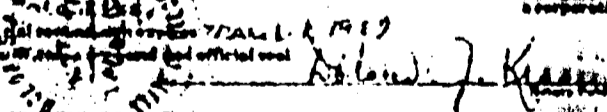
and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said party of the first part hath caused its corporate name to be hereunto set, its seal hereunto affixed, and a corporate seal to be hereunto affixed, attested by its Secretary, this 8th day of April 1986.


D.B. Driscoll, Jr., Cashier
The First State Bank of Notchkiss, Colorado

THE FIRST STATE BANK OF NOTCHKISS

John R. McCallister, President

The foregoing instrument was acknowledged before me this 8th day of April 1986 by John R. McCallister, President and D.B. Driscoll, Jr., Cashier of The First State Bank of Notchkiss, Colorado, a corporation.


Notary Public for the State of Colorado


Church - 27 1/2 Road

EXHIBIT "B"

Road Improvements Opinion of Cost Estimate:

(Removal to existing &)

<u>Item</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Total</u>
① Clearing	LS	\$ 1000 ⁰⁰	\$ 1000 ⁰⁰
② Excavation	838 CY	\$ 1 ²⁵	\$ 1050 ⁰⁰
③ Subgrade Prep.	1886 SF	\$ 0 ⁸⁰	\$ 1510 ⁰⁰
④ Furnish, place & Comp. 6" Thick class (6) under SW	Incl. in ⑥		
⑤ Furnish, place & Comp. 8" Thick class (6) under H.B.P.	1233 SF	\$ 3 ⁰⁰	\$ 3700 ⁰⁰
⑥ Furnish & Install 6' wide mono. conc. C.G. & SW (Drive-Over)	689 LF	\$ 17 ⁰⁰	\$ 11710 ⁰⁰
⑦ Furnish & Install 8" Thick Conc. Fillets & Pans	508 SF	\$ 3 ⁰⁰	\$ 1520 ⁰⁰
⑧ Furnish & Install 6" Thick Conc. Driveway Sections	432 SF	\$ 4 ⁰⁰	\$ 1720 ⁰⁰
⑨ Furnish, place & Comp. 3" Thick H.B.P.	1233 SF	\$ 4 ⁵⁰	\$ 5550 ⁰⁰
⑩ Furnish Traffic Control	LS	\$ 1500 ⁰⁰	\$ 1500 ⁰⁰
⑪ Furnish Compliance Testing	LS	\$ 700 ⁰⁰	\$ 700 ⁰⁰
⑫ Furnish Const. Staking	LS	\$ 1000 ⁰⁰	\$ 1000 ⁰⁰
⑬ Drainage Inlet	N/A	0	0
⑭ Street Lights	3 EA	\$ 2000 ⁰⁰	\$ 6000 ⁰⁰
TOTAL CONST. COST			\$ 36970 ⁰⁰
			\$ 37000 ⁰⁰

Church - Cortland Ave.

Road Improvements Opinion of Cost Estimate:

(Removal to existing &)

Item	Quantity	Unit Cost	Total
① Clearing	LS	\$1,000 ⁰⁰	\$1,000 ⁰⁰
② Excavation	553 CY	\$1 ²⁵	\$670 ⁰⁰
③ Subgrade Prep.	1,244 SY	\$0 ⁸⁰	\$1,000 ⁰⁰
④ Furnish, place & Comp. 6" Thick class (6) under SW	Incl. in ⑥		
⑤ Furnish, place & Comp. 12" ^{8"} Thick class (6) under H.B.P.	875 SY	\$3 ⁰⁰	\$2,630 ⁰⁰
⑥ Furnish & Install 6" wide mono. conc. C.G. & SW (INCL. B.M. & Drive-Over)	440 LF	\$17 ⁰⁰	\$7,480 ⁰⁰
⑦ Furnish & Install 8" Thick Conc. Fillets & Pans	N/A		
⑧ Furnish & Install 6" ^{8"} Thick Conc. Driveway Sections	216 SF	\$4 ⁰⁰	\$860 ⁰⁰
⑨ Furnish, place & Comp. 4" ^{3"} Thick H.B.P.	875 SY	\$4 ⁵⁰	\$3,940 ⁰⁰
⑩ Furnish Traffic Control	LS	\$1,000 ⁰⁰	\$1,000 ⁰⁰
⑪ Furnish Compliance Testing	LS	\$500 ⁰⁰	\$500 ⁰⁰
⑫ Furnish Const. Staking	LS	\$700 ⁰⁰	\$700 ⁰⁰
⑬ Drainage Inlet	LS	\$1,000 ⁰⁰	\$1,000 ⁰⁰
⑭ Street Lights	1 EA	\$2,000 ⁰⁰	\$2,000 ⁰⁰
TOTAL CONST. COST			\$22,800 ⁰⁰
		Say	\$23,000 ⁰⁰

PROMISSORY NOTE

U.S. \$51,500.00
Grand Junction, Mesa County, Colorado

January 1, 1992

1. FOR VALUE RECEIVED, the undersigned First Presbyterian Church (Borrower) promises to pay to The City of Grand Junction, or order, (Note Holder) the principal sum of fifty one thousand five hundred and no/100 U.S. Dollars, with interest thereon from January 1, 1992, until paid, at the rate of nine percent (9%) per annum; Principal and interest shall be payable at 250 North Fifth Street, Grand Junction, Colorado, 81501, or at such other location as Holder may designate, in equal monthly payments of six hundred fifty two dollars and thirty-nine (\$652.39) due on February 1, 1992 and the first of each month thereafter until paid in full. Such payments shall continue until the entire indebtedness evidenced by this Note is fully paid; provided, however, if not sooner paid, the entire principal amount outstanding and accrued interest thereon, shall be due and payable on January 1, 2002.

2. Borrower shall pay to the Note Holder a late charge of TEN PERCENT (10%) of any payment not received by the Note Holder within fifteen days after the payment is due.

3. Payments received for application to this Note shall be applied first to the payment of late charges, if any, second to the payment of accrued interest specified above, and the balance applied in reduction of the principal amount hereof.

4. If any payment required by this Note is not paid when due, the entire principal amount outstanding and accrued interest thereon shall become due and payable at the option of the Note Holder (Acceleration) twenty days after notice of Acceleration has been given. Such notice of Acceleration shall specify the amount of the nonpayment plus any unpaid late charges and other costs, expenses and fees due under this Note. Until the expiration of said twenty-day period, the Borrower may cure all defaults consisting of a failure to make required payments by tendering the amounts of all unpaid sums due at the time of tender, without Acceleration, as specified by the Note Holder in such notice. Cure restores the Borrower to his rights under this Note as though defaults had not occurred. Any defaults under this Note occurring within twelve months after the Note Holder has once given a notice of Acceleration, entitles Borrower to no right to cure, except as otherwise provided by law. The Note Holder shall be entitled to collect all reasonable costs and expense of collection and/or suit, including, but not limited to reasonable attorney's fees.

5. Borrower may prepay the principal amount outstanding under this Note, in whole or in part, at any time without penalty. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent payments or change the amount of such payments.

6. Borrower and all other makers, sureties, guarantors, and endorsers hereby waive presentment, notice of dishonor and protest, and they hereby agree to any extensions of time of payment and partial payments before, at, or after maturity. This Note shall be the joint and several obligation of Borrower and all other makers, sureties, guarantors and endorsers, and their successors and assigns.

7. Any notice to Borrower provided for in this Note shall be in writing and shall be given and be effective upon (1) delivery to Borrower or (2) mailing such notice by first-class U.S. mail, addressed to Borrower at the Borrower's address stated below, or to such other address as Borrower may designate by notice to the Note Holder. Any notice to the Note Holder shall be in writing and shall be given and be effective upon (1) delivery to Note Holder or (2) by mailing such notice by first-class U.S. mail, to the Note Holder at the address stated in the first paragraph of this Note, or to such other address as Note Holder may designate by notice to Borrower.

Borrower's address is 622 White Avenue, Grand Junction, CO, 81501.

FIRST PRESBYTERIAN CHURCH, a Colorado non-profit Corporation.

BY: John C. Bachelder 12-23-91
President

ATTEST:

Jim [Signature] 12/31/91
Secretary

RELEASE OF OBLIGATION

WHEREAS, on the 12 date of June 1996,
First Presbyterian Church
622 White Av, Grand Jct.
duly recorded in the County of Mesa, State of Colorado,
in the office of the County Clerk and Recorder in
Book 1876 at Page(s) 338-345, an obligation to pay
certain monies, the obligation affecting lands in said
County, described First Presbyterian Church
622 White Av.

WHEREAS, the obligation has been paid in full, and
the lien against the property should be released.

NOW, THEREFORE, the obligation evidenced by the
recorded documents is hereby released as the amount of
the obligation has been paid in full.

CITY OF GRAND JUNCTION/
COUNTY OF MESA

By: 

Finance Director of the
City of Grand Junction/
Operator of the City/
County Sewerage System.