

JDA96VME

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	DEVELOPMENT IMPROVEMENTS AGREEMENT
NAME OF CONTRACTOR:	JOHN DAVIS
PROJECT/SUBDIVISION:	VALLEY MEADOWS EAST SUBDIVISION FILINGS 1, 2 AND 3
ADDRESS:	25 1/2 AND F 1/2 ROAD
TAX PARCEL NO:	2945-031-00-155
FILE #:	FPP-96-138
CITY DEPARTMENT:	PUBLIC WORKS AND PLANNING
YEAR:	1996
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are John Davis ("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 Valley Meadows East Subdivision, Filings No. 1 & 2 plat.

RECITALS

The Developer seeks permission to develop property within the City to be known as Valley Meadows East Sub. Filing No. 1&2, 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 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 shall construct the Improvements according to the standards and specifications required by the City Engineer or as adopted by the City.

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 one year from the Effective Date of this Agreement (the "Completion Period").

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

9. **Notice of Defect:** The Developer's Engineer shall 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

RECORDED FOR COMMUNITY DOCUMENT

development application or is otherwise defective. The developer will have thirty (30) days from the issuance of such notice to 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 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 nor 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, or alleged to be received or sustained, by any person or entity in connection with, or on account of, any act or failure to act concerning 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 in an action concerning the performance of work or the failure to perform work pursuant to this Agreement. 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 shall be properly notarized before it shall be deemed 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; any City obligation under this section shall be subject to the overriding provisions of section 15, above. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker, subject to the overriding provisions of section 15, above.

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 a court or courts of competent jurisdiction 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/burdens:** 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 shall 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: John Davis
1023 24 Road
Grand Junction, CO 81505

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

25. **Recordation:** Developer shall pay for all 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 immunity under any applicable 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, Colorado. 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. **Improvements guarantee.** The improvements guarantee required by the City to ensure that the improvements described in the improvements agreement are constructed to City standards may be in one of the following forms: (If I or II, then attach as Exhibit C.)

- XX (I) disbursement agreement between a bank doing business in Mesa County and the City, or
- _____ (II) a good and sufficient letter of credit acceptable to the City, or
- _____ (III) depositing with the City cash equivalent to the estimated cost of construction of the improvements under the following terms:
 - (a) The Finance Department of the City may act as disbursing agent for disbursements to Developer's contractor(s) as required improvements are completed and accepted if agreed to in writing pursuant to a disbursement agreement; and
 - (b) The Finance Department of the City will disburse any deposit or any portion thereof, with no more than three checks, at no charge. If disbursements are made in excess of three checks, the developer will be charged \$100 per transaction for every transaction in excess of three.

29. Conditions of Acceptance.

- a. 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. "Acceptance by the City" means a separate writing wherein the City specifies which improvements have been accepted and the date from which warranty(ies) shall run.
- b. Prior to requesting final acceptance of any street, storm drainage facility, or other required improvement(s), the Developer shall: (i) furnish 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 specifications; (ii) provide 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 improvements have been constructed, or which are necessary for the improvements, are free from toxic, hazardous or other regulated substances or materials; (iii) provide written evidence to the City Engineer that the title to lands underlying the improvements are merchantable and free and clear from all liens and encumbrances, except those liens and encumbrances which may be approved in writing by the City Engineer.

30. 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.

William M. Portman 10/14/96
 Director of Community Development Date

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

[Signature] 10-2-96
 Developer Date
 (If Corporation, to be signed by President and attested to by Secretary together with the Corporate seals)

Exhibit A

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

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LEGAL FOR TX PARCEL # 2945-031-00-155

real property, in the County of MESA, and State of Colorado, to wit:

A tract of land located in a part of the SW 1/4 NE 1/4 of Section 3, Township 1 South, Range 1 West of the Ute Meridian, being more particularly described as follows: Beginning at the Northwest corner of the SW 1/4 NE 1/4 of said Section 3, thence South 89°58'24" East along the North line of the SW 1/4 NE 1/4 of said Section 3 a distance of 796.70 feet, thence South 00°02'42" West 399.30 feet, thence South 29°56'46" East 195.69 feet, thence South 00°27'24" East 347.36 feet to the centerline of the existing Main Line Grand Valley Canal, thence along said centerline of the existing Main Line Grand Valley Canal, by the following two courses and distances: North 70°15'39" West 74.82 feet, thence North 77°05'13" West 847.86 feet to a point on the West line of the SW 1/4 NE 1/4 of said Section 3, thence North 00°00'00" East along said West line of the SW 1/4 NE 1/4 of Section 3, a distance of 701.84 feet to the Point of Beginning, EXCEPT the West 25 feet for road right of way, Mesa County, Colorado.

*Volley Meadows East Subdivision, Tracts 1 and 2,
Mesa County, Colorado*

RECORDED NOTE: POOR QUALITY DOCUMENT
SEE NOTE RE: REPRODUCTION

EXHIBIT "B"

IMPROVEMENTS LIST/DETAIL
(Page 1 of 3)

DATE: 6-21-96

NAME OF DEVELOPMENT: Valley Meadows East Subdivision Filing No. 1 (on-site)

LOCATION: 25 1/2 RD 9, E 1/2 RD

PRINTED NAME OF PERSON PREPARING: WEI LI < Rolland Engineering >

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	<u>Included in Street Quantity</u>			
2. Cut and remove asphalt	<u>NA</u>			
3. PVC sanitary sewer main (incl. 8") trenching, bedding & backfill)	<u>LF</u>	<u>1200</u>	<u>18⁰⁰</u>	<u>21,600⁰⁰</u>
4. Sewer Services (incl. trenching, 4" bedding, & backfill)	<u>LF</u>	<u>800</u>	<u>12⁰⁰</u>	<u>9,600⁰⁰</u>
5. Sanitary sewer manhole(s)	<u>EA</u>	<u>6</u>	<u>1500⁰⁰</u>	<u>9,000⁰⁰</u>
6. Connection to existing manhole(s)	<u>EA</u>	<u>1</u>	<u>250⁰⁰</u>	<u>250⁰⁰</u>
7. Aggregate Base Course	<u>NA</u>			
8. Pavement replacement	<u>NA</u>			
9. Driveway restoration	<u>NA</u>			
10. Utility adjustments	<u>NA</u>			
II. DOMESTIC WATER				
1. Clearing and grubbing	<u>Included in street Quantity</u>			
2. Cut and remove asphalt	<u>NA</u>			
3. Water Main (incl. excavation, 8" bedding, backfill, valves and appurtenances)	<u>LF</u>	<u>900</u>	<u>18⁰⁰</u>	<u>16,200⁰⁰</u>
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	<u>LF</u>	<u>260</u>	<u>12⁰⁰</u>	<u>3,120⁰⁰</u>
5. Connect to existing water line	<u>EA</u>	<u>1</u>	<u>250⁰⁰</u>	<u>250⁰⁰</u>
6. Aggregate Base Course	<u>NA</u>			
7. Pavement Replacement	<u>NA</u>			
8. Utility adjustments	<u>NA</u>			
III. STREETS				
1. Clearing and grubbing	<u>LS</u>	<u>1</u>	<u>1500⁰⁰</u>	<u>1,500⁰⁰</u>
2. Earthwork, including excavation and embankment construction	<u>C.V.</u>	<u>4,980</u>	<u>2⁰⁰</u>	<u>9,960⁰⁰</u>
3. Utility relocations	<u>NA</u>			

Filing NO. 1 (on site)


(Page 2 of 2)

	u. s	T. 2	u. s	TOTAL
4. Aggregate sub-base course (square yard)	NA			
5. Aggregate base course (square yard) < 6" class 6 >	S.Y.	4100	3 ⁰⁰	12300 ⁰⁰
6. Sub-grade stabilization	NA			
7. Asphalt or concrete pavement (square yard) < 3" H.B.P. >	S.Y.	2670	4 ⁵⁰	12015 ⁰⁰
8. Curb, gutter & sidewalk (linear feet) < 6.5' wide >	L.F.	1460	15 ⁰⁰	21900 ⁰⁰
9. Driveway sections (square yard)	NA			
10. Crossspans & fillets & Handicap Ramp	S.F.	2070	3 ⁰⁰	6210 ⁰⁰
11. Retaining walls/structures	NA			
12. Storm drainage system	L.S.	1	5000 ⁰⁰	5000 ⁰⁰
13. Signs and other traffic control devices	L.S.	1	300 ⁰⁰	300 ⁰⁰
14. Construction staking	L.S.	1	2500 ⁰⁰	2500 ⁰⁰
15. Dust control	L.S.	1	1000 ⁰⁰	1000 ⁰⁰
16. Street lights (each)	EA	2	500 ⁰⁰	1000 ⁰⁰
IV. LANDSCAPING				
1. Design/Architecture	NA			
2. Earthwork (includes top soil, fine grading, & berming)	NA			
3. Hardscape features (includes walls, fencing, and paving)	NA			
4. Plant material and planting	L.S.	1	575 ⁰⁰	575 ⁰⁰ *
5. Irrigation system	L.S.	1	7,000 ⁰⁰	7,000 ⁰⁰ *
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture) ENTRANCE SIGN	EA	1	500 ⁰⁰	500 ⁰⁰ *
7. Curbing	NA			
8. Retaining walls and structures	NA			
9. One year maintenance agreement	NA			
V. MISCELLANEOUS				
1. Design/Engineering	NA			
2. Surveying	L.S.	1	3000 ⁰⁰	3000 ⁰⁰
3. Developer's inspection costs	L.S.	1	1000 ⁰⁰	1000 ⁰⁰
4. Quality control testing	L.S.	1	3000 ⁰⁰	3000 ⁰⁰
5. Construction traffic control	L.S.	1	1000 ⁰⁰	1000 ⁰⁰
6. Rights-of-way/Easements	NA			

Filing No. 1
(On-site)

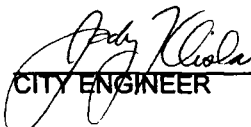
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7. City inspection fees	LS	1	1,200 ⁰⁰	1200 ⁰⁰
8. Permit fees	NA			
9. Recording costs	"			
10. Bonds - 25 1/2 RD. FENCE	LF	600 Ft.	7.50/LF	4500 ⁰⁰
11. Newsletters Contingency	LS	1	5000	5000
12. General Construction Supervision / Engr.	LS	1	4000 ⁰⁰	4000 ⁰⁰
13. Other Fire Hydrant	EA	1	1500 ⁰⁰	1500 ⁰⁰
14. Other As-Built Plans	LS	1	1000 ⁰⁰	1000 ⁰⁰
15. " Irrigation tailwater pipe	LS	685	12 ⁰⁰	8220 ⁰⁰
16. " " manhole	EA	2	1,250 ⁰⁰	2500 ⁰⁰
TOTAL ESTIMATED COST OF IMPROVEMENTS:			\$	179,950.00




 SIGNATURE OF DEVELOPER DATE 10-2-96
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

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 10-4-96



 COMMUNITY DEVELOPMENT DATE 10/4/96

IMPROVEMENTS LIST/DETAIL
(Page 1 of 3)

DATE: 6-21-96
 NAME OF DEVELOPMENT: Valley Meadows East Subdivision Filing No. 1 (off-site)
 LOCATION: 25 1/2 RD & F 1/2 RD
 PRINTED NAME OF PERSON PREPARING: WEL LI < Rolland Engineering >

	UNITS	TOTAL QTY	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	NA			
2. Cut and remove asphalt	S.F.	120	2 ⁰⁰	240 ⁰⁰
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	Included	in "on-site" Quantity		
4. Sewer Services (incl. trenching, bedding, & backfill)	NA			
5. Sanitary sewer manhole(s)	NA			
6. Connection to existing manhole(s)	NA			
7. Aggregate Base Course	NA			
8. Pavement replacement	S.F.	120	4 ⁰⁰	480 ⁰⁰
9. Driveway restoration	NA			
10. Utility adjustments	NA			
II. DOMESTIC WATER				
1. Clearing and grubbing	NA			
2. Cut and remove asphalt	S.F.	180	2 ⁰⁰	360 ⁰⁰
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)	Included	in "on-site" Quantity		
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	NA			
5. Connect to existing water line	Included	in "on-site" Quantity		
6. Aggregate Base Course	NA			
7. Pavement Replacement	S.F.	180	4 ⁰⁰	720 ⁰⁰
8. Utility adjustments	NA			
III. STREETS				
1. Clearing and grubbing	L.S.	1	500 ⁰⁰	500 ⁰⁰
2. Earthwork, including excavation and embankment construction	NA			
3. Utility relocations	NA			

4. Aggregate sub-base course (square yard)	NA			
5. Aggregate base course (square yard)	SY	560	3 ⁰⁰	1680 ⁰⁰
6. Sub-grade stabilization	NA			
7. Asphalt or concrete pavement (square yard) < 5" HBP >	SY	510	8 ⁰⁰	4080 ⁰⁰
8. Curb, gutter & sidewalk (linear feet) < 7' wide >	LF	590	17 ⁰⁰	10030 ⁰⁰
9. Driveway sections (square yard)	NA			
10. Crosspans & fillets & Handicap Ramp	SF	1225	3 ⁰⁰	3675 ⁰⁰
11. Retaining walls/structures	NA			
12. Storm drainage system	NA			
13. Signs and other traffic control devices	LS	1	1000 ⁰⁰	1000 ⁰⁰
14. Construction staking	LS	1	2000 ⁰⁰	2000 ⁰⁰
15. Dust control	LS	1	1000 ⁰⁰	1000 ⁰⁰
16. Street lights (each)	NA			
IV. LANDSCAPING				
1. Design/Architecture	NA			
2. Earthwork (includes top soil, fine grading, & berming)	NA			
3. Hardscape features (includes walls, fencing, and paving)				
4. Plant material and planting	NA			
5. Irrigation system	NA			
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)	NA			
7. Curbing	NA			
8. Retaining walls and structures	NA			
9. One year maintenance agreement	NA			
V. MISCELLANEOUS				
1. Design/Engineering	NA			
2. Surveying	NA			
3. Developer's inspection costs	LS	1	1000 ⁰⁰	1000 ⁰⁰
4. Quality control testing	LS	1	2000 ⁰⁰	2000 ⁰⁰
5. Construction traffic control	LS	1	1000 ⁰⁰	1000 ⁰⁰
6. Rights-of-way/Easements	NA			

Filing No. 1
(off-site)

(Page 3 of 3)

7. City inspection fees	LS	1	1000 ⁰⁰	1000⁰⁰
8. Permit fees	NA			
9. Recording costs				
10. Bonds				
11. Newsletters				
12. General Construction Supervision	Engr. LS	1	2500 ⁰⁰	2500 ⁰⁰
13. Other	Contingency		1000 ⁰⁰	1000 ⁰⁰
14. Other				

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 34,265⁰⁰

[Signature] 10-2-96
 SIGNATURE OF DEVELOPER DATE
 (If corporation, to be signed by President and attested by Secretary together with the corporate seals.)

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.

[Signature] 10-4-96
 CITY ENGINEER DATE

[Signature] 10/4/96
 COMMUNITY DEVELOPMENT DATE

EXHIBIT "B"

IMPROVEMENTS LIST/DETAIL
(Page 1 of 3)

DATE: 6-21-96
 NAME OF DEVELOPMENT: Valley Meadows East Subdivision - Filing No. 2
 LOCATION: 25 1/2 RD & E 1/2 RD
 PRINTED NAME OF PERSON PREPARING: WFE LE (Rolland Engineering)

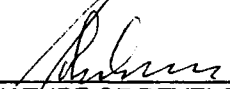
	UNITS	TOTAL QTY	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	<u>Included in Street Quantity</u>			
2. Cut and remove asphalt	NA			
3. PVC sanitary sewer main (incl. trenching, bedding & backfill) <u>(8")</u>	LF	375	18 ⁰⁰	6750 ⁰⁰
4. Sewer Services (incl. trenching, bedding, & backfill) <u>(4")</u>	LF	252	12 ⁰⁰	3024 ⁰⁰
5. Sanitary sewer manhole(s)	EA	1	1500 ⁰⁰	1500 ⁰⁰
6. Connection to existing manhole(s)	EA	1	250 ⁰⁰	250 ⁰⁰
7. Aggregate Base Course	NA			
8. Pavement replacement	NA			
9. Driveway restoration	NA			
10. Utility adjustments	NA			
II. DOMESTIC WATER				
1. Clearing and grubbing	<u>Included in Street Quantity</u>			
2. Cut and remove asphalt	NA			
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances) <u>(8")</u>	LF	740	18 ⁰⁰	13320 ⁰⁰
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	LF	210	12 ⁰⁰	2520 ⁰⁰
5. Connect to existing water line	EA	2	250 ⁰⁰	500 ⁰⁰
6. Aggregate Base Course	NA			
7. Pavement Replacement	NA			
8. Utility adjustments	NA			
III. STREETS				
1. Clearing and grubbing	LS	1	1000 ⁰⁰	1000 ⁰⁰
2. Earthwork, including excavation and embankment construction	C.Y.	30	2 ⁰⁰	60 ⁰⁰
3. Utility relocations	NA			

(Page 2 of 2)



4. Aggregate sub-base course (square yard)	NA			
5. Aggregate base course (square yard) < 6" class 6 >	SY	2760	3 ⁰⁰	8280 ⁰⁰
6. Sub-grade stabilization	NA			
7. Asphalt or concrete pavement (square yard) < 3" H.B.P >	SY	1840	4 ⁵⁰	8280 ⁰⁰
8. Curb, gutter & sidewalk (linear feet) < 6.5' wide >	LF	1180	15 ⁰⁰	17700 ⁰⁰
9. Driveway sections (square yard)	NA			
10. Crosspans & fillets	NA			
11. Retaining walls/structures	NA			
12. Storm drainage system	LS	1	5000 ⁰⁰	5000 ⁰⁰
13. Signs and other traffic control devices	LS	1	300 ⁰⁰	300 ⁰⁰
14. Construction staking	LS	1	2500 ⁰⁰	2500 ⁰⁰
15. Dust control	LS	1	1000 ⁰⁰	1000 ⁰⁰
16. Street lights (each)	EA	2	500 ⁰⁰	1000 ⁰⁰
IV. LANDSCAPING				
1. Design/Architecture	NA			
2. Earthwork (includes top soil, fine grading, & berming)	Included in Street Quantity			
3. Hardscape features (includes walls, fencing, and paving)	NA			
4. Plant material and planting (GAASS)	L.S.	1	3777 ⁰⁰	3777 ⁰⁰
5. Irrigation system	L.S.	1	10,000 ⁰⁰	10,000 ⁰⁰
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)	EA	12	75 ⁰⁰	900 ⁰⁰
TREES - COTTONLESS COTONWOOD (1 1/2" CALIPER),				
7. Curbing	NA			
8. Retaining walls and structures	NA			
9. One year maintenance agreement	NA			
V. MISCELLANEOUS				
1. Design/Engineering	NA			
2. Surveying	LS	1	2500 ⁰⁰	2500 ⁰⁰
3. Developer's inspection costs	LS	1	1000 ⁰⁰	1000 ⁰⁰
4. Quality control testing	LS	1	3000 ⁰⁰	3000 ⁰⁰
5. Construction traffic control	LS	1	1000 ⁰⁰	1000 ⁰⁰
6. Rights-of-way/Easements	NA			

7. City inspection fees	LS	1	1200 ⁰⁰	1200 ⁰⁰
8. Permit fees	NA			
9. Recording costs				
10. Bonds				
11. Newsletters (contingency)			3000 ⁰⁰	3000 ⁰⁰
12. General Construction Supervision	Eng'r LS	1	3000 ⁰⁰	3000 ⁰⁰
13. Other Fire hydrant	LS	1	1500 ⁰⁰	1500 ⁰⁰
14. Other AS-BUILT drawings	ES	1	1000 ⁰⁰	1000 ⁰⁰
15. PARK SIGNS	EA	2	500	1000

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 105,861


 _____ 10-2-96
 SIGNATURE OF DEVELOPER DATE
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

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 _____ 10-4-96
 DATE

 COMMUNITY DEVELOPMENT _____ 10/4/96
 DATE

DISBURSEMENT AGREEMENT
(Improvements Guarantee)

9/12/96

DEVELOPER: John Davis
BANK: The Bank of Grand Junction
PROPERTY: Valley Meadows East Subdivision, Filing No. 1 & No. 2

DISBURSEMENT AMOUNT: For the construction of improvements to the Property in an amount not to exceed \$ 320,076.00.

This Agreement is entered into by and between John Davis ("Developer"),
The Bank of Grand Junction ("Bank") and the City of Grand Junction, Colorado ("City").

RECITALS

No. 1&2

Developer has been required by the City to construct certain improvements to Valley Meadows East Sub. Filing ("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 \$ 320,076.00, 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, by the signature of John Davis
_____ (name & title), 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 attorneys 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.

DISBURSEMENT AGREEMENT

Page 3 of 4

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

Dated this 2nd day of October, 1996.

(BANK) The Bank of Grand Junction

By: Cathy B. Horton, Vice President

Title

2415 F Road, Grand Junction, CO 81505
Address

(DEVELOPER)

By: John Davis
Title, owner

1023 24 Rd, Grand Junction, CO 81505
Address

CITY OF GRAND JUNCTION

By: Kathleen M. [Signature]
Director of Community Development

Pursuant to the terms of the foregoing Disbursement Agreement (Improvements Guarantee) by and between John Davis Developer, The Bank of Grand Junction 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) John Davis [Signature]
(signature)

(name) _____
(signature)

(name) _____
(signature)

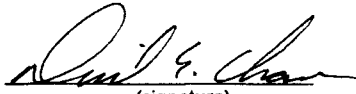
DEVELOPER'S GENERAL CONTRACTOR:

John Davis [Signature]
(name) (signature)

DISBURSEMENT AGREEMENT
Page 4 of 4

DEVELOPER'S PROJECT ENGINEER:

Banner Associates, Inc.
(name)


(signature)


DEVELOPER'S ARCHITECT:

(name)

(signature)

CITY ENGINEER:

JODY KLISKA
(name)


(signature)

July 19, 1996

RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
FILE # FPP-96-138

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated Oct. 4 1996, and recording at Book 2271, Page 379-398 of the land records of Mesa County, Colorado, by and between John Davis (Developer) and the City of Grand Junction (City) pertaining to Valley Meadows East (Project).

Legal Description:
Valley Meadows East Subdivision, Filings 1#2 as recorded in Plat Book 15 Page 179-180 and Plat Book 15 Page 181-182, Mesa County Clerk and Recorder Filings No. 1#2

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] 11/7/98
City Engineer Date
[Signature] 11/9/98
City Utilities Manager Date
[Signature] 11/19/98
Fire Marshal Date

BOOK 2530 PAGE 479

1880579 12/23/98 1043AM
MONIKA TODD CLK&REC MESA COUNTY CO
REC FEE \$5.00 SURCHG \$1.00

UTE WATER:

By: [Signature] 11/16/98
Date

GRAND JUNCTION DRAINAGE:

By: [Signature] 12/14/98
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 2271, Page 379-398 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, subject to the required warranty period.

[Signature] 12/18/98
Acting Director of Community Development Date

The foregoing instrument was executed before me this 15th day of December, 1998 by Kathleen M. Portner, Director of Community Development for the City of Grand Junction, Colorado.

Witness my hand & official seal.

[Signature]
Notary Public

My commission expires 10-10-02