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TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	DEVELOPMENT IMPROVEMENTS AGREEMENT
NAME OF CONTRACTOR:	RIDGEWOOD HEIGHTS DEVELOPMENT, LLC
PROJECT/SUBDIVISION:	RIDGEWOOD HEIGHTS SUBDIVISION
ADDRESS:	585 28 ¼ ROAD
TAX PARCEL NO:	2943-072-00-040
FILE #:	FP-2006-170
CITY DEPARTMENT:	PUBLIC WORKS AND PLANNING
YEAR:	2007
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

## DEVELOPMENT IMPROVEMENTS AGREEMENT

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

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

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

### RECITALS

The Developer seeks permission to develop property, described on Exhibit A attached and incorporated by this reference ("the Property" or "Property"). The Property, known as **585 28 1/4 Road, Grand Junction, CO 81501** has been reviewed and approved under Community Development file **#FP-2006-170** ("Development" or "the Development").

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

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

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

### DEVELOPER'S OBLIGATION

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

3a. On and after the Effective Date of this Agreement the Developer agrees to pay the City for its Administration and Inspection of the Development. The hourly rate for those services is \$45.00/hour. Administration and Inspection includes but is not limited to the time expended by the City's planner, engineer, construction inspector and attorney in directing, advising, correcting and enforcing by means other than

litigation, this agreement and/or the approved development plan. Making disbursements and calling/collecting Guarantees are Administration and Inspection services and shall be charged at \$45.00/hour. See, paragraph 19 concerning attorneys'/ litigation fees.

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

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

4. **Security:** To secure the performance of its obligations under this Agreement the Developer shall supply a guarantee. The Developer is required to post security in an amount of **\$1,487,280.84** (120% of the amount for the Improvements) in a form and with terms acceptable to the City ("Guarantee"). The Guarantee shall be in the form of a cash deposit made to the City, a letter of credit or a disbursement agreement in a form and with content approved by the City Attorney. The Guarantee specific to this Agreement is attached as Exhibit C and is incorporated by this reference as if fully set forth.

Select one: Cash \_\_\_\_ Letter of Credit (LOC)  Disbursement Agreement \_\_\_\_

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

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

6a. Upon Acceptance the Developer shall provide a Maintenance Guarantee in an amount of **\$247,880.14** (Line G2, Exhibit B, City Security).

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

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

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

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

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

Commencement Date: **02-06-2007**

Completion Date: **02-06-2008**

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

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

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

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

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

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

11. **Reduction of Security:** Upon Acceptance of any Improvement(s) the amount which the City is entitled to draw on the Guarantee shall be reduced by an amount of **\$1,239,400.70** (Line G1, Exhibit B, Total Improvement Costs).

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

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

**13. Events of Default:** The following conditions, occurrences or actions shall constitute a default by the Developer:

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

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

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

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

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

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

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

**14. Measure of Damages:** The measure of damages for breach of this Agreement by the Developer shall be the reasonable cost of satisfactorily completing the Improvements, plus reasonable expenses. Expenses may include but are not limited to

contracting costs, collection costs and the value of planning, engineering, legal and administrative staff time devoted to the collection/completion of the Improvements. For Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit B shall be *prima facie* evidence of the minimum cost of completion; however, the maximum amount of the Developer's liability shall not be established by that amount or the amount of the Guarantee.

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

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

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

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

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

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

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

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

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

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

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

19. **Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. The City shall be entitled to claim the value of its in-house attorneys at the rate of \$125.00 per hour. If relief is awarded to both parties the attorney's fees may be equitably divided between the parties by the decision maker.

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

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

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

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

24. **Severability:** If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or

unenforceability shall not affect the validity of any other part, term or provision. The rights of the parties shall be construed as if the part, term or provision was never part of the Agreement.

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

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

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

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

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

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

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

If to Developer: **Jeff Davis/Ridgewood Heights Development, LLC.**

Name -Developer/Company

**2139 N. 12<sup>th</sup> St., Suite 9**

Address (Street and Mailing)

**Grand Junction, CO 81501**

City, State & Zip Code

**(970) 255-8955**

Telephone and Fax Numbers

**(970) 255-8966**

E-mail [jdavis2@qwest.net](mailto:jdavis2@qwest.net)

Cc: [ldaly@bresnan.net](mailto:ldaly@bresnan.net)  
[wuphold@bresnan.net](mailto:wuphold@bresnan.net)  
[ilangford@tlcwest.com](mailto:ilangford@tlcwest.com)



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

Cc: Community Development Department  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

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

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

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

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

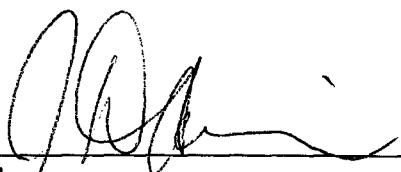
30. **Liability before Acceptance:** The City shall have no responsibility or liability with respect to any street or other Improvement(s), notwithstanding the use of the same by the public, unless the street or other Improvement shall have received Acceptance by the City.

30a. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on the side of the street nearest the property to enable an initial two-way traffic operation without on-street parking.

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

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

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

By:  2/6/2007  
 Developer Date  
**Jeff Davis**  
 Name (printed)

Corporate Attest:

\_\_\_\_\_  
 Name Date

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

 8-20-07  
 Community Development Dept. Date

6/13/2003

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

**EXHIBIT A**

The Ridgewood Heights subdivision, a replat of Lot 1 Laurel Subdivision, in the  
County of Mesa, State of Colorado

**EXHIBIT B  
RIDGEWOOD HEIGHTS SUBDIVISION  
IMPROVEMENTS COST ESTIMATE**

**RECEIVED**

NOV 15 2006

COMMUNITY DEVELOPMENT  
DEPT.

DATE: 11/07/2006  
DEVELOPMENT NAME: COUNTRYPLACE ESTATES  
LOCATION: SECTION 17, T. 1 S., R. 1 E., UTE MERIDIAN  
PRINTED NAME OF PERSON PREPARING: JAMES E. LANGFORD

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>A. SANITARY SEWER</b>					
1	8" PVC SDR-35 Sanitary Sewer Main	LF	2675	\$ 17.00	\$ 45,475.00
2	" PVC Sanitary Sewer Main	LF			\$ -
3	4" PVC Sanitary Sewer Service Line	LF	3052	\$ 13.75	\$ 41,965.00
4	Sewer Services	EA	71	\$ 25.00	\$ 1,775.00
5	Sanitary Sewer Manhole	EA	16	\$ 1,200.00	\$ 19,200.00
6	Sanitary Sewer Drop Manhole	EA	1	\$ 1,700.00	\$ 1,700.00
7	Manhole over Existing Line	EA	1	\$ 1,800.00	\$ 1,800.00
8	Concrete Encasement	LF			\$ -
<b>Subtotal Part A Sanitary Sewer</b>					<b>\$ 111,915.00</b>
<b>B. DOMESTIC WATER</b>					
1	8" PVC Water Main	LF	1551	\$ 18.00	\$ 27,918.00
2	6" PVC Water Main	LF	52	\$ 14.50	\$ 754.00
3	4" PVC Water Main	LF	494	\$ 13.75	\$ 6,792.50
4	8" Gatevalve	EA	6	\$ 700.00	\$ 4,200.00
5	6" Gatevalve	EA	4	\$ 550.00	\$ 2,200.00
6	4" Gatevalve	EA	2	\$ 450.00	\$ 900.00
7	8" Fittings (Including Thrustblocks)	EA	12	\$ 300.00	\$ 3,600.00
8	4" Fittings (Including Thrustblocks)	EA	5	\$ 250.00	\$ 1,250.00
9	Water Services	EA	71	\$ 230.00	\$ 16,330.00
10	3/4" Copper Service Line	EA	3030	\$ 11.50	\$ 34,845.00
11	Connect to Existing Water Line	EA	1	\$ 350.00	\$ 350.00
12	Fire Hydrant assembly	EA	4	\$ 2,100.00	\$ 8,400.00
13	Utility Adjustments	EA			\$ -
14	Blowoff	EA	2	\$ 350.00	\$ 700.00
<b>Subtotal Part B - Domestic Water</b>					<b>\$ 108,239.50</b>

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>C1</b>	<b>STREETS</b>				
1	" PVC Utility/Irrigation sleeves	LF			\$ -
2	" PVC Utility/Irrigation sleeves	LF			\$ -
3	Reconditioning	SY			\$ -
4	Aggregate Base Course (Class 3)	TN			\$ -
5	Aggregate Base Course (Class 6) (11" Compacted Thickness)	SY	7199	\$ 9.00	\$ 64,791.00
6	Aggregate Base Course (Class 6) (9" Compacted Thickness)	SY			\$ -
7	Aggregate Base Course (Class 6) (6" Compacted Thickness)	SY	2872	\$ 4.50	\$ 12,924.00
8	Hot Bituminous Paving, Grading (3" thick)	SY	6970	\$ 9.00	\$ 62,730.00
9	Hot Bituminous Paving, Grading (4" thick)	SY			\$ -
10	Hot Bituminous Paving, Patching (.4" Thick)	SY	925	\$ 18.00	\$ 16,650.00
11	Geotextile	SY			\$ -
12	Concrete Curb (2.5" Wide by 6" High)	LF	10	\$ 20.00	\$ 200.00
13	5' Detached Sidewalk 4" thick	LF	10	\$ 20.00	\$ 200.00
14	Detention Area 3' Vpans	LF	110	\$ 12.50	\$ 1,375.00
15	Monolithic, Vertical Curb, Gutter and Sidewalk (7' Wide)	LF			\$ -
16	Drive Over Curb, Gutter, and Sidewalk (6.5' Wide)	LF	3485	\$ 15.00	\$ 52,275.00
17	Gravel Fines Trail (6' Wide)	LF	889	\$ 18.00	\$ 16,002.00
18	Concrete Gutter and Driveway Section (6" Thick)	SY			\$ -
19	Concrete Drainage Pan (6' Wide, 8" Thick)	LF			\$ -
20	Concrete Corner Fillet	SY			\$ -
21	Concrete Curb Ramp	SY			\$ -
22	Intersection Radii, Aprons & Pans	SY	454	\$ 42.00	\$ 19,068.00
23	Concrete Driveway (6" Thick)	SY	42	\$ 35.00	\$ 1,470.00
24	Driveway/Concrete Repair	SY			\$ -
25	Concrete Mail Box Pads	SF	294	\$ 8.50	\$ 2,499.00
26	Modular Block Retaining Walls	FF	8221	\$ 19.50	\$ 160,309.50
27	Concrete Retaining Walls	CY	75	\$ 390.00	\$ 29,250.00
28	Street Signs (Comb. Stop & Street)	EA	8	\$ 175.00	\$ 1,400.00
29	Striping (New, Remove/Replace)	LS	1	\$ 2,000.00	\$ 2,000.00
30	Street Lights	EA	8	\$ 1,200.00	\$ 9,600.00
31	"End of Road" Markers	EA			\$ -
32	Signal Construction or Reconstruction	LS			\$ -
33	Flowable Fill	CY			\$ -
34	Sleeves, " PVC	LF			\$ -

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>C2 BRIDGES</b>					
					\$ -
1	Box Culvert Pre-Cast	LS			\$ -
2	Box Culvert Cast-in-Place	LS			\$ -
3	Wingwalls	LS			\$ -
4	Parapet Wall	LS			\$ -
5	Railing (handrail, guardrail)	LS			\$ -
<b>Subtotal Part C - Streets and Bridges</b>					<b>\$ 452,743.50</b>
<b>D1 EARTHWORK</b>					
1	Mobilization	LS	1	\$ 1,500.00	\$ 1,500.00
2	Clearing and Grubbing	AC			\$ -
3	Unclassified Excavation (Including Pond & Swales) (Assum. 20% Shrink)	CY	38,237	\$ 2.00	\$ 72,474.00
4	Unclassified Embankment	CY	26,360	\$ 2.50	\$ 65,900.00
5	Excess Disposal	CY	2,630	\$ 1.50	\$ 3,945.00
6	Subgrade Preparation	SY	7,199	\$ 0.90	\$ 6,479.10
7	Silt Fence	LF	967	\$ 7.50	\$ 7,252.50
8	Inlet Protection	EA	15	\$ 300.00	\$ 4,500.00
9	Mud Traps	EA	2	\$ 400.00	\$ 800.00
10	Watering (Dust Control)	LS	1	\$ 3,000.00	\$ 3,000.00
<b>D2 REMOVALS AND RESETTING</b>					
1	Removal of Asphalt (for sanitary sewer)	SY	925	\$ 3.00	\$ 2,775.00
2	Removal of Concrete Ditch	SY	143	\$ 3.50	\$ 500.50
3	Removal of Concrete Sidewalk	SY	5.6	\$ 5.00	\$ 28.00
4	Remove Curb and Gutter	LF	10	\$ 2.50	\$ 25.00
5	Removal of Culverts	LF	63	\$ 3.00	\$ 189.00
6	Remove Structures	EA			\$ -
7	Remove Signs	EA			\$ -
8	Remove Fence	LF			\$ -
9	Adjust Inlet to Grade	EA	1	\$ 250.00	\$ 250.00
10	Adjust Valvebox	EA			\$ -
11	Relocate or Adjust Utilities	LS			\$ -
<b>D3 SEEDING AND SOIL RETENTION</b>					
1	Sod	SY			\$ -
2	Seeding (Native)	SY or AC			\$ -
3	Seeding (Bluegrass/Lawn)	SY or AC			\$ -
4	Hydraulic Seed and Mulching	SY or AC			\$ -
5	Soil Retention Blanket	SY			\$ -

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>D4</b>	<b>STORM DRAINAGE FACILITIES</b>				
1	Finish Grading (incl. Channels, Swales, and Ponds)	CY			\$ -
2	24" HDPE Storm Drain Pipe	LF	534	\$ 32.00	\$ 17,088.00
3	18" HDPE Storm Drain Pipe	LF	677	\$ 27.00	\$ 18,279.00
4	12" HDPE Storm Drain Pipe	LF	141	\$ 16.00	\$ 2,256.00
5	24" Flared End Section	EA		\$ -	\$ -
6	18" Flared End Section	EA	2	\$ 450.00	\$ 900.00
7	48" Storm Drain Manhole	EA	1	\$ 2,200.00	\$ 2,200.00
8	60" Storm Drain Manhole	EA	8	\$ 2,600.00	\$ 20,800.00
9	72" Storm Drain Manhole	EA		\$ -	\$ -
10	CDOT Type C Inlet	EA	1	\$ 2,100.00	\$ 2,100.00
11	CDOT Type R Inlet (L=10')	EA	1	\$ 3,500.00	\$ 3,500.00
12	CDOT Type R Inlet (L=5')	EA	1	\$ 3,000.00	\$ 3,000.00
13	Double Curb Opening Storm Drain Inlet	EA	2	\$ 2,800.00	\$ 5,600.00
14	Area Storm Drain Inlet (GJ D-11)	EA	3	\$ 1,800.00	\$ 5,400.00
15	6" Drain Line	LF	34	\$ 11.00	\$ 374.00
16	6" Inline Drains	EA	5	\$ 75.00	\$ 375.00
17	18"x6" Tees	EA	4	\$ 150.00	\$ 600.00
18	Detention Area Outlet structure	EA	1	\$ 2,500.00	\$ 2,500.00
19	Rip-Rap "6" RENO" Mattresses W/Mirafi 140N	SY	42	\$ 38.00	\$ 1,596.00
20	Sidewalk Trough Drain	EA	1	\$ 1,500.00	\$ 1,500.00
21	4' Cobble Swale w/Mirafi 140N	LF	2090	\$ 7.50	\$ 15,675.00
22	6' Cobble Swale w/Mirafi 140N	LF	485	\$ 11.00	\$ 5,335.00
	<b>Subtotal Part D - Grading and Drainage</b>				<b>\$ 278,696.10</b>

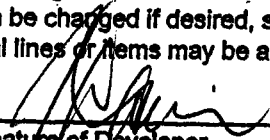
Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>E1</b>	<b>IRRIGATION</b>				
1	Connect to Existing Pipe	LS		\$ -	\$ -
2	18" RCP	LF	20	\$ 35.00	\$ 700.00
2	15" SDR-35 PVC	LF	113	\$ 22.00	\$ 2,486.00
4	Irrigation Manhole	EA		\$ -	\$ -
5	Irrigation Stand Pipe w/ Redwood Lid	EA	2	\$ 2,000.00	\$ 4,000.00
6	4" CL200 PVC Irrig. Line	LF		\$ -	\$ -
7	4" PVC Bends, Tees, Caps	EA		\$ -	\$ -
8	4" Gate Valve w/ Box	EA		\$ -	\$ -
9	2" CL-200 Irrig. Line	LF		\$ -	\$ -
12	1 1/2" SCH-40 PVC Irrig. Service w/ Fittings	LF		\$ -	\$ -
13	1 1/2" Services	EA		\$ -	\$ -
14	Pump House & Sump (by others)	LS		\$ -	\$ -
<b>E2</b>	<b>LANDSCAPING</b>				
1	Plant Materials & Planting	LS	1	\$ 70,014.00	\$ 70,014.00
2	Open Space Landscape Sprinkler System	LS	1	\$ 68,820.00	\$ 68,820.00
3	Curbing/Metal Edging	LF	75	\$ 5.00	\$ 375.00
4	6' PVC Fencing	LF	1659	\$ 38.00	\$ 63,042.00
5	1 Year Maintenance Agmnt.	LS	0	incl.	\$ -
6					
7					
8					
9					
10					
<b>E</b>	<b>Subtotal Part E - Landscaping and Irrigation</b>				<b>\$ 209,437.00</b>
	<b>Subtotal Construction Costs</b>				<b>\$ 1,161,031.10</b>



Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
<b>F. Miscellaneous Items</b>					
1	Construction staking/surveying	%	2.00%	\$ 1,161,031.10	\$ 23,220.62
2	Developer's inspection cost	%	1.50%	\$ 1,161,031.10	\$ 17,415.47
3	General construction supervsn	%		\$ 1,161,031.10	\$ -
4	Quality control testing	%	2.00%	\$ 1,161,031.10	\$ 23,220.62
5	Construction traffic control	%		\$ 1,161,031.10	\$ -
6	City inspection fees	%	0.50%	\$ 1,161,031.10	\$ 5,805.16
7	As-builts	%	0.75%	\$ 1,161,031.10	\$ 8,707.73
<b>E Subtotal Part F - Miscellaneous Items</b>					<b>\$ 78,369.60</b>
% = Percentage of total site construction costs					
<b>G. COST SUMMARY</b>					
<b>1 Total Improvement Costs</b>					<b>\$ 1,239,400.70</b>
<b>2 City Security (20%)</b>					<b>\$ 247,880.14</b>
<b>3 Total Guarantee Amount</b>					<b>\$ 1,487,280.84</b>


**NOTES**

- All prices shall be for items complete in place and accepted.
- All pipe prices shall include excavation, pipe, bedding, backfill, and compaction.
- Water main shall include pipe, excavation, bedding, backfill, bends, and appurtenances not itemized elsewhere.
- All concrete items shall include Aggregate Base Course where required by the drawings.
- Fill in the pipe type for irrigation pipe and sleeves.
- Reconditioning shall be calculated to at least 6" outside of back of walk on both sides.
- Units can be changed if desired, simply annotate what is used.
- Additional lines or items may be added as needed.

  
 Signature of Developer 11-15-06  
 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 construction drawings submitted to date and the current cost of construction, I take no exception to the above.

  
 City Development Engineer 2/7/07  
 Date

  
 Community Development 2-20-07  
 Date



**WELLS FARGO BANK, N.A.**

**TRADE SERVICES DIVISION - STANDBY LETTER OF CREDIT UNIT**

One Front Street, 21st Floor, San Francisco, California 94111

Phone: (800) 798-2815 Option 1; Fax: (415) 296-8905; E-Mail: [sftrade@wellsfargo.com](mailto:sftrade@wellsfargo.com)

Irrevocable Letter of Credit No.: NZS589034

Dated: January 22, 2007

Expiration: July 20, 2008

Beneficiary: City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Dear Sirs:

We hereby establish our Irrevocable Letter of Credit No.: NZS589034 in favor of the City of Grand Junction at the request and for the account of Ridgewood Heights Development LLC, 2139 N 12<sup>th</sup> St., Suite 9, Grand Junction, Colorado 81501, in the amount of U.S. Dollars One Million Four Hundred Eighty-Seven Thousand Two Hundred Eighty and Eighty-Four Cents (US\$1,487,280.84).

This Letter of Credit is subject the following terms and conditions:

- 1) it is effective upon signature;
- 2) it expires on July 20, 2008.
- 3) this Letter of Credit is available with us at our above office by payment of your sight draft(s) drawn on us and marked "Drawn under Wells Fargo Bank, N.A. Letter of Credit No.: NZS589034 dated January 22, 2007";
- 4) we have been informed but will not independently verify that this Letter of Credit is established for the use and benefit of the City of Grand Junction by reason of Ridgewood Heights Development LLC ("Developer") being obligated to pay or perform in accordance with the provisions of the Grand Junction Zoning and Development Code. The preceding sentence is inserted in this Letter of Credit for informational purposes only and will not affect, or become a part of, the terms and conditions of this Letter of Credit);
- 5) the following statement signed by a person identifying himself or herself as an authorized designee of the City of Grand Junction must accompany the sight draft;

- 6) "The undersigned, an authorized designee of the City of Grand Junction hereby certifies that Ridgewood Heights Development LLC (Developer) has failed to comply with the terms, conditions, provisions and requirements of the Grand Junction Zoning and Development Code and/or plans, specifications or agreements relating to the construction of improvements required by the City of Grand Junction. The monies received from this drawing are required to construct those improvements. The City of Grand Junction therefore requests the payment of \$\_\_\_\_\_."
- 7) except as stated above no modifications or revocations may be made by the undersigned to this Letter of Credit without the express written approval of the City's Director of Community Development or his designee;
- 8) this Letter of Credit is neither negotiable or assignable;
- 9) partial and multiple drawings are permitted under this Letter of Credit;
- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand.
- 11) this Letter of Credit is subject to the Uniform Customs and Practice For Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (the "UCP") and the laws of the State of Colorado, and, in the case of any conflict between such laws and the UCP, the laws of the State of Colorado shall control.
- 12) if any instructions accompanying a drawing under this Letter of Credit request that payment is to be made by transfer to an account with us or at another bank, we and/or such other bank may rely on an account number specified in such instructions even if the number identifies a person or entity different from the intended payee.

Very truly yours

Wells Fargo Bank, N.A.

By: \_\_\_\_\_

Name:

Title:

MIKE LIN

ASSISTANT VICE PRESIDENT



TRADE SERVICES DIVISION, NORTHERN CALIFORNIA  
ONE FRONT STREET, 21<sup>ST</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94111  
Contact Phone: 1(800) 798-2815 (Option 1)  
Email: sftrade@wellsfargo.com

**AMENDMENT TO IRREVOCABLE LETTER OF CREDIT**

City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Letter of Credit No. NZS589034  
Date: May 18, 2007  
Amendment No. 1  
Applicant: Ridgewood Heights Development LLC

This Amendment is to be considered as part of the above Letter of Credit and must be attached thereto:

The above mentioned credit is amended as follows:

This Letter of expires at our above office on July 20, 2008, but shall be automatically and successively extended without written amendment, to each January 20 and July 20 thereafter, unless you have received written notice sent by us to you at your address above by certified mail, return receipt requested or receipted express courier that we elect not to renew this Letter of Credit beyond the date specified in such notice, which date will be July 20, 2008 or any subsequent January 20 and July 20 and be at least ninety (90) calendar days after the date you receive such notice, you may release from our obligations under this Letter of Credit prior to any expiration date by returning the original Letter of Credit to us together with your written agreement to its cancellation;

All other terms unchanged

Amendment No. 1

Very truly yours

**WELLS FARGO BANK, N.A.**

By: \_\_\_\_\_  
Name: MIKE LIN  
Title: ASSISTANT VICE PRESIDENT



**WELLS FARGO BANK, N.A.**

*Trade Services - Standby Letters of Credit Operations*  
One Front Street, 21st Floor, San Francisco, California 94111

Phone: (800) 798-2815 Option 1; Fax: (415) 296-8905; E-Mail: [sftrade@wellsfargo.com](mailto:sftrade@wellsfargo.com)

**AMENDMENT TO IRREVOCABLE LETTER OF CREDIT**

City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Letter of Credit No. NZS589034  
Date: July 2, 2007  
Applicant: Ridgewood Heights  
Development LLC  
Amendment No. 2

Ladies and Gentlemen:

This Amendment is to be considered as part of the above Letter of Credit and must be attached thereto.

The following paragraph is now deleted in its entirety

- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Well Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand.

And, replaced with this following paragraph;

- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Well Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand. Failure to reach Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California by telephone after the fax demand does not affect the efficacy of the demand.

All other terms remain unchanged.

Wells Fargo Bank, N.A.

By:   
 Name: MIKE LIN  
 Title: ASSISTANT VICE PRESIDENT

**RECORDING MEMORANDUM  
Exhibit D**

City of Grand Junction  
Public Works and Planning Department  
File: #

This memorandum relates to and confirms that certain Development Improvements Agreement and/or Maintenance Guarantee concerning land in Mesa County, Colorado. The Agreement is by and between **Ridgewood Heights Development, LLC** (Developer) and the City of Grand Junction (City) pertaining to **Ridgewood Heights** (Project), located at **585 28 ¼ Road, Grand Junction, CO 81501**.

The Developer of the Project was required by law to install and construct certain public and private improvements, the completion of which was guaranteed by a Development Improvements Agreement and/or Maintenance Guarantee. The Project is required to be constructed in accordance with the approval by the City pursuant to and in accordance with the Zoning and Development Code all as more fully detailed and described in City of Grand Junction development file #**FP-2006-170**.

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

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

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

**DEVELOPER: RIDGEWOOD HEIGHTS DEVELOPMENT, LLC**

By: \_\_\_\_\_

Linda Daly

8/20/07  
Date

**CITY OF GRAND JUNCTION:**

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

\_\_\_\_\_  
Public Works & Planning Department

8-20-07

Date



July 18, 2008

Mr. Jeff Davis  
Ridgewood Heights Development, LLC  
2139 N 12<sup>th</sup> Street, Suite 9  
Grand Junction, Colorado 81501

RE: Project Name: Ridgewood Heights Development, LLC  
Project Number: FP-2006-170

Dear Mr. Davis:

An inspection of the subdivision for initial acceptance was completed on July 10, 2008. The following punch list of items needs to be completed before final acceptance of the project is granted:

Concrete

- Item 1: Grout all of the saw cuts in the ramps and pans in the subdivision.
- Item 2: Cut the expansion filler material flush with the sidewalk.
- Item 3: Replace five feet of the stone located just north of the inlet east side of Rio Grand Drive. This stone is broken right at the inlet opening.

Storm Drain System

- Item 1: Grout the inlet frames to the concrete inlet boxes.
- Item 2: Clean out all of the inlets of the collected debris.
- Item 3: Reestablish the SWMP protections for the site.

Landscaping

- Item 1: Complete the landscaping of the detention pond and the entrance to the subdivision.

Please contact Ted Eyl when the above items have been corrected.

Initial acceptance for the project will be granted when the City has received and accepted the following items:

- Item 1: Design engineer's certification for the storm water detention pond.
- Item 2: Left blank
- Item 3: One paper copy of the as-built plans for the development signed and sealed by the Engineer of Record.
- Item 4: One computer disk with the as-built plans as both XXX.dwg and XXX.dwf files.

- Item 5: Final concrete and asphalt test results, including testing and materials certifications.
- Item 6: Final engineer's inspection reports for the development.
- Item 7: A maintenance agreement
- Item 8: A financial guarantee for \$247,880.14

Please submit the above listed items soon as possible, so we can start the warranty for this project.

Sincerely,

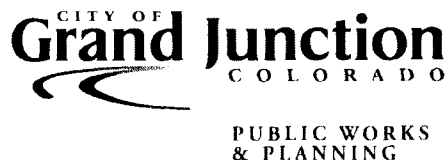
Mike Best, Project Specialist

Electronic copy:

Greg Moberg, Planning Services Supervisor  
Eric Hahn, Development Engineer  
Peggy Sharpe, Administrative Assistant  
David Van Wagoner, Street System  
Ron Key, Water Distribution System  
Ed Tolen, Ute Water Conservancy District

Ted Eyl, Development Inspector  
Shelly Dackonish, Staff Attorney  
Darren Starr, Streets Manager  
Chris Spears, Storm Drainage System  
Larry Brown, Sewage Collection System





October 7, 2008

Mr. Jeff Davis  
Ridgewood Heights Development LLC  
2139 N 12th Street  
Grand Junction, CO 81501

**RE: Notice of Initial Acceptance -**  
Project Name: Ridgewood Heights Development, LLC  
Project Number: FP-2006-170

The Developer is hereby notified that all requirements for the initial acceptance for the Project have been fulfilled. The Developer is responsible for all materials and workmanship for all of the public infrastructure improvements constructed or installed as part of the Project for one year following the initial acceptance date. Except that improvements under the jurisdiction of other entities, such as water districts and sewer districts shall be subject to the warranty requirements of those entities.

The City will conduct a warranty inspection of the project prior to the end of the one-year warranty period. The Developer will be required correct any deficiencies noted during the warranty period. If a deficient item requires replacement or major repairs the warranty for that item, the Development Improvement Agreement, the Maintenance Agreement and the full financial guarantee shall be extend by one year from the date the item is repaired or replaced.

Initial acceptance date / begin warranty period: July 10, 2008

Form of financial guarantee: Modification to the original LOC from Wells Fargo Bank  
Amount of financial guarantee: \$247,880.14

Sincerely,

Ted Eyl  
Development Inspector

EC:

Greg Moberg, Planning Services Supervisor  
Chris Spears – Storm Drainage System  
Ron Key, Water Distribution System  
Larry Brown – Sewage Collection System

David Van Wagoner – Street System  
Eric Hahn, Development Engineer  
Peggy Sharpe, Administrative Assistant  
Darren Starr, Streets Manager



**PUBLIC WORKS  
& PLANNING**

October 16, 2009

Mr. Jeff Davis  
Ridgewood Heights Development LLC  
2139 N 12th Street  
Grand Junction, CO 81501

**RE: Notice of Final Acceptance**  
Project Name: Ridgewood Heights  
Project Number: FP-2006-170

The City has conducted a warranty inspection of the project and any needed follow-up inspections. The public infrastructure improvements have been found to be in satisfactory condition. All requirements for the Final Acceptance for the project have been fulfilled. The developer's warranty obligation, for all materials and workmanship, has concluded and all warranty obligations are hereby released.

The following improvements within the public right-of-way are accepted for future maintenance by the City:

**Public streets:**

- All public streets as shown on the project plans.

**Storm drainage system:**

- Storm drain pipes, inlets, and manholes within the public right of way.

**Water distribution system:**

- Water mains, valves, and hydrants within the public right of way.

**Sanitary sewer:**

- Sewer mains and manholes within the public right of way.

The City Planner will release the Development Improvements Agreement, the Maintenance Agreement and any financial security attached to the project.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Hahn", is written over a faint, illegible typed name.

Eric Hahn, PE  
City of Grand Junction - Development Engineer

**Electronic copy:**

Greg Moberg, Planning Services Supervisor  
Shelly Dackonish, Staff Attorney  
David Van Wagoner, Street System  
Brian Rusche, Senior Planner  
Ron Key, Water Distribution System

Mark Barslund, Development Inspector  
Peggy Sharpe, Administrative Assistant  
Chris Spears, Storm Drainage System  
Larry Brown, Sewage Collection System  
Leslie Ankrum, Sr. Administrative Assistant



City Attorney

October 19, 2009

Wells Fargo Bank, N.A.  
Trade Services Division, Northern California  
One Front Street, 21<sup>st</sup> Floor  
San Francisco, CA 94111

Re: Cancellation of Letter of Credit #**NZS589034** & Amendments  
**Ridgewood Heights Development, LLC**  
Internal Reference: **Ridgewood Heights Development: FP-2006-170**

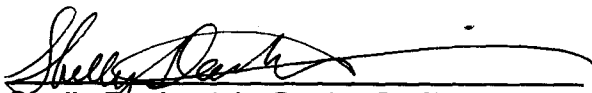
To Whom It May Concern:

Enclosed please find the original Letter of Credit #**NZS589034** & Amendments for **Ridgewood Heights Development, LLC**. As beneficiary, the City of Grand Junction informs you that the Letter of Credit & Amendments are being returned to you for cancellation. The letters are being provided at the direction of the Director of Public Works and Planning Department for the City.

If you have any questions, or need additional information, please inform me.

Sincerely,

OFFICE OF THE CITY ATTORNEY

  
Shelly Dackonish, Senior Staff Attorney

Encl. Letter of Credit #**NZS589034** & Amendments

Pc: Planning File FP-2006-170  
Peggy Sharpe, Planning

**Developer:**  
**Ridgewood Heights Development, LLC**  
**PO Box 119**  
**Fruita, CO 81521**



**WELLS FARGO BANK, N.A.**

TRADE SERVICES DIVISION - STANDBY LETTER OF CREDIT UNIT

One Front Street, 21st Floor, San Francisco, California 94111

Phone: (800) 798-2815 Option 1; Fax: (415) 296-8905; E-Mail: [sftrade@wellsfargo.com](mailto:sftrade@wellsfargo.com)

Irrevocable Letter of Credit No.: NZS589034

Dated: January 22, 2007

Expiration: July 20, 2008

Beneficiary: City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Dear Sirs:

We hereby establish our Irrevocable Letter of Credit No.: NZS589034 in favor of the City of Grand Junction at the request and for the account of Ridgewood Heights Development LLC, 2139 N 12<sup>th</sup> St., Suite 9, Grand Junction, Colorado 81501, in the amount of U.S. Dollars One Million Four Hundred Eighty-Seven Thousand Two Hundred Eighty and Eighty-Four Cents (US\$1,487,280.84).

This Letter of Credit is subject the following terms and conditions:

- 1) it is effective upon signature;
- 2) it expires on July 20, 2008.
- 3) this Letter of Credit is available with us at our above office by payment of your sight draft(s) drawn on us and marked "Drawn under Wells Fargo Bank, N.A. Letter of Credit No.: NZS589034 dated January 22, 2007";
- 4) we have been informed but will not independently verify that this Letter of Credit is established for the use and benefit of the City of Grand Junction by reason of Ridgewood Heights Development LLC ("Developer") being obligated to pay or perform in accordance with the provisions of the Grand Junction Zoning and Development Code. The preceding sentence is inserted in this Letter of Credit for informational purposes only and will not affect, or become a part of, the terms and conditions of this Letter of Credit);
- 5) the following statement signed by a person identifying himself or herself as an authorized designee of the City of Grand Junction must accompany the sight draft;

- 6) "The undersigned, an authorized designee of the City of Grand Junction hereby certifies that Ridgewood Heights Development LLC (Developer) has failed to comply with the terms, conditions, provisions and requirements of the Grand Junction Zoning and Development Code and/or plans, specifications or agreements relating to the construction of improvements required by the City of Grand Junction. The monies received from this drawing are required to construct those improvements. The City of Grand Junction therefore requests the payment of \$\_\_\_\_\_."
- 7) except as stated above no modifications or revocations may be made by the undersigned to this Letter of Credit without the express written approval of the City's Director of Community Development or his designee;
- 8) this Letter of Credit is neither negotiable or assignable;
- 9) partial and multiple drawings are permitted under this Letter of Credit;
- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand.
- 11) this Letter of Credit is subject to the Uniform Customs and Practice For Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (the "UCP") and the laws of the State of Colorado, and, in the case of any conflict between such laws and the UCP, the laws of the State of Colorado shall control.
- 12) if any instructions accompanying a drawing under this Letter of Credit request that payment is to be made by transfer to an account with us or at another bank, we and/or such other bank may rely on an account number specified in such instructions even if the number identifies a person or entity different from the intended payee.

Very truly yours

Wells Fargo Bank, N.A.

By: \_\_\_\_\_

Name:

Title:

MIKE LIN

ASSISTANT VICE PRESIDENT



TRADE SERVICES DIVISION, NORTHERN CALIFORNIA  
ONE FRONT STREET, 21<sup>ST</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94111  
Contact Phone: 1(800) 798-2815 (Option 1)  
Email: [sftrade@wellsfargo.com](mailto:sftrade@wellsfargo.com)

**AMENDMENT TO IRREVOCABLE LETTER OF CREDIT**

City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Letter of Credit No. NZS589034  
Date: May 18, 2007  
Amendment No. 1  
Applicant: Ridgewood Heights Development LLC

This Amendment is to be considered as part of the above Letter of Credit and must be attached thereto:

The above mentioned credit is amended as follows:

This Letter of expires at our above office on July 20, 2008, but shall be automatically and successively extended without written amendment, to each January 20 and July 20 thereafter, unless you have received written notice sent by us to you at your address above by certified mail, return receipt requested or received express courier that we elect not to renew this Letter of Credit beyond the date specified in such notice, which date will be July 20, 2008 or any subsequent January 20 and July 20 and be at least ninety (90) calendar days after the date you receive such notice, you may release from our obligations under this Letter of Credit prior to any expiration date by returning the original Letter of Credit to us together with your written agreement to its cancellation;

All other terms unchanged

Amendment No. 1

Very truly yours  
WELLS FARGO BANK, N.A.

By: \_\_\_\_\_  
Name: MIKE LIN  
Title: ASSISTANT VICE PRESIDENT

**AMENDMENT TO IRREVOCABLE LETTER OF CREDIT**

City of Grand Junction  
c/o Director of Community Development  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Letter of Credit No. NZS589034  
Date: July 2, 2007  
Applicant: Ridgewood Heights  
Development LLC  
Amendment No. 2

Ladies and Gentlemen:

This Amendment is to be considered as part of the above Letter of Credit and must be attached thereto.

The following paragraph is now deleted in its entirety

- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Well Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand.

And, replaced with this following paragraph;

- 10) we hereby agree that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored on due presentation and delivery of documents, which may be done by first class mail, in person or by any other reasonable business practice on or prior to the expiration or any extension thereof of this Letter of Credit. Fax demands to fax no.: 415 296 8905 are permitted under this Letter of Credit provided however, that you must contact by telephone Well Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California at telephone no. 1 800 798 2815 option 1 to confirm their receipt of the demand. Failure to reach Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco, California by telephone after the fax demand does not affect the efficacy of the demand.

All other terms remain unchanged.

Wells Fargo Bank, N.A.

By:

Name:

MIKE LIN

Title:

ASSISTANT VICE PRESIDENT

Operations Group  
Northern California  
One Front Street, 21st Floor  
San Francisco, CA 94111

**URGENT**

PAGE: 1

DATE: SEPTEMBER 30, 2008

AMENDMENT TO CREDIT NO.  
NZS589034  
AMENDMENT NUMBER: 3

APPLICANT:  
RIDGEWOOD HEIGHTS DEVELOPMENT LLC  
2139 N 12TH ST., SUITE 9  
GRAND JUNCTION, CO 81501

**SECOND REQUEST** - 10/21/08  
**ADVISE IMMEDIATELY**

BENEFICIARY:  
CITY OF GRAND JUNCTION  
DIRECTOR OF COMMUNITY DEVELOPMENT  
250 N. 5TH STREET  
GRAND JUNCTION, CO 81501

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE CREDIT AND MUST BE ATTACHED THERETO.

THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS:

THE FOLLOWING ADDITIONAL CONDITION HAS BEEN ADDED:

THE AMOUNT OF THIS CREDIT HAS BEEN DECREASED BY USD 1,239,400.70.

THE AMOUNT OF THE CREDIT ISSUED NOW TOTALS USD 247,880.14.

THE CLAUSE PROVIDING FOR AUTOMATIC EXTENSION OF THE EXPIRATION DATE OF THE LETTER OF CREDIT IS DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING SENTENCE:

THIS LETTER OF CREDIT EXPIRES AT OUR ABOVE OFFICE FULLY AND FINALLY ON: JULY 10, 2009.

PLEASE NOTE THAT THE TERMS OF THIS AMENDMENT ARE SUBJECT TO YOUR CONSENT. THEREFORE, IF THE AMENDMENT IS ACCEPTABLE TO YOU, PLEASE SIGNIFY YOUR AGREEMENT BY SIGNING THE ATTACHED COPY IN THE SPACE PROVIDED AND RETURN IT TO US. IF IT IS NOT ACCEPTABLE TO YOU, PLEASE SO ADVISE US IMMEDIATELY.

ALL OTHER TERMS UNCHANGED.

  
-----  
AUTHORIZED SIGNATURE

PLEASE CONTACT AMY V. MARIO BY TELEPHONE AT 415-396-6209 OR BY FAX AT (415)



Operations Group  
Northern California  
One Front Street, 21st Floor  
San Francisco, CA 94111

PAGE: 1

DATE: NOVEMBER 25, 2008

AMENDMENT TO CREDIT NO.  
NZS589034  
AMENDMENT NUMBER: 4

APPLICANT:  
RIDGEWOOD HEIGHTS DEVELOPMENT LLC  
2139 N 12TH ST., SUITE 9  
GRAND JUNCTION, CO 81501

BENEFICIARY:  
CITY OF GRAND JUNCTION  
DIRECTOR OF COMMUNITY DEVELOPMENT  
250 N. 5TH STREET  
GRAND JUNCTION, CO 81501

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE CREDIT AND MUST BE ATTACHED THERETO.

THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS:

THE FOLLOWING ADDITIONAL CONDITION HAS BEEN ADDED:

THE AMOUNT OF THIS CREDIT HAS BEEN DECREASED BY USD 1,239,400.70.

THE AMOUNT OF THE CREDIT ISSUED NOW TOTALS USD 247,880.14.  
THIS LETTER OF CREDIT EXPIRES AT OUR ABOVE OFFICE JUL 10, 2009, BUT SHALL BE AUTOMATICALLY EXTENDED WITHOUT WRITTEN AMENMENT TO BUT NOT BEYOND JANUARY 10, 2010 UNLESS YOU HAVE RECEIVED WRITTEN NOTICE SENT BY US TO YOU AT YOUR ADDRESS ABOVE BY CERTIFIED MAIL , RETURN RECEIPT REQUESTED OR RECEIPTED EXPRESS COURIER ON OR BEFORE APRIL 10, 2009 ADVISING THAT WE ELECT NOT TO RENEW THIS LETTER OF CREDIT BEYOND JULY 10, 2009.

PLEASE NOTE THAT THE TERMS OF THIS AMENDMENT ARE SUBJECT TO YOUR CONSENT. THEREFORE, IF THE AMENDMENT IS ACCEPTABLE TO YOU, PLEASE SIGNIFY YOUR AGREEMENT BY SIGNING THE ATTACHED COPY IN THE SPACE PROVIDED AND RETURN IT TO US. IF IT IS NOT ACCEPTABLE TO YOU, PLEASE SO ADVISE US IMMEDIATELY.

ALL OTHER TERMS UNCHANGED

Please x as applicable and return to us ASAP. Fax is acceptable.

This Amendment is  ACCEPTED.  REJECTED

Type/Print BENEFICIARY'S NAME as per the SBLC  
*City of Grand Junction*

SIGNER'S PRINTED NAME AND TITLE *Greg Plokey*

BY: *[Signature]*  
SIGNATURE

-----  
AUTHORIZED SIGNATURE

PLEASE CONTACT BILL M. DATELIESA BY TELEPHONE AT 415-396-8363 OR BY FAX AT (415)

Operations Group  
Northern California  
One Front Street, 21st Floor  
San Francisco, CA 94111

PAGE: 2

296-8905 OR TRADE CONNECTIONS AT 1-800-798-2815 REGARDING ANY INQUIRIES.

Please X below. Fax is acceptable	
Amendment is [ <input type="checkbox"/> ]	Accepted [ <input type="checkbox"/> ]
Rejected [ <input type="checkbox"/> ]	
Type/Print BENEFICIARY'S NAME Per SBLC	
PRINT NAME & TITLE: _____	
Authorized Signature: _____	Date: _____

Operations Group  
Northern California  
One Front Street, 21st Floor  
San Francisco, CA 94111

PAGE: 2

296-8905 OR TRADE CONNECTIONS AT 1-800-798-2815 REGARDING ANY INQUIRIES.

**DEVELOPMENT IMPROVEMENTS AGREEMENT**  
**AGREEMENT #2 (REPLACES AGREEMENT OF AUGUST 20, 2007)**

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

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

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

**RECITALS**

The Developer seeks permission to develop property, described on Exhibit A attached and incorporated by this reference ("the Property" or "Property"). The Property, known as **Ridgewood Heights Subdivision** has been reviewed and approved under Planning file # **FP-2006-170** ("Development" or "the Development").

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

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

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

**DEVELOPER'S OBLIGATION**

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

3a. On and after the Effective Date of this Agreement the Developer agrees to pay the City for its Administration and Inspection of the Development. The hourly rate for those services is \$45.00/hour. Administration and Inspection includes but is not limited to the time expended by the City's planner, engineer, construction inspector and attorney in directing, advising, correcting and enforcing by means other than

litigation, this agreement and/or the approved development plan. Making disbursements and calling/collecting Guarantees are Administration and Inspection services and shall be charged at \$45.00/hour. See, paragraph 19 concerning attorneys' / litigation fees.

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

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

4. **Security:** To secure the performance of its obligations under this Agreement the Developer shall supply a guarantee. The Developer is required to post security in an amount of **\$7,200** (120% of the amount for the Improvements) in a form and with terms acceptable to the City ("Guarantee"). The Guarantee shall be in the form of a cash deposit made to the City, a letter of credit or a disbursement agreement in a form and with content approved by the City Attorney. The Guarantee specific to this Agreement is attached as Exhibit C and is incorporated by this reference as if fully set forth.

Select one: Cash  Letter of Credit (LOC) \_\_\_\_\_ Disbursement Agreement \_\_\_\_\_

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

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

6a. Upon Acceptance the Developer shall provide a Maintenance Guarantee in an amount of **\$0** (Line G2, Exhibit B, City Security).

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

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

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

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

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

Commencement Date: **October 15, 2009**

Completion Date: **July 15, 2010**

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

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

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

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

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

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

11. **Reduction of Security:** Upon Acceptance of any Improvement(s) the amount which the City is entitled to draw on the Guarantee shall be reduced by an amount of **\$7,200**(Line G1, Exhibit B, Total Improvement Costs).

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

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

13. **Events of Default:** The following conditions, occurrences or actions shall constitute a default by the Developer:

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

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

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

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

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

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

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

14. **Measure of Damages:** The measure of damages for breach of this Agreement by the Developer shall be the reasonable cost of satisfactorily completing the Improvements, plus reasonable expenses. Expenses may include but are not limited to contracting costs, collection costs and the value of planning, engineering, legal and

administrative staff time devoted to the collection/completion of the Improvements. For Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit B shall be *prima facie* evidence of the minimum cost of completion; however, the maximum amount of the Developer's liability shall not be established by that amount or the amount of the Guarantee.

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

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

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

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

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

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

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

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

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



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

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

19. **Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. The City shall be entitled to claim the value of its in-house attorneys at the rate of \$125.00 per hour. If relief is awarded to both parties the attorney's fees may be equitably divided between the parties by the decision maker.

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

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

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

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

24. **Severability:** If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision. The

rights of the parties shall be construed as if the part, term or provision was never part of the Agreement.

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

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

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

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

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

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

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

If to Developer: RIDGEWOOD HEIGHTS DEVELOPMENT LLC Name -Developer/Company  
P.O. BOX 119 Address (Street and Mailing)  
FRUITA, CO. 81521 City, State & Zip Code  
(970) 270-7575 L DAILY CELL Telephone and Fax Numbers  
(970) 216-9786 L DAILY CELL  
L DAILY @ BRESNAW.NET E-mail

Cc: LINDA DALY, CONTACT

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

Cc: Public Works & Planning Department  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

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

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

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

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

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

30a. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on the side of the street nearest the property to enable an initial two-way traffic operation without on-street parking.

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

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

(i) furnishes to the City Engineer as-built drawings in reproducible form, blue line stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specification;

(ii) provides written evidence to the City Engineer under signature of a qualified expert that the earth, soils, lands and surfaces upon in and under which the Improvement(s)

have been constructed or which are necessary for the Improvements are free from toxic, hazardous and other regulated substances or materials;

(iii) provides written evidence to the City Attorney that the title to lands underlying the Improvements are free and clear from all liens and encumbrances, except those items and encumbrances which may be approved in writing by the City Attorney; and

(iv) provides written evidence, certified by the Developer's engineer, that the work was systematically inspected and tested and that the materials and the compaction of the materials that are required to be compacted, were in conformance with City-approved plans and specifications.

By:   
\_\_\_\_\_  
Developer 10/16/09  
Date

LINDA DALY  
Name (printed)

Corporate Attest:

\_\_\_\_\_  
Name Date  
City of Grand Junction  
250 North Fifth Street  
Grand Junction, CO 81501

  
\_\_\_\_\_  
Public Works & Planning Dept. 10/16/09  
Date

Version updated 5/15/2007

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

**EXHIBIT A**

The Ridgewood Heights subdivision, a replat of Lot 1 Laurel Subdivision, in the  
County of Mesa, State of Colorado

EXHIBIT B

\$7200 For REMAINING RETAINING WALLS  
PEDESTRIAN PATH  
GRASS SEEDING

# Development Improvements Guarantee Recap Sheet

<b>Check One:</b>	<input checked="" type="checkbox"/> Cash Deposit	<input type="checkbox"/> Letter of Credit (LOC)
	<input type="checkbox"/> Cash Refund	<input type="checkbox"/> LOC Release

Date	October 19, 2009
Project File No.	FP-2006-170
Project Name	Ridgewood Heights Development
Project Location	585 28 1/4 Road
Purpose of DIA	DIA
Payee Name	Ridgewood Heights Development, LLC
Payee Mailing Address	PO Box 119
Payee City, State Zip Code	Fruita, CO 81521-0119
Payee Telephone No.	(970) 216-9786
DIA Completion Date	July 15, 2010
Project Planner	Brian Rusche
Project Engineer	Eric Hahn

## ACCOUNTING INFORMATION

CASH				LETTER OF CREDIT			
	AMOUNT	DATE	REFERENCE		AMOUNT	DATE	REFERENCE
DEPOSIT	\$7,200.00	10/19/09	Check #1262	LOC Amount	\$ -		
Refund	\$ -			Release	\$ -		
Refund	\$ -			Release	\$ -		
Refund	\$ -			Release	\$ -		
BALANCE	\$7,200.00			BALANCE	\$ -		

DIA Cash Fund/Account No.	207-2090
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May 25, 2010

Ridgewood Heights Development, LLC.  
PO Box 119  
Fruita, CO 81521

**Re: Development Improvement Agreement FP-2006-170  
Ridgewood Heights Development**

To Whom it May Concern:

Enclosed please find a check in the amount of \$7,200.00 for the security deposit refund and a copy of the Release of Recording Memorandum for the above referenced Development Improvement Agreement.

If you have any questions regarding this matter, please give me a call at (970) 244-1438.

Sincerely,

Leslie Ankrum

enclosures

pc: Peggy Sharpe, Administrative Assistant  
Planning File: **FP-2006-170**

City of Grand Junction  
**Accounts Payable Edit Listing**

Vendor/Remittance Address	Number	Description	Invoice Date	G/L Date	Due Date	Confirming EFT G/L Date	Notes	Amounts
<b>Batch Department:</b> 06-630 PW&P,Planning		<b>Batch Date:</b> 05/26/2010	<b>Batch Number:</b> 2010-00001517		<b>Batch Description:</b> leslie			
Ridgewood Heights Development, LLC.	Refund2010May26	Refund/DIA Security Deposit/FP-2006-170	05/25/2010	05/25/2010	05/26/2010		No	Gross: 7,200.00
								Freight: 0.00
<b>Invoice Department:</b> 06-630 PW&P,Planning		Check Sort Code:	Bank Account: Accounts Payable Clearing		State Tax: 0.00			
		Check Code:	Invoice Terms:		County Tax: 0.00			
PO Box 119		Manual Check: No			Local/City Tax: 0.00			
Fruita, CO 81521		Check Number:			Discount: 0.00			
					Retainage: 0.00			
					Net Amount: \$7,200.00			

Detail:	P.O. Number	C/D/F/T/ A/1099	Description	Quantity	U/M	Amount/Unit	Total Amount
		N/N/N/N/N/N	REFUND - Refund/DIA Security Deposit/FP-2006-170	1.0000	EA	7,200.0000	7,200.00
G/L Distribution:	G/L Account/Project					Expensed	Unencumbered
	207.2090 ( Transportation Capacity Fund.Deposits Payable)					7,200.00	0.00

Total Invoice Items: 1 Invoice Amount Expensed: \$7,200.00 Invoice Amount Unencumbered: \$0.00

Batch Total Invoices:	1
Batch Total Gross:	\$7,200.00
Batch Total Freight:	\$0.00
Batch Total State Tax:	\$0.00
Batch Total County Tax:	\$0.00
Batch Total Local/City Tax:	\$0.00
Batch Total Discount:	\$0.00
Batch Total Retainage:	\$0.00
Batch Total Net:	\$7,200.00
Batch Total Unencumbered:	\$0.00
Grand Total Invoices:	1
Grand Total Gross:	\$7,200.00
Grand Total Freight:	\$0.00
Grand Total State Tax:	\$0.00
Grand Total County Tax:	\$0.00
Grand Total Local/City Tax:	\$0.00
Grand Total Discount:	\$0.00
Grand Total Retainage:	\$0.00



# Development Improvements Guarantee Recap Sheet

<b>Check One:</b>	<input checked="" type="checkbox"/> Cash Deposit	<input type="checkbox"/> Letter of Credit (LOC)
	<input type="checkbox"/> Cash Refund	<input type="checkbox"/> LOC Release

<b>Date</b>	October 19, 2009
<b>Project File No.</b>	FP-2006-170
<b>Project Name</b>	Ridgewood Heights Development
<b>Project Location</b>	585 28 1/4 Road
<b>Purpose of DIA</b>	DIA
<b>Payee Name</b>	Ridgewood Heights Development, LLC
<b>Payee Mailing Address</b>	PO Box 119
<b>Payee City, State Zip Code</b>	Fruita, CO 81521-0119
<b>Payee Telephone No.</b>	(970) 216-9786
<b>DIA Completion Date</b>	July 15, 2010
<b>Project Planner</b>	Brian Rusche
<b>Project Engineer</b>	Eric Hahn

## ACCOUNTING INFORMATION

CASH				LETTER OF CREDIT			
	AMOUNT	DATE	REFERENCE		AMOUNT	DATE	REFERENCE
<b>DEPOSIT</b>	\$7,200.00	10/19/09	Check #1262	<b>LOC Amount</b>	\$ -		
<b>Refund</b>	\$ -			<b>Release</b>	\$ -		
<b>Refund</b>	\$ -			<b>Release</b>	\$ -		
<b>Refund</b>	\$ -			<b>Release</b>	\$ -		
<b>BALANCE</b>	<b>\$7,200.00</b>			<b>BALANCE</b>	\$ -		

<b>DIA Cash Fund/Account No.</b>	207-2090
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**Leslie Ankrum - Re: Ridgewood Heights Development**

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**From:** Brian Rusche  
**To:** Eric Hahn; Leslie Ankrum  
**Date:** 5/25/2010 3:29 PM  
**Subject:** Re: Ridgewood Heights Development  
**CC:** Greg Moberg; Mark Barslund

---

Leslie,

The original DIA, a LOC with Wells Fargo, was released on October 19, 2009, pursuant to the Notice of Final Acceptance. However, a second DIA, with a cash security of \$7,200 was deposited on October 19, 2009. This DIA was to cover the pedestrian path, associated retaining walls, and grass seeding of the detention pond that had not yet been completed. These improvements are on HOA tracts and are therefore not addressed in the Notice of Final Acceptance.

I inspected the site this afternoon and found that the trail has been constructed, along with the necessary retaining walls, and the grass seeding has been completed. Future maintenance of these facilities will be the responsibility of the developer and/or HOA.

Therefore, unless there are further outstanding items, I authorize the release of the \$7200 cash DIA for Ridgewood Heights. I further authorize a Release of Recording Memorandum for this subdivision.

Brian Rusche  
Senior Planner  
City of Grand Junction  
Public Works and Planning  
(970) 256-4058

>>> Eric Hahn 5/24/2010 5:00 PM >>>

I sent Final Acceptance letter back in October (see attached). . . so I do not need to inspect anything.

>>> Brian Rusche 5/24/2010 4:56 PM >>>

I need to inspect the property and determine if the improvements are completed. Eric, do you need to inspect as well?

Brian Rusche  
Senior Planner  
City of Grand Junction  
Public Works and Planning  
(970) 256-4058

>>> Leslie Ankrum 5/24/2010 4:54 PM >>>

Brian,

Are you ready to record the Release of Recording Memorandum for the above referenced DIA?

**RELEASE OF RECORDING MEMORANDUM**  
**City of Grand Junction**  
**Public Works & Planning Department**  
**FILE: FP-2006-170**

This Release relates to a Recording Memorandum dated August 20, 2007, by and between Ridgewood Heights Development, LLC (Developer) and the City of Grand Junction, pertaining to Ridgewood Heights Development (Project), located at 585 ~~28~~ 1/4 Road, Grand Junction, CO, recorded at Book 4497, Page 200, Mesa County Clerk and Recorder's Office.

**WHEREAS**, the Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of a Development Improvements Agreement and/or Maintenance Guarantee and provision of a Guarantee, and;

**WHEREAS**, the City of Grand Junction and other agencies possessing 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, duly representing their agencies, possessing and representing by their signatures affixed hereto, that they possess sufficient authority to accept improvements and may release the Development Improvements Agreement and/or Maintenance Guarantee, pertaining to the improvements under their jurisdiction, do accept, sign and release said Development Improvements Agreement and/or Maintenance Guarantee.

CITY OF GRAND JUNCTION:

City Engineer: [Signature] Date: 10/19/09  
Planner: [Signature] Date: 10/19/09

In acknowledgement with the above signatures, I hereby certify that the improvements as specified in the Development Improvements Agreement and/or Maintenance Guarantee have been completed and accepted in accordance with the provisions of the Grand Junction Zoning and Development Code, and are hereby released, subject to the required warranty period.

[Signature] Public Works & Planning Department Date: 10.19.09

The foregoing instrument was executed before me this 19th day of October, 2009, by Craig Moberg, of the Public Works & Planning Department for the City of Grand Junction, Colorado.

Witness my hand and official seal:

[Signature]  
Notary Public

My commission expires on 8/21/2013



My Commission Expires 08/21/2013