

THF08RIM

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	DEVELOPMENT IMPROVEMENTS AGREEMENT
NAME OF CONTRACTOR:	THF GRAND JUNCTION DEVELOPMENT, L.L.C.
PROJECT/SUBDIVISION:	RIMROCK MARKETPLACE 4
ADDRESS:	2523 HIGHWAY 6 AND 50
TAX PARCEL NO:	2945-103-37-002
FILE #:	SS-2007-005
CITY DEPARTMENT:	PUBLIC WORKS AND PLANNING
YEAR:	2008
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("Agreement") are **THF Grand Junction Development, L.L.C.**, a Missouri limited liability company ("Developer") and the **City of Grand Junction**, Colorado ("City").

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

2. **Effective Date:** The Effective Date of this Agreement 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 ~~Rimrock Crossing~~ has been reviewed and approved under Planning file # SS-2007-005 ("Development" or "the Development").

RIMROCK MARKET PLACE 4

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.

The parties have also entered into a cost sharing agreement dated 7/11/ 2008 (the "Cost Reimbursement Agreement"), for improvements which will be constructed by Developer and paid for by the City but which also benefit and are in part necessitated by the development of the Property. The work under the Cost Reimbursement Agreement is not referenced on Exhibit B and is not covered by this Agreement.

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. Developer agrees to pay the City for its Administration costs related to enforcement of this Agreement, including but not limited to time expended by the City's attorney in enforcing, by means other than litigation, this Agreement. See paragraph 19 concerning attorneys' / litigation fees.

3b. The Developer's obligation to complete the Improvements is and shall be independent of any obligations of the City contained herein and independent of any obligations of the City pursuant to the Cost Reimbursement Agreement between the parties.

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 \$258,794.14 in a form and with terms acceptable to the City ("Guarantee"). The Guarantee shall be in the form of a letter of credit 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.

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 and City standards and specifications in effect as of the Effective Date of this Agreement.

6a. Upon Acceptance the Developer shall provide a Maintenance Guarantee in an amount of \$43,132.36 (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 90 days from the commencement of the work under the Cost Reimbursement 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 Commencement Date; that date is known as the "Completion Date."

7b. The Developer shall not cease construction for any period of more than 60 consecutive days except where weather conditions or a Force Majeure Event (as defined in paragraph 23) do not permit construction to occur. If construction is ceased for 60 or more consecutive days for reasons other than weather or a Force

Majeure Event, the Director may deem the Development abandoned ("the Abandonment Period").

8. Compliance with Law: The Developer shall comply with all applicable federal, state and local laws, ordinances and regulations when fulfilling its obligations under this 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 its engineer shall provide timely written notice to the issuer of the Guarantee and the Director when the Developer and/or 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 its engineer of a/the defect.

10. Acceptance of Improvements: The City will not accept and/or approve any or all of the Improvements until the Developer documents for the benefit of the City that there are no liens, encumbrances or other restrictions on the Improvements other than those that have been accepted by the City.

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").

10c. Upon completion of the Improvements, Developer shall notify the City. Within forty-five (45) days after receipt of such notice from Developer, the City shall inspect the Improvements and either issue a written acceptance of the Improvements or notify Developer in writing of those portions of the Improvements that are not acceptable, citing with reasonable particularity its objection(s). If the City rejects some or all of the Improvements, Developer shall promptly correct the rejected Improvements and upon correction, Developer shall notify the City. Within forty-five (45) days of receipt of such notice from Developer, the City shall inspect the previously rejected Improvements and either issue a written acceptance of such Improvements or notify Developer in writing of those portions of the rejected Improvements that are not acceptable, citing with reasonable particularity its objection(s). This procedure will continue until Acceptance from the City is obtained. By the foregoing provisions, the City does not waive or modify its rights to draw on the Guarantee pursuant to the terms of this Agreement and the Guarantee.

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 \$215,661.78 (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 declare a default with 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 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 otherwise provided above, the City may not declare a default until written notice has been sent to the Developer at the address shown in the development file and Developer has failed to cure the default within thirty (30) days after receipt of such written notice. Notice is and shall be deemed effective five calendar days after mailing thereof by first class United States certified mail, return receipt requested, 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. In no event shall Developer be liable to the City for consequential damages including, but not limited to, lost profits or advantage.

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.

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. If the cost of completion of the Improvements by the City or a third party is less than the amount drawn by the City on the Guarantee, then the City shall promptly refund such excess to Developer.

15d. Intentionally deleted.

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 and agents ("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 its authorized officer.

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, the Commencement Date and the Completion Date, such times in which war, civil disasters, acts of God, strikes, lockouts, labor unrest, unavailability of materials or supplies, or other events beyond the reasonable control of Developer or City occurs or exist shall not be included if such prevents the Developer or City from performing its obligations under this Agreement (each a "Force Majeure Event"). 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 or do not reasonably justify work stoppage.

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; provided, however, the City acknowledges that Developer will transfer the Property to and hereby approves the assignment of the rights and benefits of this Agreement to Developer's affiliate, THF Grand Junction Two Development, L.L.C., a Missouri limited liability company. 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 have expired.

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

If to Developer: THF Grand Junction Development, L.L.C.
2127 Innerbelt Business Center Drive, Suite 200
St. Louis, MO 63114
Attention: Michael H. Staenberg

Cc: THF Realty, Inc.
2127 Innerbelt Business Center Drive, Suite 200
St. Louis, MO 63114
Attention: General Counsel

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

Cc: Public Works & Planning Department
250 North 5th 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 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 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 reasonably 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.

THE GRAND JUNCTION DEVELOPMENT, L.L.C.

By: _____ 07/02/08
Michael H. Staenberg Date
Manager

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

_____ 7.21.08
Public Works & Planning Dept. Date

5/15/2007

EXHIBIT A

Property

Lots 1 and 2, Rimrock Marketplace 4 Subdivision, a replat of Lot 2 Rimrock Marketplace and Tract A, of Rimrock Marketplace 2 Subdivision as recorded in the Mesa County records.

EXHIBIT B

Improvements Cost Estimate

(See Attached)

EXHIBIT B**IMPROVEMENTS COST ESTIMATE**DATE: June 24, 2008DEVELOPMENT NAME: RIMROCK MARKETPLACE #4 - HANSON EQUIPMENT SITELOCATION: 2523 Highway 6 & 50PRINTED NAME OF PERSON PREPARING: William S. Merrell

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
A. SANITARY SEWER					
1	10 " PVC Sanitary Sewer Main	LF	40	\$ 33.00	\$ 1,320.00
2	4 " PVC Sanitary Sewer Main	LF	35	\$ 65.00	\$ 2,275.00
3	" PVC Sanitary Sewer Main	LF			\$ -
4	Sewer services - 8"x4" wye in existing main	EA	1	\$ 500.00	\$ 500.00
5	Sanitary Sewer Manhole (72" Diameter)	EA	1	\$ 6,650.00	\$ 6,650.00
6	Sanitary Sewer Drop Manhole	EA			\$ -
7	Connection to Existing Manhole	EA			\$ -
8	Concrete Encasement	LF			\$ -
	Compliance Testing	LS	1		\$ -
	Subtotal Part A Sanitary Sewer				\$ 10,745.00
B. DOMESTIC WATER					
1	8 " PVC Water Main (including testing)	LF			\$ -
2	6 " PVC Water Main	LF	10	\$ 30.00	\$ 300.00
3	" PVC Water Main	LF			\$ -
4	8 " Gatevalve	EA			\$ -
5	6 " Gatevalve	EA			\$ -
6	8"x6" Tapping Sleeve & Valve	EA	1	\$ 3,000.00	\$ 3,000.00
7	Water Services	EA or LF		\$ 500.00	\$ -
8	Connect to Existing Water Line	EA		\$ 400.00	\$ -
9	Relocate Existing Fire Hydrant	EA	1	\$ 650.00	\$ 650.00
10	Utility Adjustments	EA		\$ 1,000.00	\$ -
11	Cap Existing 6" Fire Hydrant Lateral	EA	1	\$ 350.00	\$ 350.00
12	Compliance Testing	LS	1	\$ 500.00	\$ 500.00
					\$ -
					\$ -
	Subtotal Part B - Domestic Water				\$ 4,800.00

6/24/2008

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
C1	STREETS				
1	4" PVC Utility/Irrigation sleeves	LF	150	\$ 10.00	\$ 1,500.00
2	6" PVC Utility/Irrigation sleeves	LF		\$ 8.00	\$ -
3	Reconditioning	SY	2215	\$ 1.85	\$ 4,097.75
4	Aggregate Base Course (Class 3)	TN			\$ -
5	Aggregate Base Course (Class 6) (15" Compacted Thickness)	SY	1390	\$ 23.00	\$ 31,970.00
6	Aggregate Base Course (Class 6) Under Concrete	SY	825	\$ 17.00	\$ 14,025.00
7	Hot Bituminous Paving, Grading (5" thick)	SY	1390	\$ 24.00	\$ 33,360.00
8	Tack Oil	GAL	139	\$ 2.00	\$ 278.00
9	Hot Bituminous Paving, Patching (" Thick)	SY			\$ -
10	Geotextile	SY		\$ 3.85	\$ -
11	Concrete Curb (" Wide by " High)	LF			\$ -
12	Concrete Curb and Gutter (2' wide)	LF	295	\$ 23.00	\$ 6,785.00
13	Concrete Curb and Gutter (1.5' wide)	LF			\$ -
14	Monolithic, Vertical Curb, Gutter and Sidewalk (7' Wide)	LF	320	\$ 29.00	\$ 9,280.00
15	6" Curb, Gutter, and Sidewalk (6.5 ' Wide)	LF			\$ -
16	6" Curb, Gutter, and Sidewalk (12' Wide)	LF			\$ -
17	6" Curb, Gutter, and Sidewalk (Transition 7'-12" Wide)	LF			\$ -
18	Concrete Sidewalk	SF	3984	\$ 4.75	\$ 18,924.00
19	Concrete Gutter and Driveway Section (" Thick)	SY			\$ -
20	Concrete Drainage Pan (6' Wide, 6" Thick)	LF		\$ 27.00	\$ -
21	8" Concrete Corner Fillet, Valley Pans & ADA Ramps	SF	1184	\$ 7.75	\$ 9,176.00
22	Truncate Dome Mats	SF	20	\$ 65.00	\$ 1,300.00
23	Complete Concrete Corner	SY		\$ 66.15	\$ -
24	Concrete Driveway (" Thick)	SY			\$ -
25	Over-Excavation & Stabilization	Ton		\$ 34.00	\$ -
26	Retaining Walls	LF			\$ -
27	Street Signs	EA	2	\$ 385.00	\$ 770.00
28	Striping (New, Remove/Replace)	LS	1	\$ 650.00	\$ 650.00
29	Light Pole Bases	EA	2	\$ 975.00	\$ 1,950.00
30	Signal Construction or Reconstruction	LS			\$ -
31	Flowable Fill	LS		\$ 1,040.00	\$ -
32	Utility Adjustments	EA		\$ 2,000.00	\$ -
33	Traffic Control	LS	1	\$ 8,000.00	\$ 8,000.00
					\$ -
C2	BRIDGES				
					\$ -
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			\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
	Subtotal Part C - Streets and Bridges				\$ 142,065.75

6/24/2008

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
D1 EARTHWORK					
1	Mobilization	LS	1	\$ 16,500.00	\$ 16,500.00
2	Clearing and Grubbing	AC or LS			\$ -
3	Unclassified Excavation - Roadway	CY	775	\$ 9.00	\$ 6,975.00
4	Unclassified Embankment	CY		\$ 19.50	\$ -
5	Silt Fence	LF		\$ 2.00	
6	Watering (Dust Control)	LS			
7	Miscellaneous erosion control	LS			
D2 REMOVALS AND RESETTING					
1	Removal of Asphalt	SY	809	\$ 2.75	\$ 2,224.75
2	Removal of Miscellaneous Concrete	SY			\$ -
3	Remove Concrete	SY	191	\$ 6.00	\$ 1,146.00
4	Removal of Culverts	LF			\$ -
5	Remove Structures	EA			\$ -
6	Remove Signs	EA			\$ -
7	Raise 72" Manhole	VF	1.45	\$ 550.00	\$ 797.50
8	Adjust Manhole	EA	2	\$ 675.00	\$ 1,350.00
9	Adjust Valvebox	EA		\$ 225.00	\$ -
10	Relocate or Adjust Utilities	LS		\$ 25,000.00	\$ -
D3 EROSION CONTROL, SEEDING, AND SOIL RETENTION					
1	Sod	SY			\$ -
2	Seeding (Native)	LS		\$ 2,500.00	\$ -
3	Seeding (Bluegrass/Lawn)	SY or AC			\$ -
4	Hydraulic Seed and Mulching	SY or AC			\$ -
5	Soil Retention Blanket	SY			\$ -
6	Silt Fence	LF	330	\$ 4.00	\$ 1,320.00
7	Straw Waddles	LF			\$ -
8	Temporary Berms	LF		\$ 2.63	\$ -
9	Inlet Protection	EA	3	\$ 250.00	\$ 750.00
10	Sediment Trap/Basin	EA		\$ 750.00	\$ -
11	Monthly Maintenance/Inspection	Month		\$ 250.00	\$ -
12	Watering (Dust Control)	LS		\$ 3,000.00	\$ -
13	Storm Water Management Plan	LS			\$ -
	Subtotal Stormwater Management				\$ 2,070.00


Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
D4	STORM DRAINAGE FACILITIES				
1	Finish Grading (incl. Channels, Swales, and Ponds)	LS		\$ 5,000.00	\$ -
2	12" Storm Drain Pipe	LF	12	\$ 45.00	\$ 540.00
3	15" Storm Drain Pipe	LF		\$ 57.00	\$ -
4	36" Storm Drain Pipe	LF		\$ 56.00	\$ -
5	" Storm Drain Pipe	LF		\$	\$ -
6	66" Storm Drain Pipe	LF		\$ 215.00	\$ -
7	15" Flared End Section	EA		\$ 450.00	\$ -
8	66" Bends	EA		\$ 4,100.00	\$ -
9	48" Storm Drain Manhole	EA		\$ 1,600.00	\$ -
10	60" Storm Drain Manhole	EA		\$	\$ -
11	Manhole on 66" pipe	EA		\$ 4,200.00	\$ -
12	Manhole with Box Base (poured in place)	EA		\$ 2,300.00	\$ -
13	Connection to Existing MH	EA		\$	\$ -
14	Single Curb Opening Storm Drain Inlet	EA	1	\$ 2,500.00	\$ 2,500.00
15	Double Curb Opening Storm Drain Inlet	EA		\$	\$ -
16	Area Storm Drain Inlet	EA		\$ 1,650.00	\$ -
17	Detention Area Outlet structure	EA		\$	\$ -
18	Rip-Rap D ₅₀ = ____"	CY		\$	\$ -
19	Compliance Testing	EA		\$ 1,000.00	\$ -
20	Removal of Improvements	LS	1	\$ 500.00	\$ 500.00
D4a	STORM DRAINAGE FACILITIES - GRAND JUNCTION DRAINAGE DISTRICT				
	This work is complete and was covered in a separate DIA				
1	Finish Grading (incl. Channels, Swales, and Ponds)	CY		\$ 1,500.00	\$ -
2	Site Prep & Mobilization	LS		\$ 2,305.00	\$ -
3	Clearing & Grubbing	LS		\$ 3,567.00	\$ -
4		LF		\$	\$ -
5		LF		\$	\$ -
6	66" Storm Drain Pipe	LF		\$ 254.00	\$ -
7		EA		\$	\$ -
8	66" Bends	EA		\$ 3,859.00	\$ -
9	66"x36" Tee	EA		\$ 2,937.00	\$ -
10	66"x18" Tee	EA		\$ 2,937.00	\$ -
11	Manhole on 66" pipe	EA		\$ 3,725.00	\$ -
12		EA		\$	\$ -
13	18" RCP, CL III	LF		\$ 40.45	\$ -
14	36" RCP, CL III	LS		\$ 69.50	\$ -
15		EA		\$	\$ -
16	Area Storm Drain Inlet	EA		\$ 1,650.00	\$ -
17	Subgrade Stabilization (1-1/2" Screened)	TON		\$ 21.70	\$ -
18	Imported Trench Backfill (Pit-Run) as Directed	TON		\$ 17.25	\$ -
19	Concrete Headwall	EA		\$ 7,067.00	\$ -
20	Connection to existing pipe	EA		\$ 8,146.00	\$ -
	Subtotal Drainage District				\$ -
	Subtotal Part D - Grading and Drainage				\$ 36,673.25

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
E1	IRRIGATION				
1	Connect to Existing Pipe	LS			\$ -
2	" Irrigation Pipe	LF			\$ -
3	" Irrigation Pipe	LF			\$ -
4	Fittings and Valves	LS			\$ -
5	Services	EA			\$ -
6	Pump System and Concrete Vault	LS			\$ -
7	Irrigation Structure	EA			\$ -
8	Vacuum Relief and/or Air Release Valve	EA			\$ -
E2	LANDSCAPING				
1	Design/Architecture	LS			\$ -
2	Earthwork	CY			\$ -
3	Hardscape Features	LS			\$ -
4	Plant Material & Planting	LS		\$ 20,000.00	\$ -
5	Irrigation System	LS			\$ -
6	Curbing	LF			\$ -
7	Retaining Walls & Structures	LS			\$ -
8	1 Year Maintenance Agrmnt.	LS			\$ -
9	Topsoil				\$ -
					\$ -
					\$ -
					\$ -
Subtotal Part E - Landscaping and Irrigation					\$ -
Subtotal Construction Costs					\$ 194,284.00

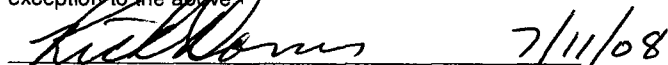
Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
F. Miscellaneous Items					
1	Construction staking/surveying			\$194,284.00	\$ 10,135.00
2	Developer's inspection cost	%	2.50%	\$194,284.00	\$ 4,857.10
3	General construction supervsn	%		\$194,284.00	
4	Quality control testing	%	1.50%	\$194,284.00	\$ 2,914.26
5	Construction traffic control	%		\$194,284.00	
6	City inspection fees	%	0.50%	\$194,284.00	\$ 971.42
7	As-builts	%		\$194,284.00	\$ 2,500.00
Subtotal Part F - Miscellaneous Items					\$ 21,377.78
% = Percentage of total site construction costs					
G. COST SUMMARY					
1 Total Improvement Costs					\$ 215,661.78
2 City Security (20%)					\$ 43,132.36
3 Total Guarantee Amount					\$ 258,794.14

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 _____ Date 07/02/08
 (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 _____ Date 7/11/08


 Community Development _____ Date 7.21.08



WELLS FARGO BANK N.A.
TRADE SERVICES DIVISION, NORTHERN CALIFORNIA
ONE FRONT STREET, 21ST FLOOR
SAN FRANCISCO, CALIFORNIA 94111
Contact Phone: 1(800) 798-2815
Email : sftrade@wellsfargo.com

IRREVOCABLE LETTER OF CREDIT

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

Irrevocable Letter of Credit No. **NZS625741**

Dated: July 31, 2008

Expiration: July 31, 2009 subject to the automatic extensions stated below

Project Name/ City File No.: Rimrock Crossing / SS-2007-005

Dear Sirs:

We hereby establish our Irrevocable Letter of Credit No. NZS625741 in favor of the City of Grand Junction at the request and for the account of THF Grand Junction Development, L.L.C. in the amount of Two Hundred Fifty Eight Thousand Seven Hundred Ninety Four and 14/100ths United States Dollars (US \$258,794.14).

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

- 1) it is effective upon signature;
- 2) it expires on July 31, 2009 subject to the automatic extensions discussed below;
- 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. NZS625741 dated 07/31/08.";
- 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 THF Grand Junction Development, L.L.C. (Developer) being obligated to pay or perform in accordance with the provisions of the Grand Junction Zoning and Development Code (this item 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 THF Grand Junction Development, L.L.C. (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 related 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) this Letter of Credit expires at our above office on July 31, 2009, but shall be automatically and successively extended without written amendment, to each January 31st and July 31st 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 31, 2009 or any subsequent January 31st and July 31st and be at least ninety (90) calendar days after the date you receive such notice, you may release us 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;
- 8) 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 Public Works & Planning or his designee;
- 9) this Letter of Credit is neither negotiable or assignable;
- 10) partial and multiple drawings are permitted under this Letter of Credit;
- 11) 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: 415-975-6284 or 415-296-8905 are permitted under this Letter of Credit provided however that you attempt to contact by telephone Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco at telephone number 1-800-798-2815 to confirm their receipt of the demand. Failure to reach Wells Fargo by telephone after the fax demand does not affect the efficacy of the demand.
- 12) except as otherwise stated herein, this Letter of Credit is subject to the Uniform Customs and Practice For Documentary Credits (1993 Revision), and to the extent that it does not conflict with Article 5 of the Uniform Commercial Code of the State of Colorado.

Very truly yours

WELLS FARGO BANK, N.A.

By:
Name:
Title:



EISA CHAU
ASSISTANT VICE PRESIDENT

RECORDING MEMORANDUM

CITY OF GRAND JUNCTION
PUBLIC WORKS AND PLANNING DEPARTMENT
FILE # SS-2007-005

This memorandum relates to and confirms that certain Development Improvements Agreement concerning land in Mesa County, Colorado. The Development Improvements Agreement is by and between THF Grand Junction Development, L.L.C., a Missouri limited liability company (Developer) and the City of Grand Junction (City) pertaining to Rimrock Crossing (Project), located on the property described on Exhibit A attached hereto.

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. 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 # SS-2007-005.

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. Furthermore, the Developer and the City agree that the Development Improvements Agreement are contractual in nature and that the obligations under the Development Improvements Agreement shall not be assigned except as provided in the Development Improvements Agreement.

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 our under the Developer are on notice of the Developer's obligations under the Development Improvements Agreement.

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 Improvements Agreement herein characterized.

DEVELOPER:

THE GRAND JUNCTION DEVELOPMENT, L.L.C.

By: _____

Michael H. Staenberg
Manager

07/02/08

Date

CITY OF GRAND JUNCTION:

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

Public Works & Planning Department

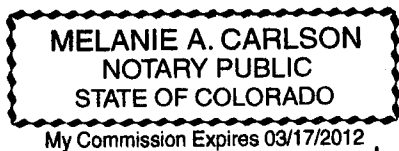
7.21.08

Date

STATE OF MISSOURI Colorado)
) SS.
COUNTY OF ST. LOUIS Denver

On this 2nd day of July, 2008, before me appeared Michael H. Staenberg, to me personally known, who, being by me duly sworn, did say that he is the Manager of THF Grand Junction Development, L.L.C., a Missouri limited liability company, and said Michael H. Staenberg acknowledged that he executed this instrument on behalf of said limited liability company and acknowledged said instrument as the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.



Melanie Carlson
Notary Public

My Commission Expires: 3/17/2012

STATE OF COLORADO)
) SS.
COUNTY OF MESA)

On this 21st day of July, 2008, before me appeared Greg Moberg, to me personally known, who, being by me duly sworn, did say that he is the Planning Services Supervisor of the City of Grand Junction, Colorado and acknowledged that he executed this instrument on behalf of the City of Grand Junction, Colorado and acknowledged said instrument as the free act and deed of the City of Grand Junction, Colorado.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

Gayleen Henderson
Notary Public

My Commission Expires: 10/29/2009



EXHIBIT A

Lots 1 and 2, Rimrock Marketplace 4 Subdivision, a replat of Lot 2 Rimrock Marketplace and Tract A, of Rimrock Marketplace 2 Subdivision as recorded in Book 4711, Pages 153-154 Reception No. 2452507 the Mesa County records.

Subject: RE: Grand Junction - Standby Letter of Credit # NZS625741

This has been extended to January 31, 2010.

From: Sojka, Katherine J.
Sent: Thursday, April 02, 2009 11:43 AM
To: Sharon Werner
Cc: Joe Cook; Ben Fischer; Fabus, Angela M.
Subject: RE: Grand Junction - Standby Letter of Credit # NZS625741

Sharon,

We will have this automatically extended.

Angela will contact you with any questions.

Thanks,
Katrina

Katrina J. Sojka, AVP
Real Estate Group
Wells Fargo Bank, N.A.
123 North Wacker Drive
Suite 1900
Chicago, IL 60606

Direct: (312) 827-1537
Fax: (312) 782-0969
katrina.j.sojka@wellsfargo.com

From: Sharon Werner [mailto:SWerner@thfrealty.com]
Sent: Thursday, April 02, 2009 11:27 AM
To: Sojka, Katherine J.
Cc: Joe Cook; Ben Fischer
Subject: Grand Junction - Standby Letter of Credit # NZS625741

The above Standby Letter of Credit currently expires on July 31, 2009. As this L/C is subject to automatic extensions, please have the expiration date automatically extended to January 31, 2010.

Thank you.

Sharon K. Werner
Loan Administrator
THF Realty, Inc.
2127 Innerbelt Business Center Dr., Suite 200
St. Louis, Missouri 63114
Direct: 314-264-9411
Main: 314-429-0900
Fax: 314-429-0999
Email: swerner@thfrealty.com

January 28, 2010

CONSENT TO REDUCTION OF LETTER OF CREDIT

The City of Grand Junction (the "Beneficiary") under Letter of Credit No. NZS625741 issued by Wells Fargo Bank, N.A. on July 31, 2008, (a copy of which is hereby attached) acknowledges that the amount of said Letter of Credit shall be reduced from Two Hundred Fifty-Eight Thousand Seven Hundred Ninety Four and 14/100ths Dollars (\$258,794.14) to Forty-Three Thousand One Hundred Thirty-Two and 36/100ths Dollars (\$43,132.36).

Acknowledged:

"BENEFICIARY"

The City of Grand Junction

By: *Rick Dorris*
Name: RICK DORRIS
Its: _____

"APPLICANT"

THE Grand Junction Development, L.L.C.,
a Missouri limited liability company

By: _____
Name: Michael H. Staenberg
Its: Manager

*Rick has not fully ^{1/29/10} accepted initial acceptance but agreed to a reduction to loc. when the weather works up, developer will complete items necessary for initial acceptance.
Riviera Marketplace #4
SS-2007-005*

WELLS FARGO BANK/WELLS FARGO HSBC TRADE BANK

APPLICATION FOR AMENDMENT TO LETTER OF CREDIT

Date
1-28-10

FOR BANK USE ONLY	Document Track No.
-------------------	--------------------

WE HEREBY REQUEST THAT IRREVOCABLE LETTER OF CREDIT NO.

NZS625741

ISSUED BY: WELLS FARGO BANK, N. A. WELLS FARGO HSBC TRADE BANK, N. A.

IN FAVOR OF: City of Grand Junction

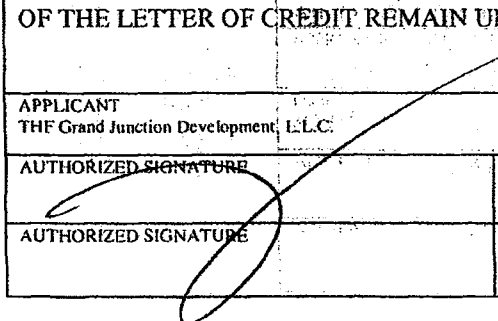
PARTY NAMED AS APPLICANT: THFGrand Junction Development, L.L.C.

BE AMENDED BY CABLE/TELEX COURIER MAIL OTHER: _____

AS FOLLOWS:

- LETTER OF CREDIT REDUCED BY THE FOLLOWING AMOUNT: \$215,661.78 OF CREDIT
- LETTER OF CREDIT INCREASED BY THE FOLLOWING AMOUNT: _____ OF CREDIT
- LATEST SHIPMENT DATE EXTENDED TO THE FOLLOWING DATE: _____
- LETTER OF CREDIT EXPIRATION DATE EXTENDED TO FOLLOWING DATE: _____
- OTHER AMENDMENT(S) (limit 650 characters):
New amount of L/C is \$43,132.36.

TO BE COMPLETED BY THE ENTITY TO WHOM THE APPLICATION FOR THE LETTER OF CREDIT WAS ADDRESSED		
Applicant's signature on this Application is verified. Issuance of the amendment has been approved in accordance with the credit policies and procedures of the Wells Fargo entity to whom the Application for the Letter of Credit was addressed.		
APPROVING OFFICER'S OFFICE (Please Type or Print)		
Phone: <u>970-256-4024</u>	MAC	AU
APPROVING OFFICER'S NAME (Please Type or Print) <u>RICK DORRIS</u>		
APPROVING OFFICER'S SIGNATURE <u>Rick Dorris</u>	DATE <u>1-28-10</u>	

APPLICANT'S AGREEMENT AND SIGNATURE	
WE UNDERSTAND THAT THIS AMENDMENT IS SUBJECT TO ACCEPTANCE BY THE BENEFICIARY AND ANY CONFIRMING BANK. ALL OTHER TERMS AND CONDITIONS OF THE LETTER OF CREDIT REMAIN UNCHANGED.	
APPLICANT THF Grand Junction Development, L.L.C.	
AUTHORIZED SIGNATURE 	TITLE Michael H. Staenberg, Manager
AUTHORIZED SIGNATURE	TITLE

Wells Fargo Bank, N.A.
Operations Group
Northern California
One Front Street, 21st Floor
San Francisco, CA 94111



PAGE: 1

DATE: FEBRUARY 9, 2010

AMENDMENT TO CREDIT NO.
NZS625741
AMENDMENT NUMBER: 1

APPLICANT:
THE GRAND JUNCTION DEVELOPMENT,
L.L.C., 2127 INNERBELT
BUSINESS CENTER DR., SUITE 200
ST LOUIS, MO 63114

BENEFICIARY:
CITY OF GRAND JUNCTION
C/O 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 215,661.78.

THE AMOUNT OF THE CREDIT ISSUED NOW TOTALS USD 43,132.36.

AS PER 'CONSENT TO REDUCTION OF LETTER OF CREDIT' SIGNED BY RICK DORRIS OF BENEFICIARY AND APPLICANT DATED JANUARY 28, 2010.

ALL OTHER TERMS UNCHANGED.

AMENDMENT NUMBER: 1

A handwritten signature in black ink, appearing to be "Eisa Chau", written over a horizontal dashed line.

AUTHORIZED SIGNATURE
EISA CHAU
ASSISTANT VICE PRESIDENT

PLEASE CONTACT JUDY F. SONG BY TELEPHONE AT 415-396-4319 OR BY FAX AT (415) 296-8905 OR TRADE CONNECTIONS AT 1-800-798-2815 REGARDING ANY INQUIRIES.

PUBLIC WORKS & PLANNING

June 06, 2011

THF Grand Junction Development LLC
Michael Staenberg
2127 Innerbelt Business Center Dr
St Louis, MO 63114

RE: Notice of Final Acceptance
Project Name: Rimrock Marketplace #4
Project Number: PR-2011-116
Plan Number: SS-2007-005
DIA Number: DIA-2011-626

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 Final Acceptance of the Project have been fulfilled. The Developer's warranty obligations, for all materials and workmanship, have concluded and are hereby released.

The following public improvements are accepted for future maintenance by the City:

Public streets:

- All public streets as shown on the project plans.

Storm drainage system:

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

Water distribution system:

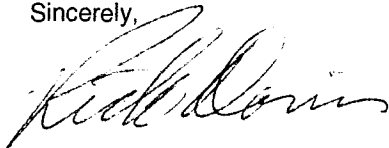
- N/A. All water mains are within Ute Water jurisdiction.

Sanitary sewer:

- All 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,



Rick Dorris, PE, CFM
Development Engineer

EC: Mark Barslund, Development Inspector
Scott Peterson, Senior Planner
Leslie Ankrum, Senior Administrative Assistant
Ed Tolen, Ute Water
Chris Spears, Streets Supervisor
Larry Brown, Wastewater Maintenance Supervisor

Grand Junction

PUBLIC WORKS & PLANNING

June 06, 2011

Wells Fargo Bank NA
US Trade Services - Standby Letter of Credit
One Front St 21st Floor
San Francisco, CA 94111

**Re: Cancellation of Letter of Credit Number NZS625741 and Letter of Credit Amendment #1
THF Grand Junction Development LLC**
Internal Reference: Rimrock Marketplace #4: PR-2011-116, SS-2007-005, DIA-2011-626

To Whom It May Concern:

Enclosed please find the original Letters of Credit Number **NZS625741** and **Amendment #1** for **THF Grand Junction Development LLC**. As beneficiary, the City of Grand Junction informs you that the Letters of Credit are being returned to you for cancellation. This letter is 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,



Lisa E. Cox, Planning Manager

Encl: Letter of Credit **NZS625741**
Letter of Credit **NZS625741 Amendment #1**

EC: Rick Dorris, PE, CFM
Mark Barslund, Development Engineer
Scott Peterson, Senior Planner
Leslie Ankrum, Senior Administrative Assistant

Developer:

THF Grand Junction Development LLC
Michael Staenberg
2127 Innerbelt Business Center Dr
St Louis, MO 63114



WELLS FARGO BANK N.A.
TRADE SERVICES DIVISION, NORTHERN CALIFORNIA
ONE FRONT STREET, 21ST FLOOR
SAN FRANCISCO, CALIFORNIA 94111
Contact Phone: 1(800) 798-2815
Email : sfttrade@wellsfargo.com

IRREVOCABLE LETTER OF CREDIT

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

Irrevocable Letter of Credit No. **NZS625741**
Dated: July 31, 2008
Expiration: July 31, 2009 subject to the automatic extensions stated below
Project Name/ City File No.: Rimrock Crossing / SS-2007-005

Dear Sirs:

We hereby establish our Irrevocable Letter of Credit No. NZS625741 in favor of the City of Grand Junction at the request and for the account of THF Grand Junction Development, L.L.C. in the amount of Two Hundred Fifty Eight Thousand Seven Hundred Ninety Four and 14/100ths United States Dollars (US \$258,794.14).

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

- 1) it is effective upon signature;
- 2) it expires on July 31, 2009 subject to the automatic extensions discussed below;
- 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. NZS625741 dated 07/31/08.";
- 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 THF Grand Junction Development, L.L.C. (Developer) being obligated to pay or perform in accordance with the provisions of the Grand Junction Zoning and Development Code (this item 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 THF Grand Junction Development, L.L.C. (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 related 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) this Letter of Credit expires at our above office on July 31, 2009, but shall be automatically and successively extended without written amendment, to each January 31st and July 31st 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 31, 2009 or any subsequent January 31st and July 31st and be at least ninety (90) calendar days after the date you receive such notice, you may release us 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;
- 8) 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 Public Works & Planning or his designee;
- 9) this Letter of Credit is neither negotiable or assignable;
- 10) partial and multiple drawings are permitted under this Letter of Credit;
- 11) 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: 415-975-6284 or 415-296-8905 are permitted under this Letter of Credit provided however that you attempt to contact by telephone Wells Fargo Bank, N.A.'s Letter of Credit office in San Francisco at telephone number 1-800-798-2815 to confirm their receipt of the demand. Failure to reach Wells Fargo by telephone after the fax demand does not affect the efficacy of the demand.
- 12) except as otherwise stated herein, this Letter of Credit is subject to the Uniform Customs and Practice For Documentary Credits (1993 Revision), and to the extent that it does not conflict with Article 5 of the Uniform Commercial Code of the State of Colorado.

Very truly yours

WELLS FARGO BANK, N.A.

By:
Name:
Title:



EISA CHAU
ASSISTANT VICE PRESIDENT

Wells Fargo Bank, N.A.
Operations Group
Northern California
One Front Street, 21st Floor
San Francisco, CA 94111



PAGE: 1

DATE: FEBRUARY 9, 2010

AMENDMENT TO CREDIT NO.
NZS625741
AMENDMENT NUMBER: 1

APPLICANT:
THE GRAND JUNCTION DEVELOPMENT,
L.L.C., 2127 INNERBELT
BUSINESS CENTER DR., SUITE 200
ST LOUIS, MO 63114

BENEFICIARY:
CITY OF GRAND JUNCTION
C/O 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 215,661.78.

THE AMOUNT OF THE CREDIT ISSUED NOW TOTALS USD 43,132.36.

AS PER 'CONSENT TO REDUCTION OF LETTER OF CREDIT' SIGNED BY RICK DORRIS OF BENEFICIARY AND APPLICANT DATED JANUARY 28, 2010.

ALL OTHER TERMS UNCHANGED.

AMENDMENT NUMBER: 1

A handwritten signature in black ink, appearing to be "Judy F. Song", written over a dashed horizontal line.

AUTHORIZED SIGNATURE

BRAND
ASSISTANT

PLEASE CONTACT JUDY F. SONG BY TELEPHONE AT 415-396-4319 OR BY FAX AT (415) 296-8905 OR TRADE CONNECTIONS AT 1-800-798-2815 REGARDING ANY INQUIRIES.

Original

RELEASE OF RECORDING MEMORANDUM
City of Grand Junction
Public Works & Planning Department
Project: PR-2011-116
Plan: SS-2007-005
DIA-2011-626

This Release relates to a Recording Memorandum dated July 21, 2008, by and between THF Grand Junction Development LLC, (Developer) and the City of Grand Junction, pertaining to Rimrock Marketplace #4 (Project), located at 1450 Independent, Grand Junction, CO, recorded at Book 4711, Page 155, 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 Engineer:

Keith [Signature]

Date:

6-6-11

City Planner:

John D. Peter

Date:

JUNE 6, 2011

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

6.6.11
Date

The foregoing instrument was executed before me this 6th of June, 2011, by Greg Moberg, of the Public Works & Planning Department for the City of Grand Junction, Colorado.

Witness my hand and official seal:

Leslie G. Ankrum
Leslie G. Ankrum, Notary Public



My commission expires on 8/21/2013

My Commission Expires 08/21/2013