

DEVELOPMENT IMPROVEMENTS AGREEMENT

Planning File SPR-2008-119

1. **Parties:** The parties to this Development Improvements Agreement ("Agreement") are **Starlieth, 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 **Lot 1 University Village Apartments** has been reviewed and approved under Planning file number: **SPR-2008-119** ("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 \$ **164,465.30** (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: Deed

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 \$ **27,410.88** (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").

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

Commencement Date: 11/29/11
Completion Date: 11/29/14

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 **\$ 137,054.42** (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:	Starlieh, LLC c/o Darren Davidson	Name/Developer/Company
	PO Box 3200	Address (Street and Mailing)
	2879-1/2 Navajo Way	Address (continued)
	Grand Junction, CO 81502-3200	City, State & Zip Code
	970-234-7995	Telephone Number
	970-243-4164	Fax Number
	Darren5515@aol.com	E-mail Address

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 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:

Starlieth Fenwick 11-22-11
Developer's Signature Date

Developer's Name:

Corporate Attest:

Name Date

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

[Signature] 11.29.11
Public Works & Planning Dept. Date

Type legal description below.

EXHIBIT A

Lot 1 University Village Apartments

EXHIBIT B

IMPROVEMENTS COST ESTIMATE

DATE: August 18th, 2009 & updated 10/06/2010

DEVELOPMENT NAME: University Village Apartments

LOCATION: 2256 & 2304 North 17th Street

PRINTED NAME OF PERSON PREPARING: Clint Green P.E.

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
A. SANITARY SEWER					
1	8 " PVC Sanitary Sewer Main	LF	445	\$24.00	\$10,680.00
2	" PVC Sanitary Sewer Main	LF			\$-
3	" PVC Sanitary Sewer Main	LF			\$-
4	Sewer services	EA	7	\$1,200.00	\$8,400.00
5	Sanitary Sewer Manhole	EA	4	\$2,750.00	\$11,000.00
6	Sanitary Sewer Drop Manhole	EA			\$-
7	Connection to Existing Manhole	EA	1	\$2,500.00	\$2,500.00
8	Concrete Encasement	LF			\$-
					\$-
					\$-
	Subtotal Part A Sanitary Sewer				\$32,580.00
B. DOMESTIC WATER					
1	8 " PVC Water Main	LF	638	\$24.00	\$15,312.00
2	" PVC Water Main	LF			\$-
3	" PVC Water Main	LF			\$-
4	8 " Gatevalve	EA	2	\$750.00	\$1,500.00
5	" Gatevalve	EA			\$-
6	" Gatevalve	EA			\$-
7	Water Services	EA	7	\$800.00	\$5,600.00
8	Connect to Existing Water Line	EA	2	\$1,500.00	\$3,000.00
9	Fire Hydrant with Valve	EA	1	\$3,200.00	\$3,200.00
10	Utility Adjustments	EA			\$-
11	Blowoff	EA			\$-
					\$-
					\$-
					\$-
	Subtotal Part B - Domestic Water				\$28,612.00

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
C1.	STREETS				
1	4 " PVC Utility/Irrigation sleeves	LF			\$-
2	" PVC Utility/Irrigation sleeves	LF			\$-
3	Reconditioning	SY	284	\$5.50	\$1,562.00
4	Aggregate Base Course (Class 3)	TN			\$-
5	Aggregate Base Course (Class 6) (6" Compacted Thickness)	SY	284	\$17.00	\$4,828.00
6	Aggregate Base Course (Class 6) (" Compacted Thickness)	SY			\$-
7	Hot Bituminous Paving, Grading (3" thick)	SY	198	\$25.00	\$4,950.00
8	Hot Bituminous Paving, Grading (" thick)	SY			\$-
9	Hot Bituminous Paving, Patching (3" Thick) Cutting/Milling/Patching	SY	43	\$85.00	\$3,655.00
10	Geotextile	SY			\$-
11	Concrete Curb (" Wide by " High)	LF			\$-
12	Concrete Curb and Gutter (2' wide)	LF			\$-
13	Concrete Curb and Gutter (1.5' wide)	LF			\$-
14	Monolithic, Vertical Curb, Gutter and Sidewalk (7' Wide)	LF	226	\$21.50	\$4,859.00
15	Drive Over Curb, Gutter, and Sidewalk (' Wide)			\$-	\$-
16	Concrete Sidewalk (' Wide)	LF			\$-
17	Concrete Gutter and Driveway Section (" Thick)	SY			\$-
18	Concrete Drainage Pan (6' Wide, 8" Thick)	LF	89	\$18.00	\$1,602.00
19	Concrete Corner Fillet	SY			\$-
20	Concrete Curb Ramp	SY			\$-
21	Complete Concrete Corner	SY	56	\$45.00	\$2,520.00
22	Concrete Driveway (6" Thick)	SY			\$-
23	Driveway/Concrete Repair	SY			\$-
24	Retaining Walls	LF			\$-
25	Street Signs	EA			\$-
26	Striping (New, Remove/Replace)	LF			\$-
27	Street Lights	EA	1	\$1,200.00	\$1,200.00
28	Signal Construction or Reconstruction	LS			\$-
29	Flowable Fill	CY			\$-
30	Sleeves, ", PVC	LF			\$-
					\$-
					\$-

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
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				\$25,176.00
D1.	EARTHWORK-SWMP				
1	Mobilization	LS	1	\$1,250.00	\$1,250.00
2	Clearing and Grubbing	AC or LS			\$-
3	Tracking Pad	EA	2	\$650.00	\$1,300.00
4	Silt Fence/Swale & Berm Combo	LF	2000	\$1.25	\$2,500.00
5	Watering (Dust Control)	LS	1	\$400.00	\$400.00
6	Concrete Washout	LS	1	\$350.00	\$350.00
7	Rock Socks	EA	8	\$19.00	\$152.00
8	Straw Bales	EA	9	\$6.00	\$54.00
9	Inspections	EA	39	\$40.00	\$1,560.00
D2.	REMOVALS AND RESETTING				
1	Removal of Asphalt	SY	478	\$8.00	\$3,824.00
2	Removal of Miscellaneous Concrete	SY			\$-
3	Remove Curb and Gutter	LF	163	\$15.00	\$2,445.00
4	Removal of Culverts	LF			\$-
5	Remove Structures	EA			\$-
6	Remove Signs	EA	5	\$85.00	\$425.00
7	Remove Fence	LF			\$-
8	Adjust Manhole	EA			\$-
9	Adjust Valvebox	EA			\$-
10	Relocate or Adjust Utilities	LS	3	\$2,500.00	\$7,500.00
D3.	SEEDING AND SOIL RETENTION				
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
D4.	STORM DRAINAGE FACILITIES				
1	Finish Grading (incl. Channels, Swales, and Ponds)	CY			\$-
2	" Storm Drain Pipe	LF			\$-
3	18" RCP Storm Drain Pipe	LF	79	\$40.00	\$3,160.00
4	" Storm Drain Pipe	LF			\$-
5	" Storm Drain Pipe	LF			\$-
6	" Storm Drain Pipe	LF			\$-
7	" Flared End Section	EA			\$-
8	" Flared End Section	EA			\$-
9	48" Storm Drain Manhole	EA	1	\$2,500.00	\$2,500.00
10	60" Storm Drain Manhole	EA			\$-
11	72" Storm Drain Manhole	EA			\$-
12	Manhole with Box Base	EA			\$-
13	Connection to Existing MH	EA	1	\$1,250.00	\$1,250.00
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			\$-
17	Detention Area Outlet structure	EA			\$-
18	Rip-Rap D ₅₀ = ____"	CY			\$-
19	Sidewalk Trough Drain	EA			\$-
20	Pump Systems including Electrical	LS			\$-
	Subtotal Part D - Grading and Drainage				\$31,170.00

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	1	\$7,100.00	\$7,100.00
5	Irrigation System	LS	1	\$1,100.00	\$1,100.00
6	Curbing	LF			\$-
7	Retaining Walls & Structures	LS			\$-
8	1 Year Maintenance Agmnt.	LS			\$-
9	Topsoil				\$-
					\$-
					\$-
	Subtotal Part E - Landscaping and Irrigation				\$8,200.00

Item #	Item Description	Unit	Quantity	Unit Price	Extended Price
F.	Miscellaneous Items				
1	Construction staking/surveying	%	2.00%	\$125,738.00	\$2,514.76
2	Developer's inspection cost	%		\$125,738.00	\$-
3	General construction supervsn	%	2.00%	\$125,738.00	\$2,514.76
4	Quality control testing	%	2.00%	\$125,738.00	\$2,514.76
5	Construction traffic control	%		\$125,738.00	\$-
6	City inspection fees	%	1.00%	\$125,738.00	\$1,257.38
7	As-builts	%	2.00%	\$125,738.00	\$2,514.76
Subtotal Part F - Miscellaneous Items					\$11,316.42

% = Percentage of total site construction costs

COST SUMMARY:

G1	Total Improvement Costs	\$137,054.42
G2	City Security (20%)	\$27,410.88
Total Guarantee Amount		\$164,465.30

NOTES

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

Stanley H. Jensen
Signature of Developer

11-29-2011
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.

[Signature]
City Development Engineer

11/29/11
Date

[Signature]
Community Development

11/29/11
Date

DEED OF TRUST

THIS INDENTURE is made and entered into this 28th day of November, 2011, between Starlieth LLC, a Colorado limited liability company ("Grantor"), whose address is 2879 1/2 Navajo Way, Grand Junction, Colorado 81506 and the Public Trustee of Mesa County, Colorado ("Trustee") for the benefit of the City of Grand Junction ("Beneficiary").

WITNESSETH:

WHEREAS, Grantor has executed that certain Development Improvement Agreement ("DIA") agreeing, among other things, to construct public improvements and to post security in the principle sum of One Hundred Sixty Four Thousand Four Hundred Sixty Five Dollars (\$164,465.00), payable upon certain conditions specified in the DIA to the City of Grand Junction ("Beneficiary"), whose address is 250 North 5th Street, Grand Junction, Colorado.

WHEREAS, Grantor is desirous of securing to Beneficiary, their successors and assigns, the obligations pursuant to the DIA ("Secured Obligations");

NOW, THEREFORE, Grantor, in consideration of the premises and for the purpose of securing its obligations under the DIA, does hereby grant, bargain, sell, and convey unto Trustee, in trust forever, that real property whether now owned or hereafter acquired by Grantor, situated in the County of Mesa, State of Colorado ("Property") and more particularly described as follows:

Beginning 70 feet North and 185 feet West of the Southeast corner of the SW 1/4 NE 1/4 of Section 15, Township 1 South, Range 1 West, thence North 125 feet, thence West 25 feet, thence South 125, thence East to the point of beginning, Mesa County, Colorado.

(also known as 406 West Grand Avenue, Grand Junction, Colorado 81501)

AND

Beginning at a point 70 feet North and 210 feet West of the Southeast corner of the SW 1/4 NE 1/4 of Section 15, Township 1 South, Range 1 West of the Ute Meridian, thence North 125 feet, thence West 25 feet, thence South 125 feet, thence East to the point of beginning.

(also known as 408 West Grand Avenue, Grand Junction, Colorado 80501)

TOGETHER with all and singular the tenements, hereditaments, easements, rights-of-way, licenses, and appurtenances thereunto belonging or in any wise appertaining, whether now owned or hereafter acquired by Grantor, and any and all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise), together with the rents, issues, profits and other income thereof, and also the entire estate, right, title, interest, claim, and demand whatsoever of Grantor of, in, and to the same and of, in, and to every part and parcel thereof; and

TOGETHER with all buildings, structures, and improvements now or hereafter located on the Property, and any and all easements, rights-of-way, and licenses used in connection therewith; and

TOGETHER with all oil, gas, minerals, water and water rights, and drains and drainage rights appurtenant to, located on, under, or above, or used in connection with the Property and the improvements situated thereon, or any part thereof, whether now existing or hereafter created or acquired; and

TOGETHER with all machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever, now ' or hereafter located in or upon the

Property or any part thereof and used or usable in connection with any present or future operation of the Property ("equipment") and now owned or hereafter acquired by Grantor, including, without limiting the generality of the foregoing, all heating, lighting, laundry, incinerating, and power equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating, and communications apparatus, air-cooling and air-conditioning apparatus, elevators, escalators, shades, awnings, screens, storm doors and windows, stoves, refrigerators, attached cabinets, partitions, ducts, and compressors and all of the right, title, and interest of Grantor in and to any equipment which may be subject to any title retention or security agreement or chattel mortgage superior to the lien of this Deed of Trust. It is understood and agreed that all equipment is part and parcel of the Property and appropriated to the use of the Property and, whether affixed or annexed or not, shall for the purpose of this Deed of Trust be deemed conclusively to be real estate and conveyed hereby. Grantor agrees to execute and deliver, from time to time, such further instruments as may be requested by Beneficiary to confirm the lien of this Deed of Trust on any equipment; and

TOGETHER with all leases, rents, issues, royalties, bonuses, income, and profits, of each and every kind, now or hereafter relating to or arising from the Property and the improvements situated thereon; and

TOGETHER with any and all awards or payments, including interest thereon, and the right to receive the same, resulting from the exercise of any right of eminent domain, the alteration of the grade of any road or street, or other injury to, taking of, or decrease in the value of the Property and the improvements situated thereon; and

TOGETHER with all right, title and interest of Grantor, if any, in and to the land lying in the bed of any street, road, avenue or alley whether open, proposed or vacated, in front of or adjoining the property; and

TOGETHER with all other or greater rights and interests of every nature in the foregoing property and Grantor's rights to the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Grantor.

ALL OF THE FOREGOING property is sometimes hereinafter collectively referred to as the "Indentured Property."

IN TRUST NEVERTHELESS, and time being of the essence hereof, that in the event of any default by Grantor as defined in the DIA, which is incorporated herein by this reference, Beneficiary may file notice with Trustee declaring such default and their election and demand that the Indentured Property be advertised for sale and sold in accordance with the statutes of the State of Colorado; and thereupon, Trustee shall sell and dispose of the Indentured Property (en masse or in separate parcels, as Trustee deems best), and all the right, title, and interest of Grantor, its successors and assigns, in and to the Indentured Property, at public auction at the front door of the courthouse in the county of Colorado wherein the Indentured Property is situated, or on said premises as may be specified notice of such sale, for the highest and best price the same will bring in cash, after public notice having been previously given of the time and place of such sale in accordance with the statutes of the State of Colorado by advertisement weekly in some newspaper of general circulation at that time published in said county in Colorado wherein the Indentured Property is situated; copies of said notice shall be mailed in accordance with the statutes of the State of Colorado governing sales of real estate by Trustee, and Trustee shall make and give to the purchaser of the Indentured Property at said sale a Certificate of Purchase, describing such Indentured Property sold, the sum paid therefor, and the time when the purchaser (or other persons entitled thereto) shall be entitled to a deed therefor, unless the same shall be redeemed as provided by law; and Trustee shall, upon demand by the party holding the said Certificate of Purchase, the time for redemption having expired, make, execute, and deliver to such party a deed to the Indentured Property purchased in accordance with the statutes of the State of Colorado; and Trustee shall, out of the proceeds of said sale, after first

paying and retaining all fees, charges, and costs incident to such foreclosure sale, including, without limiting the generality of the foregoing, all attorneys' fees and court costs and charges of every character, pay to Beneficiary or the legal holder of the DIA the principal, interest, and additional sums due under the DIA, including, without limiting the generality of the foregoing, late charges, default interest charges, and fees due under the DIA, according to the tenor and effect thereof, and all monies advanced by Beneficiary or the legal holder of the DIA for insurance, taxes, assessments, repairs, maintenance, utilities, maintenance fees-, mechanics' liens or any other liens on the Indentured Property of whatever nature, or for the payment of Grantor's debts, and any other Secured Indebtedness with interest thereof from the date of the foreclosure sale to the date of such payment by Trustee at an interest rate per annum equal to the default interest rate set forth in the DIA, rendering the overplus, if any, first unto any subsequent lienors in accordance with the statutes of the State of Colorado, and then unto Grantor, which sale and deed so made shall be a perpetual bar, both in law and equity, against Grantor and all other persons claiming the Indentured Property, or any part thereof, by, from, through, or under Grantor, or any of them.

It shall be specifically authorized herein that Beneficiary or the legal holder of the DIA or their representatives may bid at the foreclosure sale held by Trustee or by Order of Court and any bid by Beneficiary or the legal holder of the DIA may take into consideration anticipated taxes, assessments, insurance premiums, utilities, maintenance expense, management costs, repairs, title expense, and the then going real estate agent's commission, all or any of which may be incurred during the period of redemption or in order to subsequently sell or otherwise dispose of the Indentured Property after the issuance of the Public Trustee's deed, and such amounts shall not be deemed an overplus distributable to junior lienors or Grantor.

This Deed of Trust shall secure, as a part of the Secured Indebtedness, without limiting the generality of the foregoing, any additional advances and any expenditures made by Beneficiary or the legal holder of the DIA (as determined in their sole discretion) for all sums due under any lien prior to this Deed of Trust, which sums Beneficiary and/or the legal holder of the DIA elect to pay in order to protect their security interest in the Indentured Property, together with any taxes, special assessments, insurance premiums, costs of completing the construction of any unfinished improvements, costs of repairing, maintaining, and preserving said improvements, cost of storage of materials for incorporation into the improvements and purchased with funds disbursed under the DIA, utility charges, delinquent payments fees, attorneys' fees, and any other expenditures made or charges incurred by Beneficiary and/ or the legal holder of the DIA, with interest thereon from the date of such expenditure at an interest rate per annum equal to the default interest rate set forth in the DIA, all of which sums may be added to Beneficiary's or the legal holder of the DIA's bid at any foreclosure sale held pursuant hereto. Grantor hereby assigns to Beneficiary and the legal holder of the DIA any right Grantor may have by reason of any prior encumbrance on the Indentured Property or by law or otherwise to cure any default under said prior encumbrance, and further assigns to Beneficiary and the legal holder of the DIA any right Grantor may have by reason of contract or by law or otherwise to make any or all of the payments described in this paragraph or which Beneficiary or the legal holder of the DIA is permitted to make on behalf of Grantor by the terms of this Deed of Trust. Further, it shall be lawful for the holder of the Certificate of Purchase covering the Indentured Property to make any of the foregoing expenditures, and upon filing receipts evidencing payment of the same with Trustee or the Sheriff or other person lawfully conducting said sale and issuing said Certificate of Purchase, such payments or expenditures shall thereupon become an additional claim or indebtedness in favor of the holder of such Certificate of Purchase and against the Indentured Property so sold. Before redemption can be made from such foreclosure sale, the party redeeming shall be required to pay, in addition to the amounts specified in said Certificate of Purchase, with interest thereon as provided herein, the further and additional amounts represented by the foregoing expenditures, together with interest thereon from the date of such expenditure at an interest rate per annum equal to the default interest rate set forth in the DIA. In the event of default or foreclosure and if, in the opinion of Beneficiary or the legal holder of the DIA, it is necessary to complete construction of any incomplete improvements or make repairs, alterations, or renovations to the Indentured Property in order to preserve, protect, or prevent waste, or change the manner of

utilization or nature of occupancy, Beneficiary shall have the right to proceed as it deems advisable and Grantor does hereby appoint Beneficiary as its attorney-in-fact to do such things as are hereby provided, and this power of attorney is coupled with an interest in the Indentured Property and is irrevocable.

AND, Grantor represents, warrants, and covenants to Beneficiary, their successors and assigns, that Grantor and the members and managers of Grantor are now in a solvent condition; and no bankruptcy or insolvency proceedings are pending or contemplated by Grantor or any member or manager of Grantor, or to Grantor's knowledge, threatened against Grantor or any member or manager of Grantor. Grantor, for itself and for its heirs, successors, and assigns, covenants and agrees to and with the Trustee and Beneficiary that at the time of the ensembling and delivery of these presents, it is well seized of the said lands and tenements in fee simple title to the Indentured Property and has good right, full power and lawful authority to grant, bargain, sell, convey, transfer, assign and mortgage the Indentured Property. Grantor hereby fully and absolutely waives and/or subordinates all rights and claims it may have in or to the Indentured Property as a homestead exemption or other exemption under or by virtue of any federal, state, or local law now or hereafter in effect. Grantor further warrants that the Indentured Property is free and clear of all liens, security interests, encumbrances and other title matters, including, without limitation, mechanics' liens, materialmen's liens and liens for special assessments for work completed or under construction on the date hereof; and that Grantor will warrant and forever defend the title to the Indentured Property against the claims of all persons whomsoever claiming or to claim the same or any part thereof, subject to the Permitted Exceptions, and the Indentured Property in the quiet and peaceable possession of said Trustee, his successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the Grantor shall and will warrant and forever will defend. The Warranty of Title contained herein shall survive the foreclosure of this Deed of Trust and shall inure to the benefit of and be enforceable by any person who may acquire title to the Indentured Property pursuant to foreclosure.

GRANTOR further represents, warrants and covenants to Beneficiary, its successors and assigns, that Grantor is duly organized and validly existing and in good standing under the laws of the State of Colorado with the power to own the Indentured Property and carry on its business as is now being conducted; that the DIA, this Deed of Trust and all other documents or instruments securing payment of the DIA constitute the legal, valid, and binding obligations of Grantor, and any other party thereto and are enforceable in accordance with their terms; that Grantor's execution and delivery of, and performance under, the DIA, this Deed of Trust, and all other documents or instruments securing payment or performance of the DIA have been duly authorized by all requisite action under Grantor's and the general partner(s) of the Grantor's governing documents and are not in contravention of such documents, the law or any indenture agreement, or undertaking to which Grantor or any general partner of Grantor is a party or by which Grantor or any general partner of Grantor is bound.

GENERAL COVENANTS

THE GRANTOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. Existence. Grantor will continuously maintain its existence as a Colorado limited liability company as currently constituted.

2. Payment. Grantor will make prompt payment, as the same become due, of all installments of principal, interest, and other charges becoming due under the DIA or this Deed of Trust.

3. Payment of Taxes and Prior Encumbrances. During the continuance of the Secured Indebtedness or any part thereof, the Grantor will, prior to delinquency, pay all taxes and assessments levied on the Indentured Property (including water and/or water company stock

assessments and periodic condominium or owner association dues or assessments, if any) and all amounts due or to become due on account of principal and interest on prior encumbrances, if any.

4. Insurance of Premises. Grantor shall keep the Indentured Property insured, in such amounts and with such companies as Beneficiary shall approve in writing, against loss by fire, lightning, windstorm, tornado, flood, boiler explosion or malfunction, any other casualty, and public liability with loss of rents and such other causes as may be required by Beneficiary with loss payable to the Beneficiary hereunder as their interest may appear. Grantor will deliver to the Beneficiary the policy or policies of insurance, with a standard mortgage clause in favor of Beneficiary attached thereto, as further security for the Secured Indebtedness. In the event of loss or damage, the proceeds of all such insurance may be applied to the payment of the Secured Indebtedness or to the repair, rebuilding, or replacement of the improvements damaged or destroyed, as the Beneficiary in their sole discretion may elect or direct. The said proceeds of such insurance, if to be applied to repair, rebuilding or replacement of improvements, shall be retained in the possession of the Beneficiary until the said repair, rebuilding or replacement, in the sole judgment of the Beneficiary, is complete.

5. Advances by Beneficiary for Taxes, Insurance or Prior Encumbrances. In the case of the refusal or neglect of the Grantor to thus insure and deliver the policies of insurance or to pay such taxes or assessments or amounts due or to become due on prior encumbrances, if any, the Beneficiary may procure said insurance or pay such taxes, assessments or amount due upon prior encumbrances, if any, and all monies thus paid, with interest thereon at 8% per annum, shall become so much additional indebtedness secured by this Deed of Trust, and shall be paid out of the proceeds of sale of the Property aforesaid if not otherwise paid by the Grantor. Such failure to so insure or to pay such amounts shall be a violation or breach of the covenants of this Deed of Trust.

6. Possession of the Property-Appointment of Receiver. In the case of any default or breach under the terms and covenants of the Secured Indebtedness or this Deed of Trust, the Beneficiary shall at once become entitled to the possession, use and enjoyment of the Indentured Property and to the rents, issues and profits therefrom, from the date of the accruing of such right and continuing during the pendency of foreclosure proceedings including any period of redemption. Such possession shall at once be delivered to the Beneficiary or the holder of the Certificate of Purchase upon demand. Upon refusal, the delivery of such possession may be enforced by the Beneficiary or the holder of the Certificate of Purchase by an appropriate civil suit or proceeding. The Beneficiary or the holder of the Certificate of Purchase shall be entitled to appointment of a receiver for the Indentured Property to receive the rents, issues and profits therefrom from and after any such default, including the time covered by foreclosure proceedings and the period of redemption, as a matter of right without regard to the solvency or insolvency of the Grantor or of the then owner of said Property and without regard to the value of the Indentured Property. Such receiver may be appointed by any court of competent jurisdiction upon ex-parte application and without notice, notice being hereby expressly waived. All rents, issues, profits, income and revenue from said Indentured Property shall be applied by such receiver to the payment first of the fees and costs of such receivership proceeding and then to the Secured Indebtedness. The balance remaining, if any, shall be disposed of in accordance with the orders and directions of the court. The fees of any such receiver, attorneys' fees incurred in appointment of the receiver and administration of the receivership estate and all costs, including court costs, shall be the liability of the Grantor, its successors and assigns, shall be due and payable upon demand and shall become so much additional indebtedness secured hereby. Failure to pay said fees and costs upon demand shall be in breach of the terms of this Deed of Trust. The rights of Beneficiary under this paragraph shall be in addition to and not in lieu of any rights existing by virtue of a separate Assignment of Leases, Rents and Other Income.

7. Alienation or Encumbrance of the Indentured Property. In the event the Grantor shall sell, convey, alienate or dispose of the Indentured Property described in this Deed of Trust, any part thereof or any interest therein (including, but not limited to, outright conveyance; conveyance or alienation of any interest in the Indentured Property or any part thereof by land

installment contract or contract for deed; and alienation of any interest in the Indentured Property by lease or rental agreement with option to purchase) the entire Secured Indebtedness, irrespective of the maturity dates expressed therein, shall immediately become due and payable. If the Secured Indebtedness is accelerated by reason of sale, conveyance, alienation or disposal of the Property or any part thereof, the indebtedness as accelerated shall include as a part of the principal balance and interest accrued at the rate set forth in said DIA, the equity participation amount, if any, as set forth in the said DIA.

In the event the Grantor shall further encumber the Indentured Property described in this Deed of Trust by creation of a lien or encumbrance junior to the lien of this Deed of Trust without the prior written consent of the Beneficiary hereunder, the entire Secured Indebtedness secured by this Deed of Trust, irrespective of the maturity dates expressed therein, shall at the option of the Beneficiary and without delay or notice become immediately due and payable. The consent of the Beneficiary to such further encumbrance shall not be unreasonably withheld. Nothing in this paragraph shall, however, limit the ability of the Beneficiary hereunder to withhold consent to alienation of the Indentured Property as set forth in the paragraph immediately above.

8. Time of the Essence. Time is of the essence of this Deed of Trust and in the event the Grantor or the Grantor's successors or assigns fail to pay Beneficiary any and all sums due according to the terms of the DIA and this Deed of Trust and fail to observe and perform any of the covenants and agreements contained in said DIA or this Deed of Trust, Beneficiary may, at its option, declare said DIA and the remaining indebtedness owing thereunder due and payable, and any tax assessments, insurance premiums, or other advances made or paid by said Beneficiary and not repaid by the Grantor shall become an additional indebtedness hereunder and secured by this Deed of Trust.

9. Covenant Against Waste. The Grantor, for himself and for his heirs, successors and assigns, covenants and agrees to maintain the Indentured Property in good and safe repair and not to permit any waste upon the Indentured Property which would impair the value of the security, which waste may consist of, but is not limited to, cutting and removal of timber and lumber; removal of topsoil and gravel; overgrazing; strip mining; and neglect in the repair and maintenance of the improvements.

10. Condemnation. If the Indentured Property or any part thereof shall be condemned and taken under the power of eminent domain, all damages and awards for the portion of the Indentured Property so taken shall be applied at the option of the Beneficiary either to the repayment of the Secured Indebtedness or to the rebuilding, repair and restoration of the lands and/or improvements damaged by said taking. Any balance of such damages or awards remaining after application as above set forth shall be paid over to the Grantor.

11. Operating Statements, Inspection and Management. Beneficiary shall have the right, at all reasonable times, to inspect the Indentured Property. Upon the request of Beneficiary, Grantor shall furnish to Beneficiary a balance sheet, a statement of income and expenses of the Indentured Property and a statement of changes in financial position, each in reasonable detail and certified by Grantor and, if Beneficiary shall require, prepared and certified by an independent certified public accountant. Grantor shall furnish, together with the foregoing financial statements, and at any other time upon Beneficiary's request, a rent schedule for the Indentured Property, certified by the Grantor, showing the name of each tenant, and for each tenant the space occupied, the lease expiration date, the rent payable and the rent paid.

Prior to entering into any agreement or arrangement for the management of the Indentured Property by any party or parties other than any entity wholly or partially affiliated with Beneficiary, Grantor shall first submit such agreement or arrangement to the Beneficiary for their written approval. Grantor, or any party selected by Grantor to manage the Indentured Property, shall at all times manage and operate said Indentured Property in compliance with all applicable laws, ordinances, orders, rules and regulations. Grantor, or its management agent, shall select

tenants and perform all management functions, including, but not limited to, the collection of rents and the providing of utilities, cleaning, repair and maintenance services in a manner consistent with the operation of a first-rate Property of similar nature to that encumbered hereby in the general locale of the Indentured Property.

12. Approval of Leases. Grantor shall furnish to the Beneficiary copies of all lease forms to be used to lease any portion of the Indentured Property. No such lease form shall be effective without the prior written consent of Beneficiary. Such approval shall not be unreasonably withheld.

Grantor shall furnish to the Beneficiary copies of all leases or instruments of extension, renewal, termination or modification of said leases now existing or hereinafter executed which cover any portion of the Indentured Property. Grantor shall also supply the Beneficiary copies of all extensions, renewals, modifications and terminations of said leases. No such lease or extension, renewal, modification or termination shall be effective without the prior written consent of Beneficiary. Such approval shall not be unreasonably withheld.

13. Forebearance; Substitution of Collateral; Partial Releases. It is understood and agreed that the Beneficiary may, at any time, without notice to any person, grant to the Grantor any indulgences of forbearance, grant any extension of time for payment of any indebtedness secured hereby, or allow any change or changes, substitution or substitutions, of or for any of the Property described in this Deed of Trust or any other collateral which may be held by Beneficiary. Beneficiary's action in so doing shall in no way affect the liability of the Grantor or Grantor's obligations under the DIA, nor shall it in any way affect or impair the lien of this Deed of Trust upon the remainder of the Property and upon other collateral which is not changed or substituted. It is also understood and agreed that the Beneficiary and the Trustee may, at any time, without notice to any person, release any portion of the Property described in this Deed of Trust or any other collateral which may be held as security for the payment of the Secured Indebtedness either with or without consideration for such release or releases. Such releases shall not in any manner affect the liability of the Grantor, nor Grantor's obligations under the DIA, nor shall said releases in any manner affect, disturb or impair the validity and priority of this Deed of Trust, for the full obligations under the DIA together with all interest and advances which shall become due or payable, upon the remainder of the Property and other collateral which is unreleased. It is distinctly understood and agreed by the Grantor and the Beneficiary that any release or releases may be made by the Beneficiary and the Trustee without the consent or approval of any person or persons whomsoever.

14. Prosecution or Defense of Actions Affecting Obligation or Lien. If Grantor fails to perform the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which affects Beneficiary's interest in the Indentured Property or the validity of the DIA secured hereby including, but not limited to, actions in eminent domain, code enforcement, insolvency or arrangements or proceedings involving a bankrupt or a decedent's estate, or actions by parties claiming an interest senior and paramount to the lien of this Deed of Trust, or if it becomes necessary for Beneficiary to file an action to uphold or defend the lien of this Deed of Trust, then Beneficiary shall have the right to employ its own legal counsel to defend, pursue, compromise, negotiate, or prevent any such litigation and all sums expended by Beneficiary including reasonable attorneys' fees and other costs in connection with any such legal action shall become so much additional indebtedness secured by this Deed of Trust. The failure of the Grantor to pay to Beneficiary all such sums expended immediately upon demand shall entitle the Beneficiary, at its option, to declare the entire indebtedness to-be at once due and payable.

15. Foreclosure and Attorneys' Fees. In the case of default on any of the obligations according to the tenor and effect of the DIA secured hereby, or of a breach or violation of any of the covenants or agreements contained herein, or incorporated herein, then the whole of said principal sum secured hereby, all interest thereon, and the equity participation amount, if any, set forth in the DIA secured hereby, may at once or at any time thereafter, at the option of the

Beneficiary, become due and payable. If foreclosure is performed by the Public Trustee, attorneys' fees of a reasonable amount for services in the supervision of said foreclosure proceedings together with all other costs of said foreclosure proceedings and as provided herein shall be added by the Public Trustee to the indebtedness secured hereby to be satisfied from the proceeds of the sale of said Indentured Property. If foreclosure is made through the courts, reasonable attorneys' fees shall be taxed by the court as a part of the costs of such foreclosure proceedings and such fees and costs shall be treated as a part of the indebtedness secured hereby to be satisfied from the proceeds of the sale of said Indentured Property.

16. Severability; Governing Law; Forum. In the event that any provision or clause of this provisions of this Deed of Trust which can be given effect without the conflicting provision. To this end, the provisions of this Deed of Trust are declared to be severable. The laws of the State of Colorado shall govern the interpretation, construction and enforcement of this Deed of Trust and the DIA it secures. The courts of the State of Colorado shall be the forum within which any and all issues of fact and law concerning the said DIA and this Deed of Trust shall be resolved.

17. Successors Bound; Terms; Captions. The covenants herein contained shall bind, and the benefits and advantages hereof shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural and conversely, and the use of any gender shall be applicable to all genders. The captions and headings of this Deed of Trust are for convenience only and are not to be used to interpret or define the terms of this document.

IN WITNESS WHEREOF, this Deed of Trust has been executed by the Grantor as of the day and year first above written.

GRANTOR:

Starlieth LLC

By: *Starlieth Jimenez*

Printed Name and Title: Starlieth Jimenez Mgr.

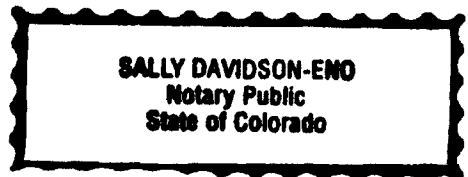
STATE OF COLORADO }
 } ss.
COUNTY OF MESA }

The foregoing instrument was acknowledged before me this 28th day of November, 2011 by Starlieth Jimenez as Mgr of Starlieth LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 11-11-2014

Sally Davidson-Eno
Notary Public



RECORDING MEMORANDUM

Exhibit D

City of Grand Junction
Public Works and Planning Department
File Number: SPR-2008-119

This memorandum relates to and confirms that certain Development Improvements Agreement and/or Maintenance Guarantee concerning land in Mesa County, Colorado, is by and between Starleth, LLC (Developer) and the City of Grand Junction (City) pertaining to University Village Apartments (Project), located at ~~2240~~ North 17th Street
2304

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 number SPR-2008-119

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:

By: Starleth Jimenez
Type Name: Starleth Jimenez - Authorized Agent

Date: 11/22/2011

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 North 5th Street, Grand Junction Colorado.

[Signature]
Public Works and Planning Department

Date: 11.29.11