

AMENDMENT TO SUBDIVISION IMPROVEMENTS AGREEMENT

This Amendment To Subdivision Improvements Agreement is entered into this 26 day of June, 1993, between the Board of County Commissioners of Gunnison County, Colorado, hereinafter referred to as the "County," and River Green Properties Limited Partnership, a Colorado limited partnership, hereafter referred to as the "Developer;"

WHEREAS, the County and the Developer have previously entered into a Subdivision Improvements Agreement, dated July 22, 1992, hereinafter referred to as "first Agreement," a copy of which is attached hereto as Appendix "A" and incorporated herein; and

WHEREAS, the County and the Developer desire to amend that first Agreement as set forth herein;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, the parties agree as follows:

1. There is and shall be the following specified substitution of the collateral required by the first Agreement to guarantee performance of the first Agreement:

a. With regard to Exhibit A of the first Agreement, and notwithstanding any document referred to in Exhibit A of the first Agreement, the extension of Slate River Drive, the road system within River Green, and all culverts on Slate River Drive shall be constructed, at a minimum, to Gunnison County Standard Specifications for Road And Bridge Construction as amended to the date of this Amendment.

b. The restriction on sale of any lots within River Green, which restriction is required by paragraph 2 of the first Agreement is terminated as of the date Developer delivers and County accepts, in the sole discretion of County, the security required by paragraph 1.d. herein.

c. The total cost of the improvements to be constructed and installed by Developer pursuant to the first Agreement (hereinafter "improvements") is estimated to be two hundred twenty two thousand thirty one dollars and no cents (\$222,031.00) which sum includes a fifteen percent construction contingency factor. The cost per component of the improvements is:

- i. extension of Slate River Drive and the road system in River Green: \$28,406.00;
 - ii. sewer: \$44,465.00;
 - iii. water system, water augmentation pond, pumphouse and tanks: \$120,200.00;
 - iv. contingency: \$28,960;
 - v. culvert work has been completed but not yet certified by Developer's engineer or accepted by the County.
- d. Prior to any conveyance, sale or transfer of title of all of the subdivided lots or of any lot, lots, tract or tracts of land subject to the Agreement and prior to commencement of any construction or installation of the improvements, Developer shall provide to the County:
- i. an irrevocable letter of credit with the County as the sole beneficiary in the amount of two hundred twenty two thousand thirty one dollars and no cents (\$222,031.00), issued by a nationally-chartered bank headquartered in Colorado or a Colorado-chartered bank (hereinafter "issuer"); and
 - ii. proof acceptable to the County in the County's sole discretion that full payment has been made to the Gunnison County Electric Association, Inc. and U.S. West Communications to provide the systems specified in the first Agreement, Exhibit A.

The issuer of the irrevocable letter of credit shall be obligated to pay the County the sum specified by the County on presentation to the issuer by the County of a written statement that:

- i. the Developer has defaulted on the first Agreement and this Amendment; and
 - ii. sets forth specified the sum demanded by the County.
- e. The security delivered pursuant to paragraph 1.c. above shall continue without reduction by Developer until the entire improvements have been completed to the satisfaction of County.

f. Developer shall retain a Colorado licensed engineer to certify to the County no later than October 31, 1994, whether the improvements have been completed in accordance with the requirements of the first Agreement and this Amendment. Within thirty days of receipt of such certification, the County shall either accept the same and release its security or provide written notice to Developer setting forth any perceived deficiencies in performance. Developer shall have thirty (30) days from the date of the County's written notice to remedy the deficiencies.

g. Upon the County's acceptance of Developer's full performance hereunder and the Developer's full performance hereunder and the Developer's engineer's certification, the County shall immediately release all security then held by it EXCEPT: the County shall retain ten thousand dollars and no cents (\$10,000.00) for a further term of one year under the original conditions of the security to ensure all necessary repairs to the improvements are completed by the Developer. NOTE: Developer may substitute collateral, acceptable to County in County's sole discretion, lieu of the irrevocable letter of credit, for that amount and term set forth in this paragraph g.

h. The covenant required by paragraph 4.d. of the first Agreement is amended to read:

As a condition of approval of the final plat of River Green recorded at Reception No. 435925 in the office of the Clerk and Recorder of Gunnison County, Colorado and to meet the requirements of Section 30-28-137, Colorado Revised Statutes, and of Section 5-409 of the Gunnison County Land Use Resolution, no building permit or certificate of occupancy be issued by Gunnison County, Colorado until a Certificate of Compliance has been granted by Gunnison County, Colorado and duly recorded in the office of the Clerk and Recorder of Gunnison County, Colorado certifying that those public improvements as set forth in Exhibit A of the Subdivision Improvements Agreement, recorded at Reception No. 436357 of the records of Gunnison County, Colorado, have been properly constructed, inspected by a certified public engineer at the Developer's expense, and accepted by the County as meeting the standards of Gunnison County, Colorado, and/or applicable special districts.

i. The language of paragraph 4.d. of the First Agreement, as amended by paragraph 1.h. herein, shall be placed by Developer in each and every document of conveyance, sale or transfer of title of any lot, lots, tract or tracts of land subject to the first Agreement.

j. No material change shall be made in the specifications required by the first Agreement Exhibit A or this Amendment without the prior written approval of the County.

2. Except as amended herein, the first Agreement continues in full force and effect.

3. This Amendment shall be forthwith recorded by Developer at Developer's sole cost with the Clerk and Recorder of Gunnison County, Colorado.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.



Attest:

James M. Ritzger
Clerk

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Fred Field
Chairman by David Baumgarten

RIVER GREEN PROPERTIES LIMITED
PARTNERSHIP, a Colorado limited partnership

Noel Andress
General Partner

Attest:

Karen Samulis-Andress
Secretary