

**SITE SPECIFIC DEVELOPMENT PLAN AND
SUBDIVISION IMPROVEMENTS AGREEMENT
FOR HOMESTEAD NORTH SUBDIVISION**

THIS AGREEMENT made as of June 6, 2007, by and between by and between the CITY OF RIFLE, COLORADO, a Colorado municipal corporation whose address is P.O. Box 1908, Rifle, Colorado 81650 (hereinafter "City" or "Rifle"), and WSJ, LLC, a Colorado limited liability company whose address is 201 Railroad Avenue, P.O. Box 1926, Rifle, Colorado 81650 (hereinafter "Developer");

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property located in the City of Rifle, Colorado known as Homestead North Subdivision and described on Exhibit A attached hereto and incorporated herein by this reference (hereinafter the "Property"); and

WHEREAS, in June 2006, Developer petitioned the City to annex the Property to the City, and by Ordinance No. 28, Series of 2006, the City of Rifle approved this request along with an Annexation Agreement for the Property which is recorded as Reception No. 731911 with the Garfield County Clerk and Recorder; and

WHEREAS, on July 25, 2006, after a duly-noticed public hearing and pursuant to Rifle Municipal Code ("RMC") §16-5-280, the City of Rifle Planning Commission approved a combined Sketch/Preliminary Plan for the Property; and

WHEREAS, by Ordinance No. 29, Series of 2006, the City of Rifle zoned the Property Low Density Residential ("LDR"); and

WHEREAS, on June 6, 2007, the City Council of the City of Rifle reviewed the Final Subdivision Plat and Final Subdivision Plan application for the Property, found these documents to be consistent with the approved Sketch/Preliminary Plan, and approved by Resolution No. 18, Series of 2007 a Final Subdivision Plat and Final Subdivision Plan for the Property, which Resolution No. 18, Series of 2007 is recorded as Reception No. 753168 with the Garfield County Clerk and Recorder; and

WHEREAS, the City's approval of the Final Subdivision Plat and Final Subdivision Plan for the Property cited above is contingent upon the express condition that all obligations and duties created by this Agreement are faithfully performed by the Developer.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are incorporated herein as material representations and acknowledgments of the parties.

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2. Purposes. The purpose of this Agreement is to set forth the terms and conditions to be met by the Developer; to set forth the fees to be paid by the Developer upon subdivision of the Property, and to constitute the Subdivision Improvement Agreement provided for in Sections 16-4-170, 16-5-440(d) and 16-6-180(c)(2) of the RMC.

All terms and conditions contained herein are in addition to all requirements of the RMC, the City of Rifle Land Use Regulations (Title 16 of the RMC), Resolution No. 18, Series, of 2007 and state and federal statutes, and are not intended to supersede any requirements contained therein, except where specifically provided in this Agreement.

3. Fees. In addition to any fees enacted by any ordinance of general applicability in the City, the following fees shall be paid to the City by the Developer:

- A. Reimbursement of Costs. The Developer hereby agrees to pay the City the actual costs to the City for engineering, surveying, and legal services rendered in connection with the review of the subdivision of the Property. In addition, the Developer shall reimburse the City for the cost of making corrections or additions to the master copy of the official City map, for the fee for recording the Final Plat and accompanying documents with the County Clerk and Recorder of Garfield County. Developer shall also pay any fee required pursuant to the RMC. Interest shall be imposed at rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In addition to any and all remedies available to the City and in the event the City is forced to pursue collection of any amounts due and unpaid under this provision or under this Agreement, the City shall be entitled to collect attorney's fees and costs incurred in said collection efforts in addition to the amount due and unpaid.
- B. Water and Sewer Taps. Developer, its successors and assigns, shall comply in full with Title 13 of the RMC regarding tap fees for water and sewer service.
- C. Water Rights Dedication. Developer is the successor to Savage and Stroock, the beneficiaries of an Addendum to Easement Agreement recorded August 14, 1979 as Reception No. 287690, Book 514, Page 133 in the Office of the Garfield County Clerk and Recorder, whereby the property constituting Developer's interest was the granted the following rights:

"Upon payment of the appropriate (sic) tap and systems improvement fee, Owners shall have the right to ...five domestic water taps for that portion of the property located in Section 3, Tp. 6 S., R. 93 W., 6th P.M. These taps shall be

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granted to the Owners, their successors or assigns, upon payment of the applicable fees. City shall bear the expenses of the actual physical connection to the pipeline herein granted. All said taps shall be standard single family dwelling taps."

The parties agree that this agreement entitles Developer to the four (4) water taps required for the Property without payment of water rights dedication fees, on the condition that the Property will be served by a raw water irrigation system for all outside irrigation. Developer agrees to accept these four taps as complete fulfillment of the City's obligations under said agreement and waives its rights to the fifth water tap. The parties further agree that water system improvement fees are to be paid at time of issuance of building permit for the three lots remaining unimproved. System improvements fees for Lot 1 of the Property were paid at annexation.

Developer owns 0.15 cfs of Priority 80 out of the Rifle Creek Canon Ditch which is appurtenant to the Property. Developer agrees to convey those water rights to the homeowners association for the Property ("HOA"). The City of Rifle agrees to waive its Option to Purchase and First Right of Refusal per RMC §13-6-80 for this conveyance to the HOA, only. If the HOA ever elects to sell or transfer these water rights, the City's Option to Purchase and First Right of Refusal shall apply.

If there are additional EQRs associated with development or use of any of the lots or Property, Developer shall pay the cash in lieu of the water rights dedication fees as required under RMC Section 13-6-10, *et. seq.*, as it may be amended. Payment shall be due at the time of building permit for such units which raise the total EQRs above the above-referenced calculations. The water rights dedication fee per EQR to be paid will be the fee then in effect by an ordinance of general applicability. Further, the Developer agrees to be bound by any ordinance or resolution of general applicability that modifies these fees.

- D. Parkland Dedication Fees. The City and Developer agree that the Property is subject to the City parkland dedication requirements set forth in RMC Section Sections 16-1-90 and 16-4-110 and Resolution No. 25, Series of 1995 and Resolution No. 6, Series of 2000. Therefore, Developer shall pay parkland dedication fees then in effect for each unit 100% at Final Plat, and 100% of the parkland dedication fee then in effect for each unit at the time of building permit application; provided, however, that the City acknowledges

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that parkland dedication fees for Lot 1 of the Property were remitted to the City at annexation.

- E. Offsite Street Impact Fees. The City and Developer agree that the Property is subject to offsite street impact fees as set forth in the RMC Section 16-1-100 and Resolution No. 25, Series of 1995 and Resolution No. 6, Series of 2000. Developer shall pay the offsite street impact fees then in effect with one-third (1/3) due at the time of Final Plat and the remaining two-thirds (2/3) due at the time of the issuance of each building permit for all lots and/or units within the Property. The City acknowledges that offsite street impact fees for Lot 1 of the Property were remitted to the City at annexation.
- F. Northeast Tank Upper Pressure Zone Impact Fee. For any and all lots at or above 5,465 feet in elevation, the Northeast Tank Upper Pressure Zone Impact Fee required by Section 13-4-80 of the Code shall be due at building permit; provided, however, the parties acknowledge the fee for Lot 1 was paid at annexation. If the Property is subsequently re-subdivided, re-platted or rezoned, additional Impact Fees may be due pursuant to the RMC.
4. Specific Conditions. Developer agrees to perform the following conditions:
- A. Representations. All representations of the Developer made in its application and in statements during the public hearings before the Planning Commission and City Council shall be considered conditions of approval with which the Developer shall comply.
- B. Graham Mesa Right-of-Way and Trail Construction. The parties agree that thirty-five feet (35') of right-of-way for Graham Mesa Avenue along the easterly boundary of the Property shall be dedicated to the City for public use on the Final Plat. In lieu of improving the western half of Graham Mesa Avenue adjacent to the Property to current City of Rifle public street standards, Developer agrees to construct a Bike/Pedestrian Trail on the western side of Graham Mesa Avenue from the northerly boundary of the Property to 16th Street in conformance with plans and specifications to be approved by the City Engineer. The Bike/Pedestrian Trail shall be considered a public improvement hereunder; provided, however notwithstanding provisions to the contrary regarding the timing of construction of and security for public improvements, the Bike/Pedestrian Trail shall be constructed at a time agreed to by the City's Public Works Department, but in any case no later than three (3) years after approval of the Final Plat for the Property, and the cost of which to be approved by the City shall be secured by a Deed of Trust encumbering one of the Lots on the

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Property recorded at the time of Final Plat. Upon completion of said Bike/Pedestrian Path, Developer shall maintain that portion of the Trail adjacent to the Property, including landscaping and snow removal. The Trail shall be a public right-of-way, and Developer shall not be responsible for repair and replacement of the, except as otherwise provided by law. The parties further agree that Developer's obligations hereunder may be transferred to a homeowners association for the Property.

- C. Pressure Reducing Valves. Developer acknowledges that water main pressures in this area can exceed 100 psi. An in-house pressure relief valve shall be installed in all homes and business constructed on the Property. A plat note shall be included on the Final Plat, and a covenant shall be adopted reciting this requirement.

- D. Irrigation. Developer agrees to construct and install, at Developer's sole expense, an irrigation system sufficient to irrigate all open space for which the Developer has installed landscaped improvements and all areas of multi-use open space parcels landscaped by Developer within the Property. If the system uses raw water as contemplated, it may use the existing ditches on the Property. The plans and specifications for such system shall be subject to the approval of the City Engineer and shall be part of the Public Improvements for purposes of this SIA. Irrigation systems in the drainage ways and cut and fill slopes shall be installed temporarily and may be removed when revegetation has been established and irrigation is no longer necessary.

5. Pre-Construction Meeting. Developer shall hold a pre-construction meeting between the City Engineer and Public Works Director and the Developer, its engineer and contractor for the purpose of discussing all construction issues that will be required for this project.

6. Public Improvements. All water lines, water facilities, sewer lines, sewer facilities, hydrants, water or sewer distribution facilities, drainage structures, landscaping, gas lines, electrical facilities, cable T.V., telephone lines, utility systems, streets (public and/or private), lighting and signage required by this Agreement or shown on the final subdivision plan prepared by Colorado River Engineering dated January 23, 2007, as it may be amended (the "Public Improvements") shall be installed and completed at the expense of the Developer.

- A. All Public Improvements required by this Agreement are shown on the Final Subdivision Plat and Plans submittal, and the estimated costs thereof, are identified on Exhibit B attached hereto and incorporated herein by this

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reference. The Public Improvements shall be constructed in conformance with the plans and specifications submitted by the Developer as part of the Final Plat application and approved by the City Public Works Director or his/her designee, including all supplemental plans and specifications (all of which are on file at City Hall), the City of Rifle Public Works Manual then in effect, and the utility plan (hereinafter collectively referred to as "Plans and Specifications").

- B. Developer shall provide at its sole cost and expense all necessary engineering designs, surveys, field surveys, and incidental services related to the construction of the Public Improvements.

7. Construction Observation and Inspection.

- A. Construction Inspection by Developer. Developer shall be responsible for ensuring that its certified professional engineer provides construction inspection services as necessary to allow Developer's engineer to provide a stamped certification, when improvements are submitted to the City for acceptance, that the Public Improvements have been constructed in accordance with the Plans and Specifications approved by the City.
- B. Construction Observation by the City. The City shall have the right to make engineering observations at reasonable intervals and at the Developer's expense during construction of the Public Improvements. Observation, acquiescence in or approval by any engineering inspector of the construction of any physical facilities, at any particular time, shall not constitute City approval of any phase of construction of the Public Improvements. City approvals shall be made only after completion of construction and in the manner hereinafter set forth. To assist the City in monitoring the installation of the Public Improvements, a supervisor employed by the Developer's general contractor shall inspect the Public Improvements on at least a weekly basis, and shall provide the City Public Works Director or his/her designee with supervisor's field and inspection notes relating to the installation of the Public Improvements which have been reviewed and stamped by a professional engineer. The supervisor shall regularly apprise the City Public Works Director or his/her designee of the status of the work on the Public Improvements. Further, the Developer at its own expense shall have an approved geotechnical engineer monitor the methods of construction and backfill, to ensure such work is being completed in conformance with the approved Plans and Specifications, and accepted standards for such work. The geotechnical engineer shall conduct inspections and testing as directed by the City Public Works Director or his/her designee. The City agrees to respond to requests for interim inspections in a timely manner and to

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respond not later than ten (10) business days after a request for a final inspection. Nothing in this paragraph shall be construed to constitute an acceptance by the City of the Public Improvements, which approval and acceptance shall only occur pursuant to the specific provisions below.

8. Completion of Public Improvements; Approval. Except as expressly provided for herein, the Developer shall complete all Public Improvements within one (1) year of the execution of this Agreement. Upon the Developer's completion of construction of the Public Improvements, the Developer's engineer shall certify in writing that the improvements have been completed in conformance with the Plans and Specifications and submit to the City a completed acceptance checklist utilizing a form approved by the City. Thereafter, the City Public Works Director or his/her designee shall inspect the Public Improvements and certify in writing and with specificity their conformity or lack thereof to the Plans and Specifications. The Developer shall make all corrections necessary to bring the Public Improvements into conformity with the Plans and Specifications. The Developer shall at its expense have "as-built" drawings prepared by a professional engineer and a registered land surveyor, which drawings shall include all legal descriptions the City may require. The Developer shall also prepare a summary of the actual construction costs of all Public Improvements to be dedicated to the City. The "as-built" drawings and costs summary shall be forwarded to the City for review and approval.

Once the as-built drawings and costs summary are approved, and any and all corrections are completed, the City Public Works Director or his/her designee shall certify in writing that all Public Improvements are in conformity with the Plans and Specifications, and the date of such certification shall be known as the Acceptance Date. The City shall be under no obligation to provide any water or sewer service until all Public Improvements are brought into conformance with the Plans and Specifications and the approved Final Subdivision Plan and Subdivision Plat, and are certified and approved by the City Public Works Director or his/her designee pursuant to this Agreement. However, upon certification and approval, the City shall be obligated to provide water and sewer service to the Property, subject to all provisions of the RMC, and in particular to the availability of water or sewer taps, which shall be on a first-come, first-served basis. The City does not guarantee an adequate number of taps will be available to serve the Property at the time the Developer intends to proceed with development.

9. Acceptance; Conveyance. Within thirty (30) days of the Acceptance Date, the Developer shall execute a quit-claim deed to the City conveying any interests it has in the Public Improvements. The Developer shall also execute a bill of sale conveying the Public Improvements to the City, free and clear of all liens and encumbrances. All Public Improvements conveyed to the City shall be warranted for a period of twelve (12) months from the Acceptance Date, as provided below.

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10. Warranty. Developer shall warrant any and all Public Improvements and facilities which are conveyed to the City pursuant to this Agreement (i.e. water and sewer facilities and lines, public roads and facilities located on or under public lands and easements) for a period of twelve (12) months from the Acceptance Date. Specifically, but not by way of limitation, Developer shall warrant that:

- A. The title conveyed shall be good and its transfer rightful;
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- C. Any and all facilities so conveyed shall be free of any defects in materials or workmanship for a period of one (1) year, as stated above.

11. Performance Guarantee. The total amount of required security for the Public Improvements is specified on Exhibit B.

- A. In order to secure the construction and installation of the Public Improvements above described for which Developer is responsible, Developer shall furnish the City with a certificate or other evidence in good and sufficient form approved by the City Attorney of an irrevocable letter of credit issued or confirmed by a commercial banking institution authorized to do business and with offices located within the State of Colorado to secure the performance and completion of the Public Improvements required by this Agreement in an amount equal to the estimated costs of said facilities as set forth on Exhibit B. The City shall have the right to review and approve all terms and conditions of the letter of credit prior to recording of the Final Plat.

The original letter of credit shall be delivered to the City prior to the recordation of the Final Plat. This Letter of Credit shall comply in all respects with the Uniform Customs and Practice for Documentary Credits, 1993 Revision, issued by the International Chamber Commerce, Paris, to the extent it does not conflict with Article 5 of the Colorado Uniform Commercial Code.

- B. In the event the Public Improvements are not constructed or completed within 12 months of the date of this Agreement, the letter of credit shall provide that the funds necessary to complete the Public Improvements shall be put directly to an escrow account under the control of the City Manager and shall be used to complete the Public Improvements called for herein.

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- C. Within ten (10) days of timely completion of the Public Improvements, and performance of the conditions and requirements of this Agreement secured by the performance guarantee, and upon the approval of the City Manager, the performance guarantee shall be released to Developer. If the improvements are not completed within the required time, the performance guarantee may be called by the City and the monies may be used to complete the improvements; provided, however, that if such guarantee is not sufficient to pay the actual costs, the Developer shall be responsible for the balance.
- D. The required security for the Public Improvements is the amount mutually agreed upon by the Developer and the City Engineer as set forth above. The parties agree that this amount does not necessarily reflect the City Engineer's estimate of what the actual cost to the City would be if the City were required to fund construction of all of the Public Improvements. In the event the costs of the Public Improvements exceed the amount set forth above, Developer shall be solely responsible for the actual cost. The purpose of Exhibit B is solely to determine the amount of security and shall be revised as necessary to reflect the actual costs, and the performance guarantee required by this SIA shall be adjusted accordingly. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual costs of all such Public Improvements.
- E. The parties expressly agree that the Developer's preparation and submission to the City of "as-built drawings" and a summary of actual construction costs for the Public Improvements to be dedicated to the City--and approval by the City of the as-built drawings and summary--are essential requirements of this Agreement. In the event the Developer fails to provide the as-built drawings and summary to the City thirty (30) days prior to the expiration of the performance guarantee or any extension thereof, such failure shall constitute a breach of this Agreement with regard to the completion of the Public Improvements, damages for which are impossible to ascertain, entitling the City to call upon the performance guarantee in an amount equal to ten (10%) percent of the total amount set forth on Exhibit B, which amount the City may retain as liquidated damages due to Developer's breach. No releases to the letter of credit shall be granted by the City until such as-built drawings are provided and the secured improvements are accepted by the City pursuant to the provisions of this Agreement.

12. Title Policy. Prior to the recordation of the Final Plat for the Property, the Developer shall provide the City a commitment for a title insurance policy, indicating that the Property is free and clear of all encumbrances whatsoever which would impair the use

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of the Property as proposed by the Final Subdivision Plat. Further, said title commitment, and/or an additional title commitment, shall show that all other property to be dedicated to the City is free and clear of all encumbrances which would make said dedications unacceptable as the City in its sole discretion determines. At the time of recording the Final Plat, the title insurance policy(s) shall be provided to the City, and the premium(s) for the title insurance shall be paid by the Developer. In the event the title commitment(s) reflect encumbrances which would impair the use of the Property as proposed or which would make the public dedications unacceptable, the City shall notify the Developer, who shall cure or otherwise remove or subordinate said encumbrances to the satisfaction of the City prior to the recordation of the Final Plat.

13. Vested Rights. Pursuant to Section 16-11-10, *et. seq.*, of the RMC, the City and the Developer agree that the City Council's final subdivision plat approval of the Property constitutes the approval of a "Site Specific Development Plan", and no further hearings are required. Pursuant to the approval by the City Council of the Final Plat for the Property, the City granted vested property rights for the Property for a period of three (3) years from the effective date of the City resolution approving this Agreement and the Final Plat upon the condition that Developer comply with all of the terms and conditions of this Agreement, the Final Plat for the Property, and the development submittal. Such rights shall also be subject to the provisions of RMC Section 16-11-10, *et. seq.* The Developer shall at its expense publish the vested rights notice required by C.R.S. Section 24-68-103(1) and RMC Section 16-11-50.

14. Owners Association; Covenants. An owners association shall be created by the Developer under the laws of the State of Colorado before any properties within the development are sold to third parties. The Articles of Incorporation and covenants shall be reviewed by the City Attorney to insure that they meet the City's requirements that the owners association (1) maintains, operate and assume full responsibility for all easements and common areas within the Property and shown on the Final Plat, including landscaping; (2) maintains all private open space; and (3) is empowered to enforce any provisions of the covenants, conditions and restrictions affecting the Property. The covenants for the Property shall also address, at a minimum: party wall agreements, snow removal, building and landscape maintenance, sidewalk maintenance, use of limited and general common elements, fencing styles and heights, outdoor storage of vehicles (including recreational vehicles, boats, trailers, and the like), and pets. The Articles of Incorporation and covenants shall be reviewed and approved by the City, and the Articles filed with the Colorado Secretary of State prior to the recordation of the Final Plat.

15. Conditions of Building Permit / Certificate of Occupancy. In addition to all requirements of the RMC and any requirements imposed by operation of state, federal, or local law, no building permits shall be issued for the Property until:

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- A. This SIA has been recorded in the Office of the Garfield County Clerk and Recorder, and a recorded copy is on file in the Office of the City Clerk.
- B. The Final Plat has been recorded in the Office of the Garfield County Clerk and Recorder, and a recorded copy is on file in the Office of the City Clerk.
- C. All Public Improvements have been accepted, or a performance guarantee to secure all Public Improvements has been provided in accordance with this SIA.

16. Voluntary Action of Developer. Notwithstanding any provision of the RMC, the Developer agrees that all terms and conditions of this Agreement, including specifically the payment of fees, the dedication of land, and the completion of off-site infrastructure improvements, are agreed to and constitute the voluntary actions of the Developer.

17. Breach by Developer; City's Remedies. In the event of any default or breach by the Developer of any term, condition, covenant or obligation under this Agreement, the City Council shall be notified immediately. The City may take such action as it deems necessary to protect the public health, safety, and welfare; to protect lot buyers and builders, and to protect the citizens of the City from hardship. The City's remedies include:

- A. The refusal to issue to the Developer any building permit or certificate of occupancy; provided, however, that this remedy shall not be available to the City until after the affidavit described below has been recorded;
- B. The recording with the Garfield County Clerk and Recorder of an affidavit, approved in writing by the City Attorney and signed by the City Manager or his designee, stating that the terms and conditions of this Agreement have been breached by the Developer. At the next regularly scheduled City Council meeting, the City Council shall either approve the filing of said affidavit or direct the City Manager to file an affidavit stating that the default has been cured. Upon the recording of such an affidavit, no further lots or parcels may be sold within the Property until the default has been cured. An affidavit signed by the City Manager or his designee and approved by the City Council stating that the default has been cured shall remove this restriction;
- C. A demand that the security given for the completion of the Public Improvements be paid or honored;
- D. The refusal to consider further development plans within the Property; and/or

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E. Any other remedy available at law.

Unless necessary to protect the immediate health, safety, and welfare of the City or City residents, the City shall provide the Developer ten (10) days' written notice of its intent to take any action under this paragraph during which ten-day period the Developer may cure the breach described in said notice and prevent further action by the City. Furthermore, unless an affidavit as described above has been recorded with the Garfield County Clerk and Recorder, any person dealing with the Developer shall be entitled to assume that no default by the Developer has occurred hereunder unless a notice of default has been served upon Developer as described above, in which event Developer shall be expressly responsible for informing any such third party of the claimed default by the City.

18. Assignment. This Agreement may not be assigned by the Developer without the prior written consent of the City, which consent shall not be unreasonably withheld. In the event Developer desires to assign its rights and obligations herein, it shall so notify the City in writing together with the proposed assignee's written agreement to be bound by the terms and conditions contained herein.

19. Indemnification. Developer agrees to indemnify and hold the City harmless from any and all claims or losses of any nature whatsoever incurred by the City resulting from the subdivision of the Property. This indemnification shall include actual attorneys' fees incurred in the event that any party brings an action against the City for any of the approvals described herein. The parties hereto intend not to duplicate any legal services or other costs associated with the defense of any claims against either party described in this section. Therefore, the parties hereto agree to cooperate in full to prevent duplicative expenses incurred as a result of the indemnification herein described.

20. Waiver of Defects. In executing this Agreement, Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the City to impose conditions on Developer as set forth herein, and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

21. Final Agreement. This Agreement supersedes and controls all prior written and oral agreements and representations of the parties and is the total integrated agreement between the parties.

22. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

23. Release of Liability. It is expressly understood that the City cannot be legally bound by the representations of any of its officers or agents or their designees except in

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accordance with the City of Rifle Code and Ordinances and the laws of the State of Colorado, and that Developer, when dealing with the City, acts at its own risk as to any representation or undertaking by the City officers or agents or their designees which is subsequently held unlawful by a court of law.

24. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

25. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

26. Invalid Provision. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect. It is the intention of the parties hereto that, if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

27. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Garfield County, Colorado.

28. Attorneys' Fees; Survival. Should this Agreement become the subject of litigation, the substantially prevailing party shall be entitled to, and the failing party shall pay, all reasonable attorneys' fees, expenses, and court costs. All rights concerning remedies and/or attorneys shall survive any termination of this Agreement.

29. Authority. Each person signing this Agreement represents and warrants that he is fully authorized to enter into and execute this Agreement, and to bind the party it represents to the terms and conditions hereof.

30. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

31. Notice. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the

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proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

Notice to City:

City of Rifle
P. O. Box 1908
Rifle, CO 81650

With copy to:

Leavenworth & Karp, P.C.
P. O. Drawer 2030
Glenwood Springs, CO 81602

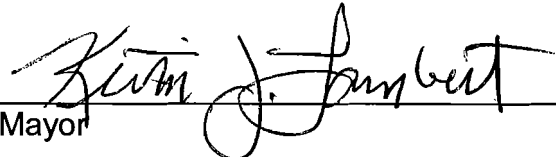
Notice to Developer:

WSJ, LLC
201 Railroad Avenue
P.O. Box 1926
Rifle, CO 81650-1926


32. Gender. Whenever the context shall require, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WHEREFORE, the parties hereto have executed duplicate originals of this Agreement on the day and year first written above.

CITY OF RIFLE, COLORADO

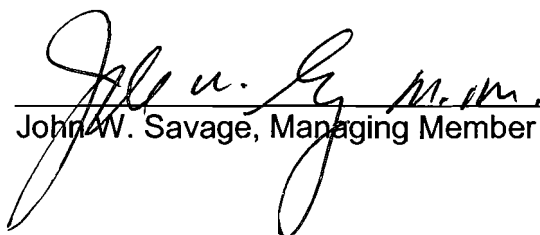
By: 
Mayor

ATTEST:


Clerk



WSJ, LLC

By: 
John W. Savage, Managing Member

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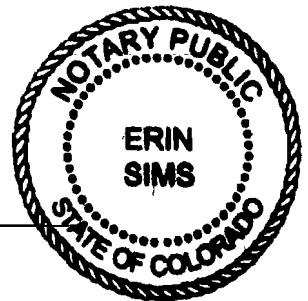
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

^{5th} ~~10th~~ ^{28th}
Acknowledged, subscribed, and sworn to before me this 10th day of August, 2008, by Keith J. Lambert, as Mayor, and by Wanda Nelson, as Clerk, on behalf of the City of Rifle, Colorado.

WITNESS my hand and official seal.

My Commission expires: 9-17-11

Erin Sims
Notary Public



STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

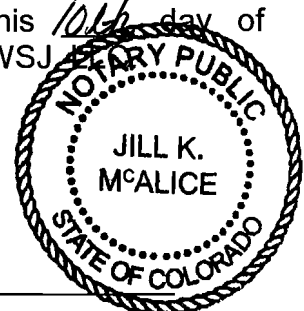
Acknowledged, subscribed, and sworn to before me this 10th day of July, 2008, by John W. Savage as Managing Member of WSJ.

WITNESS my hand and official seal.

MY COMMISSION EXPIRES

My Commission expires: 08/18/2011

Jill K. McAlice
Notary Public



Reception#: 753170
07/28/2008 04:23:30 PM Jean Alberico
16 of 19 Rec Fee:\$96.00 Doc Fee:0.00 GARFIELD CO

Reception#: 753658
08/06/2008 11:02:37 AM Jean Alberico
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HOMESTEAD NORTH FINAL PLAT
PERIMETER LEGAL DESCRIPTION

T. 6 S., R. 93 W., 6th P.M.

Sec. 3: SE1/4SW1/4SW1/4

COUNTY OF GARFIELD, STATE OF COLORADO.

SAID PARCEL OF LAND BEING NOW MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 3, THENCE N89°40'04"E 666.02 FEET, ALONG THE NORTH BOUNDARY OF THE S. MARCUS FINKLE ANNEXATION, MAP RECORDED AT REC. NO. 570239, TO THE SOUTHWEST CORNER OF THE SE1/4SW1/4SW1/4, THE TRUE POINT OF BEGINNING; THENCE N00°24'17"W 661.00 FEET, ALONG THE WESTERLY LINE OF THE SE1/4SW1/4SW1/4, TO THE NORTHWEST CORNER OF SAID SE1/4SW1/4SW1/4, SAID POINT BEING ON THE SOUTH LINE OF THE AMENDED RHOADES SUBDIVISION EXEMPTION, PLAT RECORDED AT REC. NO. 677531; THENCE N89°40'36"E 665.94 FEET, ALONG SAID SOUTH LINE OF THE RHOADES EXEMPTION TO THE NORTHEAST CORNER OF THE SE1/4SW1/4SW1/4,; THENCE S00°24'43"E 660.90 FEET, ALONG THE EASTERLY LINE OF SAID SE1/4SW1/4SW1/4 TO THE WEST 1/16TH CORNER OF SECTION 3 & 10, SAID POINT ALSO BEING THE NORTHEASTLY CORNER OF SAID FINKLE ANNEXATION; THENCE S89°40'40"W 666.02 FEET, ALONG THE NORTH BOUNDARY OF SAID FINKLE ANNEXATION THE TRUE POINT OF BEGINNING, SAID PARCEL OF LAND CONTAINING 10.105 ACRES MORE OR LESS.

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EXHIBIT B
PUBLIC IMPROVEMENT
COST ESTIMATE

HOMESTEAD
NORTH

Revised 7/2/2008

HOMESTEAD NORTH	QTY.	UNITS	\$/UNIT	COST	%	UNPAID
ROAD WORK					Done	
Clear & Grub	1850	yd2	\$ 2.00	\$3,700	50%	\$1,850
Subgrade Excavation/Hauling	1390	yd2	\$ 3.50	\$4,865	25%	\$3,649
Grading & Fill	500	tons	\$ 10.00	\$5,000	0%	\$5,000
Final Grade Prep	0	yd2	\$ 1.50	\$0	0%	\$0
6" Base Course Gravel	262	Ton	\$ 25.00	\$6,550	0%	\$6,550
Asphalt	300	Ton	\$ 80.00	\$24,000	0%	\$24,000
Mobilization/extras	1	LS	\$ 5,000.00	\$5,000	0%	\$5,000
Adjust Manholes	0	each	\$ 125.00	\$0	0%	\$0
Adjust Water Valve Boxes	1	each	\$ 75.00	\$75	0%	\$75
6 Ft. Driveover Curb/walk	0	ft.	\$ 20.00	\$0	0%	\$0
Crosspans, Filets	0	SQFT	\$ 7.00	\$0	0%	\$0
18" curb/gutter	0	ft.	\$ 12.00	\$0	0%	\$0
Stop signs	1	each	\$ 500.00	\$500	0%	\$500
Street Signs	0	each	\$ 325.00	\$0	0%	\$0
TOTAL ONSITE ROAD WORK				\$49,690		\$48,824
ONSITE SEWER & WATER						
Completed	0	ft.	\$ 32.00	\$0	100%	\$0
IRRIGATION IMPROVEMENTS						
Remove Existing Culvert & Box	1	each	\$ 3,000.00	\$3,000	100%	\$0
Road Cut new culvert	1	each	\$ 3,000.00	\$3,000	100%	\$0
18" ADS N-12	70	ft	\$ 40.00	\$2,800	100%	\$0
18" Flared End section inlet	1	each	\$ 500.00	\$500	100%	\$0
Rip-rap inlet & outle	4	each	\$ 100.00	\$400	100%	\$0
Arts Council Irrig. Box installed	1	each	\$ 4,000.00	\$4,000	100%	\$0
Weir Plat	1	each	\$ 300.00	\$300	100%	\$0
Canal Gate C-10	1	each	\$ 1,000.00	\$1,000	100%	\$0
8" PIP 100psi	50	ft	\$ 5.00	\$250	100%	\$0
Pump & controller					100%	\$0
Irrigation pipeline and risers					100%	\$0
				\$15,250		\$0
Stormwater DRAINAGE						
Drop Inlets & Grates	0	each	\$ 2,750.00	\$0	0%	\$0
ADS culvert 15" N-12	38	ft.	\$ 25.00	\$900	0%	\$900
Culvert Fittings	0	each	\$ 450.00	\$0	0%	\$0
Retention Pond	100	yd3	\$ 10.00	\$1,000	0%	\$1,000
Drainage swales	1000	ft	\$ 4.00	\$4,000	0%	\$4,000
SVMP Best Practices	1	each	\$ 1,000.00	\$1,000	0%	\$1,000
TOTAL STMTWR DRAINAGE				\$6,900		\$6,900
DRY UTILITIES						
Utility Crossings	1	each	\$ 1,000.00	\$1,000	100%	\$0
Electrical	1	each	\$ 18,000.00	\$18,000	100%	\$0
Gas	1	each	\$ 300.00	\$300	100%	\$0
Street Lights	10	each	\$ 500.00	\$5,000	0%	\$5,000
Xcel Const. Allowance		each		\$0	0%	\$0
Phone		each	\$ -	\$0	0%	\$0
trenching	700	ft.	\$ 7.00	\$4,900	100%	\$0
conduit	700	ft.	\$ 3.00	\$2,100	100%	\$0
TOTAL DRY UTILITIES				\$29,300		\$5,000
MISCELLANEOUS						
Revegetation	1	acres	\$ 2,250.00	\$2,250	0%	\$2,250
Stormwater control	1	LS	\$ 500.00	\$500	0%	\$500
Graham Mesa Trail Grading & misc	2211	yd2	\$ 8.00	\$17,688	50%	\$8,844
Class 6	417	tons	\$ 25.00	\$10,425	50%	\$5,213
Concrete 6"	1390	ft	\$ 43.00	\$59,770	0%	\$59,770
TOTAL MISCELLANEOUS				\$80,633		\$76,577
ENGINEERING						
Surveying	1	each	\$ 2,500.00	\$2,500	50%	\$1,250
Soils Engineering	1	each	\$ 2,500.00	\$2,500	50%	\$1,250
On-Site Engineering, As-Built	1	each	\$ 5,000.00	\$5,000	50%	\$2,500
TOTAL ENGINEERING				\$10,000		\$5,000
HARD COSTS				\$201,773		\$140,100
Const. Administration 5%	1	5%HC		\$10,089	0%	\$10,089
Contingency 5%	1	5%HC		\$10,089	0%	\$10,089
Administration/Contingency				\$20,177		\$20,177
TOTAL				\$221,950		\$160,278

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HOMESTEAD NORTH

EXHIBIT C-DEVELOPMENT FEES

SIA REFERENCE	DESCRIPTION	FINAL PLAT	BUILDING PERMIT	NOTES
		Total	Per Lot	
2C	WATER RIGHTS DEDICATION	\$0	\$0	Note 1 & 5
2D	PARKLAND DEDICATION	\$5,489	TBD	Note 2 & 5
2E	OFFSITE ST. IMPACT FEE	\$4,898	TBD	Note 3 & 5
2F	NORTHEAST PRESSURE ZONE	\$0	TBD	Note 4 & 5
	TOTALS	\$10,387	TBD	

- Note 1 Water Rights Dedication fee is based on raw water irrigation of all outside areas
- Note 2 Parkland Fee due at Building Permit is 100% of the Parkland Ded. Fee in effect at time of Building Permit Application.
- Note 3 Fee due at Building Permit is 66% of the then applicable fee.
- Note 4 100% of then applicable fee due at Building Permit per SIA (3.F.)
- Note 5 Development Fees for Lot 1 paid at Annexation

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2C-WATER RIGHTS DEDICATION FEES

ITEM	LOTS	EQR'S	CREDIT	PAID	BALANCE
N/A per Agreement	3				0.00

Note: Water Rights Dedication fees waived per city water line agreement

2D-PARKLAND DEDICATION FEES

ITEM	LOTS	ACRES PER LOT	FEE PER LOT	IN LIEU FEE
Homestead North	3	0.0314	\$1,830	\$5,489

FORMULA: # of sfr lots x 3.5 residents/lot = # of residents @8.96ac/1000 res.=Dedication requirement			
# of lots			1
# of residents (lots x 3.5)			3.50
Parkland due (@8.96ac/1000 residents) acres		0.0314	
In Lieu Fee @		\$58,344	

2E-OFFSITE STREET IMPACT FEES

FILING	LOTS	PER LOT	PER LOT @ FINAL PLAT (34%)	TOTAL
	3	\$4,801.73	\$1,632.59	\$4,897.76

Fee due at Building Permit is 66% of the then applicable fee.

Res. No. 6, Series 2000: 1/1/2000 \$3250/sfr, \$1995/mfr w/ 5% escalation per year.		
YEAR	SFR	
2006	\$4,355.31	
2007	\$4,573.08	
2008	\$4,801.73	

2F-NORTHEAST PRESSURE ZONE FEE

ITEM	LOTS	Fee	TOTAL
FINAL PLAT	3	\$1,860	\$5,580