

**FIRST AMENDMENT TO THE
SUBDIVISION IMPROVEMENTS AGREEMENT
(Idarado Subdivision)**

THIS FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement" or "SIA") is entered into this 22nd day of April, 2004 ("Effective Date"), by and between San Miguel County, Colorado acting by and through The Board of County Commissioners of San Miguel County, Colorado ("County"), a body corporate and politic, and Idarado Legacy, LLC, a Colorado limited liability company ("Idarado"). County and Idarado are sometimes referred to herein as the "**Parties**". The Parties hereby agree as follows:

RECITALS

- A. The County and Idarado have executed a certain Subdivision Improvement Agreement (Idarado Subdivision)("SIA"), which was dated February 9, 2004 and was recorded on February 10, 2004 in Reception No. 364051 with the Clerk and Recorder for San Miguel County, Colorado.
- B. The Parties wish to modify and amend the SIA in the manner provided for herein and in accordance with the provisions of Section 18.7 of the SIA.

AGREEMENTS.

NOW, THEREFORE, in consideration of the foregoing definitions and recitals, which are hereby incorporated as part of the agreements of the Parties, and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Amendments to SIA.**

- A. Section 4 as originally stated in the SIA is hereby amended to include new Section 4.13, which shall provide as follows:
- 4.13 The Planning Director shall have the discretion to waive the requirement for Idarado to include the cost of completing certain items or elements associated with an Improvement from the Final Commitment Guaranty, if the Planning Director determines that the particular item or element is merely decorative or cosmetic and is not necessary to enable the Improvement to actually be used or operated for its intended purposes.
- B. Section 5 as originally stated in the SIA is hereby deleted and replaced in its entirety with the following revised Section 5.

5. **Commitment Guaranty.**

- 5.1. Idarado's performance under this Agreement shall be secured initially by a plat restriction prohibiting the sale and/or conveyance of any Lots until Idarado has ("**Sale and Conveyance Preconditions**"): (a) submitted the Final Improvement Plans and Specifications, and the Final Improvement Cost Estimate for a specific Phase or Phases, and such submittals have been reviewed and approved by the San Miguel County Engineer and (b) delivered a Commitment Guaranty to the County for such specific Phase in the amount of the Final Improvement Cost Estimate for the specified Construction Phase or Phases as approved by the San

Specifications and the Final Improvement Cost Estimate in accordance with the Final Construction Phasing Plan, attached hereto as Exhibit "B," prior to May 15, 2004, or as provided for in the Final Construction Phasing Plan, or such later date approved by the Parties. Upon the County's acceptance of the Commitment Guaranty for a specific Phase or Phases the County Planning Director shall issue a Certificate of Release for the Plat Restriction applicable to such Phase or Phases, which shall be in a recordable form. The foregoing restriction notwithstanding, Idarado is authorized, should Idarado so elect, to obtain financing which would be secured by a deed of trust lien on some or all of the Bridal Veil Lots (and not on a Pandora or Liberty Bell Lot) prior to the Sale and Conveyance Preconditions having been satisfied. Provided, however, that any such lender, including any assignee of or successor in interest to such lender, shall hold any lien interest in the property subject to the applicable provisions of this SIA. The County agrees that in the event such a loan and deed of trust is effectuated by Idarado prior to the Sale and Conveyance Preconditions having been satisfied, and should Idarado subsequently be declared in default under the loan or the deed of trust and the lender, including any assignee of or successor in interest to such lender, acquires title to some or all of the Bridal Veil Lots (posted as collateral), the lender shall be required to perform or adhere to only those obligations of Idarado arising under this SIA relating to the construction of those Improvements specified in the Bridal Veil Lot phasing, as set forth in Exhibit "B". This would include, without limitation, the restriction against the further sale or conveyance of Bridal Veil Lots unless and until the Sale and Conveyance Preconditions for Bridal Veil have been achieved. The lender, including any assignee of or successor in interest to such lender, who acquires title to some or all of the Bridal Veil Lots shall also be obligated to post the Commitment Guaranty for only the Bridal Veil Lot phase and to complete the Improvements only for the Bridal Veil Lot phase. The lender will not be obligated to post a Commitment Guaranty or install Improvements for any of the other Phases, nor will the lender be restricted from selling or conveying a Bridal Veil Lot until such time as all of the Commitment Guaranty for the remaining Phases is posted.

- 5.2. The financial security shall be in the form of either an escrow deposit in a state or national bank licensed to do business in Colorado, or an irrevocable letter of credit issued by a state or national bank licensed to do business in Colorado, which form and content shall be reasonably acceptable to the County, as security for the satisfactory completion of the required Improvements.
- 5.3. The financial security for the completion of the required improvements for a specific Construction Phase or Phases in the amount of the Final Improvement Cost Estimate approved by the San Miguel County Engineer and in a form acceptable to the County, shall be referred to hereafter as the "**Commitment Guaranty**").
- 5.4. Upon receipt of the Commitment Guaranty for a specific Construction Phase or Phases the County shall promptly execute and record a notice in the public records of the San Miguel County Clerk and Recorder indicating that Idarado has delivered a Commitment Guaranty acceptable to the County and that the plat restriction prohibiting the sale and/or conveyance of any Lots, or interests therein, has been released for the specified Construction Phase or Phases.

- 5.5. The Commitment Guaranty shall be posted by Idarado, at its sole cost, as provided for in this Agreement.
 - 5.6. The Commitment Guaranty will be retained by the County until released or used as provided in this Agreement.
 - 5.7. Should the Improvements not be completed at least thirty (30) days prior to the expiration of any Commitment Guaranty, Idarado agrees to the extension of said Commitment Guaranty and designates the County as its agent to request said extension.
 - 5.8. Idarado shall pay all costs of Commitment Guaranty extension; and it is mutually understood and agreed that the County will pay no interest to Idarado on the Commitment Guaranty.
 - 5.9. If the County determines that the Commitment Guaranty is insufficient to warrant construction of Improvements, the County shall notify Idarado of this determination in writing and shall indicate the factual basis for this determination and Idarado shall produce such additional security as the County determines to be reasonably necessary within 30 days of the County's issuance of such written determination.
 - 5.10. The Parties agree that the type of the Commitment Guaranty may be modified by written agreement of the Parties, provided the form and content of any replacement Commitment Guaranty is satisfactory to the County.
- C. Section 13.3. as originally stated in the SIA is hereby deleted and replaced in its entirety with the following revised Section 13.3.
- 13.3 It is specifically understood that Idarado will be responsible for road maintenance or care, including snow removal or street cleaning for the Improvements, except for the Interpretative Trail, and that Idarado is responsible for maintenance of all Improvements, except for the Interpretative Trail, as provided herein.
- D. Exhibit "B" to the SIA is hereby deleted and replaced in its entirety with attached Revised Exhibit "B", which is incorporated herein and in the SIA by this reference.
2. No other amendments, modifications or alterations, other than the amendments specifically stated herein, are contemplated or made by the execution of this Amendment. All other terms, conditions, provisions, rights, duties and benefits stated in the SIA shall continue in full force and effect, unless and until modified in accordance with the provisions of the SIA.
 3. This Agreement will become effective when executed by each Party and recorded in the Official Records.

AGREED TO AND MADE EFFECTIVE BY THE PARTIES AS OF THE EFFECTIVE DATE.

IDARADO:

IDARADO LEGACY, LLC,
a Colorado limited liability company

By: IDARADO MINING COMPANY, Its Manager

By: D. A. BAKER
David A. Baker, President

Date: April 22, 2004

STATE OF COLORADO)
) ss.
COUNTY OF San Miguel



MY COMMISSION EXPIRES 4/5/2008

Acknowledged, subscribed and sworn to before me this 20 day of April, 2004 by David A. Baker, President of Idarado Mining Company, Inc.

Witness my hand and official seal.

 J. Dolan
Notary Public

My commission expires: 4/5/08

COUNTY:

**SAN MIGUEL COUNTY, COLORADO, ACTING BY AND THROUGH
THE BOARD OF COUNTY COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO**

By *Vern Ebert*
Vern Ebert, Chair

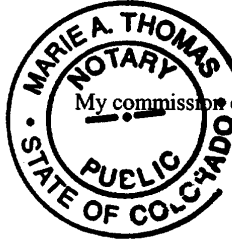
Date: June 16, 2004

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

Acknowledged, subscribed and sworn to before me this 16th day of June, 2004 by Vern Ebert who acknowledged himself/herself to be the Chair of the Board of County Commissioners.

Witness my hand and official seal.

Marie A. Thomas
Notary Public



My commission expires: 02/05/05.



Revised Exhibit "B"
SUBDIVISION IMPROVEMENTS AGREEMENT
(Revised Cost Estimate and Schedule)

EXHIBIT "B"
Idarado Legacy Subdivision
Engineer's Estimate of Probable Construction Cost
and Schedule for
Final Improvement Cost Estimate
Phase I
Pandora, Bridal Veil and Interpretive Trail

Item Description	Quantity	Unit	Unit Cost	Total	Final Plan and Cost Submission	Start Date	Date of Substantial Completion
PANDORA							
ROADWAYS							
Asphalt	6,210	SY	\$17.10	\$106,191.00	5/15/2004	7/1/2004	7/15/2005
Class 6 Road Base and Prep	3,106	Ton	\$19.00	\$59,014.00			
Retaining Walls	1	LS	\$200,910.00	\$200,910.00			
Cut	17,386	CY	\$2.50	\$43,390.00			
Fill	19,694	CY	\$3.00	\$59,082.00			
Ditch Liner	3,429	SY	\$13.00	\$44,577.00			
Signage	1	LS	\$2,500.00	\$2,500.00			
UTILITIES							
Electric (SM/PA)	1	LS	\$120,000.00	\$120,000.00	5/15/2004	6/1/2004	11/1/2004
Gas (K & N)	1	LS	\$37,000.00	\$37,000.00			
Phone (Qwest)	1	LS	\$46,000.00	\$46,000.00			
Cable (Adelphia)	1	LS	\$52,000.00	\$52,000.00			
Trenching/Backfill utilities	10,000	LF	\$4.50	\$45,000.00			
Remove Overhead (telecable)	7,500	LF	\$2.00	\$15,000.00			
Remove Underground (telecable)	2,500	LF	\$4.25	\$10,625.00			
Remove existing culverts	100	LF	\$30.00	\$3,000.00			
24" Storm Drain Culvert	39	LF	\$28.00	\$1,092.00			
60" Culvert Extension	53	LF	\$60.00	\$3,180.00			
4x6' Concrete Box Culvert	46	LF	\$596.00	\$27,416.00			
MISCELLANEOUS							
Traffic control for construction	1	LS	\$10,000.00	\$10,000.00	5/15/2004	7/1/2004	7/15/2005
Demolition existing buildings	1	LS	\$25,000.00	\$25,000.00		7/1/2004	7/1/2005
Seeding and Revegetation	1	LS	\$29,000.00	\$29,000.00		8/1/2004	7/15/2005
Erosion Control	1	LS	\$20,000.00	\$20,000.00		6/1/2004	9/1/2005
Construction Survey Staking	1	LS	\$15,990.00	\$15,990.00		6/1/2004	11/15/2004
Mountaint Interior Lot Corners	1	LS	\$9,000.00	\$9,000.00		9/1/2004	11/15/2004
Testing	1	LS	\$20,000.00	\$20,000.00		7/1/2004	11/15/2004
INTERPRETIVE TRAIL							
	1	LS	\$314,808.00	\$314,808.00		7/1/2004	11/30/2004

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EXHIBIT "B"
Idarado Legacy Subdivision
Engineer's Estimate of Probable Construction Cost
and Schedule of Improvements for
Final Improvements Cost Estimate
Phase II
Liberty Bell and Interpretive Trail

Item Description	Quantity	Unit	Unit Cost	Total	Final Plan and Cost Submittal	Start Date	Date of Substantial Completion
LIBERTY BELL							
ROADWAYS							
Asphalt	2,524	SEE	\$17.10	\$43,160.40	4/15/2005	7/1/2005	11/15/2007
Class 6 Road Base and Prep	331	Ton	\$19.00	\$6,689.00			
8" Concrete V-Pan	36	LF	\$410.00	\$14,760.00			
Retaining Walls	6,040	FF	\$60.00	\$362,400.00			
Cut	6,554	CY	\$2.50	\$16,385.00			
Fill	689	CY	\$3.00	\$1,767.00			
Haul excess Cut	5,965	CY	\$2.75	\$16,403.75			
Ditch Lining	1,240	SY	\$13.00	\$16,120.00			
Signage	1	LS	\$2,500.00	\$2,500.00			
UTILITIES							
Electric (SMPA)	1	LS	\$15,210.00	\$15,210.00	4/15/2005	7/1/2005	10/1/2007
Gas (K & N)	1	LS	\$4,490.00	\$4,490.00			
Phone (Qwest)	1	LS	\$5,840.00	\$5,840.00			
Cable (Adelphia)	1	LS	\$6,545.00	\$6,545.00			
Trenching/Backfill utilities	1,000	LF	\$4.00	\$4,000.00			
Remove existing culverts	45	LF	\$30.00	\$1,350.00			
36" Storm Drain Culvert	80	LF	\$35.00	\$2,800.00			
MISCELLANEOUS							
Traffic control for construction	1	LS	\$3,000.00	\$3,000.00	4/15/2005	5/1/2005	7/1/2007
Demolition existing buildings	1	LS	\$40,000.00	\$40,000.00		9/1/2004	7/1/2007
Seeding and Revegetation	1	LS	\$13,333.00	\$13,333.00		9/1/2005	9/1/2007
Erosion Control	1	LS	\$10,000.00	\$10,000.00		5/1/2005	11/15/2007
Construction Survey Staking	1	LS	\$7,710.00	\$7,710.00		5/1/2005	11/15/2007
Monument Interior Lot Corners	1	LS	\$3,000.00	\$3,000.00		7/1/2005	11/15/2007
Testing	1	LS	\$8,000.00	\$8,000.00		7/1/2005	11/30/2005
INTERPRETIVE TRAIL							
	1	LS	\$114,970.00	\$114,970.00			
				\$720,413.15			
				(\$5,840.00)			
				\$142,914.63			
				\$887,487.78			

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EXHIBIT "B"
Idarado Legacy Subdivision
Engineer's Estimate of Probable Construction Cost
and Schedule of Improvements for
Final Improvements Cost Estimate
Phase II
Liberty Bell and Interpretive Trail

Assumptions & Notes:

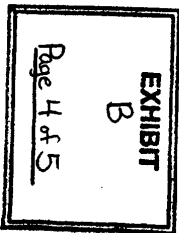
No dry (shallow) utility services to building envelopes are included
 Fill compaction percentage in this area can be anywhere from 0.9 to 1.30 we used 1.10 for this project due to unknown soils information
 Electric, Telephone and Cable all sharing the same trench
 No design, review, permit fees are included

Rockfall Mitigation Fences	2,400	LF	\$399,25	\$958,200.00	TBD	TBD
To be constructed prior to building permit issuance for lots BV1-4, P12-15, P24 and LB 6-9						
Owl Creek Stabilization	1	LS	TBD	TBD	TBD	TBD
Secured by restriction on sale of Liberty Bell lots 1 and 2						

This estimate of probable construction cost was prepared by me
 and/or under my direct supervision

Gregory E. Anderson
 Professional Engineer
 Registration No. 35736

SUBMITTED FOR REVIEW



Idarado Legacy Interpretive Trail:

Comparison of 10' wide vs. 8' wide on 3:1 slope

