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FEB 20 2004 2:42 PM  
NATRONA CO. CLERK WY

LOTS 4 & 5, BLOCK 5, PRATT ADDITION NO. 4  
SUBDIVISION AGREEMENT

THIS AGREEMENT made and entered into this <sup>16<sup>th</sup></sup> day of ~~Feb~~ FEB 20 2004 by and between the City of Casper, a Municipal Corporation, 200 North David Street, Casper, Wyoming, hereinafter referred to as "City," and El Cyd Associates, P.O. Box 26841, Albuquerque, NM 87125, hereinafter referred to as "Owners."

WHEREAS, Owner has applied to replat Lot 2, Block 5, Pratt Addition No. 4 in order to split the lot into two lots, Lots 4 and 5, Block 5, Pratt Addition No. 4, a copy of the attached Plat which heretofore has been approved by the City of Casper, in a simultaneous act with the execution of this agreement; and,

WHEREAS, a plat has been prepared, which has been designated as Exhibit "A", which is hereby made a part of this agreement;

WHEREAS, CARJO LAND COMPANY entered into a Water and Sewer Contract with the City of Casper directing the installation of water and sanitary sewer improvements within the Pratt #4 Addition on August 11, 1978; and,

WHEREAS, CARJO LAND COMPANY entered into a Subdivision Agreement with the City of Casper, directing the installation of public improvements within the Pratt #4 Addition, which incorporated the August 11, 1978, Water and Sewer Contract and made it a part of the August 22, 1978, Subdivision Agreement; and,

WHEREAS, The August 22, 1978, Subdivision Agreement was made binding on all the parties to the agreement, their successors and assigns.

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

**SECTION 1 - OBLIGATIONS OF OWNERS.**

Upon written demand of the Council or the City Manager, the Owners their heirs, successors or assigns, at their sole cost and expense, shall do, or cause to be done, the following:

**1.1 Surveying:**

- a. All subdivision corners and 1/16 corners shall be marked with 2" brass caps. These caps shall be set in concrete and shall show the number of the corner, elevation of the corner, identifying initial of the surveyor or company making the survey, and the license number of the surveyor making the survey or certifying the

*City of Casper*

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survey. The 1/16 corner shall be properly marked and verified as to the location, true elevation, and reference.

- b. Block and lot corners, points of tangency (PT's), and points of curves (PC's), shall be marked by ½" by 18" rebar driven flush with the ground surface, and identified by an aluminum cap. Points of intersection (PI's) of all blocks, and the PT's and the PC's of all curves shall be witnessed on site by an iron pin at the construction. Block and lot corners shall be marked after initial dirt moving work has been completed so that duplicate marking of lot and block corners will not be necessary. Said markers shall be in place for final inspection by the Public Services Director upon completion of the sidewalk (curbwalk), or curb and gutter.
- c. A record of all elevation data for the addition and 1/16 corners shall be submitted to the Public Services Director prior to the issuance of any building permit.
- d. A digital copy of the Final Subdivision Plat shall be provided as required by Section 16.20.070(P) of the Casper Municipal Code.

1.2 Construction Sequence:

Main water lines, sewer lines, storm sewer, streets, sidewalks, and access drives shall be constructed in an orderly sequence, as the Addition is developed and built upon, so that there will be no gaps left in the paving, sidewalks, and other off-site improvements. Streets shall not be paved until all water lines, storm sewers, and property water and sewer services are in place and the ditches thereof properly backfilled and compacted, in accordance with City requirements. The Owners shall receive the approval of the Public Services Director or designated authority for any and all phases of construction.

1.3 Certification of Construction: Repair Obligations:

- a. All improvements shall be designed and inspected by an engineer registered in Wyoming, who shall certify that the improvements, including curbs, gutter, sidewalks, paving, utility systems, storm sewers, street lighting, street signs, etc., have been constructed in accordance with the approved plans and specifications. The certification by the engineer is required to be in writing.
- b. The Owners shall maintain, repair, and replace, if necessary, all the improvements for a period of eighteen (18) months from the date the certification is approved. This obligation includes maintenance, repair or replacement for any cause during such period, including acts of third parties. Upon completion of all maintenance, repair, and replacement to the satisfaction of the City Engineer, the City shall accept the construction thereof in writing and thereafter maintain said street dedicated to the public. In the event the Owners fail to maintain, repair, or replace said improvements, City may, at its option, maintain, repair, or replace the same and Owners agrees to pay for any cost incurred thereby. Maintenance, repair, or

replacement by the City does not relieve the Owners from their obligation under this paragraph and shall not be construed to be an acceptance of the improvements by the City.

Streets, sidewalks, curbs, and gutters shall be constructed in accordance with the 1986 AASHTO Manual "Guide for the Design of Pavement Structures" or an equal standard approved by the Public Services Director. The Owner or his assignee shall maintain adjacent sidewalks and, prior to any lot sales, the Owner shall so advise its purchasers of the obligation of maintenance and shall replace any sidewalks, curb and gutters, or curbwalk that was broken during construction.

1.4 Underground Utilities and Street Lights:

All new utilities shall be located underground. All streetlights shall be installed in compliance with City of Casper street lighting standards at the Owner's sole expense. Streetlight pole materials shall be approved by the City Engineering Department.

1.5 Soils Analysis:

The Owners shall provide the Community Development Department with a soils analysis and subdivision lot drainage plan. Individual lot test bores will be required on each lot, with a soil analysis for the foundation design, and shall be approved by the Community Development Director and the City Engineer, prior to the issuance of a building permit.

1.6 Stormwater Management:

At such time that the City Council elects to proceed with a drainage basin or sub-basin wide stormwater management program, the Owners shall be required to participate with a proportionate share of the maintenance costs for the stormwater management facilities that would be required to mitigate any adverse basin or sub-basin runoff impacts from the subject property.

The Owner shall submit and have approved a drainage study and grading plan prior to commencement of any grading work on the subdivision. The Owner shall install all storm sewer improvements and develop the proposed detention channel on the site which serves the Pratt Addition No. 5, as designed in the approved drainage study. The Owner shall pay for Fifty percent (50%) of the cost of the project up to and including \$116,000, and one hundred percent of the cost of the project over \$116,000, said costs including storm sewer pipe, manholes and all other materials, installation and engineering fees.

1.7 Erosion Control Program:

An earthwork permit shall be obtained from the City Engineer prior to any earthwork-taking place in the Addition. The Owners are required to post cash, an irrevocable letter of credit, performance bond, or other approved surety in the amount of Five Cents (\$.05)

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per square foot of the area disturbed by grading, with a minimum amount of One Thousand Dollars (\$1,000.00). It shall be the obligation of the Owners to keep any bond or letter of credit in full force and effect. As provided herein, the Owners shall furnish proof of the same upon demand of the City.

**1.8 Retaining Walls and Fences:**

Any retaining walls constructed within the subdivision by the Owners shall be designed and certified by a Wyoming registered professional engineer, with said plans being approved by the Public Services Director and Community Development Director. Said walls shall be constructed within the boundaries of each lot and not on the property lines. Maintenance of said walls shall be the responsibility of each individual lot Owners.

**1.09 Issuance of Building Permits:**

All building permits will be issued by the Community Development Director in accordance with Casper Municipal Code, Section 16.12.030.

**1.10 Water and Sewer:**

- a) Curb boxes shall be left behind the sidewalk in front of each lot and the Owners shall protect, during the subsequent course of developing the Addition, valve boxes and curb boxes from damage, and be wholly responsible for the repair and replacement to the City's satisfaction of such that are damaged or destroyed. If the Owners shall fail or refuse to promptly repair or replace such boxes as required, the City may do so and charge the Owners directly for said cost. The Owners shall adjust said valve and curb boxes to finished grade, at the time the paving work is completed in the Addition.
- b) The Owners shall construct the necessary water lines up to and through the Addition. All work shall be in accordance with plans and specifications to be prepared by the Owners' engineer and approved by the City. Water line sizes shall be as determined by the City. City will pay for any required over-sizing.
- c) The Owners at their cost shall install water service lines in accordance with City specifications to the property line so as to serve each lot or building site in the addition.
- d) The Owners shall construct the necessary sewer lines to and through the Addition. All work shall be in accordance with plans and specifications to be prepared by the Owners' engineer and approved by the City. Sewer sizes shall be as determined by the City. City will pay for any required over-sizing.
- e) The Owners, at their own cost, shall install sewer service lines, in accordance with City specifications, to the property line so as to serve each lot or building site in the Addition.

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- f) The Owners shall protect manhole covers and rings from damage in the course of constructing the line, and shall be solely responsible for repair or replacement to the City's satisfaction. The Owners shall adjust such manhole rings and covers to finished grade. The Owners agree to protect and save the City harmless from any loss or claim suffered by other sewer users to their real or personal property, and from personal injury or damages by reason of obstruction or damage to the sewer lines or any part thereof occasioned by present or future construction work on said Addition by the Owners, and said obligation shall continue until the sewer line and the system within the Addition is accepted by the City's representatives; provided, however, that acceptance of part of the system shall not relieve the Owners of the obligations herein imposed in the event of damage by reason of future sewer construction within said Addition.
- g) Prior to the issuance of a building permit for any new structure, or prior to the issuance of a plumbing permit to connect existing buildings to the water and sewer systems, the then-existing water system investment charge (connection charge), sewer system investment charge (connection charge) and water meter charge shall be paid to the City. The Owners will also pay to the Central Wyoming Regional Water System Joint Powers Board the then current Regional Water System investment charge for each building to be served with water.
- h) All necessary easements up to and through the subdivision shall be obtained by the Owners. The Owners promptly shall deliver easements in a form acceptable for recording, wherever reasonably required for the purposes of enabling the City to install, maintain, and repair its sewer lines, water lines, and fire hydrants.

**1.11 Public Sites and Open Spaces:**

The parkland dedication requirement for the Pratt Addition No. 4 was previously satisfied when the Addition was originally platted. The Owner is not required to meet any additional requirements as a result of this replat.

**1.12 Street and Traffic Signs:**

Owners shall be responsible for their proportional share of the cost of materials and installation of all necessary street and traffic signs, as determined by the Public Service Director.

**SECTION 2 - OBLIGATIONS OF CITY.**

- 2.1 The zoning of Lots 4 and 5, Block 5, Pratt Addition No. 4 shall remain PUD (Planned Unit Development) as it is currently zoned.
- 2.2 The City shall issue a building permit and occupancy permit for the buildings on Lots 4 and 5, Block 5, Pratt Addition No. 4 under the terms of this agreement, upon performance by the Owners of the conditions set forth, in said agreement, and pursuant to Title 15 of

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the Casper Municipal Code. All building permits will be issued by the Community Development Director in accordance with the Casper Municipal Code.

- 2.3 The City shall pay for Fifty Percent (50%) of the cost of the project, including storm sewer pipe, manholes and all other materials, installation, and engineering fees required for the management of stormwater runoff from off-site sources, up to a maximum of \$58,000. <sup>referred to in paragraph 1.9</sup> *[Signature]*

### SECTION 3 - REMEDIES.

In the event the Owners fails to do, or fails to cause to be done, any of the requirements set forth in this agreement in an expeditious manner, the City may, at its option, do any or all of the following:

- a. Refuse to issue any building permits or certificates of occupancy to any person, including the Owners, or their successors in interest.
- b. After written notice to the Owners of those items which have not been completed or properly completed, and upon failure to cure the same by the Owners within a reasonable period of time, the City may complete any and all of the public improvements required by this agreement by itself or by contracting with a third party to do the same. In the event the City elects to complete said improvements, or contracts with a third party to do so, the Owners agree to pay any and all reasonable costs resulting therefrom upon demand by the City.

The remedies provided in this paragraph are in addition to any other remedies specifically provided for in this agreement, or which the City may otherwise have at law or in equity, and are not a limitation upon the same. The Owners further agree to pay all reasonable attorneys' fees, court costs, and litigation costs in the event the City is required to enforce the provisions of this agreement in a court of law. This document, its interpretation, and enforcement shall be governed by the laws of the State of Wyoming.

THIS AGREEMENT shall be binding upon, and shall inure to the benefit of all parties hereto, their successors and assigns.

The City does not waive any right or rights it may have pursuant to the Wyoming Governmental Claims Act, Wyoming Statute Sections 1-39-101, et seq. The City specifically reserves the right to assert any and all immunities, rights and defenses it may have pursuant to the Wyoming Governmental Claims Act.

Any litigation regarding this agreement shall be resolved in a court of competent jurisdiction situated in Natrona County, Wyoming.

THE OWNERS represent, by their signatures below, that there are no outstanding mortgages against the property to which this agreement relates; or, in the alternative if a mortgage exists, by

its signature below, the mortgage holder, and all mortgage holders, consent to the terms of this contract on their own behalf and on behalf of their successors. In the event that the mortgage holder becomes the owner of the property, the mortgage holder is not bound to physically complete the improvements agreed to by Owners. Mortgage holder is not a guarantor of the obligations of the Owners, except that mortgage holder's interest is subject to any dedications or other conveyances made by Owners to the public, the City or any other public entity. However, any other subsequent property Owners are obligated to complete the obligations of the Owners.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

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Coloardo  
STATE OF WYOMING )  
Jefferson ) ss.  
COUNTY OF NATRONA )

The foregoing instrument was acknowledged before me by I. Howard Mock,  
authorized representative of El Cyd Associates, this 16 day of December, 2003,  
2003.



Witness my hand and official seal.

Pamela Free  
Notary Public

My Commission Expires 1-6-2004

My Commission Expires: 1-6-2004

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