



# **RENDEZVOUS ENGINEERING, P.C.**

Civil Engineers and Planners in Wyoming and Idaho

**Rendezvous Project No: 05-003**

June 24, 2013

Angie Rutherford  
Teton County Planning Administrator  
Teton County Courthouse  
150 Courthouse Drive - Room 107  
Driggs, ID 83422

RE: River Rim Significant Change Reduced Impact Amendment  
Additional Response to Comments from Planning and Zoning Meeting, 5-14-13;  
and Additional Staff Comments Dated June 3, 2013

Dear Angie:

Attached for your review is additional documentation for River Rim submitted on behalf of the applicant, Glacier Bancorp. We have attempted to respond to your comments and questions in a complete and comprehensive manner. However, we ask you to recognize that for some of your comments, additional dialog between the applicant and planning staff or between the applicant and planning commission may be appropriate to provide further clarifications and resolve differences.

Also, there are several instances where additional notes or minor changes have been requested by the planning staff on the submittal documents including the Final Plat and Exhibit A. As noted in the responses, the applicant agrees to the changes and will modify the actual exhibits as a part of the documents that will be submitted for final review and recordation.

Applicant responses, shown in blue font, are based upon the order and format provided in your June 3, 2013 summary of comments.

### **Planning Issues:**

1. Please show evidence that you have addressed the Division I owners' concerns. [Communications have been ongoing between Glacier Bancorp and the Division I owners. Attached is the third draft of an organizational plan that is intended to clarify responsibilities and uses among the various River Rim phases. This has been submitted to the Division I owners for review however is still in draft form.](#)
2. You have not addressed the visual impacts of Phase VI. Two commissioners asked for this information. [See the attached narrative and exhibit regarding visual impacts associated with Phase VI.](#)

3. There are still details missing from the explanation of how the tap fees would be managed, most notably, what is the County's responsibility in collecting and managing these fees? The County does not want to take any responsibility for finishing the wastewater pre-treatment module. It should be the Owner or the HOA's responsibility. The tap fee collection process would be the exclusive responsibility of the Owner and/or HOA who would also manage the escrow fund. We have suggested a provision that would require County approval for the use of any funds taken from the escrow account to insure that they are used for their intended purpose. All other aspects of the sewer fund including the construction of a future module would be the responsibility of the Owner, HOA or special utility district that may be formed for this purpose. See revised development agreement paragraph 8 for additional descriptions of the proposal.

4. At the last public hearing, you stated you have a weed management plan. Please provide a copy of this plan. See attached memo regarding weed management from Sean Cracraft who lives at River Rim and has coordinated the weed control work.

5. Please clarify: You are proposing that all future phases (Phases II-VI) will be eligible for final platting application upon gravel road standards are met in Phase I. Again, staff would like to see Phase VI tied to the completion of Phase I, not just gravel roads. Additionally, recording of any final record plat, which allows lots to be sold, could not happen until all infrastructure is complete for each phase. Based upon the discussions that took place at the May P&Z, we believe that there was general support from the planning commission that gravel roads would be adequate until there was sufficient traffic to justify asphalt paving – 30 building permits. Since paving would be the only other major infrastructure item to complete, we believe that it is reasonable compromise to allow all other Division II phases to go forward including the recording of final plats once the roads in Phase I are to gravel standards.

6. Commercial Uses: You have proposed some commercial uses that are not directly related to a residential development. It is staff's recommendation that the following uses be allowed in the commercial area and not tied to the golf course: Equestrian facilities, fire substation, existing agricultural buildings, existing residences, a 16-unit lodge on two lots, support retail and office use, recreation facilities and a conference room. It is staff's recommendation that the following uses not be allowed or be tied to the golf course: Café/coffee shop, self storage units, office/shop units, general store, gas pumps, car wash etc. See the revised development agreement 2. (a) (2) (H). For the West Rim Village, the commercial uses proposed are limited and reasonable as incidental uses for this type of PUD, even without a golf course. The proposed uses would serve the local needs of the River Rim property owners. Uses such as gas pumps and car wash are not included.

7. Lodge- staff recommendation: Lot 8 would allow up to 10 lodge units within the existing building that are contained in the current administrative building. Dining and kitchen facilities would be allowed in this building. Additional units up to a total combined 16 units would be allowed on Lot 6 in up to two new buildings, on Lot 6. No additional cooking or serving facilities would be allowed. A small, support retail shop would be allowed in the existing administrative building as part of the lodge



operation. All facilities would be subject to County building permit application procedures. The revised development agreement limits the use to a Lodge Facility with no more than 16 units including the existing headquarters building and any future detached units on lots 6 and 8. The development agreement also acknowledges the need for county plan approvals and building permits for any new construction. The applicant believes that this is a reasonable use and request for this site which has much of the infrastructure in place.

8. Golf Course Timeline: It is staff's recommendation that the entire golf course area project (trails and water features) be completed by 2015. As proposed, the golf course area will remain unseeded for three additional summers. Seeding is the best way to battle invasive weeds and three summers without vegetation is too long. The applicant has put forth a compromise phased plan that would provide weed control along with the native and agricultural seeding by the end of 2015 (See May 31, 2013 submittal). One additional year is requested for the pathways and water features. As previously noted, the additional year would allow time for a new buyer to make a decision about the golf course and potentially avoid the need to re-disturb portions of the reclaimed site that could result if the course is constructed. The reclamation costs will be in the range of one million dollars and the applicant would like to insure that such work is done in an efficient manner and limited resources are not wasted. Weed control would continue throughout this phased approach.

9. The County requires 378' separation distances between driveways for roads with a 35mph speed limit (per conversation with Clay Smith 6/3). The high density lots along the subdivision road that is being proposed as the new County road cannot meet these distances. The road will either need to be moved or the access density decreased from this road. It is our understanding that the County uses the "Manual for Use of Public Right-Of-Way Standard Approach Policy" published by the Local Highway Technical Assistance Council which recommends a minimum of 330 feet center line to centerline distance between private approaches on arterial and collector roads. However, currently 9400W has very low traffic volumes and does not function as an arterial or collector or have the type of use for which this guideline is intended. In addition, most of the future use on this road will be internal to River Rim.

However, the applicant does recognize the need to adhere to sound and reasonable safety requirements and that a minimum separation distance should apply. The applicant would like to propose the use of shared driveway accesses along the larger lots to achieve the recommended minimum separation distance and minimize accesses on to the portion of West Rim loop that would be used, if only temporarily, as a county road. In addition, the applicant proposes to include in the updated letter of credit funds to construct a separate gravel county road along the relocated public easement once traffic reaches a specified threshold as determined by actual traffic counts and number of accesses. During the interim period, additional information on vehicle use on this road would be gathered by the applicant to determine when the separate county road would be required.

We plan to discuss the specifics of this option further with the county engineer to develop an acceptable plan that can be presented to the county.



**Development Agreement recommended amendments:**

1. *Page 2- Note 3:* “The lot and tracts shall revert to the uses shown on the original master plan if a golf course is constructed.” This statement cannot be effective. There is a final plat amendment of Phase I associated with this application which shows these lots as residential. There will need to be a plat amendment to turn these areas back to their originally-proposed uses and the residential units transferred to Tract E. The applicant understands that a separate final plat amendment would be required to transfer the previous uses back should the golf course be constructed.

2. *Page 3- d. Incidental Uses.* Tract E is converted to residential. If the golf course is built, then there are additional residential units proposed for the area. A plat amendment would be required for the proposed commercial uses in this section. The applicant understands that an amended plat would be required to re-establish the commercial lots after being converted to 12 residential lots as described in the revised development agreement.

3. *Page 3- h. 2) Block 1 Lots 6 and 8.* No additional buildings will be allowed on Lot 8, where the existing administrative building is located. Please specify the number of buildings allowed on Lot 6- no more than two. The revised development agreement specifies the total number of Lodge Units allowed on both Lots 6 and 8 and that the site plan and building permit would be subject to county approval. We believe that this approach provides greater flexibility while still limiting the intensity of the use.

4. *Page 4- 3) Other uses:* It is staff’s recommendation that not all of the proposed uses are “incidental” to the development. Self-storage units/office storage units; retail/boutique and antique shops; and a café/logo shop would need additional approvals. See the revised development agreement for a list of amended uses.

5. *Page 4- ii. Tract I:* There needs to be a lot on this tract. We recommend that the amended plat allow for one unit on this tract and that the siting of the unit within the tract would be in accordance with standard building permit requirements.

6. *Page 4- III Utility Stubs and Extensions.* The letter of credit needs to be submitted at 125% of the engineer’s cost estimate with the recordation of the amendment (not “before construction of infrastructure commences”). As was done on the previous amendment, the new letter of credit will be filed in conjunction with the plat recordation. Given the size of the letter of credit required, the applicant requests consideration from the county to modify the 25% contingency that is added to the cost of the letter of credit. We would like to have this dialog about the amount of the letter of credit contingency with the planning commission and county commissioners as this amendment is presented before these two boards.

7. *Page 5- IV Block 10 Lots 1-4.* Fire suppression systems need to be functional before building permits are issued- remove (ii) from the section and add the statement that no building permits will be issued until all the fire suppression system is approved and accepted by the Teton County Fire Marshal. The letter of credit needs to be submitted at 125% of the engineer’s cost estimate with the recordation of the



amendment (not “before construction of infrastructure commences”). [See revised Development Agreement which addresses this issue.](#)

8. *Page 5- V Golf Course Area.* The letter of credit needs to be submitted at 125% of the engineer’s cost estimate with the recordation of the amendment (not “before construction of infrastructure commences”). Again, there will need to be a plat amendment if the golf course is constructed in order for the lots to be transferred to Tract E. [The applicant understands the need for a plat amendment. See previous discussion on the letter of credit.](#)

9. *Page 5- B The West Loop Road and Connector Roads.* A letter of credit needs to be submitted at 125% of the engineer’s cost estimate with the recordation of the amendment. [We understand the timing for the letter of credit. See response to item No. 6 above.](#)

10. *Page 5- C Alignment of the West Loop Road and Connector Roads.* This entire paragraph might belong before the previous. I think the reference should be to Lot 7, Block 9 (not Block 25). The crushed gravel should be completed by Dec. 31, 2014. We will not issue building permits if there is not a gravel road. Period. And the letter of credit line from previous suggestions should be added. [See revised development agreement.](#)

11. *Page 5- D Remaining West Rim Loop Road.* The reference is wrong and should be corrected. [See revised development agreement.](#)

12. *Page 6- D Remaining West Rim Loop Road.* See #10- no building permits will be issued if the road is not to County gravel standards and the last part of that sentence should be removed. Add line, a letter of credit needs to be submitted at 125% of the engineer’s cost estimate with the recordation of the amendment. [See revised development agreement and previous comments about the 10% versus 25% contingency.](#)

13. *Page 6- E Turning Lanes.* There is another reference that is wrong (paragraph J? perhaps it should be (h)). A letter of credit for 125% of the engineer’s cost estimate shall be submitted with the recordation of the amendment and remain in place until the turning lanes are completed. [See revised development agreement.](#)

14. *Page 6- VII Road Paving.* See #13- wrong reference and letter of credit statement needs to be added. [See revised development agreement.](#)

15. *Page 6- Future Wastewater Pre-treatment Modules.* Staff recommends more detail in the in the way that the tap fee fund will be collected and managed and how existing lot owners will be obligated to pay in since they bought their property without knowledge of this fee. The County does not want to be responsible for building the next wastewater module and therefore would not withdraw from the account. It needs to be clear who, the HOA or the Owner, will manage the construction etc. Staff recommends that before scheduling the amendment for a BOCC meeting, a letter from DEQ stating that it would be possible to base the building of the next module on actual flow instead of building permits. [The covenants of record do allow the declarant to implement tap fees for infrastructure and related facilities. The use of a tap fee is seen as a reasonable approach](#)



to allow for the future expansion which may be more than 20 years into the future as noted in previous responses. Also the language included in the current development agreement was taken from the previously development agreement modification which was reviewed with the DEQ and county. This language is designed to insure that only the actual facilities necessary to accommodate the actual use are constructed and that these facilities are upgraded in advance of any future need.

16. *Page 7- IX County Acceptance of Completed Infrastructure.* It needs to be clear that the County will only release funds from the letter of credit on a line-item basis and that the contingency will not be released until the entire phase is complete. See revised development agreement. The applicant would like to discuss the amount of the contingency as previously noted.

17. *Page 7- X Letters of Credit.* Again, the applicant needs to fix the references in this section before it can be evaluated. See revised development agreement. There is ongoing legal discussion between Dan Green and Kathy Spitzer about the letter of credit.

18. *Page 8- Platting and Improvements for Division II, III, IV, V and VI.* It is staff's recommendation to include a statement that if Phases II, III, IV, or V are vacated, the total acres of open space cannot be diminished and the number of dwelling units cannot be increased. The revised development agreement indicates that the future phases if vacated would need to comply with the county regulations in effect at the time of the vacation. The purchase and sales agreements, as referenced in the revised development agreement, would otherwise require adherence to the master plan open space requirements and development densities.

19. *Page 8- XXI Order of Completion.* It is staff's recommendation that the final plat application of Phase VI be tied to the completion of Phase I and that the final plat application of Phases II, II, IV, and V be delayed until all lots in Phase I are eligible for certificates of occupancy (roads to gravel standards). After Phase I is eligible for building permits, Phases II – V can be completed in any order or simultaneously. All infrastructure for all future phases must be complete before the record plat is recorded and lots can be sold- this is the current procedure in the current code. See response to item 5 under planning issues. The applicant proposes that all future phases could be completed once the roads in Division II Phase I are to county gravel standards.

20. *Page 9- XXV Final Inspection and Approval of Improvements.* Staff recommends adding to the end of the paragraph that "only after the County's final acceptance of approval will the record plat be recorded for Phases II – VI. See revised development agreement paragraph 21 which requires that infrastructure for phases II through VI must be complete before lots can be sold.

21. *Page 9- XXVI Letter of Credit.* The letter of credit should be for 125% of the engineer's cost estimate. Only complete line items will be released from the letter of credit, again, contingency will be withheld until completion of the entire phase. We understand that this is the county's policy with regard to letters of credit. As previously noted we would like to discuss the required contingency requirement.



22. *Page 9- XXVII Default.* The County should be able to draw on the letter of credit before the work is done. The County cannot do work on the project until the Owner is in breach and when the Owner is in breach, the letter of credit will have expired. The County needs to be able to pull the letter of credit, then do the work and refund any surplus to the Owner. This has been an ongoing legal discussion between Dan Green and Kathy Spitzer. We expect that there will ultimately be a resolution of this issue prior to the recordation of the plat amendment.

23. *Page 11- XXXI. Notices.* The County's address is wrong. See revised agreement.

24. *Page 11- XXXIII A Conveyance of Individual Lots.* Phases II – VI, infrastructure must be complete and accepted by the County before the Record Plat is recorded and lots may be sold. The applicant understands that this is change that was made to the county regulations following the original River Rim approval and would apply to the future phases but not Phase I. See revised development agreement.

25. *Page 11- XXXIII B Certificate of Occupancy.* Building permits (not certificates of occupancy) will not be issued until public improvements are complete. The applicant understands that the criteria for public improvements are to be based upon building permits.

26. *Page 12- XXXIII E Roadway/Path Maintenance.* Will the Owner or HOA maintain internal roadways? As with most all private subdivisions, the maintenance responsibility will ultimately be in the hands of the HOA.

27. *Page 13 XXXVIII Adjacent Neighbor Provisions.* Staff suggests a 200' buffer to all exterior property lines. It is difficult to determine what may or may not be a residential use, now and in the future. This should not be a problem as most building sites are set back beyond the 200 feet.

28. *Page 13 XXXIX. Sharing Development Costs.* Staff would like to see clarification of this section. Section 9-5-4 does not exist in the code and it is unclear the intent of this section. See revised development agreement.

29. *Page 13 XXXXI Development Agreement to Remain in Effect.* This section needs to be eliminated- it contradicts Page 1 E. See revised development agreement.

30. *Page 15.* All Phase owners should sign the Development Agreement (i.e. add signature lines for Phases II, IV, and V). This has also been an item of legal discussion between Dan Green and Kathy Spitzer and expect that there will be some resolution.

31. *Page 16.* Kelly Park (not Parks) So noted and corrected.

**Master Plan:**

1. The Master Plan needs to be labeled as Exhibit A. This change has been made.



2. The Notes for all three tables indicate that lots will be converted to cluster units in Tract E if the golf course is constructed. A plat amendment would be needed for that to happen. The applicant understands the need for plat amendment for this change. See development agreement.
3. It is misleading to not show lots 29-34 of Block 6 more prominently on the Master Plan. There is no attempt to be misleading, only that these specific lots are part of the driving range and would occur if the golf course is not constructed. They are shown on the final plat in the same manner as the other lots.
4. It is misleading to not show the cluster chalets on Tract D. There are 45 units proposed for this 4-acre area. Tract D was previously platted to allow the 45 units. This tract is owned by a third party and therefore not controlled by the applicant. Consequently it has not been the subject of focus in this amendment as the applicant has no authority to make changes. The existing and amended plat documents do however provide for the 45 units. Again there is no attempt to be misleading.
5. In the table entitled, Division II Phase I Unit Summary, condominiums are still indicated. Please remove all references to condominiums in all application materials. We did intend to make this change but noticed after copies of Exhibit A were made that an older table was referenced into this exhibit. We will eliminate the term condominium in the final version that is to be recorded.
6. The Legend indicates an 8' Gravel Lane. Staff is not sure what the 8' refers to and recommends that all road design details remain in the construction plans. If this refers to a pathway, it should be indicated as such. This has been changed to gravel pathway as suggested. See revised Exhibit A where the legend has been modified.
7. In general, the Legend is difficult to read. It would be better to have the symbol only depicted with an explanation of what that symbol represents. The master plan map is designed to convey a significant amount of information in a graphic manner.
8. The County Road is now 9400W (not 940W). This needs to be changed in the legend. There were a number of older references when the road was called 940 W however we have attempted to correct this on all the documents to 9400W.
9. Phase VI- there are 2 proposed Farm/Ranch Residential Units (not 12). Sixty-four units total are being proposed. This correction has been made.

#### **Final Plat:**

1. The intent for Tract D needs to be clarified. On the final plat, "cluster chalets" are indicated, but nowhere else in the application is this referred to. As noted in Master Plan comment No. 4, no specific changes are being proposed for Tract D which is owned by a third party and was part of the previous plat approval. A more detailed note explaining the use of this Tract can be added to the plat if requested by the county.



2. I do not see an eliminated lot in Block 9 Lot 7. The plat does not match the master plan in this area with a road access to Phase II. [This will be corrected on the final plat document prior to approval by the county commission and final recordation](#)

3. Staff calculates a total lot count of 307 (166 in blocks 2-10 and 141 in Tract A-I) plus 16 lodge units. This is one more lot than is indicated in River Rim application materials. This is likely Lot 7 of Block 9 which is still indicated on the plat and not the master plan. [This will be corrected on the final plat submitted for final approval as noted.](#)

**Fish and Game Comments from 6/21/13:**

[The applicant did not have the opportunity to review and discuss the Idaho Fish and Game comments received late on Friday, June 21, 2013. Responses to these comments will be submitted in a separate letter no later than Friday June 29th.](#)

We believe that significant progress has been made in addressing many of the issues raised by staff over the past several weeks. However, we recognize that a number of differences remain. We look forward to continued dialog and ongoing efforts to resolve the remaining issues as this amendment is presented to the planning commission and county commission over the next several weeks.

Respectively submitted,



Robert T. Ablondi, P.E.

Cc: Don Chery  
Mike Potter  
Dan Green  
Sean Cracraft

**ATTACHMENTS:**

- Long-term Organization Plan and Resolution with Division I Owners
- Ongoing Weed Management Strategy
- Amended and Restated Development Agreement
- Exhibit A Master Plan
- Revised Golf Reclamation Plan
- South Canyon Visual Analysis
- CD with PDF files





**DRAFT**

**River Rim Ranch  
Owners Association, Inc  
Long-term Organization Plan  
and Resolution with Division I Owners  
6/18/13  
(Third Draft)**

- Introduction Page 2
  
- Long-term Organization Plan Page 3
  - Master Association Organization
    - Master Association Structure/Function
    - Sub Associations Structure/Function
  
- Declarant (Bank) Commitments to Division I owners Page 6
  
- Conclusion Page 8
  
- Exhibits
  - Exhibit A – Owners Association Map
  - Exhibit B – Master Association Budget
  - Exhibit C – Division I Sub Association Budget
  - Exhibit D – Division I Overlook Cabins Sub Association Budget

**River Rim Ranch  
Owners Association, Inc  
Long-term Organization Plan  
and Resolution with Division I Owners  
6/18/13**

**Introduction**

The River Rim Ranch project, which began with the Division I area in 2004 and then the expanded Division II area in 2006, is at an important crossroad. The Declarant has applied for a Planned Unit Development (PUD) Master Plan Amendment to help assure the financial viability for Division II and the Declarant's ability to sell the project asset to a qualified developer capable of carrying through with the project. The Division I owners have expressed concerns to the Declarant regarding potential financial liabilities from Division II for the Division I owners as well as concerns about lot owner involvement in the management of the River Rim Ranch Owners' Association.

The River Rim Ranch project, like so many other resort/second home projects nationally, has endured the negative impacts of the Great Recession, which have created unique financial challenges and management challenges for project developers and the individual property owners within projects. This presentation addresses these challenges at River Rim Ranch from two key perspectives:

- 1) The long-term organization and operation of the River Rim Property Owners' Association within the context of the Master Declaration of Covenants, Conditions and Restrictions (CCRs).
- 2) The more immediate, as well as long-term organization and operation of the Division I component of the Property Owners' Association, which includes 76 residential lots and existing homes.

The goal of this dialogue is to seek a mutually acceptable understanding between the Declarant and the Division I Owners.

## Long-Term Organization Plan

Outlined below is the long-term organizational strategy for the Owners' Association, which employs the use of Sub Associations to create independent entities within the broader based Master Association. The Master Declaration of Covenants, Conditions, and Restrictions (CCRs) for River Rim Ranch specifically made provision for the Declarant to create Sub Associations as a means to allow local property owner control within defined areas or components of the larger project. Also, localized Sub Associations can be created for unique common area needs, such as the Overlook Cabin area or West Rim Commercial Village area.

- Master Association Organization (see Exhibit A – Owner Association Map – pending)
  - Division I – Sub Association 76 Units
    - Localized Sub Associations
      - Overlook Cabins (20 lots)
  - Division II, Phase I – Sub Association 322 Units (+,-)
    - Localized Sub Associations
      - West Rim Commercial Village (8 lots)
      - Tract C Chalets (62 lots)
      - Tract D Cluster Chalets (45 units)
      - Tract E Golf Village (if golf course completed)
  - Division II, Phase VI – Sub Association 64 units (+,-)
  - Sold Phases – II, III, IV, V:
    - Remain as part of PUD Master Plan
    - Not part of Master Association
  - Funding/Assessments – Prorations
    - Division I – 76 units = 16%
    - Division II, Phase – 322 units = 70%
    - Division II, Phase VI – 64 units = 14%
    - 462 units = 100%
  - Master Association Structure/Functions:
    - Board of directors comprised of (min 3 – max 7)
      - Division I – Chairman
      - Division II, Phase I – Chairman
      - Division II, Phase VI – Chairman
      - 4 additional board members allowed by vote

- Manages, maintains common open space, trail system and ponds
  - Manages, maintains common amenities/common facilities:
    - Overlook Lodge
    - Manager's House/Operations and Maintenance Barn (Division I) – until relocated
    - Irrigation water pump systems/distribution lines/ponds
    - Other future amenities not listed above may be constructed by the Developer (Declarant) and at their cost, and related operations and maintenance costs or use fees or dues for these potential future amenities would be paid through optional memberships only and not required of any lot owner without consent.
  - Enforcement of Master Covenants, Conditions, and Restrictions
  - Enforcement of Master Development guidelines and regulations
  - Committee for Design Review (CDR)
  - Comprehensive Common Area Liability and Casualty Insurance coverage
  - Funding/Assessments – prorations:
 

▪ Division I	– 76 units	=	16%
▪ Division II, Phase	– 322 units (+,-)	=	70%
▪ Division II, Phase VI	– <u>64 units (+,-)</u>	=	<u>14%</u>
	462 units	=	100%
  - Annual budgeting/lot owner assessments and collections – 462 Total Units (Exhibit B – Master Association Budget – pending).
- Sub Associations (Division I, Division II-Phase I, Division II-Phase VI) Structure and Functions:
- Board of Directors – locally elected within Sub Association area (min 3 – max 7)
  - Operates and maintains Sub Association area:
    - Roadways/snow plowing/street signage
    - Localized common utilities
    - Common landscape, fencing, lighting, entry areas
    - Weed management
  - Operations and maintenance annual budgeting / lot owner assessments and collections (Exhibit C – Division I – Sub Association Budget – pending).

Each Sub Association operates individually, but some common cost share provisions will be appropriate where overlaps occur, such as:

- Common entry for Division I and Phase VI (North entry).
  - Common access to the Overlook Lodge for other Sub Association property owners.
- The localized Sub Associations, such as the Overlook Cabins, West Rim Village, etc., all function within the Master Association and prevailing Sub Association and pay standard assessments. Additionally, these localized Sub Associations, upon creation, have the opportunity to cost share localized common area requirements, such as driveway snow removal, landscape maintenance, water and sewer facilities, and other exterior maintenance items.

**Declarant Commitments to Division I Owners**

- The Division I Sub Association will be created by the Declarant, and a five person Board of Directors will be appointed, comprised solely of Division I lot owners, minimum of one lot owner and one cabin lot owner.
- Division I will control its Sub Association area, operations and maintenance budgeting, and property owner assessments.
- The Division I Board Chairperson will serve on the Master Association Board. The Declarant will hold two Board seats on the Master Association Board for the time being, but will subordinate per provisions of the CCRs upon sale of 75% of the lots or five-year provision after each phase is final platted, infrastructure complete, and Sub Association set up.
- The Division I property owners will not be subjected to any capital costs or amenities operation costs or amenities dues within Division II for future amenities unless they may want access to and are willing to pay prevailing dues amounts for these amenities at that time. This provision overcomes the concern that unwarranted costs can be imposed on Division I owners.
- Costs of the Master Association functions will be shared prorata within the project based on the number of lots within the Sub Associations:
  - Division I                      – 76 units                      = 16%
  - Division II, Phase       – 322 units (+,-)       = 70%
  - Division II, Phase VI – 64 units (+,-)       = 14%
  - 462 units                      = 100%

Therefore, Division I owners will be assessed only for 16% of the total Master Association administrative, operations, and maintenance costs (Exhibit B – Master Association budget – pending).

- The Division I common open space areas currently owned by the Declarant will be formally transferred to the Master Association, which will eventually own all common open space and amenities within the Master Association as intended by the CCRs. This transfer of property would not include the Overlook Lodge (Lot 2-Phase II), the North Pond and Pump House area within Division I at this time.
- The Declarant will create the other two Sub Associations; Division II, Phase I and Division II, Phase VI upon infrastructure completions.
- The Declarant will create the Overlook Cabin localized Sub Association of 20 units (Exhibit D – Overlook Cabins Sub Association Budget – pending).

- The Declarant will create the West Rim Village Sub Association of 8 lots when deemed necessary and practical.
- The Declarant will address and complete short-term maintenance items on the Overlook Lodge and Division I trail system.
- The Declarant will prepare annual budgets consistent with this Organization Plan for:
  - Master Association (Budget Exhibit B)
  - Division I Sub Association (Budget Exhibit C)
  - Overlook Cabins localized Sub Association (Budget Exhibit D)

The Declarant Commitments to the Division I Owners will be further formalized and become a recorded document at the time of recording of other County approved application documents, such as the amended PUD Master Plan and related amended PUD Development Agreement.

**Conclusion:**

The Declarant will work in good faith with the Division I Owners to achieve mutually beneficial understandings outlined herein and is committed to formalizing such understandings subject to the successful conclusion of the current PUD Master Plan Amendment Application currently before Teton County. In the short term, the Declarant will continue to discuss and meet with the Division I Owners' representatives and trust that the outcome of this dialogue and negotiation will be productive and re-establish the cooperative working relationship that has existed historically.

While the Declarant is motivated to achieve a cooperative plan with this small group of vocal Division I Owners, this plan needs to be achieved in context of the existing CCRs, which represent all of the existing and future property owners within River Rim Ranch. This new document, Declarant Commitments to the Division I Owners, will be recorded as an addendum to the current CCRs.

Thank you for your consideration and attention to this proposal.

**Exhibit B**

**Master Association Budget**

**TO BE SUBMITTED  
WITH FINAL VERSION**

**Exhibit C**

**Division I Sub Association Budget**

**TO BE SUBMITTED  
WITH FINAL VERSION**

**Exhibit D**

**Division I Overlook Cabin Sub Association Budget**

**TO BE SUBMITTED  
WITH FINAL VERSION**



RE: Ongoing weed management strategy

Beginning with the inception of golf course construction in 2007, we have had an ongoing weed control program in both Division 1 and 2 at River Rim Ranch. Weed control is a process, whether in an established development or farming operation. Any time the native soil or vegetation is disturbed or removed, annual, perennial and sometime noxious weeds take advantage of a short term advantage and inhabit the disturbed soil. This situation is obvious all over Teton County.

At River Rim we have controlled the weed population through 3 methods: Mechanically, physically and chemically. Each of these processes can be quite effective and the combination of all 3 is the best way to control this ongoing problem until the native plant materials have had a chance to reestablish and fend off the weeds naturally.

Our mechanical process has involved an ongoing farming operation and the yearly cultivation of the soil, coupled with the haying operation that continues in areas that are completed throughout the development. We have a new farming partner beginning this year and part of his extended service agreement relates to weed management in the areas he will be farming.

In the previous 3 years we have physically removed many large thistle plants that have come up in areas around the edges of the portions of the ranch that cultivation does not reach. We do this a couple of times a year prior to seeding. We have also removed these noxious weeds along our paths within the development.

The most comprehensive strategy we use is related to chemical control of weeds throughout the summer. The last 3 years we have sprayed on average 300 acres, most of which is the land the idle golf course sits on. We have been using a combination of Widematch and Shapparell from Dow Agrisciences to control a wide pallet of weeds. We also use a small, atv mounted sprayer on a regular basis to spot spray weeds as they emerge through the growing season.

In summary, our weed management program is comprehensive and perpetual. Not unlike our management of the golf course at Teton Springs, we realize that the weed problem here in the Teton Valley requires diligence and ongoing dedication in order to be effective.

If you have any further questions, feel free to contact me at anytime.

Sean Cracraft, PGA/GCSAA

General Manager

[Sean@riverrimranch.com](mailto:Sean@riverrimranch.com)

208-705-8305

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
FOR RIVER RIM RANCH DIVISION II- PLANNED UNIT DEVELOPMENT**

This Amended and Restated Development Agreement for River Rim Ranch Division II Planned Unit Development (this “Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 2013, by and between Teton County (the “County”) and Big Sky Western Bank (the “Owner” which term shall include any successors and assigns of the Owner to the ownership of River Rim Ranch PUD) (collectively referred to herein as the “Parties”).

STIPULATION OF FACTS

- A. This Agreement pertains to Division II of the River Rim Ranch Planned Unit Development (“River Rim”) which was approved by the County and recognized as a master planned unit development.
- B. On July 27, 2006, a Development Agreement for Division II was made between West Rim LLC (“West Rim”) as developer and the County. The Development Agreement was recorded on August 7, 2006, as Teton County Recorder’s Instrument No. 179247.
- C. On or about June 30, 2009, the Owner acquired River Rim Ranch property (the “Project”) from West Rim pursuant to a non-merger Warranty Deed in Lieu of Foreclosure recorded on July 14, 2009, as Teton County Recorder’s Instrument No. 205788.
- D. The 2006 Development Agreement was amended by: (i) that certain Amendment to Recorded Development Agreement for the River Rim Ranch - Division II Planned Unit Development, dated November 18, 2011, recorded on December 13, 2011, as Teton County Recorder’s Instrument No. 220042 (the “2011 Amendment”); (ii) that certain Administrative Amendment to Development Agreement for River Rim Ranch Division II Planned Unit Development, dated May 14, 2012, recorded on May 17, 2012, as Teton County Recorder’s Instrument No. 222136 (the “Administrative Amendment”); and by (iii) that certain Administrative Amendment to Development Agreement for River Rim Ranch Division II Planned Unit Development, dated November 13, 2012, recorded December 14, 2012, as Teton County Recorder’s Instrument No. 225471 (the “Second Administrative Amendment”). Unless specifically indicated otherwise, the 2006 Development Agreement as amended by the 2011 Amendment, the Administrative Amendment, and the Second Administrative Amendment are collectively referred to herein as the “Prior Development Agreements.”
- E. The Owner and the County hereby amend and restate the Prior Development Agreements into this Agreement. This Agreement shall supersede and replace the

Prior Development Agreements. Provisions contained in the Prior Development Agreements that are no longer applicable are not included in this Agreement.

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties hereby stipulate and agree as follows:

1. **Subdivision Description.** This Development Agreement pertains to and includes that property which is designated and identified as River Rim Ranch Division II (Div. II), which includes Phase I (consisting of sub-phases 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H and 1I, 1J, 1K, 1L, 1M, and 1N) and Phases II, III, IV, V and VI, all as illustrated on attached **Exhibit A**.
  
2. **Division II Phase I.** The Division II Phase I sub-phases are amended and restated as more specifically described below and in the Exhibits attached hereto.
  - (a). **Lot/Unit Reduction/Redistribution.**
    - (1) The number of units in Division II Phase I shall be reduced by 38 units from 360 units originally approved to 322 units.<sup>1</sup>
    - (2) The Lots/Units are restated as follows:
      - (A) **Tract A.** The 20 lots for cluster cabins will be converted to lots for eight single family residential units.<sup>2</sup>
      - (B) **Tract B.** The lots for 24 cluster cabins will be converted into lots for ten single family residential units.
      - (C) **Tract E.** (Teton Rim Golf Village). This tract will be converted into 12 residential lots.<sup>3</sup>

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<sup>1</sup> Of the 360 units originally approved, 155 units have been sold.

<sup>2</sup> The Prior Development Agreements and Master Plan Amendments authorized a total of 40 cluster cabins. Pursuant to the Administrative Amendments, the number of cluster cabins was reduced by 20 cabins, resulting in a total reduction of 32 cluster cabins and an increase of open space of about 17.39 acres.

<sup>3</sup> The units associated with Tract E, Tract G, and Lots 29-34 Block 6 shall be deferred until a final decision is made relative to the construction of a golf course. If a golf course is constructed, the owner will apply for a plat amendment and comply with the applicable provisions established in the Teton County Subdivision Regulations to permit Tracts E and G and Lots 29-34 Block 6 to be used for purposes associated with the golf course as described herein. If no golf course is constructed, these lots and tracts shall be used for residential development and incidental uses as described herein.

(D) Incidental Uses. Commercial support uses located in Tract E including certain approved uses and restrictions subject to completion of golf course and Plat Amendment;

- Golf Pro Shop/Lounge/Restaurant/Office
- Cart Barn/Storage/Multipurpose/Office
- Swimming Pool/Spa/Health Club/Tennis Facility
- Nordic Skiing
- Fishing Pond
- Shops/Services/Office Space/Conference/Sales/Property Management
- Farm and Golf Operations/Barn/Equipment
- Property Owner's Association Operations/Barn/ Equipment
- General Storage/Multi-Purpose/Support Facilities

(E) Tract G. The Operation and Maintenance lot ("O&M lot") will be converted into 3 single family residential lots.<sup>3</sup>

(F) Lot 1B/Block 5 (North). Addition of one lot.

(G) Block 6 (South). Addition of 6 lots converted from a portion of the current proposed driving range.<sup>3</sup>

(H) West Rim Village (Block 1).

(i) Incidental Uses are:

(I) Fire Substation: Lot No. 1 (6 acres). Two of the six acres in the Southwest corner of Lot 1, Block 1 will be reserved for a possible Teton County Fire District substation. If no fire substation is constructed by December 31, 2026, the reservation shall be withdrawn and the lot returned to the current owner of Lot 1.

(II) Block 1 Lots 6 and 8.

- Lodge Facility: Lot 8 headquarters building will be converted into an 8 to 10 unit Lodge Facility.

- Lots 6 and 8. A maximum of 8 additional detached lodge units with no more than a total of 16 units between the Lodge Facility and detached lodge units.
- The lodge units are subject to Teton County standard site plan approvals and building permits.

(III) Other uses:

- Equestrian Area with outdoor and indoor riding arena facilities;
  - Self-Storage Units/Office Storage Units;
  - Multi-Purpose Meeting Conference Space;
  - Real Estate Office;
  - Property Management Office;
  - Existing Agricultural Buildings;
  - Existing Storage;
  - Existing Brent Hoopes Residence;
  - Retail/Boutique and Antique Shops;
  - Café/Logo Shop.
- All of the above incidental uses will be allowed to be constructed and operational upon recording of the Division II Phase I Final Plat.

(ii) Tract I shall be used as an ongoing farm and farming operation (i.e. crops, barns, potato cellars, etc.). One development unit may be used for one farm home anywhere on Tract I.

3. **Utility Stubs and Extensions.** Utility stubs and extensions from existing infrastructure to Tract A (8 single family lots), Tract B (10 single family lots), Tract E (12 lots), Tract G (3 lots), Lot 1B/Block 5 (north) (1 lot), and Block 6 (south [6 lots]) shall be completed on or before the earliest of: (i) completion of road paving in Phase I; (ii) issuance of building permits for any of these lots or tracts; or (iii) December 31, 2016.
4. **Block 10 Lots 1-4.** A fire suppression and hydrant(s) for Lots 1-4 in Block 10 shall be completed on or before the earliest of: (i) completion of road paving in

Phase I; or (ii) December 31, 2016. No building permits will be issued until all the fire suppression systems are approved and accepted by the Teton County Fire Marshall.

5. **Golf Course area.** The golf course area which is open space Tract J (about 270 Acres) of Phase I, shall be reclaimed to agricultural land and native grasses along with the construction of an internal trail system, and water features (the “Reclamation”). The Reclamation shall be completed on or before December 31, 2016. The Owner, or Property Owner’s Association (“POA”), if applicable, shall retain the option to construct a golf course until December 31, 2026. In the event a golf course is constructed, the Owner or POA shall comply with the applicable Teton County Plat Amendment procedures to transfer the six lots added to Block 6 and the 3 lots created in the O&M Lot (Tract G) to Tract E as cluster units to permit Lot 6 to be used as part of the driving range and Tract G as an O&M facility.
  
6. **Road Improvements.**
  - (a) **County Road 9400 West.** The relocation of the County Road 9400 West, and the parallel pathway shall not be required. A public road access shall instead be established through the West Loop Road in Division II Phase I. The County road easement shall remain in place and serve as the boundary between Phase I and Phases II and III and for the potential future relocation of the County Road or public pathway. If County Road 9400 West is relocated in the future, the public access through the West Loop Road may be vacated.
  
  - (b) **Alignment of the West Loop Road and the Connector Roads.** The Roads that connect to the existing County Road 9400 West shall be aligned to promote smooth traffic flow, and Lot 7, Block 9 shall be vacated to permit access to the West Loop Road (the “Alignments”). The Alignments shall be completed to Teton County crushed gravel standards on or before December 31, 2014.
  
  - (c) **The West Loop Road and Connector Roads.** The West Loop Road and the portions of County Road 9400 West that connect with the West Loop Road (the “Connector Roads”) shall be completed to Teton County crushed gravel standard on or before December 31, 2014. The West Loop Road and the Connector Roads shall be paved on or before the earlier of: (i) 30 building permits issued for the lots accessed by the West Loop Road; or (ii) December 31, 2026.

(d)Remaining West Rim Loop Road. The remainder of the West Rim Loop Road not described in 6 (b) and (c) above, and the roads in Block 1 shall be completed to Teton County crushed gravel standard on or before December 31, 2014.

(e)Turning Lanes. Asphalt pavement for turning lanes on State Highway 33 (Northern entrance) shall be completed by the earlier of: (i) commercial development referred to in paragraphs 2(a)(2)(H)(i)(I)(II) and (III); (ii) a mandate of the Idaho Transportation Department (“ITD”); (iii) the issuance of 30 building permits; or (iv) by December 31, 2026.

7. **Road Paving.** Asphalt paving of the roads described in paragraphs 6(a)(b)(c) and (d) shall be required on the earlier of: (i) the issuance of 30 residential building permits; or (ii) December 31, 2026.

8. **Future Wastewater Pre-Treatment Modules.** As of October 2010, River Rim Ranch completed the first 30,000 gallons per day capacity module of a wastewater pre-treatment system which includes primary and backup leachfields with a total combined capacity of 60,000 gpd. The wastewater pre-treatment system is designed to be enlarged to 120,000 gallons per day with a total of four (4) 30,000 gallon per day pre-treatment modules, which units are designed to reduce the overall nitrogen concentrations in the effluent discharged to the leachfields. Construction of an additional module will be determined from an analysis, to be reviewed and approved by the Idaho DEQ and Teton County, of the actual maximum daily flow in comparison with the number of units constructed and occupied, when the flow reaches 50 percent of the designed capacity, or about 15,000 gpd for the first phase. From this analysis, a determination will be made of the number of units using the system that would result in a maximum day flow of not more than 85 percent of design capacity. The Owner shall be required to commence construction of the next treatment module once the projected number of units that would consume 85 percent of design capacity exist. Payment for an additional wastewater module will be paid by purchasers of building units on a pay for use fee basis assessed at the time applications for building and occupancy permits are filed for new building units and these payments will be deposited into an escrow account for construction of a new module (the “Wastewater Escrow Account”). County approval must be obtained by Owner (or POA) before any funds can be withdrawn from the Wastewater Escrow Account. The future wastewater module construction shall be based upon measured flow and not associated with a specific development phase. Failure to complete the next module of the pre-treatment system in accordance with this requirement shall result in the withholding of any new building or occupancy permits by Teton County until the additional module is in operation. The County shall retain the right to withhold building permits or

occupancy permits if there is substantial reason to believe that the capacity of the treatment facility will be exceeded or negatively impacted by excessive flows.

Due to the likelihood that a new wastewater treatment module will not be required for ten years or longer, in lieu of a letter of credit, the Bank agrees to establish and maintain an escrow account whereby tap fees collected at the time a building permit is issued will be set aside for use in the construction of the next module. The escrow account will be managed by the Owner or by an existing POA. An initial tap fee amount of \$7,500 per residential unit, or the equivalent flow, shall be required, which fee shall be adjusted from time to time to insure adequate funds for the construction of the next module in accordance with this section of the agreement.

9. **County Acceptance of Completed Infrastructure.** The Owner may submit a request to the County for approval of completed infrastructure on a line-item basis as completions are accomplished. Upon the County's acceptance of the infrastructure, the County shall provide written acceptance of the completed infrastructure and release any Letter of Credit, or portion thereof, for that specific infrastructure/line-item. The County shall retain ten percent (10%) of the original amount of the line item until the phase is complete and the warranty period has expired.
10. **Letter of Credit.** The improvements described in paragraphs 3, 4, 5, 6 (a)(b)(c)(d)(e) and 7, will be subject to an updated letter of credit in an amount which is 110% of the engineers estimated cost as stated in Exhibit B. No letter of credit will be provided for the improvements described in paragraph 8. The letter of credit shall be provided at or before the recordation of the final plat. The Letter of Credit or portions thereof will be released by the County as described in paragraph 9.
11. **Phasing Plan.** A proposed phasing plan for the completion of infrastructure within Division II Phase I as described in the preceding paragraphs is attached hereto as **Exhibit C**.
12. **Division II Phase II (Norman Ranch/Western Highlands).** Division II Phase II will be reduced by 25 lots (about 215.23 acres of development area) (See **Exhibit A**). On or about November 1, 2012, the Owner sold the Norman Ranch/Western Highlands to Teton River Farms, LLC, and a Colorado limited liability company. The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Fourth Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of November 1, 2012, and recorded on November 1, 2012, as Teton

County Recorder's Instrument No. 224816 (the "Fourth Supplement to the CC&Rs"). Under the PSA and the Fourth Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community and from the Master Association for assessments, the Norman Ranch/Western Highlands is subject to this Agreement, the CC&Rs and the design/property use restrictions contained in the CC&Rs.

13. **Division II Phase III (Central Plateau)**. Division II Phase II will be reduced by 11 lots (about 56.84 acres of development area) (See **Exhibit A**). On or about June 5, 2012, the Owner sold the Central Plateau to Teton River Farms, LLC, a Colorado limited liability company. The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Third Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of June 5, 2012 and recorded on June 7, 2012, as Teton County Recorder's Instrument No. 222479 ("Third Supplement to the CC&Rs"). Under the PSA and Third Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community and the design/property use restrictions contained in the CC&Rs, the Central Plateau is subject to this Agreement and the CC&Rs.
14. **Division II Phase IV (West Plateau)**. Division II Phase IV will be reduced by 17 lots (about 132.91 acres of development area) (See **Exhibit A**). On or about January 4, 2012, the Owner sold the West Plateau to John Clint (Jack) Hoopes and Lorna Hoopes, husband and wife ("Hoopes"). The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Second Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of January 4, 2012 and recorded on January 6, 2012, as Teton County Recorder's Instrument No. 220365 ("Second Supplement to the CC&Rs"). Under the PSA and the Second Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community, the Master Association assessments, and the design/property use restrictions described in the CC&Rs, the West Plateau is subject to this Agreement and the CC&Rs.
15. **Division II Phase V (North Plateau)**. Division II Phase V will be reduced by 18 lots (about 119.19 acres of development area) (See **Exhibit A**). On or about September 28, 2010, the Owner sold the North Plateau to Mark R. Ricks, Chris P. Ricks, Nick Ricks and Sylvia Ricks ("Ricks"). The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Amended and Restated Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of September 29, 2010, and recorded on November 29, 2010, as Teton County Recorder's Instrument No. 214487 (the "Amended Supplement"). Under the PSA and the

Amended Supplement, and not withstanding said sale, except for being excluded from the Common Interest Community, the Master Association assessments and the design/property use restrictions described in the CC&Rs, the North Plateau is subject to this Agreement and the CC&Rs.

16. **Division II Phase VI (South Canyon).** Division II Phase VI will be modified by eliminating 24 cluster cabin units and adding 33 lots for a net increase of 9 single family residential units (total of 64 units and increase of about 42 acres of development area) (See **Exhibit A**).
17. **Platting and Improvements for Divisions II, III, IV, V and VI.** Division II Phases II-VI improvements shall be completed by December 31, 2026. Division II Phases II-VI are eligible for final platting in accordance with the attached master plan (See **Exhibit A**) so long as this Agreement has not been breached. Failure to plat and complete any improvement in accordance with the timelines in this Agreement shall result in a breach of this Agreement and may result in the vacation or partial vacation of the Master Plan. All applicable subdivision and zoning regulations in effect at the time shall govern the future use of the land. The Owner may apply to amend the latest approved Master Plan and subsequent amendments thereto at any time prior their vacation. All final plats must be approved by the Teton County Board of County Commissioners.
18. **Guarantee of Improvements.** The Owner warrants that each completed improvement will operate in accordance with its intended use for one year from the date that improvement is accepted by the County.
19. **Building and Occupancy Permits.** Building permits and certificates of occupancy shall be issued by Teton County in accordance with the Phasing Plan (**Exhibit C**).
20. **Public Benefits.** The following public benefits shall be provided:
  - (a) Acreage adjacent to the Teton River shall be used as an interpretive river park. This park will be located and constructed by the Owner and maintained at the expense of the POA and shall be made available to the public on a reservation basis administered by the POA. A temporary interpretive river park was completed as part of Division I. The permanent interpretive river park will be finished upon completion of the South Canyon Development (Phase VI) described in paragraph 17 above, or December 31, 2026, whichever occurs first.
  - (b) Snowmobile access on the County Road 9400 easement.

(c) Pathway on West Loop Road located within the River Rim Subdivision.

21. **Order of Completion.** Development of Division II Phases II-V may be commenced in any order or simultaneously as determined by the Owner once the roads in Division II Phase I are completed to Teton County crushed gravel standards. Development of Division II Phase VI may commence upon completion of Division II Phase I. The infrastructure for all future phases must be complete before lots in those phases can be sold.
22. **Density.** The modifications to density by phase are amended as more specifically described in **Exhibit D** attached hereto.
23. **Voluntary Impact Fee Commitment.** The Owner agrees to provide \$1,000.00 per lot to the County at the time of final plat recording of each phase of Division II.
24. **Inspection.** Representatives authorized by the County shall have the right to enter upon the property at any reasonable time to inspect and determine whether the Owner is in compliance with this Agreement. The Owner shall permit the County and its representatives to enter upon and inspect the property at any reasonable time.
25. **Final Inspection and Approval of Improvements.** The Owner shall notify the County when it believes any improvements have been fully and properly completed and shall request final inspection, approval, and acceptance of the improvements by the County. Upon approval the County shall give its written acceptance of the improvements.
26. **Default.** If the Owner defaults in or fails to fully perform any of its obligations in accordance with this Agreement, or fails or refuses to correct any defect or deficiency in the improvements required by the provisions of this Agreement and such default or failure shall continue for a period of thirty (30) days after written notice specifying the default is deposited in the United States mail addressed to the Owner, without being completely remedied, satisfied and discharged, the County shall have, and the Owner hereby grants to the County, in addition to all other rights afforded to the County in this Agreement and by law, the right, at the County's option, to complete the construction of the improvements or to correct such defect or deficiency. The County may draw on the letter of credit pursuant to the terms of the Letter of Credit and this Agreement, that amount required to complete the improvements on a line-item basis. The amount drawn at any one time shall be based on a bid, invoice, or other document reflecting the cost of completing the specific line item in dispute. The County must commence the work within 365 days of drawing the funds from the Letter of Credit.

Notwithstanding any provisions in the Letter of Credit or this Agreement, the Letter of Credit shall be automatically extended, renewed and remain binding on owner until such time as the improvements are completed and accepted by Teton County. The County may enforce any other remedy provided by law. These remedies are cumulative in nature. In addition, if the Owner is in breach of this Agreement, that is uncured after any applicable cure period, the most recently approved Master Plan may be vacated for all unplatted phases of the project (Phases II-VI) and all applicable subdivision and zoning regulations in effect at the time shall govern the future use of this land. Prior to the expiration of the time limitations above, and without causing a breach of this Agreement, the Owner may apply to vacate all or a portion of any platted phase or amend the design of the platted lots in accordance with applicable subdivision and zoning regulations.

27. **Liability and Indemnity of County.**

(a) **No Liability for County Approval.** The Owner acknowledges and agrees (1) that the County is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the County's issuance of any approvals or acceptances of the improvements or use of any portion of the improvements, and (2) that the County's issuance of any approvals or acceptances does not, and shall not, in any way be deemed to insure the Owner, or any of its successors, assigns, tenants, or licensees, or any third party, against damage or injury of any kind at any time.

(b) **Indemnification.** The Owner agrees to, and does hereby, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, employees, agents, representatives, engineers, and attorneys from any and all claims, costs and liability of every kind and nature that may be asserted at any time against any such parties for injury or damage received or sustained by any person or entity in connection with (1) the development, construction, maintenance or use of any portion of the improvements and, (2) the performance by the Owner of its obligations under this Agreement and all related Agreements. The Owner further agrees to aid and defend the County in the event that the County is named as a defendant in an action concerning the improvements provided by this Agreement except where such suit is brought by the Owner. The Owner is not an agent or employee of the County. This indemnification does not extend to claims, costs and liability asserted by the Owner or any third person in the event the County fails in its duties and obligations to Owner or any third person as set forth in this Agreement or by law.

28. **No Waiver of Rights.** No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision nor will it be deemed to

constitute a continued waiver unless expressly provided for; nor will the waiver of any such default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to perform any obligation under this Agreement will not constitute the approval of any wrongful act by the Owner or the acceptance of any improvement.

29. **Assignment.** It is expressly agreed that the Owner may assign this Agreement, in whole or in part, to any third party, without prior written consent of the County.
30. **Notices.** All notices in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (1) when delivered in person on a business day at the address set forth below or (2) on the third day after being deposited in the United States mail, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address set forth below.

Unless notified otherwise, notices to the County shall be addressed to, and delivered at, the following address:

Teton County Commissioners  
Attn: Planning Administrator  
Teton County Courthouse  
150 Courthouse Drive  
Driggs, Idaho 83422

Unless notified otherwise, notices to the Owner shall be addressed to, and delivered at, the following address:

Don Chery  
Executive Vice President and Chief Administrative Officer  
Glacier Bancorp, Inc.  
49 Commons Loop  
Kallispel, Montana 59901

31. **Enforcement.** The parties hereto may, in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement.

32. **Other Requirements.**

- (a) **Conveyance of Individual Lots.** The Owner shall convey no individual lots to individual buyers until the applicable infrastructure is complete, approved by the County and the Phased Final Subdivision Plats in which the individual lots are located have been recorded.
- (b) **Certificate of Occupancy.** Except as otherwise provided herein, building permits shall be issued in accordance with the Phasing Plan (**Exhibit C**). However, Certificates of Occupancy for residential units will not be issued by the County, until the applicable infrastructure is complete for each phase, or other arrangements have been made and agreed to in writing by the Owner and the County.
- (c) **Common Water and Wastewater System.** Operation and Maintenance of Common Water and Wastewater Systems, and irrigation water/fire suppression systems (hydrants) will be the responsibility of the Property Owners Association.
- (d) **Roadway/Path Maintenance.** The Owner will maintain all internal roadways.
- (e) **Acknowledgment of Other Permitting Requirements.** The Owner acknowledges the requirement for approvals and permitting from the State Department of Environmental Quality (“DEQ”) for sewer and water improvements, District 7 for septic systems, Corp. of Engineers for Wetlands permitting, Idaho Department of Highways for Route 33 intersection upgrades; Idaho Department of Water Resources for wells and irrigation and other State or Federal requirements. DEQ approval is required prior to sewer and water improvements. Construction activities subject to these permitting requirements will not commence until permits are received and permit copies provided to the County Planning Office.
- (f) **Right to Farm Provision.** The Owner acknowledges the Right to Farm Act contained in Idaho Code Chapter 45, Sections 22-4501 through 22-4504 or as may be amended.

33. **Common Areas.** The common areas for River Rim Ranch Divisions II, Phases I through VI are shown on **Exhibit A** and will be managed by the Property Owners

Association, subassociations, club operations or the private owners to whom title to such area is conveyed.

34. **On-Site Security.** The Owner will provide on-site security presence with trained personnel in cooperation with the Sheriff's Office and the Fire Marshall's Office. The on-site security is secondary and subservient to the Sheriff and Fire Marshall but will provide the on-site presence for:
- General information and directions
  - Routine patrolling
  - Local help with minor problems such as lost pets, missing keys, stuck vehicles, minor injuries, etc.
  - Reporting of bigger problems to Sheriff or Fire Marshall offices.
35. **Teton County Pipeline Association.** The Project falls within the jurisdiction of Teton Pipeline Association, Inc. (TPA), for surface irrigation water and the Owner will abide by the Bylaws, Operating Agreements, prorata cost sharing provisions, and other mutual agreements within TPA jurisdiction. Shares of TPA stock or water rights pertaining to the River Rim Ranch property will be held as follows. The Property Owners Association or subassociations may hold TPA stock in common for lots and common areas that are subject to phased Final Subdivision Plats. The Property Owners Association, subassociations, or private property owners may hold TPA stock for open areas and farm/ranch areas and for areas that are not yet subject to a phased Final Subdivision Plat. Notwithstanding the foregoing, it is understood that, with respect to open areas and farm/ranch areas that are subject to a Final Subdivision Plat, the private owner of such parcel(s) may continue to hold TPA stock and exercise all rights associated therewith. A single "Water Master" for River Rim Ranch will be appointed to work with the Board of Directors of TPA.
36. **Public Improvements Provision.** The Owner shall be responsible for public improvements and shall not transfer initial construction obligations and the responsibility for completion of public improvements to the lot owners. Improvement District assessments, Owner's Association assessments, sewer and water company or district assessments, etc., are not encumbered by this provision.
37. **Open Area Provisions.** The Owner will maintain all open space areas free of noxious weeds, free of fire hazards or other nuisances under the administration of the POA. The Master Declaration of Protective Covenants, Conditions and Restrictions for River Rim Ranch and the amendments and supplements thereto set forth these provisions.

38. **Adjacent Neighbor Provisions.** Owner agrees to maintain a 200' separation from all building envelopes to adjacent property which has adjacent residential uses.
39. **Sharing of Development Costs.** The County has approved a Letter of Notification to the County, regarding Sharing of Development Costs (Teton County Subdivision Regulation Section 9-4-2 (G) as revised on May 12, 2011) submitted to the County which entitles the Owner to collect a pro-rata share of compensation for a portion of the costs of the public improvements required by the Teton County Subdivision Ordinance from adjacent property owners.
40. **Filing.** The Owner may record this Agreement in the office of the Teton County Clerk and Recorder.
41. **Binding on Successors.** This Agreement shall be binding, inure to the benefit of, and be enforceable by the parties hereto, their respective successors and assigns and runs with the land.
42. **Entire Agreement.** This Agreement constitutes the entire understanding among the Parties hereto in connection with the subject matter, and except as otherwise provided herein, supersedes and replaces all prior negotiations, agreements, understandings, or representations whether oral or written. The terms of this Agreement may be modified only in writing, by the authorized signature of all of the Parties.
43. **Time is of the Essence.** Time is of the essence in the performance of all terms and provisions in this Agreement.
44. **Waiver of Claims.** Each of the Parties hereby waives and releases any and all claims or causes of action they have or may have against the other, and their respective officers, directors, employees, agents and attorneys, resulting from any claims or causes of action occurring prior to the execution of this Agreement.
45. **Statement of Fact.** The statements set forth in the Stipulation of Facts above are facts upon which the parties agree and are not to be construed as mere recitals. Said statements of fact are incorporated into this Agreement by reference as if set forth fully.
46. **Amendments.** All amendments to this Agreement shall be in writing and shall be approved by the Owner and the County.

47. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
48. **Authority to Execute.** The Parties hereby warrant and represent each to the other, without any limitation or qualification that (i) they are duly authorized and empowered to enter into and sign this Agreement; (ii) the persons executing this Agreement on behalf of the Parties are authorized to do so; and (iii) this Agreement is valid, binding and enforceable on the Parties in accordance with its terms.
49. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Idaho and jurisdiction and venue for any litigation of this Agreement shall be in the state or federal courts of the State of Idaho.
50. **Attorney Fees.** Should any litigation be commenced between the Parties concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction.

IN WITNESS WHEREOF the Parties have hereunto set their hands on the date first above written.

BIG SKY WESTERN BANK

By: \_\_\_\_\_

Don Chery  
Executive Vice President and  
Chief Administrative Officer of  
Glacier Bancorp, Inc., owner of  
Big Sky Western Bank

STATE OF IDAHO )

:ss.

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared Don Chery, known to me to be the person whose name is subscribed to the within instrument as the authorized representative of Glacier Bancorp, Inc., and acknowledged to me that he subscribed his name thereto as such.

(SEAL)

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Notary Public for IDAHO

Residing at:

Commission expires:

BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, IDAHO

By: \_\_\_\_\_  
Kelly Park, Chairman

STATE OF IDAHO                    )  
  :SS.  
County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public,  
personally appeared Kelly Park, known to me to be the person whose name is subscribed to the  
within instrument as the Chairman of the Teton County Board of Commissioners, and  
acknowledged to me that she subscribed her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

EXHIBIT A: Illustrative Master Plan dated April 1, 2013, prepared by PC Development  
EXHIBIT B: Engineer's Estimate for Letter of Credit  
EXHIBIT C: Tentative Infrastructure Phasing Plan for Division II Phase I  
EXHIBIT D: Table of Revised Density and Unit Allotments by Phase



P. O. Box 8578, 140 E. Broadway Suite 23, Jackson, Wyoming 83002; voice: (307) 733-4216 • fax: (307) 733-1245

June 27, 2013

Angie Rutherford  
Teton County Planning and Zoning Department  
150 Courthouse Drive  
Driggs, ID 83422

Dear Ms. Rutherford:

On April 19, 2013 Biota submitted a Wildlife Habitat Overlay and Landscape Management Assessment to the Planning and Zoning Department of Teton County, ID for the River Rim Ranch Division II PUD Master Plan revision. Subsequent to this submittal, your office has received comments from the Idaho Department of Fish and Game (IDFG) that were shared with the applicants on June 21, 2013, with a request for a response.

The question that Biota was primarily tasked with was whether or not the applicant's revisions to the Division II Master Plan resulted in a decrease in the overall scale of impacts to wildlife, as set forth in the Title 9 ordinance. I stand firmly behind the findings in our report that resulted from a direct comparison of the two development scenarios. In short, it is my professional opinion that the River Rim PUD Master Plan as amended for submittal in 2013 represents a substantial change to the original Master Plan, and as such the proposed changes represent an overall decrease in scale of impacts to wildlife habitats and the Wildlife Habitat Overlay map zones per the Title 9 ordinance regulations.

The IDFG has not offered an analysis of the comparative impacts of existing, approved development in Phase VI of Division II with the alignment of revised development as proposed, which was the exact focus of Biota's evaluation of the amended South Canyon Area development. In a more general review of future potential development-related impacts within Phase VI of Division II, IDFG apparently made recommendations for mitigation measures without consideration of the alignment and density of development that is already approved; without supporting their recommendations with data illustrating the actual frequency of use and therefore significance of the mapped corridor, specifically for elk; and without consideration of the potential for a net negative outcome from planting palatable plant forage in proximity to residences or State Highway 33. To plant and irrigate a 2,000-foot-wide corridor along the slopes demarcating Division I from Division II in the South Canyon Area would, instead of maintaining

an existing migration corridor, create new winter habitat for elk and winter year-long habitat for mule deer near Highway 33 where conflicts with vehicles would escalate. Migratory elk first and foremost look for secure cover on the landscape, and will often cross long distances swiftly between secure areas. The amended Division II Master Plan design in the South Canyon Area does not create impediments to the continued movement of deer or elk through this landscape. However, creating new foraging and stopover habitat proximate to Highway 33 may lure wintering elk from the west side of the highway, as well as attract mule deer from the relative security of the Teton River canyon, and place them closer to potential hazards for longer periods of time. Although well intentioned, this is a misguided management recommendation. Biota has found no evidence within the current scientific literature to suggest that movement corridors of 800-1,200 feet (as is currently designed in the amended Phase VI plan) within a rural, residential context are prohibitive to continued use by migratory elk or deer.

IDFG recommends a minimum setback of 500 feet from the Teton River canyon rim. The size of the recommended setback is exceptional in that I am aware of no setbacks of this size implemented anywhere in Teton County, Idaho or Teton County, Wyoming. Biota supports the IDFG assertion that a setback would minimize adverse effects to wildlife within the Teton River canyon, although both of these opinions are based more on common sense than empirical information. Neither IDFG nor Biota could provide data as to why 500 feet or more would be better for wildlife than say 50 feet or 100 feet. Further, the recommendation to augment these setbacks with the planting of native vegetation that would serve as “cover and forage”, may only serve to attract animals from the security of the canyon into proximity with residential development and cause additional conflicts between humans and wildlife.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Hamilton Smith". The signature is fluid and cursive, with a large initial "H" and "S".

Hamilton Smith  
Senior Ecologist/Certified Professional Wildlife Biologist