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**FROM:** Planning Staff, Jason Boal  
**TO:** Board of County Commissioners  
**RE:** Planning Department Update  
**DATE:** January 6, 2014  
**MEETING:** January 12, 2014

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**FOR YOUR INFORMATION:**

**Long-range Projects:**

- P&Z starting Development Code discussion on 1/14
- Trying to schedule a meeting with the Impact Fee Advisory Board
  - Want to explore the possibility of updating the Capital Improvement Plan

**Short-Range:**

Conditional Use Permits:

- National Outdoor Leadership School will go before the P&Z Commission on January 14th.

**Permits:**

**2013 Year End:** Fiscal Year-see attached spreadsheets

2013 Calendar Year 102 total permits:

- 26 New Homes
- 4 Commercial Structures
- 51 Other Structures
- 21 Misc.

**Committees/Conferences:**

- 1/21- Western Greater Yellowstone Consortium Monthly Phone Conference
- Rocky Mountain Land Use Institute 2014 Conference (3/12-3/14)

**General Procedure:**

- BOCC Public Hearing Schedule- I would like to propose that we schedule the BOCC public hearing on the 2<sup>nd</sup> Monday of each month at 5:30. This would allow enough time to schedule the BOCC public hearing right after the P&Z public hearing to speed up the approval process. It will also allow P&Z to meet on the 2<sup>nd</sup> Tuesday and the 2<sup>nd</sup> Thursday (work meeting) as we work through the development code. Finally, it consolidates meetings which frees up days for each of us.
- Approval Procedure Flow Charts.

**BOARD ACTION NEEDED:**

1. Insignificant Plat Amendment:
  - Carl Church- See staff report
2. Harmony Design NP Contract
3. River Rim Amended and Restated Development Agreement
4. Resolution 20140113 – Ratification/Adoption Intl. Building Code

**BUILDING DEPARTMENT HISTORIC INCOME and UNITS**

**BUILDING DEPARTMENT**

**FISCAL YEAR CALCULATION**

	2007	2008	2009	2010	Fiscal 2011	2012	2013	2014
Residential	307	148	74	34	9	12	23	4
Commercial	6	10	3	1	1	6	1	3
Other Structures	35	29	23	38	16	30	47	9
Misc. Permits					11	18	27	4
<b>Total Permits</b>	<b>348</b>	<b>187</b>	<b>100</b>	<b>73</b>	<b>37</b>	<b>66</b>	<b>98</b>	<b>20</b>
Re-activations						8	6	1
<b>Permit fees</b>	<b>\$610,731.00</b>	<b>\$245,000.00</b>	<b>\$63,143.35</b>	<b>\$49,384.80</b>	<b>\$26,334.42</b>	<b>\$45,058.55</b>	<b>\$73,356.26</b>	<b>\$16,896.38</b>
Residential Impact fees	N/A	N/A	26 @	19 @	12 @	13 @	23 @	4
Commercial Impact fees	N/A	N/A	2 @	1 @	2 @	3 @	0	2 @
			\$5,339.74	\$84.30	\$1,035.47	\$885.32	\$0	\$421.65

**PLANNING AND ZONING DEPARTMENT HISTORIC INCOME and UNITS**

**PLANNING AND ZONING FEES**

	2007	2008	2009	2010	Fiscal 2011	2012	2013	2014
Planning and Zoning Applications	OTO 26 *SUB 77 CUP 3 ZONE CH 5	OTO 12 SUB 73 CUP 18 ZONE CH 3 MISC 8	OTO 15 SUB 23 CUP 16 ZONE CHG 0 MISC 31	OTO/ BA 13 SUB 8 CUP 1 ZONE CHG 0 MISC 22	OTO/BA 9 SUB 1 CUP 4 ZONECHG 0 MISC 11	OTO/BA 19 SUB 3 CUP 1 ZONE CHG 1 MISC 18	OTO/BA 15 SUB 0 CUP+ 2 ZONE CHG 0 MISC ** 23	OTO/BA 3 SUB 0 CUP 0 ZONE CH 0 MISC ** 5
<b>Total Applications</b>	<b>111</b>	<b>114</b>	<b>85</b>	<b>44</b>	<b>25</b>	<b>42</b>	<b>40</b>	<b>8</b>
<b>Income</b>	<b>\$317,135.00</b>	<b>\$181,137.00</b>	<b>\$85,357.00</b>	<b>\$21,957.50</b>	<b>\$9,602.4</b>	<b>\$ 20,358.60</b>	<b>\$8,047.00</b>	<b>\$ 1,434.00</b>

\*2006 and 2007 data were unavailable to determine the exact number of subdivision related applications processed through the office however we feel these numbers are fairly accurate as they are based on several data bases in the planning and clerks offices.

\*\* plat amendment x2 floodplain permit x6, permitted with conditions x2, DA amendment, TUP x 6, sign x 3, BA re-submittal, Scenic Corridor

\*\*floodplain permit (2), DA Extension, Home Occ renewal, insignificant Plat amdnt,

Residential Impact fees collected to date: 97@ \$ 2,005.96 Total \$ 194,578.12

Commercial Impact fees collected to date: 10 Total \$ 7,766.51

Building Department Fiscal Year 2014

	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	YTD
Single Family Dwellings	0	2	2										4
Commercial	3	0	0										3
Other Structures	5	3	1										9
Misc. permits	2	1	1										4
Total Permits	10	6	4	0	0	0	0	0	0	0	0	0	20
Re-activation / extension	0	0	1										1
Total Impact Fees	\$421.65	\$4,011.92	\$4,011.92										\$8,445.49
Total Permit Fees	\$3,210.16	\$7,965.81	\$5,720.41										\$16,896.38

Single Family Dwellings includes setting permits for manufactured homes

Other Structures = replacement of SFD w/out impact fee, garages, sheds, barns, carports, Ag

Misc. = mechanical, setting, additions, remodels, foundation

*Building Dept. 2013  
Calendar year*

*26 new homes  
4 commercial  
51 other structures  
21 misc  
102 Total*

1/3/2014

[Home](#) » [RMLUI](#)

Registration for the 23rd Annual RMLUI Land Use Conference is now open! Click the button below to register.

**REGISTER TODAY!**

The Rocky Mountain Land Use Institute seeks to elevate the law, policy and practice of sustainable development in the West to promote nature-friendly, prosperous and equitable communities.

### 2014 ANNUAL LAND USE CONFERENCE

The Rocky Mountain Land Use Institute at the University of Denver's Sturm College of Law is pleased to announce the 2014 Annual Land Use Conference, *Moving Beyond Recession: What's Next?* The conference will be held on Thursday and Friday, March 13 & 14, 2014 at the University of Denver campus.

This year, we are looking forward to a number of features, including:

- Keynote Address by former Secretary of Interior Ken Salazar
- Optional Wednesday Workshop: Dynamics of the Land Use Case - learn the basics of land use development
- Featured Track: Conservation in Metropolitan Regions
- Two plenary lunch events
- Two mobile tours
- 40 sessions on today's critical land use and development issues

Please visit our [conference page](#) to register and for program information, rates, travel information

**RMLUI**  
ROCKY MOUNTAIN  
LAND USE INSTITUTE

**CARVER**  
COLLOQUIUM



### Upcoming Events

January 15  
**Celebrating 40 Years of  
Colorado's Instream Flow  
Program**  
2:00pm-6:30pm

March 12  
**23rd Annual Land Use  
Conference**  
Through Mar. 14th

and more.

**REGISTER TODAY!**

### RMLUI Academic

RMLUI's *academic mission* focuses on increasing educational opportunities for students and the practice community through the course offerings and symposia. We have also developed relationships with other academic programs and professional firms to promote research opportunities. Check out recent Home Study Sessions, the Carver Colloquium, and our Institute Partners Program.

### RMLUI Practice

The focus of RMLUI's *practice program* is the Sustainable Development Community Code Framework, a tool for municipalities interested in implementing sustainable initiatives, and the annual conference, one of the premier gatherings of sustainable development professionals. Check out our Annual Land Use Conference and Sustainable Community Development Code Framework.

### RMLUI 2013 HOME STUDY SESSIONS

The 2013 Home Study Sessions are on sale now!

Select from one of two ethics sessions, An Introduction to Land Use Law, the conference sessions, or bundle them together and get all four! Sessions are approved for legal and planning continuing education credits.

To learn more about the Home Study Sessions, download program descriptions and more, visit the [Home Study page](#).

**Register now to take advantage of this incredible opportunity.**

**REGISTER TODAY!**



**PLANNING AND BUILDING DEPARTMENT**

150 Courthouse Drive, #107, Driggs, ID 83422

208-354-2593 fax 208-354-8778

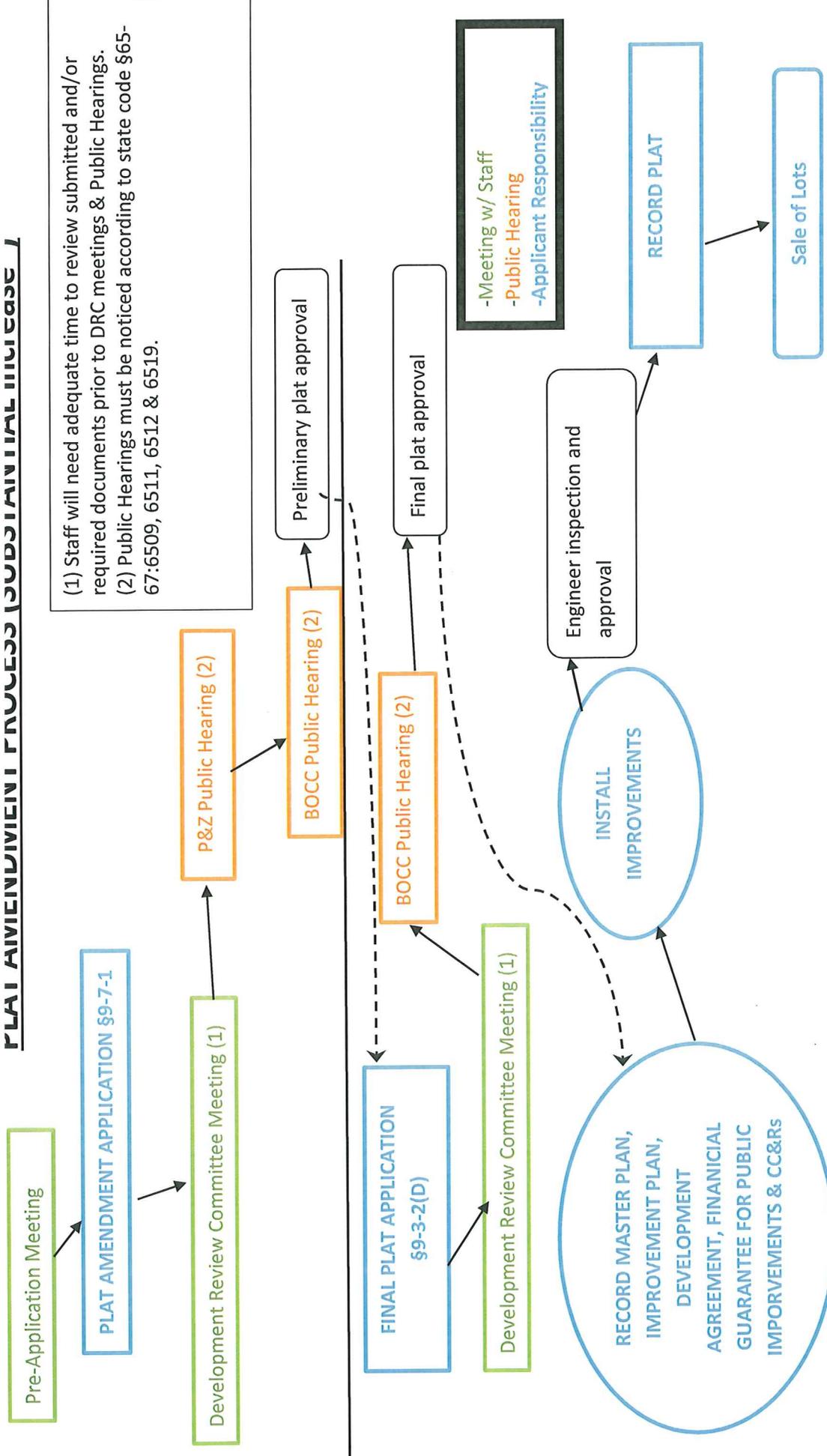
**2014 Public Hearing Schedule and Deadlines \***

**(BoCC & PZC)**

Hearing Date BoCC	Hearing Date PZC	Submittal Deadline	DRC	Notice Due	Staff Report Due	Public Comment Due
1/13/2014	1/14/2014		12/17/2013	12/20/2013	1/2/2014	
2/10/2014	2/11/2014	1/6/2014	1/14/2014	1/17/2014	1/29/2014	1/31/2014
3/10/2014	3/11/2014	2/3/2014	2/11/2014	2/14/2014	2/26/2014	2/28/2014
4/14/2014	4/8/2014	3/3/2014	3/11/2014	3/14/2014	3/26/2014	b 4/4, p 3/28
5/12/2014	5/13/2014	4/7/2014	4/15/2014	4/18/2014	4/30/2014	5/2/2014
6/9/2014	6/10/2014	5/5/2014	5/13/2014	5/16/2014	5/28/2014	5/30/2014
7/14/2014	7/8/2014	6/9/2014	6/17/2014	6/20/2014	6/25/2014	b 7/3 ,p 6/27
8/11/2014	8/12/2014	7/7/2014	7/15/2014	7/18/2014	7/30/2014	8/1/2014
9/8/2014	9/9/2014	8/4/2014	8/12/2014	8/15/2014	8/27/2014	8/28/2014
TBD	10/14/2014	9/8/3014	9/16/2014	9/19/2014	10/1/2014	10/3/2014
TBD	11/11/2014	10/6/2014	10/14/2014	10/17/2014	10/29/2014	10/31/2014
12/8/2014	12/9/2014	11/3/2014	11/11/2014	11/14/2014	11/25/2014	11/26/2014

\* These dates are subject to change. Please verify this information with the Planning & Building Department.

**PLAT AMENDMENT PROCESS (SUBSTANTIAL INCREASE)**



(1) Staff will need adequate time to review submitted and/or required documents prior to DRC meetings & Public Hearings.  
 (2) Public Hearings must be noticed according to state code §65-67:6509, 6511, 6512 & 6519.

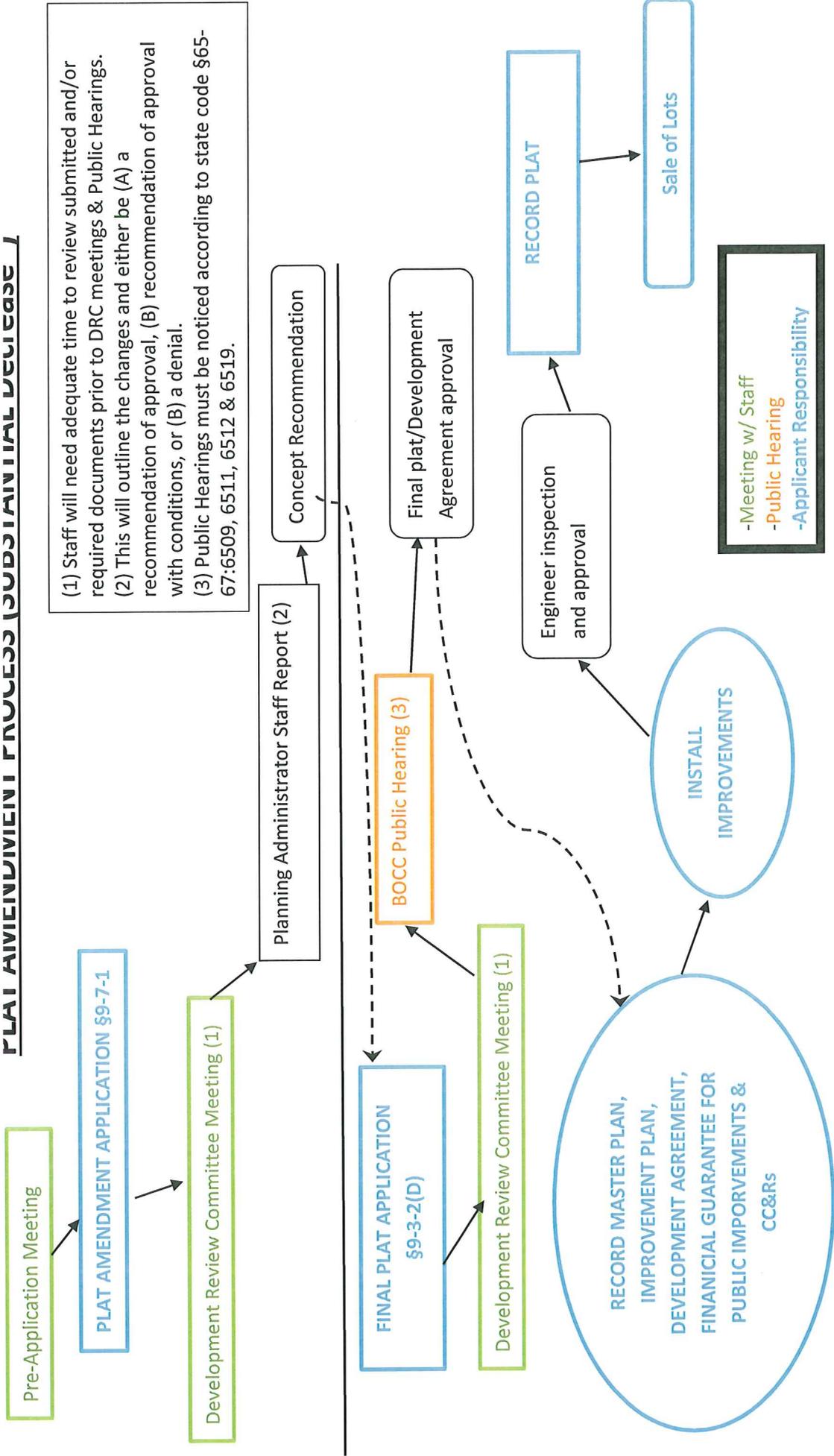
-Meeting w/ Staff  
 -Public Hearing  
 -Applicant Responsibility

**\*§9-7-1-B-2(b) Substantial Changes – Increase Scale, Impact.** Substantial Changes – Increase Scale, Impact are changes that increase the scale or scope of the platted subdivision, or increase the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision or overall community.

These substantial changes may include the following:

- i. an increase in the number of lots;
- ii. the re-arrangement or relocation of lots that encroach further into natural resource areas or Overlay Areas as defined in Title 8 or Title 9 or move closer to neighboring property;
- iii. the relocation of parking facilities, buildings, or other elements of the development that encroach further into natural resource areas or Overlay Areas as defined in Title 8 or Title 9 or move closer to neighboring property; or
- iv. other changes of similar magnitude or projected impact.

**PLAT AMENDMENT PROCESS (SUBSTANTIAL DECREASE)**

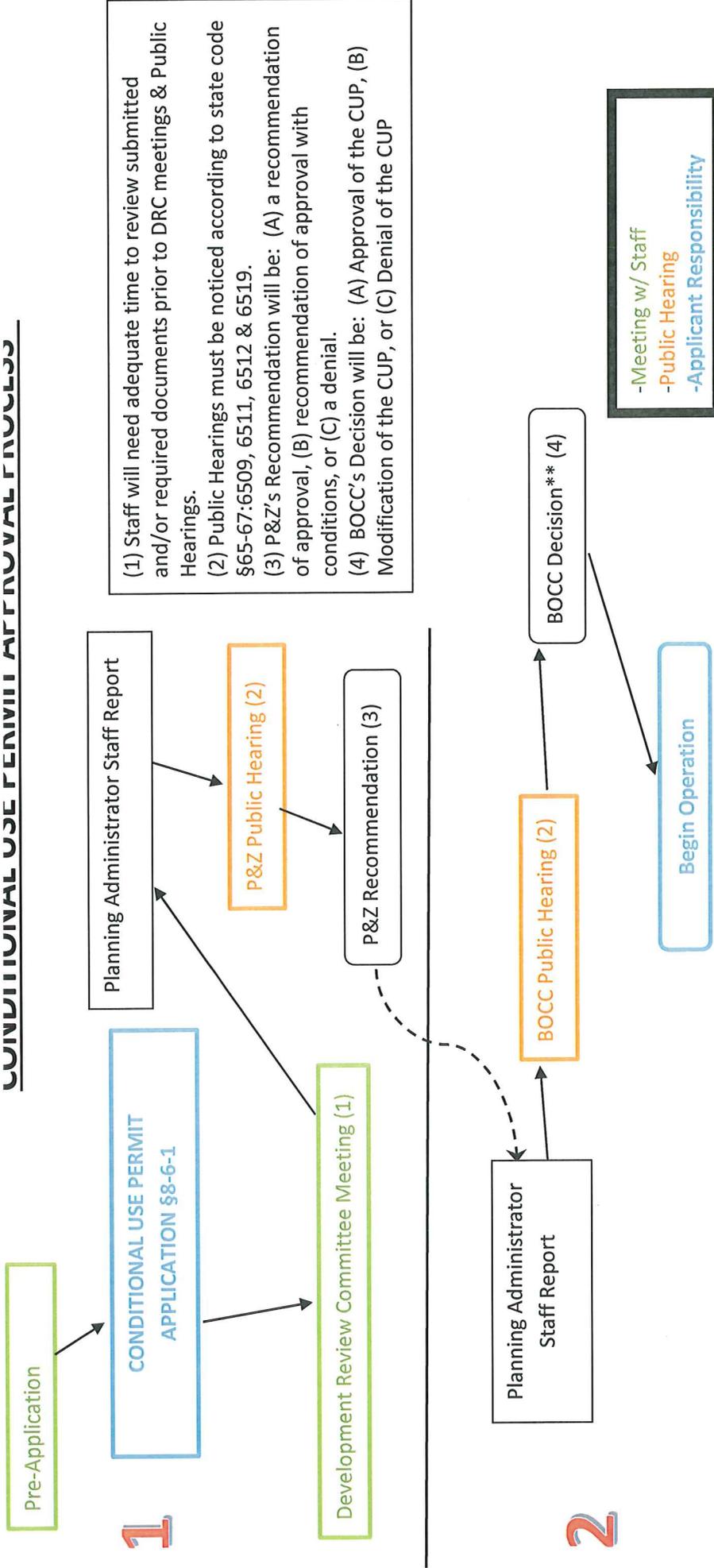


- (1) Staff will need adequate time to review submitted and/or required documents prior to DRC meetings & Public Hearings.
- (2) This will outline the changes and either be (A) a recommendation of approval, (B) recommendation of approval with conditions, or (B) a denial.
- (3) Public Hearings must be noticed according to state code §65-67:6509, 6511, 6512 & 6519.

**\*§9-7-1-B-2(c)**  
**Substantial Changes/ Vacations – Decrease Scale, Impact.** Substantial Changes or vacations of a plat, the master plan, or portions of it that substantially decrease the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision or overall community. These substantial changes may include the following:

- i. a reduction in the number of lots or parcels;
- ii. the re-arrangement or relocation of more than five (5) lots or parcels that does not encroach further into natural resource areas or Overlay Areas as defined in Title 8 or Title 9 or move closer to neighboring property;
- iii. renegotiation of development agreement;
- iv. other changes of similar magnitude or reduction of impacts

**CONDITIONAL USE PERMIT APPROVAL PROCESS**

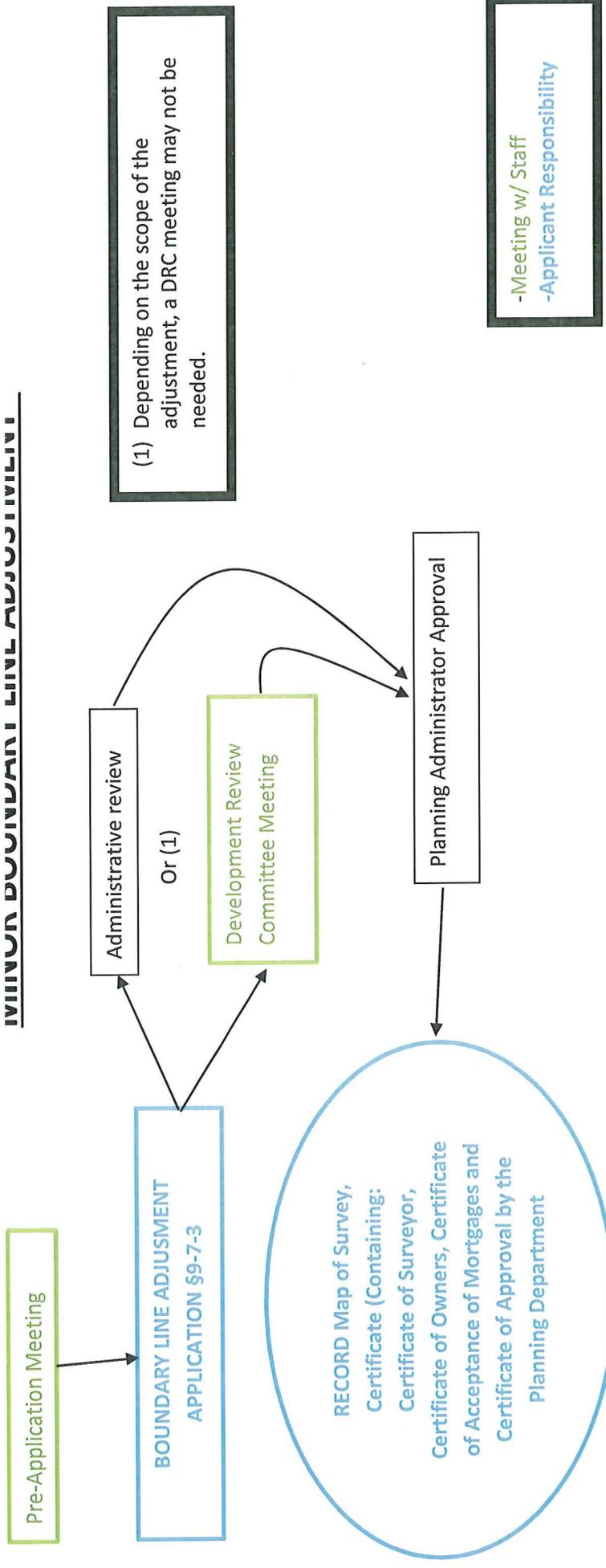


**\*§8-6-1-B PROCEDURE:** Requests for a conditional use permit shall be submitted to the Planning Commission. Applications for conditional use permits shall be considered in accordance with the public hearing process in sections 67-6509 and 67-6512 of the Idaho Code. The Commission and Board shall each hold a public hearing. The Commission shall recommend approval with conditions or denial and the Board shall approve, deny or remand the application back to the Commission.

**\*\*§8-6-1-B-7 Criteria for Approval:** The Board, after considering the advice of the Commission, may approve a conditional use permit when evidence presented at the hearings is such to establish each of the following:

- a. The location of the proposed use is compatible to other uses in the general neighborhood.
- b. The proposed use will not place undue burden on existing public services and facilities in the vicinity.
- c. The site is large enough to accommodate the proposed use and other features as required by this title.
- d. The proposed use is in compliance with and supports the goals, policies, and objectives of the comprehensive plan.

**BOUNDARY LINE ADJUSTMENT**

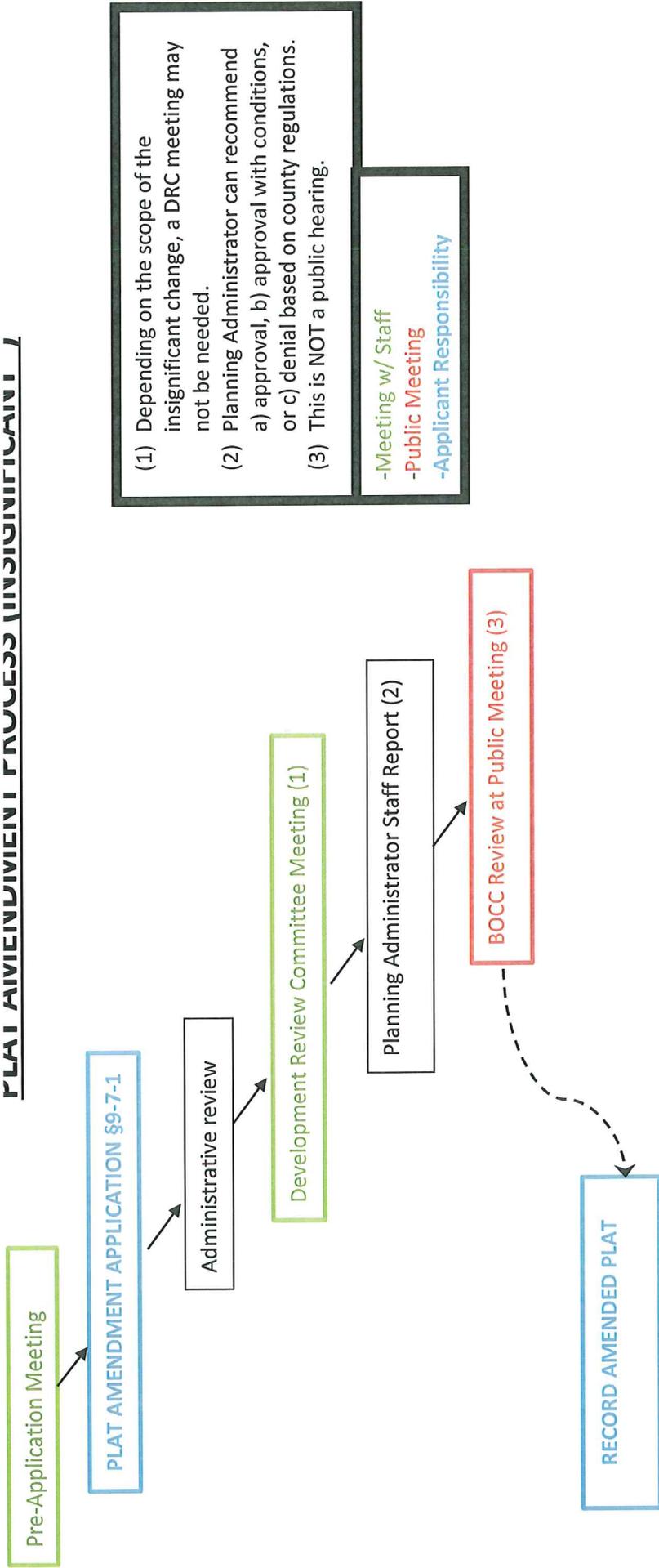


**\*§9-7-3-A. APPLICABILITY:**

Only those boundary adjustments specified below shall be permitted as a minor boundary adjustment according to this section. All other boundary adjustments shall comply with Section 9-7-2 Vacations of Plats Procedure.

1. Adjustment for encroachment, setback violation, and boundary dispute: A minor boundary adjustment necessitated by encroachments, setback violations, bona fide boundary disputes, or similar circumstances.
2. Adjustment to combine with an adjacent parcel: The adjustment of the boundary of a parcel not within a platted subdivision for the purpose of combining portions thereof with an adjacent parcel subject to the following:
  - a. Merge divided portion. The divided portion shall be totally merged with and combined into the adjoining parcel so that no additional parcels are created, and the resulting parcel shall be established as a single parcel for all purposes, by means of an acceptable recorded instrument; and
3. Conformance with zoning district. Each of the resulting parcels shall conform with the zoning district in which it is located, or the degree of nonconformity of either parcel shall not be increased, except for cases involving parcels that do not conform to the minimum lot size standards in Section 8-3-5 Zoning District Descriptions. In such cases, a parcel may be made more noncompliant in order to make another parcel more compliant, provided the Planning Administrator makes the following findings:
  - a. Improves situation. The benefit of the increased compliance of one parcel outweighs the detriment of the increased noncompliance of the other parcel, resulting in a greater overall compliance with the intent and/or the standards of the Title 8, Teton County Zoning Ordinance and Title 9, Teton County Subdivision Ordinance.
  - b. Buildability. The overall capability of the lots or parcels to safely accommodate development is improved or not diminished, particularly by providing needed land area for water supply and wastewater systems.
  - c. No net increase in density. The acreage transferred from one parcel to another does not allow for increased density on the subject parcels.
  - d. Adjustments between public and private land. The conveyance of a parcel from a public agency to a private party who owns land, which is contiguous to the conveyed public land, shall be treated as a boundary adjustment

**PLAT AMENDMENT PROCESS (INSIGNIFICANT)**

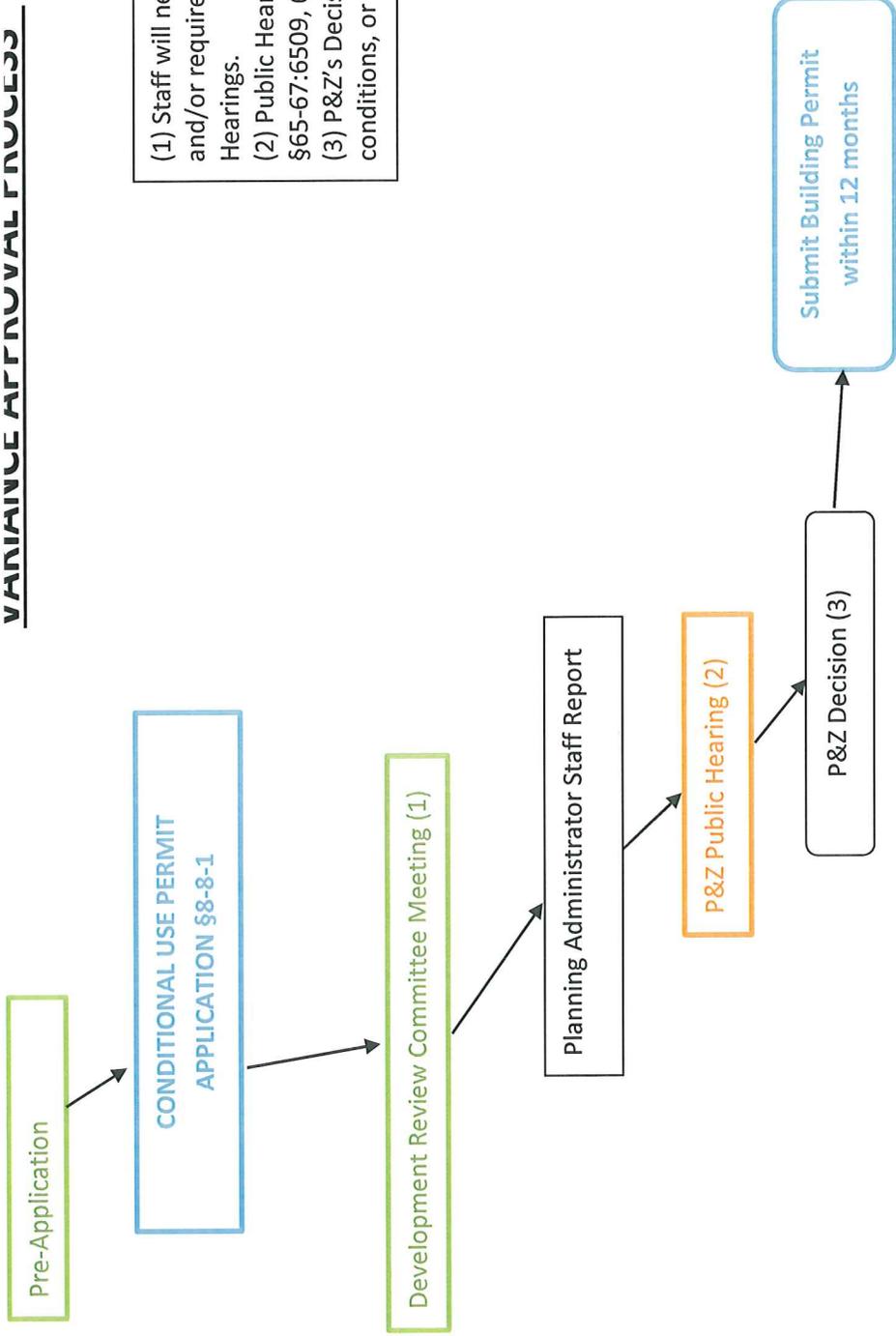


**\*§9-7-1-B-2(a) Insignificant Changes / Vacations.** – The proposed changes to the recorded land records have minimal direct impact on the immediate neighborhood, general vicinity of the subdivision or overall community.

These include:

- i. vacations of portions of a plat, except where platted open space acreage would be reduced in acreage or the value of the protected resource may be diminished.
- ii. minor amendments to the recorded Master Plan,
- iii. lot line adjustments between lots within a subdivision,
- i. lot consolidations of two or more platted lots into fewer lots,
- ii. the re-arrangement or relocation of five (5) or fewer lots, parcels or buildings that does not encroach further into natural resource areas or Overlay Areas as defined in Title 8 or Title 9 or move closer to neighboring property;
- iii. a minor boundary adjustment between a lot in a platted subdivision and an adjacent non-platted property,
- iv. minor changes to the layout of roads, utilities or other facilities;
- v. other changes of similar magnitude and minimal direct impact.

# VARIANCE APPROVAL PROCESS



(1) Staff will need adequate time to review submitted and/or required documents prior to DRC meetings & Public Hearings.  
(2) Public Hearings must be noticed according to state code §65-67:6509, 6511, 6512 & 6519.  
(3) P&Z's Decision will be: (A) Approval, (B) Approval with conditions, or (C) Denial.

-Meeting w/ Staff  
-Public Hearing  
-Applicant Responsibility

**\*§8-8-1-A. PROCEDURE: A. DEFINITIONS:** A “variance” is a modification of the requirements of this title as to lot or land parcel size, coverage, width, depth, and front, side and rear yard setbacks, parking spaces, height of buildings or other ordinance provisions affecting the size or shape of a structure and the placement of a structure upon the lot or land parcel. A variance does not include a change of authorized land use.

**B. UNDUE HARDSHIP:** A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site, and that the variance is not in conflict with the public interest nor the general land or conditions in the vicinity of the application and that the variance will not be a material detriment to public health, safety and welfare nor to neighboring property owners.



## Teton County Planning & Zoning Department

January 6, 2014

### Carl Church Insignificant Plat Amendment to Saddlehorn Ranch

**§9-7-1 (B-4a) Insignificant Changes.** Upon determining the application complete, and that the proposal is an insignificant change or vacation, the Planning Administrator shall recommend to the Board of County Commissioners approval, approval with conditions, or denial the application pursuant to the criteria and standards in the county regulations. The Board may review insignificant changes at a regularly scheduled public meeting.

**Teton County Planning Administrator has determined that the application is complete and recommends approval by the Teton County Board of County Commissioners pursuant to Teton County regulations.**

#### Findings of Fact:

- Carl Church submitted an application to amend the Amended Plat for Saddlehorn Ranch Subdivision Final Plat (122554).
- The application will create one 4.13-acre lot from two existing lots (8-2.06 & 9-2.07)
- Insignificant plat amendments are used for lot consolidation.
- **§9-7-1 (B-3a) Criteria for Approval:**
  - i. Any proposed changes to an easement, public right-of way, or Planned Unit Development, shall comply with all applicable criteria and standards of the county regulations, conditions of approval established in the previous approval, and the development agreement approved as part of the previous approval.
    - **A-2.5 Zoning. No easements or Right-of-Way amendments**
  - ii. Insignificant changes to a recorded plat or master plan shall not reduce the area of designated open space or increase the number of lots or the overall amount of area of development.
    - **No impact on open space & reduction of lots**
  - iii. Insignificant changes to a recorded plat, master plan, easement, or right –of-way shall not increase or create new and potentially substantial direct or indirect impacts on the neighborhood, vicinity of the subdivision or overall community.
    - **Decreasing density and the impact on local services**

**§9-7-1 (B-2a) Insignificant Changes / Vacations.** – The proposed changes to the recorded land records have minimal direct impact on the immediate neighborhood, general vicinity of the subdivision or overall community. These include:

- iv. lot consolidations of two or more platted lots into fewer lots,

Jason Boal  
Planning Administrator

**RESOLUTION NO. 20140113**

**TETON COUNTY BOARD OF COUNTY COMMISSIONERS  
ADOPTION/RATIFICATION OF AMENDMENT TO THE TETON COUNTY  
CODE OF ORDINANCES, TITLE 6 BUILDING REGULATION ORDINANCE  
ADOPTING PORTIONS OF THE 2012 INTERNATIONAL BUILDING CODES**

WHEREAS, the Board of County Commissioners (Board) desires to adopt the amendments to Title 6, "BUILDING REGULATIONS" of the Teton County Code of Ordinances adopting the 2012 Edition of the International Building Code with 2 amendments; additional amendments to the 2009 International Residential Code; the 2012 edition of the International Fire Code; and the 2012 edition of the International Existing Building Code.; and

WHEREAS, the amendments presented are in compliance with the State of Idaho, IDAPA, and Division of Building Safety adoptions and requirements (Idaho Code 39-4116); and

WHEREAS, the Teton County Building Official, to comply with the State of Idaho requirement that the amendments be adopted by January 1, 2014, has administratively adopted Title 6 as presented; and

WHEREAS, the Board reviewed the amendments at a regular meeting; and

WHEREAS, the proposed changes to Title 6 are in accord with the "Teton County Comprehensive Plan, A Vision and Framework, 2012 – 2030".

NOW THEREFORE, BE IT RESOLVED by the Teton County, Idaho, Board of County Commissioners as follows:

Section 1. The Board of County Commissioners hereby approves and adopts the proposed amendments to Title 6, Building Regulations Ordinance, of the Teton County Code of Ordinances, said amendments are attached to this resolution and incorporated as Appendix A.

Section 2. This Resolution shall be in full force effective upon its date of adoption.

Section 3. If any part of this Resolution is invalid for any reason, such invalidity shall not affect the remainder of this Resolution.

DATED this the 13<sup>th</sup> day of January, 2014.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Kelly Park, Chairman

\_\_\_\_\_  
Kathy Rinaldi, Commissioner

\_\_\_\_\_  
Sid Kunz, Commissioner

ATTEST:

\_\_\_\_\_  
Mary Lou Hansen, County Clerk

## AGREEMENT FOR SERVICES

This AGREEMENT is between Teton County (Client) and Harmony Design Inc. (dba Harmony Design and Engineering) for services as described in the STATEMENT OF INTEREST & QUOTATION FOR Nutrient-Pathogen Evaluation Reviewer (RFQ #100809B) dated November 2, 2009 containing I-Statement of Qualification, II-Scope of Work and Project Proposal, and III-References which are hereby incorporated into this Agreement.

### 1. General Terms

This Agreement has been prepared based on the available data and information provided by the Client and other sources as of the date of this Agreement. The Scope of Services and the corresponding level of service set forth in the budget to complete the Scope of Services are based on this information. Services not specifically set forth in the Scope of Services are hereby specifically excluded from this Agreement and will only be provided upon mutual agreement by the parties to this Agreement. The contract term for this Agreement shall be one year, beginning on January 31, 2014. Unless written notice of a desire to terminate this agreement is given by either party at least sixty (60) days prior to the termination date as provided here, this agreement shall be extended on the same terms and conditions herein provided, for an additional period of one year. A new contract must be executed every two (2) years.

### 2. Invoicing

The fee for the scope of services will be on a TIME AND MATERIALS basis at the rates on the attached standard fee schedule. Each invoice will represent services completed during the prior month unless otherwise noted on the invoice. All invoices are considered to be due and payable upon receipt unless otherwise set forth in this Agreement. Payment not received within 30 days of the invoice date will be considered past due. All past due invoices will be subject to a 1.5 % per month late charge applied to outstanding balances including late charges. Payments shall be first applied to late charges and then to the principal unpaid amount. If the invoice, including late charges due, is not paid in full within 60 days of the invoice date, Harmony Design Inc. may cease all services on the project and may commence the exercising of its legal remedies. These include, but are not limited to, mechanics' lien rights under applicable law.

The Client shall notify Harmony Design Inc. in writing within 21 calendar days of the date of the invoice if the Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Invoices not contested within 21 calendar days are assumed to be accurate and acceptable to all parties, and all rights to withhold payment shall be forfeited after that time. This Agreement shall authorize Harmony Design Inc. to collect any fees and expenses incurred, including reasonable attorney's fees as well as any time billed by Harmony, at our current standard fee schedule, related to the collection of any amounts due from the Client.

Payment under this agreement is not contingent upon: 1) the Client being reimbursed by any third party; 2) upon the Client obtaining financing; or 3) completion of the overall project.

### 3. Change Orders

Should changes to the Scope of Services be initiated by the Client or necessitated by others beyond the control of Harmony Design Inc., subsequent to the date of the execution of this Agreement, it is agreed that the Scope of Services and the level of service set forth in the budget shall be modified to reflect these changes as mutually agreed upon by the parties to this Agreement. All changes to the budget will be provided based on the current Professional Service Rates in use at that time. Harmony Design Inc. agrees to provide the Client with updates to the Professional Service Rates as they are adopted.

### 4. Information Provided by Others

All data and information provided to Harmony Design Inc. through the Client will be assumed to be complete and accurate unless otherwise informed by the Client. Harmony Design Inc. will endeavor to identify obvious errors and bring them to the attention of the Client; however, Harmony Design Inc. cannot be responsible for the work of others unless the Client has authorized an independent analysis of the data and information provided.

#### **5. Ownership of Documents**

Client acknowledges that Harmony Design, Inc.'s Drawings, Plans, Specifications, Reports and similar documents are instruments of professional service, not products. Although ownership of instruments of professional service ordinarily is retained by the Consultant, Harmony Design, Inc. shall in this instance transfer ownership to Client within two months subsequent to Client's payment of all fees and expenses arising from Harmony Design, Inc.'s fulfillment of this Agreement. Client agrees that no instrument of professional service shall be reused by any party and Client hereby gives consideration to Harmony Design, Inc. for relinquishing ownership of instruments of service by agreeing, to the fullest extent permitted by law, to waive any claim against Harmony Design Inc., and to defend, indemnify, and hold Harmony Design, Inc. harmless from any claim or liability for injury or loss allegedly arising from any party's unauthorized reuse of Harmony Design, Inc.'s instruments of professional service.

#### **6. Opinions of Probable Construction Costs**

It is understood that Harmony Design Inc. has no control over costs of materials, the price of labor and equipment or the contractor's method of pricing. Therefore, if requested by the Client, Harmony Design Inc. will provide opinions of probable construction costs based on our experience and other available cost estimates of similar projects. Harmony Design Inc. makes no warranties, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

#### **7. Third-Party Exclusion**

The Agreement shall not create any rights or benefits to parties other than Client and Harmony Design Inc, except such other rights as may be specifically called for herein.

#### **8. Engineers Certificate of Merit**

The Client shall make no claim for professional negligence, either directly or in a third party claim, against Harmony Design Inc unless the Client has first provided Harmony Design Inc with a written certification executed by an independent design professional currently practicing in the same discipline as the Harmony Design Engineer and licensed in the applicable state. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of an Engineer performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to the Engineer not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding.

#### **9. Limitation of Liability**

The Client agrees that any claim filed against Harmony Design Inc by Client, will be filed solely against Harmony Design Inc or its successors or assigns, and that no individual person shall be made personally liable for damages, in whole or in part.

#### **10. Conflict Resolution**

All claims, disputes, or controversies arising out of, or in relation to the interpretation, application, enforcement or implementation of this Agreement or provision of the services indicated herein shall first be attempted to be resolved through non-binding mediation. The parties further agree that the project Owner will require, as a condition for participation in the project and their agreement to perform labor or services, that all contractors, all subcontractors at all tiers, and all suppliers whose portion of the work amounts to five thousand dollars (\$5,000) or more, and their insurers and sureties, shall agree to this procedure. If a party does not agree to mediation, that party shall hereby forfeit the collection of any attorney fees arising from any subsequent legal actions.

#### **11. Termination**

This agreement may be terminated: (i) by either party upon seven (7) days written notice should the other party fail to substantially perform this agreement through no fault of the party initiating the termination; (ii) by CLIENT upon at least seven (7) days written notice to Harmony Design, Inc. in the event that the project is permanently abandoned, or (iii) by Harmony Design, Inc. in the event its services are suspended for a period exceeding thirty (30) days. Deliverables will be turned over to the Client upon full payment. Any deliverables released prior to completion of work shall absolve Harmony Design, Inc. of all liability associated with the project.

**12. Severability**

The Client and Harmony Design Inc have entered into this Agreement to communicate mutual understandings and responsibilities to one another. Any provision of the Agreement that violates a statute or regulation shall be deemed void, and all remaining provisions shall continue in force. Client and Harmony Design Inc shall endeavor to quickly replace a voided provision with a valid substitute that expresses the intent of or at least addresses the issues covered by the original provision.

IN WITNESS WHEREOF, this agreement, including all exhibits and attachments, has been fully executed on behalf of the Harmony Design Inc. by its duly authorized officers, and the CLIENT has caused the same to be executed in its name and in its behalf by its duly authorized officers as of the date indicated below.

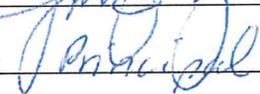
Client: \_\_\_\_\_

**Harmony Design & Engineering**

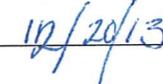
By: \_\_\_\_\_

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

Printed name: \_\_\_\_\_

Title:  \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed:  \_\_\_\_\_

Billing Address: \_\_\_\_\_

\_\_\_\_\_

Phone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

# HARMONY DESIGN & ENGINEERING

## SCHEDULE OF RATES

### PROFESSIONAL SERVICES

Expert Witness	\$250 /hr
Professional Engineering	\$125 /hr
Professional Landscape Architecture	\$125 /hr
Project Management	\$100 /hr
Engineering Design	\$90 /hr
Landscape Design & Planning	\$90 /hr
CAD Drafting	\$60 /hr
Clerical / Travel Time	\$45 /hr

### DIRECT EXPENSES

Mileage	\$0.65 /mile
B&W Copies (8 1/2" X 11")	\$0.15 /copy
Color Copies (8 1/2" X 11")	\$0.90 /copy
B&W Prints (24" X 36")	\$4.00 /sheet
Color Prints (24" X 36")	\$6.00 /sheet
B&W Mylar Sepia (24" X 36")	\$12.00 /sheet
CD for electronic files	\$2.50 /each

Reimbursable expenses such as outside reproduction, deliveries, postage, sub-consultant fees, and travel costs are charged as listed above or at cost plus ten percent.

*These Professional Service Rates are considered confidential and shall not be released to a third party without written permission of Harmony Design, Inc.  
Rates are subject to change.*

*Effective March 15, 2012*

**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 Phases 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H and 1I, 1J, 1K, and 1L,) and Phases II, III, IV, V and VI, as described in the Illustrative Master Plan attached as **Exhibit A** and incorporated herein by reference.
2. **Division II Phase I.** The Division II Phase I phases are amended and restated as more specifically described below and in the Exhibits attached hereto and incorporated herein by reference.
  - (a). Lot/Unit Reduction/Redistribution.
    - (1) The number of units in Division II Phase I shall be reduced by 3 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.
      - (D) Tract G. The Operation and Maintenance lot ("O&M lot") will be converted into 3 single family residential lots.
      - (E) Lot 1B/Block 5 (North). Addition of one lot from current open space.
      - (F) Block 6 (South). Addition of 6 lots converted from a portion of the current proposed driving range.

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

<sup>2</sup> The River Rim Master Plan was originally approved for a maximum of 578 units with a minimum of 2700 acres of open space. Prior Amendments eliminated 20 cluster units from Tract A. An additional 30 condominium units were to be permitted in Block 1 following the construction of a golf course.

(G) 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 platted (Lot 1A) as an additional lot and 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 then current owner of Lot 1.

(II) Other allowed incidental uses:

- Real Estate Office;
  - Property Management Office;
  - Existing Agricultural Buildings;
  - Existing Storage;
  - Brent Hoopes Residence;
- All of the above incidental uses will be allowed to be constructed and operational upon recording of the Division II Phase I Final Plat.

(III) Incidental Use Calculations:

- Up to a maximum of 2% of the Development Land Area (final platted) is the basis for allowable Incidental Use Area within:
  - West Rim Village (Block 1) – Lots 1-8
  - Golf Village (Tract E)
- For the purpose of this Agreement, “Development Land Area” shall include all platted and developed lots eligible to apply for building permits within Division II of the River Rim Ranch Master Plan PUD associated with the construction of single family residential units as well as all platted lots that allow incidental commercial uses; but shall not include open space lots or utility lots.

- As of the date of this Agreement the existing (platted) and future Development Land Areas are calculated in the following table for the River Rim Master Plan:

		Maximum Allowable 2% Incidental Use Area, Acres		
Division-Phase	Development Acres	Existing (Platted)	Future Phase	TOTAL
II-1	528.41	10.57		10.57
II-2	189.46		3.79	3.79
II-3	55.66		1.11	1.11
II-4	63.80		1.28	1.28
II-5	59.53		1.19	1.19
II-6	169.79		3.40	3.40

which calculation allows a maximum of 10.56 acres of incidental use area currently and up to a maximum of 21.33 acres of incidental use area in the future.

- Incidental uses within either or both Block 1 and Tract E shall not exceed a total of 2% of the Developed Land Area or as otherwise depicted in Exhibit A.
- (b) **Tract I** shall be used as an ongoing farm and farming operation (i.e. crops, barns, potato cellars, etc.). There may be only one residential unit on Tract I.
- (c) **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 in any order 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.
- (d) **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) December 31, 2016; or (ii) issuance of building permits for any lot. No building permits will be issued until all the fire suppression systems are approved and accepted by the Teton County Fire Marshall.

- (e) **Reclamation of Golf Course area (Tract J).** 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 a phased plan as follows:

Description	Date
Weed eradication	Summer 2013 (ongoing program)
Site grading/top soiling	Fall 2014
Agricultural practices	Spring 2015 (continued in future years)
Native grass seeding	Fall 2014
Trail system	Fall 2016
Water features/ponds	Fall 2016

- (i) Option to construct golf course. The Owner, or Property Owner’s Association (“POA”), if applicable, shall retain the option to construct a golf course until December 31, 2026.
- (ii) Golf Area Landscape Restriction Plan, Maintenance/Weed Management Plan. The 270-acre golf course interim open space area (Tract J) integrates a return to the agricultural context from which the golf course was originally developed, along with additional amenities for River Rim residents. The long-term concept is to maintain approximately 50% of the open space area in native grasses, and allow for establishment of the native shrub community, similar to the processes observed on neighboring CRP fallow croplands. The native grass/shrub community is a landscape detail that is borrowed from the final landscape design of the golf course. Native cover will be maintained throughout the golf course, with the ultimate goal of cutting tees, greens and bunkers out of the native grass/shrub areas, while preserving the outlying native plant communities in perpetuity. For this reason a native grass seed mix has already been developed by a specialist, derived from the seed-basis of native plants in proximity to the River Rim PUD project area (Table 1). Areas will be seeded with this mix, fertilized as needed, and areas reseeded as necessary to achieve a continuous native grass coverage.

Table 1. Native grass seed mix for the River Rim Division II, Phase 1 West Rim Area.

Variety	Percent Stand
Goldar Bluebunch Wheatgrass	35

Joseph Idaho Fescue	20
Sodar Streambank Wheatgrass	15
Magnar Basin Wildrye	10
Prairie Junegrass	10
Sherman Big Bluegrass	5
Sandburg Bluegrass	5

The remaining area of approximately 40% of the upland area that constitutes fairways, roughs, and golf course perimeter have been earmarked for agricultural uses. The ultimate cultivated crop will be determined by the lessee; however, either dryland wheat or barley can be anticipated. Other portions of River Rim Open Space are currently managed in this way, with lessees maintaining open space as developed agricultural plots yielding crops. From the standpoint of noxious weed eradication, either application will provide a means to curb the invasive species that have taken hold in areas of the golf course. The best long-term control technique for reducing exotic plant invasions is to establish diverse and continuous native vegetative cover. However, spot herbicide spraying of weeds will be necessary for several years prior to establishment of native plant communities. A planted cover crop, either native or grain, with concurrent applied weed control in the form of target spraying (which is ongoing throughout River Rim at present) uses competition from preferred species to control expansion of invasive plants. All details with regards to open space management, weed treatment, and agricultural leasing shall be the responsibility of the Owner.

(f) **Road Improvements.**

- 1) County Road 9400 West. The relocation and widening of the County Road 9400 West to a 22 foot surface (local road standard as defined by the Teton County Highway Design Guidelines) shall be completed from Highway 33 to the southwest corner of Division II Phase I to Teton County crushed gravel standard by December 31, 2014. All lots in Division II Phase I shall be eligible for sale following construction and County acceptance of the County Road.
- 2) West Rim Loop Road. The West Rim Loop Road and the roads in Block 1 shall be completed to Teton County crushed gravel

standards on or before December 31, 2016, or prior to the issuance of any building permits.

(3) **Road Paving.**

1) Loop Road. Asphalt paving of the Loop Road shall be completed by December 31, 2026, or when 30 residential building permits are issued within River Rim, whichever is sooner.

2) Turning Lanes. Asphalt paving for the turning lanes on State Highway 33 (main entrance) shall be completed by either December 31, 2026; mandate of the Idaho Transportation Department; the issuance of 30 building permits in Division II Phase I; or when the Average Daily Traffic (ADT) exceeds 200 ADT, whichever is sooner. The North and West entrance turning lanes will not be required prior to additional commercial development to West Rim Village area after the date of this Agreement.

- (g) **Future Wastewater 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 80 percent or 24,000 gpd of design capacity. The Owner (or POA) shall be required to commence construction of the next treatment module once the projected number of units that would consume 80 percent of design capacity exist. The Owner shall provide annual reports of the measured flow entering the waste water facility no later than February 1<sup>st</sup> of the year to both the DEQ and Teton County.

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.

- (h) **Letter of Credit.** The Owner will provide to the County an updated Letter of Credit in an amount equal to one hundred twenty-five percent (125%) of the engineers estimated costs for construction of each of the improvement/infrastructure items described in this Agreement. The estimated costs, on a line item basis, and a description of the items excepted from coverage under the letter of credit, is attached hereto as **Exhibit B and incorporated herein by reference.** The letter of credit shall be provided at or before the recordation of the final plat.
  
- (i) **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. The Owner shall also provide documentation from an Idaho Registered Engineer certifying that the improvements have been completed in general compliance with the design. 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 for draw on the letter of credit twenty-five percent (25%) of the amount of the original line item until acceptance of the entire phase associated with a specific infrastructure line item and the one year warranty period for the entire phase has expired, at which time said amount will be released from any letter of credit to the Owner.

- (j) **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, and incorporated herein by reference.**
3. **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, 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 the Norman Ranch/Western Highlands is~~ excluded from the Common Interest Community and from the Master Association for assessments. ~~Except for the modifications set forth in the Fourth Supplement to CC&R’s,~~ the Norman Ranch/Western Highlands is subject to this Agreement, the CC&Rs and the design/property use restrictions contained in the CC&Rs.
4. **Division II Phase III (Central Plateau).** Division II Phase III 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 the Central Plateau is~~ excluded from the Common Interest Community, ~~the Master Association,~~ and the design/property use restrictions contained in ~~the CC&R’s.~~ ~~Except for the modifications set forth in the Third Supplement to~~ the CC&Rs, the Central Plateau is subject to this Agreement and the CC&Rs.
5. **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 the West Plateau is~~ excluded from the Common Interest Community, the Master Association ~~assessments,~~ and the design/property use restrictions ~~described contained in the CC&R's. Except for the modifications set forth in the Second Supplement to the~~ CC&Rs, the West Plateau is subject to this Agreement and the CC&Rs.

6. **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 notwithstanding said sale, ~~except for being the North Plateau is~~ excluded from the Common Interest Community, the Master Association ~~assessments~~ and the design/property use restrictions ~~described contained in the CC&R's. Except for the modifications set forth in the Amended Supplement to the~~ CC&Rs, the North Plateau is subject to this Agreement and the CC&Rs.
7. **Division II Phase VI (South Canyon).** Division II Phase VI will remain at 55 units which is the number of units originally approved in 2006. The open space will be increased from the currently approved 512.7 acres to 522.6 acres resulting in an increase of approximately 10 acres. The width of the wildlife migration corridor will also be increased to a minimum of 1150 feet between building envelopes. (See **Exhibit A**).
8. **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. All subdivision, zoning and other regulations in effect at the time of final plat submittal, which do not conflict with the Master Plan, shall govern. Upon completion and acceptance by the County of public improvements in any given phase, the Plat for that phase may be recorded. Failure to record the 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 final plats must be approved by the Teton County Board of County Commissioners.

9. **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 the phase is accepted by the County.
10. **Building and Occupancy Permits.** Building permits and certificates of occupancy shall be issued by Teton County in accordance with the Phasing Plan (**Exhibit C**).
11. **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 7 above, or December 31, 2026, whichever occurs first.
  - (b) Snowmobile access along County Road 9400 West.
  - (c) Owner shall provide a cash sum of \$1,000 per lot at the time of final plat recording of each phase of Division II which will be paid to Teton County, Idaho, for use by Teton County, Idaho, as determined by the Board of County Commissioners.
12. **Order of Completion.** Development of Division II Phases II-VI may be commenced in any order or simultaneously as determined by the Owner once all of Phase I of Division II is complete and accepted by Teton County, including the Reclamation of Tract J (Golf Course area), as described in paragraph 2(e) of this Agreement. The infrastructure of Phases II-VI of Division II must be complete before a plat may be recorded and lots in those phases sold.
13. **Density.** The modifications to density by phase are amended as more specifically described in **Exhibit D** attached hereto.
14. **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, [as set forth in Section 11.c. above.](#)

15. **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.
16. **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.
17. **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 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.
18. **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.

19. **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.
20. **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.
21. **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

22. **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.
23. **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 Owner, its successors or assigns.
  - (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 Transportation 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.
24. **Common Areas.** The common areas for River Rim Ranch Divisions II, Phases I through VI are shown on **Exhibit A** and [subsequently will be shown on individual phased Final Subdivision Plats and](#) will be managed by the Property Owners Association, subassociations, club operations or the private owners to whom title to such area is conveyed.
25. **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.
26. **Teton 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, pro rata 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.

27. **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.
28. **Open Space Provisions.** Open Space for River Rim Ranch Divisions II, Phases I through VI is shown on Exhibit A and subsequently will be shown on individual phased Final Subdivision Plats. The Owner will maintain all open space 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. There shall be no restriction placed on any such Open Space which would prohibit the use of the Open Space for agricultural and/or farming purposes. These areas (including farm/ranch areas) will be managed by the Property Owners Association, subassociations, club operations, or the private owners to whom title to such areas is conveyed.
29. **Adjacent Neighbor Provisions.** Owner agrees to maintain a 200' separation from all building envelopes to adjacent property in Phases II-VI.
30. **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 outside of River Rim.
31. **Filing.** The Owner may record this Agreement in the office of the Teton County Clerk and Recorder.
32. **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.

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33. **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.
34. **Time is of the Essence.** Time is of the essence in the performance of all terms and provisions in this Agreement.
35. **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.
36. **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.
37. **Amendments.** All amendments to this Agreement shall be in writing and shall be approved by the Owner and the County.
38. **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.
39. **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.
40. **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.
41. **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.

[Signatures on next page]

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.

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

(SEAL)

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.

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

(SEAL)

PHASE OWNER CONSENT

The undersigned, each an owner of one or more phases in River Rim Ranch – Division II, execute this amendment for the sole purpose of evidencing their consent thereto, including but not limited to their consent to the removal of lot development rights from their respective phases as described in this amendment. By executing this consent, the undersigned do not assume any of the obligations of Developer under the Development Agreement, as amended, other than (i) the obligation to comply with the provisions of the Development Agreement regarding lot development in the event that the undersigned elect to develop one or more lots allocated to their respective phases and (ii) the obligation to preserve open space as described in the Development Agreement, as amended.

\_\_\_\_\_  
JOHN CLINT (JACK) HOOPES

STATE OF IDAHO            )  
                                  :ss.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

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

\_\_\_\_\_  
LORNA HOOPES

STATE OF IDAHO )  
 :ss.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

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

CIRCLE DOT LAND, LLC

By: \_\_\_\_\_  
Mark Ricks, Manager

STATE OF IDAHO )  
 :ss.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of Circle Dot Land, LLC, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

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

By: \_\_\_\_\_  
Nick Ricks, Manager

STATE OF IDAHO )  
:ss.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of Circle Dot Land, LLC, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

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

TETON RIVER FARMS, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF IDAHO )  
:ss.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

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

EXHIBIT A: Illustrative Master Plan dated November 20, 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