

**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.¹
 - (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.²
 - (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.³

¹ Of the 360 units originally approved, 155 units have been sold.

² The Prior Development Agreements and Master Plan Amendments authorized a total of 40 cluster cabins. Pursuant to the Administrative Amendments, the number of cluster cabin lots was reduced by 20 cabin lots. The remaining 20 lots will be converted from cluster cabin lots to single family residential units resulting in a total reduction of 32 cluster cabin lots and an increase of open space of about 17.39 acres.

³ 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.³

(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.³

(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 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 current owner of Lot 1.

(II) Block 1 Lots 6 and 8.

- Lodge Facility: Lot 8 headquarters building can be converted into a lodge facility with a

maximum of 10 lodging units and kitchen/dining facilities and support retail shop.

- Lots 6 and 8. A maximum of 16 total lodge units are allowed including the lodge units within the converted Lot 8 headquarters building.
- The lodge units detached from the headquarters building on Lot 6 and 8 are subject to the building and design guidelines administered by the River Rim Ranch Owner's Association and review requirements.
- In addition to the headquarters building, there shall not be more than 6 additional structures created to accommodate the lodge units.
- The lodge units are not to be sold as individual condominiums.
- The lodge units are subject to Teton County standard site plan approvals and building permits.

(III) Other allowed uses:

- 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;
- All of the above incidental uses will be allowed to be constructed and operational

upon recording of the Division II Phase I Final Plat.

(IV) Future incidental Uses. Other Future Incidental Uses only as specifically approved by the Board of County Commissioners.

(V) Incidental Use Calculations:

- Up to a maximum of 2% of total lot areas is the basis for allowable Incidental Use Area within:
 - West Rim Village (Block 1) – Lots 1-8
 - Golf Village (Tract E)
- The Planned Unit Development Master Plan (8/2013) as amended includes 1,084.7 acres of lot area which allows a maximum of 21.7 acres of Incidental Use Area.
- Incidental uses within either or both Block 1 and Tract E will remain in compliance of the 2% limitation and not exceed a total of 21.7 acres.

(b) **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.

(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) **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 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 2015
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) **Transfer of Lots.** 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.
- (iii) **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 are handled on site by the River Rim Ranch property manager. For County oversight, the County Extension Agent, currently Ben Eborn, will periodically monitor and inspect for weed management and native

grass maintenance within Tract J and report annually to the Planning Administrator.

(f) **Road Improvements.**

- 1) **County Road 9400 West.** The relocation and widening of the County Road 9400 West to a 22 foot surface 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 on Phase 1A plus Block 6, Lots 1-28; Block 7 Lots 1-16; Block 8 Lots 8-12; Tract C Lots 1-62; Tract D golf village chalets and Block 9 Lots 1-25 shall be eligible for sale following construction of the County Road. Pavement of the north section of County Road 9400 West shall be subject to need based upon average daily traffic exceeding 200 trips per day, or 2026.
- 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) **Turning Lanes.** Asphalt pavement for turning lanes on State Highway 33 (Main 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. The north and west entrance turning lanes will not be required unless additional commercial development is planned for the West Rim Village area.

(g) **Road Paving.** Asphalt paving of the roads described in paragraphs 2 (f) (1) and (2) shall be required on the earlier of: (i) the issuance of 30 residential building permits, (ii) December 31, 2026, or as described above.

(h) **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 1st 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.

- (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 twenty-five percent (25%) of the original amount of the line item until the one year warranty period has expired, at which time said amount will be released to the Owner.
 - (j) **Letter of Credit.** The improvements described in paragraphs 2 (c) (utility stubs and extensions) 2 (d) (Block 10 Lots 1-4), 2 (e) (Golf Course area), 2 (f) (1), (2), (3) and (4) (Road Improvements) and 2 (g) (Road Paving) will be subject to an updated letter of credit in an amount which is one hundred twenty-five percent (125%) of the engineers estimated cost as stated in Exhibit B. No letter of credit will be provided for the improvements described in paragraph 2 (h) (Future Wastewater Modules). 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.
 - (k) **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**.
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 Owners 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 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.

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 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.

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 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.

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 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.

7. **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 22 acres of development area) (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. 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.
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 improvement 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 6 above, or December 31, 2026, whichever occurs first.
 - (b) Snowmobile access along County Road 9400West.
 - (c) Pathway on West Loop Road located within the River Rim Subdivision.
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 the roads in Division II Phase I are completed to Teton County crushed gravel standards and all lots are eligible for certificates of occupancy. The infrastructure

for Phases II-VI of Division II must be complete before lots in those phases can be 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.
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 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.

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 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 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 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 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.
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.** 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.
29. **Adjacent Neighbor Provisions.** Owner agrees to maintain a 200' separation from all building envelopes to adjacent property.
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.

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.
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.

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)

 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: _____

TETON RIVER FARMS, LLC, a Colorado limited liability company (as to Division II Phases II and III)

By: _____
Its: _____

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 Teton River Farms, LLC, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

JOHN CLINT (JACK) HOOPES AND
LAURA HOOPES (as to Division II Phase
IV)

JOHN CLINT (JACK) HOOPES

LAURA 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 _____ of _____, and acknowledged to me that he/she subscribed his/her name thereto as such.

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

(SEAL)

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 _____ of _____, and acknowledged to me that he/she subscribed his/her name thereto as such.

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

(SEAL)

MARK R. RICKS, CHRIS P. RICKS,
NICK RICKS AND SYLVIA RICKS (as to
Division II Phase V)

MARK R. RICKS

CHRIS P. RICKS

NICK RICKS

SYLVIA RICKS

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 _____ of _____, and acknowledged to me that
he/she subscribed his/her name thereto as such.

(SEAL)

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

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 _____ of _____, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

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 _____ of _____, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

Notary Public for IDAHO
Residing at: _____
Commission expires: _____

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 _____ 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 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



RENDEZVOUS ENGINEERING, P.C.

Civil Engineers and Planners in Wyoming and Idaho

Rendezvous Project No: 05-003

August 8, 2013

Ms. Stacey Frisk
Executive Directory
Valley Advocates for Responsible Planning
P.O. Box 1164
Driggs, Idaho 83422

VIA EMAIL (stacey@tetonvalleyadvocates.org)

RE: River Rim Significant Change Reduced Impact Amendment
Response to August 1, 2013 Letter to Planning and Zoning Commission

Dear Stacey:

Thank you for sending us a copy of your August 1, 2013 letter to the Teton County Planning Commission regarding River Rim. We also appreciate your general comment and acknowledgement of the compromises that the applicant, Glacier Bancorp, has made relative to the project on several key issues.

We did however want to provide our thoughts and feedback on your comments as we continue our dialog with the Planning and Zoning Commission next Tuesday. Copies of this letter will also be forward to the commission and planning office.

- 1. Plans for restoration of the golf course should be more detailed and implemented by 2014:** In order to control blight and create the functional open space that the developer originally promised in the Planned Unit Development (PUD) negotiation process, the golf course area which was razed and left barren since at least 2010 should be addressed immediately. We still support the planning staff's recommendation that reclamation be completed by December 31, 2014 – and not three years from now as proposed by the applicant. All vagueries in the plan should also be resolved now: The steps for reclamation outlined in the Development Agreement (page 6) and Phasing Plan (pages 2-4) should be better defined with firm dates. (For example, what does “*Agricultural Practices*” mean? What does “*Fall 2014*” mean?) The parkway plan must be fully bonded. Weed management and ongoing landscape maintenance should be included in the engineer's cost estimate. And finally, the Golf Area Landscape Restoration Plan should be incorporated into the Development Agreement.

Relative to the timing issue, we are currently proposing that the main site restoration work would be completed by the end of the 2015 construction season. This includes the placement of topsoil, implementation of agricultural crops in the area appropriate and natural seeding in the remaining areas. Given the size of the site (275 acres +/-) involved and overall costs, we believe that this is a reasonable timeframe give the extent of the work involved. Also during this time, weed control, which is one of the main timing concerns, will continue regardless of

this schedule. We have also requested that the ponds and pathways be postponed one year until the end of 2016 to allow time for a future buyer to review the golf options and determine the final locations of the amenities, in the event they wish to preserve plans for a future golf course.

The specific crops that would be part of the agricultural practices would be determined by the lessee of the land. River Rim has agreements in place for farming of open space on other lands that would be the basis for this use, which practices have also taken place in the past on much of the golf open space area. The actual size and delineation of the agricultural uses are outlined in green on the attached golf reclamation plan. However, the applicant wanted to allow some flexibility as the specific areas of could change as determined by the entity responsible for the actual farming.

Also River Rim has suggested that there be an annual inspection of the site with the local agricultural extension agent who has served as the main coordinator of the County's weed management program, and that a progress report be submitted to the county planning administrator. We believe that this effort along with the fact that all reclamation work is to be bonded (by letter of credit) insure that there will be proper management and oversight. As noted in the response to the staff report which also discusses this issue, River Rim or their successors have a significant incentive to see that the reclamation is successful given the large investment involved and impact that it will have on the real estate they continue to own in Division II Phase I.

- 2. Please uphold the Idaho Department of Fish & Game's recommendations for wildlife protections in the South Canyon Phase.** This Board previously requested the expertise of the Idaho Department of Fish & Game (IDFG) be enlisted to advise on the river setbacks and width of wildlife corridor in the South Canyon Phase. IDFG has made their recommendations, and staff has also supported these recommendation as conditions of approval. In light of Biota's June 27, 2013 rebuttal to IDFG's recommendations, IDFG has still reiterated their support for their previously recommended separation distances and setbacks. Now this Board stands poised to potentially reject all of IDFG's recommendations. Why ask for IDFG's expertise at all if it will ultimately be disregarded?

As has been noted previously, the IDFG recommendations were not made in specific context to the existing River Rim PUD and approvals that date back to 2006 and 2007. We were specifically requested by the planning staff to focus on the changes and the specific language presented in Title 9 Chapter 7 of the, Land Development Regulations. Unlike the IDGF comments which did not respond to the specific question asked by the county staff, Biota has done this both in their original April 19, 2013 wild life assessment report and their June 27, 2013 letter response to the Game and Fish. As noted in Biota's June response letter, there are no specifics relative to the size of a functional wildlife corridor. River Rim has agreed to the 800 to 1200 foot width which the Biota experts believe is appropriate for this location. This size of corridor was used for a project in Jackson which has been in place for over ten years. Also the sites have been reshaped to reduce the overall development foot print by 30 acres from the original submittal, with a current open space total of about 503 acres or 73%. Current standards only require 50%. Also this area would have a maximum of 64 units. County standards allow up to 103 units based upon the Rural Reserve PUD rate of 15 units per 100 acres.



Similarly, the IDFG requested 500 foot setback from the Teton River is not a part of any current development regulation or standard. This large setback would have a major negative economic impact on Phase VI and without precedent or actual support data would be punitive and contrary to the efforts underway to maintain the economic viability of the River Rim project. As noted in the latest submittal, the building envelopes will be 200 feet minimum but range as much as 400 feet with an average of 300 feet. As you may be aware the current standard is 100 feet. Teton County Wyoming only requires a 150 foot setback from the Snake River as comparison. River Rim has agreed to eliminate the cluster cabins to reduce the number of residences that would be placed adjacent to the Teton River.

3. Please consider these limitations on incidental uses:

- a. **Identify incidental uses by scenario:** There are two potential scenarios for River Rim: a golf course development, or a parkway development. Each scenario creates different set of incidental uses. (For example, there is no need for a pro-shop if River Rim becomes a parkway development.) In order to ensure that all incidental uses are truly “*incidental, necessary, or desirable and appropriate with respect to the primary purpose of the PUD*”¹ that is someday built, all incidental uses should be identified under either scenario. (i.e. What uses are allowed if the golf course is completed and what uses are allowed if the park is constructed instead?)

As shown in the updated list of potential commercial uses, most of these issues and concerns have been addressed. There will be no need for a pro-shop without a golf course. Similarly, a pro-shop would not be financially viable without a golf course as the economics ultimately drive which uses are feasible or appropriate. Plus all of the commercial uses would require county review and approval.

- b. **The 2% rule applies at all times.** Because River Rim is in limbo, it presently remains uncertain as to how much acreage within this PUD may ultimately be developed. Thus, the Development Agreement should include a restriction that at any given time, “*no more than two percent (2%) of the developed acreage within the PUD*” can be devoted to incidental uses. Incidental uses must remain proportionate as 2% of the currently developed acreage at all times.

River Rim is aware of this limitation and has acknowledged this in their response to the county planning staff report. As noted in that response, there is an additional 2 acres of commercial that could be used in the golf village, should the golf course be constructed, that would be adequate for the anticipated needs. Plus there is the possibility of transferring some of the West Rim Village commercial to the Golf Village and still remain within the 2% allowance.

- c. **Size restrictions, design review, and landscape requirements for incidental uses – particularly those that are visible from Highway 33.** In order to avoid another scenario similar to the highly-visible 50,000 square foot arena in Saddleback Vistas (which was also approved as an incidental use) this Board should impose size restrictions and landscaping requirements for incidental uses – particularly for those structures that will be external to the development and visible from Highway 33. Construction of all incidental structures should also be subject to design review. For example, the wording of the newly proposed Development Agreement would allow for the construction of six

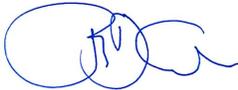


additional detached lodge units with no county-imposed size limitation. These will likely be visible from the highway.

The language in the development agreement was designed primarily to be flexible. Any new development would be subject to county review. River Rim also has covenants in place that require proper landscaping and have restrictions relative to siting and visibility of construction. There would be no benefit to River Rim and their real estate holdings within the project to create an eyesore or other undesirable visual impact at the main entrance.

We also wish to express our appreciation for the civilized and constructive dialog that has taken place between the applicant and VARD and believe that significant and beneficial progress has been made as we move forward.

Sincerely,



Robert T. Ablondi
For Big Sky Western Bank

Cc: Teton County Planning and Zoning Commission
Wendy Danielson, Teton County Planning Office
Don Chery, Glacier Bancorp
Mike Potter
Dan Green





RENDEZVOUS ENGINEERING, P.C.

Civil Engineers and Planners in Wyoming and Idaho

Rendezvous Project No: 05-003

August 9, 2013

Mr. Dave Hensel, Chairmen
Teton County Planning and Zoning Commission
150 Courthouse Drive - Room 107
Driggs, ID 83422

c/o Wendy Danielson (wdanielson@co.teton.id.us)

RE: River Rim Amendment Hearing; Tuesday August 13, 2013

Dear Dave:

We wish to acknowledge our appreciation of Angie Rutherford's effort to prepare a final staff report during what was a very busy and hectic final week as the county planning administrator. She has identified a number of issues that expand upon the comments received at the July Planning and Zone meeting which deserve a response for your consideration at next week's public meeting.

1. *Revert to previous phasing plan. The proposed plan is quite complex and includes 18 phases in Phase I; the previous version included nine. Staff proposes simplifying the phasing plan and the least complex way to do that is to revert to the existing phasing plan. The existing plan which includes phases A-I allows contingencies to be released at reasonable intervals and is much more manageable.*

Based upon previous discussions with the county engineer, we were informed that it would be best to create separate phases so that portions of the letter of credit along with the contingency could be released as the work takes place. Also we were not made aware of any limit or criteria for the number and type of phases. As you are aware, the phasing plan we submitted in May of this year identified 14 separate phases. No issues were mentioned at that time and we are not sure why there is a concern now. For this latest version, we have broken the golf reclamation into two phases and broken the County Road project into two phases -- both changes believed to be reasonable and appropriate relative to the timing and type of work involved. If this is a true issue, we can look at some consolidation however with over 4 million dollars in guaranteed improvements, the breakdown is a significant financial issue to allow funds to be released as work is performed. The applicant is however open to suggestions to consolidate phases if a concern for the county staff.

2. *The proposed maintenance and management plan for the golf course area is inadequate. The proposed plan does not mention any specifics. Typically, a management plan includes a) a mapping/inventory element, b) goals and objectives, c) management strategies and d) a monitoring program (written/photographic records etc.). It should be noted that Staff has been asking for a detailed Weed Management Plan and has described what that is since 2011 and a satisfactory plan has yet to be produced.*

The proposed golf area reclamation plan was significantly expanded in the latest development agreement to include actual reclamation species and more details about the timing of the work. The development plan provides for an annual inspection with the county extension agent along with an annual report to the Planning Administrator. The comment about additional onsite mapping may make some sense but is a significant undertaking on such a large site. We believe that the annual onsite visual inspection along with the use of future high resolution aerial photography, which is becoming more commonly available on public websites such as Google Earth and the Teton County GIS, can serve as an accurate indicator of progress. We also believe that it would be appropriate and within the scope of the proposed plan to identify specific digital photo identification points that can serve as references to be included with an annual report to the County Planning Administrator. River Rim is also open to other reasonable suggestions as a successful reclamation is also important to the ultimate success of the project. Big Sky Western Bank is making a significant investment in the reclamation work and has more incentive than any other entity to see that this investment does not fail.

We also want to emphasize the fact that weed management has been ongoing since Big Sky Western Bank took over the property including a full application of herbicides this summer. It is important to note that this same type of management would be required even if the golf course were completed.

3. *Phase VI should not be allowed to be platted until the completion of Phase I. Phase VI is the “profitable” phase of the development, while Phase I holds the liabilities. By separating the linkage of these two phases, there is the potential that more home sites are platted (and built on) before the completion of Phase I. Additionally, there is no incentive to finish Phase I, outside of the lost sunk costs, if these two phases are separated. The language was included in the previous development agreement and should revert to the previously-approved language: “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. [Staff recommends adding, “and all lots are eligible for certificates of occupancy”] 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.”*

The phasing plan is an important financial consideration for the applicant and a topic of discussion since conversations between Big Sky Western Bank and the County began in 2009. We do not see that the County is in any type of jeopardy



with the current development agreement proposal that requires roads to be completed to a gravel surface and accepted by the County with an ongoing letter of credit for future paving. As we have discussed, the need for paving – the only remaining infrastructure item -- could be many years into the future. Barring River Rim or the future owner the opportunity to develop the only potential remaining profitable area within the development seems more punitive than good planning. Plus as we have all generally agreed, it is not wise or practical to pave roads that will see limited use. The stipulation to pave after the issuance of 30 building permits is in place and is considered reasonable and acceptable to all and is covered by a letter of credit obligation until completed.

We therefore wish to reiterate our understanding from the last P&Z meeting that the commission was supportive of the plan to complete roads in Phase I to County gravel standards before allowing Phase VI to proceed. Paving of the Phase I roads, which would be covered by a letter of credit, would only be required once 30 building permits were issued.

4. *A finding needs to be made that all commercial uses in River Rim are incidental, necessary, desirable and appropriate.*

River Rim believes that the revised list of commercial uses, which has been significantly reduced in scope from the original submittal in April of this year, is appropriate for a private development of this size and scope. As noted during the past discussions, the implementation of commercial uses will be driven by economic need, which need is not expected to exist until the construction and occupancy of a significant percentage of the units. We have refined the list per planning and zoning recommendations from the July meeting and await any additional comment or feedback you may have.

5. *The West Rim Village Commercial area is 19.7 acres. The total allowable commercial area based on 2% of the developable area is 21.69 acres. This would make Tract E, in its entirety ineligible for commercial uses. Two additional acres outside of the West Rim Village would be eligible for commercial uses.*

The applicant understands this limitation. If there is a future golf course, two additional acres of commercial would be adequate for the current anticipated needs which would likely involve a modest clubhouse and some amenities such as a pool, tennis courts, restaurant, activity center, pro shop, etc.; all of which can be configured into the allowable acreage. There is also the possibility that some portion of the West Rim Village allowable commercial area is transferred to the Golf Village area should a greater need be identified. All uses would be subject to County oversight and approval. It is important to also note that the reduced commercial acreage is a direct result of the reduction in overall development area associated with this amendment and that the applicant understands this limitation.

6. *The PZC needs to evaluate the visual impact analysis and discuss the impacts of Phase VI on both the wildlife and the visual landscape. It is staff's belief that*



Phase I will also cause a significant visual impact on the landscape, and although Phase I has been previously approved, effects are cumulative.

As both staff and commission are aware, we have structured our response to the visual and wildlife impacts associated with Phase VI relative to the original plan approved by the county in 2006-2007. As documented in the Biota report, the proposed plan with the more compact foot print, wider migration corridor, and reduced number of units along the Teton River are all positive aspects that make this less impactful from a wildlife perspective. Similarly we have modified the overall development plan to keep building envelopes a minimum of 1100 feet from the State Highway and reduced the size of the lots to increase overall open space by 30 acres. This is in addition to the elimination of the denser cabin sites along the river. We believe that all of these changes are positive and can be seen in the big picture as an overall reduction in impact for the River Rim project. Also a comparison between the current plan and the plan from 2006 will show that there is very little difference in overall development footprint and layout. In addition, the current plan is involves less density (64 units versus 103 units) and more open space (73% versus 50%) than current land development regulations would allow under the rural reserve planned unit development standards.

- 7. All the typos and incorrect references need to be corrected in the development agreement. These mistakes need to be corrected and returned to the planning department with enough time for review before a public hearing.*

Attorney Dan Green has prepared an updated development agreement that responds to the staff comments and notes. A copy is also being be forwarded to Kathy Spitzer for her final review. We are confident that all required changes can be made to insure that a complete and correct document is presented prior to the final recordation.

- 8. All notes on the master plan and engineers cost estimate need to be corrected and submitted to the planning department with enough time for review.*

The applicant understands and agrees that all final documents need to be corrected prior to final acceptance and recordation. We believe that once the main planning issues are resolved, these changes will be more procedural than substantive.

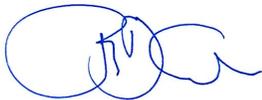
- 9. All typos and errors in all documents need to be corrected and submitted to the planning department with enough time for review.*

Again, the applicant understands and agrees that all final documents need to be corrected prior to final acceptance and recordation by the County as appropriate.

We look forward to any additional comments or responses the commission may have relative to these staff comments along with the nine issues that were raised at the July meeting.



Sincerely,

A handwritten signature in blue ink, appearing to be 'R. Ablondi', written over a circular stamp or mark.

Robert Ablondi, Project Engineer
For River Rim / Big Sky Western Bank

Cc: Kathy Spitzer
Don Chery
Mike Potter
Dan Green

