

AMENDED CAPITAL CONTRIBUTION AGREEMENT

THIS AMENDED AGREEMENT is entered into by and between **WestRock L.P.** an Idaho limited partnership, **WestRock Associates, LLC**, and **WestRock, Inc.** (hereinafter jointly referred to as "Developer") and **Valley County**, a political subdivision of the State of Idaho, (hereinafter generally referred to as "Valley County"), effective the 10 day of June, 2002.

RECITALS

Developer submitted an Application for Concept and PUD Approval of the WestRock Resort Planned Unit Development (hereinafter "PUD" or "Project"), dated March 12, 2001.

As part of the Application, Developer submitted studies which identify the fiscal impacts of the P.U.D. on Valley County and various of its taxing and service districts. In addition, Valley County commissioned an Independent Assessment of the Project's impacts, titled "Independent Assessment of WestRock Lake Cascade Resort" (dated July 31, 2001, by CH2MHILL).

On August 1, 2001, the Valley County Board of County Commissioners ("the Board") approved the PUD (PUD # 98-1).

On September 10, 2001, the Board entered into a Capital Contribution Agreement with the Developer, which identified the required mitigations by Developer of the aforesaid fiscal impacts.

On January 23, 2002, the Board entered into an Amendment to the Agreement.

Developer submitted Applications for CUP 02-04, for 02-05 and for Modification of the PUD on March 15, 2002 (hereinafter "Developer's CUP Application").

The Board voted to approve the Applications on June 3, 2002.

The Board and Developer have agreed to certain additional amendments to the Agreement, which the Board and the Developer desire to memorialize; and, the parties further desire to incorporate the amendment which was memorialized in the aforesaid January 23, 2002 Amendment into this Amended Agreement.

AGREEMENT

THEREFORE IT IS AGREED AS FOLLOWS:

- I. **Intention of Agreement/Definitions:** This Agreement is intended only to memorialize agreed-upon compensation and reimbursements to Valley County, and certain taxing and service districts. This Agreement is not intended to grant the Developer any guarantees or rights supplemental or additional to the approvals which have been or may hereafter be obtained. "Preliminary Site Work" for purposes of this Agreement shall include all work

which is included in the description of "Phase P" in Section V, A of Developer's CUP Application.

II. Off-Site Road Improvements:

A. **Access Road:** Developer agrees to pay a sum equal to thirty percent (30%) of the total project cost for improvement of the main access road between State Highway 55 and the Resort, known as the "Roseberry Access", as defined below. The County and Developer must agree on the specific scope of the improvements to which the Developer will be expected to contribute, regarding which Developer and the County will negotiate in good faith. Developer's agreement shall not be withheld, provided that the Roseberry Access Projects do not materially exceed the scope and elements described below.

B. **Recommended Improvements / "Roseberry Access Projects":** The projects may include the following:

1. **Project 1 - Preliminary Engineering / Corridor Study:** The County shall evaluate options regarding and conduct preliminary engineering for the improvement of the Roseberry access. Developer shall contribute \$50,000 to the County for this Project after the following events have occurred:

- a) the State of Idaho, Department of Lands, and Developer have entered into a final Lease Agreement for the State Lands which are included in the P.U.D.; and,
- b) the County has granted Final Concept and P.U.D. approval for the P.U.D.

This payment shall be credited against Developer's total financial obligation for off-site road improvements, as described herein, but shall be non-refundable.

2. **Project 2 - Tamarack Bridge to the south entrance of WestRock:**

- a) Overlay existing roadway and stabilize sub-grade as needed.
- b) Re-stripe pavement with permanent delineation.
- c) The Developer's financial contributions to the cost of construction of the sewer lines and rehabilitation of the County road surfaces shall be specified in agreements between Developer and the North Lake Sewer District. The cost of this construction and related activity shall be solely the responsibility of Developer and the

North Lake Sewer District. A permit shall be obtained by the District from the County for any disturbance of any County Road.

3. **Project 3 – Connector between Roseberry Road and Tamarack Bridge. Improve Road up to Lake Fork Causeway:**

- a) Build a new section of road from the end of Roseberry Road, over the beginning of Mountain Meadows Road, then curving to the south and joining the end of Tamarack Falls Road, as studied by County Engineers, or widen and improve alignment of Norwood road. Developer's contribution toward right-of-way acquisition shall not exceed \$300,000.
- b) Install a new Bridge over Mud Creek.
- c) Overlay existing roadway and stabilize sub-grade as needed.
- d) Re-stripe pavement with permanent delineation.

4. **Project 4 - Widen existing causeway on Roseberry Road and improve Roseberry Road from Mountain Meadows Road to Highway 55:**

- a) Widen or reconstruct existing causeway pursuant to the aforesaid Preliminary Engineering / Corridor Study.
- b) Overlay existing roadway and stabilize sub-grade as needed.
- c) Re-stripe pavement with permanent delineation.

C. **Method and Timing of Payments for Access Road Improvement:** The Developer's aforesaid contributions shall be paid as follows:

- 1. The Developer shall pay \$150,000 after the following events have occurred:
 - a) Final Preliminary Plat approval, and issuance of a Conditional Use Permit ("C.U.P.") for the P.U.D.. "Final Approval" for these purposes and hereinafter in this Agreement shall mean final action by the County (i.e. after the expiration of all administrative appeals), and the expiration of time for or final resolution of all judicial appeals;and,
 - b) the County has approved and is prepared to proceed with one of the aforesaid projects, with scope and completion date reasonably acceptable to Developer.

2. Regarding any of the aforesaid Roseberry Access Projects which the County completes prior to final Concept Approval and Final Preliminary Plat / C.U.P. approval, as defined above, of the first phase of the P.U.D. which is submitted by the Developer for approval, then Developer's thirty (30) percent contribution shall be paid within sixty (60) days after the aforesaid approvals are final.
 3. Regarding the balance of the aforesaid Roseberry Access Projects, within sixty (60) days after award of the construction contract for the Project, Developer shall either:
 - a) Provide the County with surety acceptable to the County for Developer's thirty (30) percent share; or,
 - b) Deposit the funds into a Valley County interest bearing trust account.
 - c) In either case, Developer's contribution shall be paid to the County, pro rata, no later than ten (10) days after notice to the Developer of the County's approval of each of the Contractor's invoices.
 4. The Developer shall either pay in full or provide the County with surety acceptable to the County for Developer's required contributions to the aforesaid projects, as follows:
 - a) for Project 2, prior to Final Plat recordation for Phase 1;
 - b) for Project 3, prior to Final Plat recordation for Phase 2; and,
 - c) for Project 4, prior to Final Plat recordation for Phase 3.
 5. After the completion of the Preliminary Engineering / Corridor Study, the parties shall re-evaluate the aforesaid surety schedule and/or the phasing of the aforesaid projects.
- D. **Maintenance:** The County will continue to provide year-round maintenance of the Roseberry access road at a level which is within the sole discretion of the Board of County Commissioners.
- E. **Other Contributions:** The County will negotiate comparable capital contribution agreements with future developers of land within the use area serviced by the Roseberry access corridor in order to secure proportionate contributions to the cost of the aforesaid projects.

F. **Donnelly Intersection:** Developer agrees to pay the City of Donnelly's share of the costs incurred for improvements to the intersection of State Highway 55 and Roseberry Road in Donnelly, not to exceed \$600,000, as follows:

1. \$100,000 shall be due and owing thirty (30) days after the last to occur of the following:
 - a) Developer has received final Concept Approval for the P.U.D. and final Preliminary Plat / C.U.P. Approval for the First Phase of the P.U.D. which is submitted by Developer for County approval;
 - b) Developer and the State of Idaho have entered into a Final Lease Agreement regarding, or the State has rendered a final, irrevocable commitment to lease to Developer the State land included in the Project; and,
 - c) the City of Donnelly and the Idaho Transportation Department have executed a contract for planning and design of the intersection.
2. The balance of \$500,000 shall be paid no later than sixty (60) days after the award of the construction contract for the Project, or as required by the Idaho Transportation Department.

III. **Regional Transportation:**

The Developer will work with Valley County and ITD to establish a public transportation network to reduce traffic and the need for personal vehicles. The Developer believes that an efficient transportation system is important to insure that its guests have a high quality experience. Because of this, the resort's land plan includes a transportation center to facilitate mass transportation as well as special parking for buses and vans.

- A. **Boise to WestRock Transportation:** Developer agrees to exercise due diligence in reaching agreement with appropriate carriers to supply this service concurrently with the opening of the resort. If any guarantees are necessary to initiate operation, Developer agrees to fund one hundred percent (100%) of such guarantees; provided, the guarantees may be shared with other developers or operators.
- B. **Valley County Transportation:** The Developer will be a pro-rata partner with other commercial enterprises in any effort by the County to develop such a system.
- C. **Transportation of Construction Workers:** It is presently contemplated that construction workers will use private cars or vans. Upon request by the County, if

the need arises, WestRock agrees to finance van transportation to and from the major RV parks and other locations where workers imported into the area are most likely to stay.

IV. Affordable Housing for Employees:

Affordable, employee housing shall be provided according to the Application filed on March 23, 2001, as amended.

V. School Systems:

Developer shall mitigate the impacts of the Project on the McCall-Donnelly and Cascade School Districts, as follows:

A. Cascade School District:

1. Developer shall make a one-time payment of \$7,000 to the District for each WestRock direct impact New Student Enrollee;
2. Developer shall make a one-time payment of \$10,500 to the District for each WestRock direct impact special needs / LEP New Student Enrollee;
3. "Direct impact" for these purposes shall mean any student: (1) whose custodial parent or parents is employed at the time of enrollment at the WestRock Project (i.e. within the boundaries of the P.U.D.), whether directly by WestRock, by an independent contractor or sub-contractor, or by an independent business, person or entity, including construction workers; or, (2) whose custodial parent or parents is a resident within the Project (which shall include both owners and renters);
4. "New Student Enrollee" means a student who was not enrolled in and did not reside in the District in the prior school year.
5. Developer's aforesaid obligation shall apply to direct impact students who enroll in the District, for the first time, after Developer's commencement of substantial work on the Project. "Substantial work" for these purposes shall be defined as the commencement of work, except for Preliminary Site Work, pursuant to any C.U.P. which plats or provides utilities for twenty (20) or more lots, either within that C.U.P. alone, or cumulatively (hereinafter "the school mitigation start date");
6. Developer's aforesaid obligation shall continue for a period of fifteen (15) years following the school mitigation start date; provided, it is understood that Developer shall make only one payment, as defined above, for each New Student Enrollee, regardless of whether that student continues thereafter to attend school within the District;

7. On or before the school mitigation start date, Developer shall advance \$200,000 to the District, as a prepayment toward Developer's aforesaid obligations. This payment shall constitute a credit against Developer's aforesaid obligations. However, in the event that, over the fifteen (15) year life of Developer's aforesaid obligations, the total moneys owing to the District do not exceed or are less than \$200,000, the District shall be entitled to retain the entire \$200,000; and, Developer shall not be entitled to any refund of any portion thereof;
8. Commencing with the school mitigation start date, the District shall screen New Student Enrollees and shall provide Developer with quarterly statements regarding each New Student Enrollee, with sufficient detail to enable Developer to confirm whether or not the student is a WestRock direct impact New Student Enrollee. These reports shall continue throughout the fifteen (15) year life of Developer's aforesaid obligation; and,
9. If the District receives a sufficient number of New Student Enrollees to produce a total payment obligation for Developer of \$200,000, then, thereafter, the District shall provide a written request for the aforesaid mitigation payments, with its quarterly report, in the event that it has enrolled a new WestRock direct impact new student. Within thirty (30) days after receipt of the quarterly statement, Developer shall provide the funds required by this Agreement.

B. McCall-Donnelly School District:

1. Developer shall make a one-time payment of \$6,500 to the District for each WestRock direct impact New Student Enrollee. In the event that said student re-enrolls in the District in the school year immediately following the student's first year of new enrollment, then Developer shall pay the District an additional \$3,250 for such student;
2. Developer shall make a one-time payment of \$9,750 to the District for each WestRock direct impact special needs / LEP New Student Enrollee; and, if such student re-enrolls in the District, as aforesaid, Developer shall pay \$4,875 in the second year of enrollment for such student
3. "New Student Enrollee" means a student who was not enrolled in and did not reside in the District in the prior school year.
4. "Direct impact" for these purposes shall mean any student: (1) whose custodial parent or parents is employed at the time of enrollment at the WestRock Project (i.e. within the boundaries of the P.U.D.), whether directly by WestRock, by an independent contractor or sub-contractor, or by an independent business, person or entity, including construction workers; or, (2) whose custodial parent or parents is a resident within the Project (which shall include both owners and renters);

5. Developer's aforesaid obligation shall apply to direct impact students who enroll in the District, for the first time, after Developer's commencement of substantial work on the Project. "Substantial work" for these purposes shall be defined as the commencement of work, except for Preliminary Site Work, pursuant to any C.U.P. which plats or provides utilities for twenty (20) or more lots, either within that C.U.P. alone, or cumulatively (hereinafter "the school mitigation start date");
 6. Developer's aforesaid obligation shall continue for a period of five (5) years following the school mitigation start date;
 7. Commencing with the school mitigation start date, the District shall provide the Developer with quarterly statements providing sufficient detail and data regarding each newly enrolled student in the District to enable the Developer to confirm whether or not such students are WestRock direct impact New Student Enrollees. In the event that the New Student Enrollees for the quarter covered by the statement include WestRock direct impact students, then the statement shall be accompanied by a bill to the Developer for the aforesaid payments. The Developer shall provide the District with the aforesaid payments within thirty (30) days after the billing.
 8. The Developer shall pay the District \$325,000 for facilities and facilities' upgrades, which sum shall be payable as follows:
 - a) Developer shall pay the District \$65,000 on or before the school mitigation start date and an identical sum on the first, second, third and fourth annual anniversaries thereof; provided,
 - b) The District shall provide the Developer with a Capital Improvement Plan, which shall describe the facilities or facilities upgrades which the District proposes to complete with the aforesaid \$325,000.00 contribution. To allow the opportunity for the Developer to comment on the Plan and for the Board to consider any such comments, the aforesaid payments shall be due on the later of the school mitigation date or 60 days after the Plan has been provided to the Developer. However, the Board shall have sole discretion over the final ingredients of the Plan.
- C. **Sureties:** Prior to the County's final approval, as defined hereinabove, of any Final Plat . which plats or provides utilities for twenty (20) or more lots, either within that C.U.P. alone, or cumulatively, Developer shall provide the Board of County Commissioners with surety acceptable to the County for the total moneys which Developer could reasonably be expected to pay to the two (2) Districts assuming build out of and completion of all work related to that Final Plat . under

the terms of the aforesaid school mitigation agreements. Prior to final approval of each Final Plat for the Project thereafter, similar surety shall be provided to the Board of County Commissioners for the total payments which Developer could reasonably be expected to be required to make to the Districts, assuming buildout of and completion of all work related to that particular Final Plat

VI. Services Financed from the County General Fund:

- A.** The Developer shall pay the sum of \$525,000 to the County for the impacts of the development on County services, as follows:
 - 1. The sum of \$175,000 no later than thirty (30) days' prior to Developer's commencement of substantial work on the Project. In the event that any judicial appeal of County approval of the P.U.D. or of a C.U.P. is filed by a third-party, then Developer shall pay \$25,000 of the aforesaid sum upon request from the County. ("Substantial work" shall be defined as the commencement of work, except for Preliminary Site Work, pursuant to any C.U.P. which plats or provides utilities for twenty (20) or more lots, either within that C.U.P. alone, or cumulatively).
 - 2. The sum \$175,000 one year thereafter; and
 - 3. The sum of \$175,000 two years thereafter.
- B.** These impact funds shall be disbursed by the Board of Commissioners of Valley County, as deemed necessary by them to address the impacts of the development. It is anticipated that disbursements will be made for impacts on the Sheriff's Office, the Planning & Zoning Department, the Prosecutor's Office, the District Court Facilities, the Valley County Dispatch, and other County services.
- C.** In addition, Developer, and its agents and assigns, shall pay the fees required by prevailing Valley County Ordinances for plan review, to cover the cost to Valley County of review of building permit submittals.
- D.** Upon the request of the County, Developer shall submit surety acceptable to the County for the aforesaid total sum of \$525,000, less any sums already paid to the County, as a condition of the recordation of the first Final Plat for the Project, or any portion thereof, which is approved by the County.

VII. Fire & Emergency Services:

Developer will build a station with fire and emergency services (the "Station"). This Station will be part of a separate fire district staffed by full-time professionals and volunteers, which will have reciprocal support agreements with its neighbors. This Station will open by the end of the third year of construction. During the first three (3)

years of construction, fire and emergency services will be provided by the Donnelly Rural Fire Protection Association, and, in some cases, by their McCall and Cascade counterparts. Developer shall mitigate the impacts of the Project during these first three (3) years, as follows:

- A. Commencing no later than thirty (30) days prior to Developer's commencement of "substantial work" on the Project, as the same is defined hereinabove, Developer shall contribute the sum of \$10,000 per year to the Donnelly Association for a period of three (3) years (i.e. a total of three [3] payments);
- B. Developer shall guarantee the fees of the Donnelly Association and the McCall and Cascade Fire Protection Districts for ambulance runs related to WestRock, as follows:
 - 1. Developer's obligation shall be to guarantee or underwrite the Association's or Districts' fees, at then prevailing fee schedule rates, for ambulance runs related to WestRock; provided, Developer's obligation shall be limited to the difference between the Association's and the Districts' total fees for a particular WestRock related ambulance run and the sum which the Association's and Districts are able to collect from the benefited party or his/her insurance carrier or provider;
 - 2. the Association and Districts shall make diligent efforts to recover the full cost of each ambulance run which is related to WestRock from the person who is transported by the Association or Districts or his/her insurance carrier or provider; and, to the extent allowed by law, the Association and Districts shall subordinate and assign to WestRock their right to collect such sums from any person from whom the Association or Districts collect less than their full fee schedule;
 - 3. Developer's guarantee to underwrite such fees shall continue for three (3) years following the date on which substantial work on the Project commences, as defined above;
 - 4. the Association and Districts shall provide the Developer with a monthly statement, which itemizes and details each ambulance run for which the Association or District seeks reimbursement and which further documents the Association's or District's efforts to collect the fees associated therewith and the results of those efforts;
 - 5. within fifteen (15) days after Developer's receipt of the statement, Developer shall pay the Association or District the sums required under the terms of this Agreement;

6. a "WestRock related ambulance run" shall mean a run in which any of the following persons is transported:

- a) a person who at the time of the run is principally employed at the WestRock Project, whether directly by WestRock, by an independent contractor or sub-contractor, or by an independent person, entity or business, including construction workers; and,
- b) residents within the Project, including both owners and renters.

7. the Board of Commissioners shall have the discretion to require security for Developer's aforesaid obligations as a condition of the recordation of individual Final Plats for the Project.

C. In addition to the payments specified above, no later than 30 days after Developer's commencement of any Preliminary Site Work, Developer shall pay the sum of \$10,000.00 to the Donnelly Association, to mitigate any interim impacts of the Developer's activities on the Association.

D.. The parties acknowledge that the Project's impacts on fire and emergency services need to continue to be evaluated and monitored, as does the issue of how to best provide ambulance services County-wide. Developer and the Donnelly Association shall continue to review options and negotiate in good faith. The Board will review this issue with each Final Plat which is submitted by Developer for Board approval..

VIII. Capital Contribution Process:

In the event that any of the aforesaid beneficiaries of this Agreement (i.e. the County, the Donnelly Rural Fire Protection Association, the McCall Fire District, the Cascade Fire District, the Cascade School District, the McCall-Donnelly School District or the City of Donnelly) conclude that a capital contribution is due and owing under the terms of this Agreement and has not been paid, then such beneficiary shall provide Developer with written notice specifying the contribution which is owed. Within thirty (30) days after the date of the request, Developer shall either pay the requested capital contribution, in accordance with the terms of this Agreement; or, if Developer does not believe that the request is proper under the terms of this Agreement, the Developer shall provide the said beneficiary and the County with written notice of the basis for Developer's objection to the request. In case such an objection by Developer is lodged, then the said Beneficiary and Developer shall meet within fourteen (14) days after the date of such objection and negotiate in good-faith to resolve the issues raised by the objection. In the event that such negotiations do not resolve the dispute, then Developer and the Beneficiary shall present their positions to the Board of County Commissioners, who shall decide whether the requested contribution is, in fact, owed under the terms of this Agreement. Appeal from the decision of the Board shall be allowed, as provided by Idaho law. As a condition of the appeal, the Developer shall tender to the County the entire amount in dispute or shall supply the County with surety for such amount in a form acceptable to the County.

IX. Miscellaneous Provisions:

- A. **Succession:** The terms of this agreement shall be binding on and shall inure to the benefit of the assigns and successors of the Developer.
- B. **State Lease Contingency:** Developer's performance of its obligations and duties defined herein shall be contingent upon Developer and the State of Idaho entering into a final and binding Lease Agreement for and regarding the State Lands which are part of the Project.
- C. **Unanticipated Impacts:** The provisions of this Agreement and of the Capital Contribution Agreement shall be evaluated on an ongoing basis as C.U.P.'s implementing the Project are submitted for County review. If unanticipated impacts arise, then Developer and the County shall negotiate in good-faith regarding mitigations of those impacts.
- D. **Severance of Provisions:** In the event that any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions of the Agreement shall continue in effect.
- E. **Developer's Compliance with VCLUDO:** The terms of this Agreement shall not excuse or alter the Developer's responsibility to comply with the requirements of the VCLUDO, nor of any C.U.P. which is issued for the Project, or any phase thereof.
- F. **Warranty of the Parties:** The parties to this Agreement each warrant that they have all necessary authority to execute this Agreement.
- G. **Relationship of the Parties:** This Agreement does not create a joint venture relationship, partnership or agency relationship between the County and Developer.
- H. **Article and Section Captions:** The Article and Section captions used in this Agreement are for convenience only and are not intended to be substantive provisions or evidence of intent.
- I. **Preparation of Agreement:** Each party has participated in negotiating and drafting this Agreement and, therefore, no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.
- J. **Modification:** This Agreement represents the entire agreement between the parties as of the date of its execution. It may not be amended or modified except by means of a subsequent written agreement properly executed by all parties.
- K. **Venue in the Event of Dispute:** This Agreement is entered into in Valley County in the State of Idaho, and shall be construed in accordance with the laws of the State of

Idaho. Venue for any dispute between the parties shall be the Fourth District Court in and for the State of Idaho, County of Valley.

- L. **Attorney's Fees for Prevailing Party:** In the event that a dispute arises between the parties regarding the enforcement of any provision of this Agreement, then the prevailing party in such dispute shall be entitled to recover its attorneys fees and costs incurred.
- M. **Assignability:** The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the prior written consent of the County. The County shall not withhold its consent unless it fails to receive reasonable satisfaction of the assignee's financial ability to perform and/or surety agreements satisfactory to the County for Assignee's assumption of Developer's obligations. Developer shall give notice to the County of any proposed assignment and provide such information regarding the proposed assignee as may be reasonably required by the County to evaluate such assignee's financial capabilities. The County shall respond in writing to the request for assignment within sixty (60) days after the date of notice of the assignment. Developer's conveyance of individual parcels or tracts of lands to builders, users, or other developers shall not be deemed to be an assignment of and shall not relieve Developer of Developer's responsibilities hereunder.
- N. **Notices:** All notices required under the terms of this Agreement shall be given in writing by personal service or by certified mail to the parties at the following addresses:

1. **To the County:** Valley County Board of County Commissioners
P. O. Box 1350
Cascade, Idaho 83611

With Copies to: Valley County Prosecuting Attorney
Valley County Courthouse
P. O. Box 1350
Cascade, Idaho 83611

2. **Developer:** Jean-Pierre Boespflug
WestRock Associates, LLC
c/o Cross Atlantic Ventures, LLC
56 Hawthorne Village Road
Nashua, NH 03062

Donald K. Weilmunster
WestRock L.P.
P. O. Box 4
Garden Valley, ID 83622

With Copies to:

Steven J. Millemann, Esq.
Millemann, Pittenger, McMahan & Pemberton, LLP
Attorneys at Law
P. O. Box 1066
McCall, ID 83638

Any party may change its address for purposes of Notice under this Agreement, by giving written notice to the other party of the name and address change.

- O. **Remedies Upon Default:** In addition to any and all remedies which might be available to the parties under the terms of this Agreement or by law, in the event of an uncured default of this Agreement, the non-defaulting party shall be entitled to the imposition of specific performance and/or injunctive relief. All remedies available to a party shall be deemed cumulative and the selection of one remedy shall not be deemed a waiver of any other right or remedy.
- P. **Non-Waiver:** The failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right.

VALLEY COUNTY BOARD OF COMMISSIONERS:

By: Terry F. Gestrin
Commissioner / Chairman Terry F. Gestrin

Date: 10 JUNE 2007

By: F. Phillip Davis
Commissioner F. Phillip Davis

Date: 6/10/2002

By: Thomas W. Kerr
Commissioner Thomas W. Kerr

Date: 6-10-2002

ATTEST:

VALLEY COUNTY CLERK:

Leland G. Heinrich
LELAND G. HEINRICH

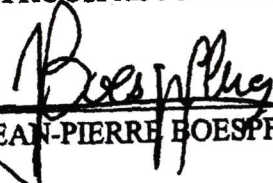
Date: 6-10-2002

WESTROCK L.P.

By: Don Weilmunster
DON WEILMUNSTER

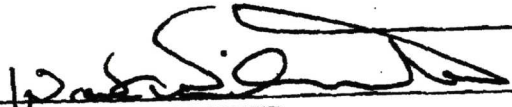
Date: 6-10-02

WESTROCK ASSOCIATES, LLC

By: 
JEAN-PIERRE BOESPFLUG

Date: 6/25/02

WESTROCK, INC.

By: 
DON WEILMUNSTER

Date: 6/26/02

After Recording
Return to:

T. Hethe Clark
Clark Wardle LLP
P.O. Box 639
Boise, Idaho 83701

DEVELOPMENT AGREEMENT
[MacGregor Townsite]

This Development Agreement (this "**Agreement**") is entered into effective as of the date last written below, by and among VALLEY COUNTY, IDAHO, a body politic within the State of Idaho (the "**County**") and Groves Family, LLC, an Idaho limited liability company (the "**Developer**"). The County and the Developer are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**."

WITNESSETH:

WHEREAS, the Developer is the owner of record of that certain real property legally described on **Exhibit A**, attached hereto and made a part hereof (the "**Property**");

WHEREAS, the Developer is seeking approval of applications PUD 23-02 and CUP 23-52 (the "**Applications**") consisting of three hundred forty-one (341) housing units to be built out in six (6) phases across fifteen (15) years, for which North Lakes Sewer & Water District will provide sewer and wastewater services, and which will have community amenities for recreational courts, a village plaza, a seasonal outdoor ice-skating rink, pathways, and approximately forty-nine (49) acres of open space;

WHEREAS, the Developer has proposed that the Property be developed pursuant to and in accordance with the Applications, the County's Comprehensive Plan and Zoning Ordinance in effect on the date of application, and in accordance with the terms and conditions of this Agreement and any amendments hereto. Such development is hereafter referred to as the "**Project**";

WHEREAS, the County has the authority pursuant to Section 9-9-9 of the Valley County Code and Section 67-6512(d) of Idaho Code to attach certain conditions to a special use permit and condition the approval of a Planned Unit Development on, among other things, minimizing the impact on other development, providing on-site or off-site public facilities and requiring the mitigation of effects of the proposed development upon service delivery by any political subdivision. See Idaho Code § 67-6512(d)(1),(6),(8). These conditions of approval are to be memorialized in a Development Agreement for the purpose of allowing, by agreement, the proposed development to proceed;

WHEREAS, the County's Planning & Zoning Commission (the "**Commission**") and County Commissioners (the "**Board**") held public hearings as prescribed by law with respect to the development of the Property and this Agreement, including: April 3, 2024 (continued from January 11, February 8, and March 14, 2024) (Commission) and June 10, 2024, and July 1, 2024 (Board);

WHEREAS, all public hearings pursuant to notice as required by law or other action required to be held or taken prior to the adoption and execution of this Agreement have been held and/or taken;

WHEREAS, the Board approved the Applications on August 26, 2024, subject to review and approval of this Agreement and written findings of fact and conclusions of law (the "**Written Decision**");

WHEREAS, upon approval of this Agreement and the Written Decision, it is the intent and desire of the Parties that development of the Property proceed as provided herein, subject to the terms and conditions of this Agreement; and,

WHEREAS, the Parties do enter into this Agreement with mutual consideration as reflected in the covenants, duties, and obligations herein set forth.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Development Permitted by this Agreement. This Agreement shall vest the right to develop the Property, as described on Exhibit A, with respect to the approval of each of the Applications (the "Approvals"), as restricted by those certain conditions of approval identified on **Exhibit B** attached hereto and made a part hereof (the "Conditions"). Development shall be substantially consistent with those certain concept plans and depictions identified on **Exhibit C**, attached hereto and made a part hereof.

2. Recordation. The Developer shall record this Agreement, including all of the exhibits attached hereto, and submit proof of such recording to the County within ten (10) business days of execution hereof by the County. Failure to comply with this section shall be deemed a default of this Agreement by the Developer.

3. Effective Date. This Agreement will be effective upon recordation.

4. Development to be Consistent with the Approvals and this Agreement. Development of a portion of the Property substantially inconsistent with this Agreement and the Written Decision, as determined by the County Planning Director, without formal modification of the Approvals or the Concept Plan pursuant to the requirements of the Valley County Code, and/or amendment of this Agreement, shall result in a default of this Agreement by the Developer in connection with such specific portion of the Property, subject to the cure provisions of Section 6, below.

5. Default. In the event the Developer, its heirs, successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, fails to faithfully comply with all of the terms and conditions included in this Agreement in connection with a portion of the Property, this Agreement may be modified or terminated by the Board after consultation with and with written notice to the Developer and upon compliance with the requirements of Valley County Code and the notice and cure provisions set forth below.

6. Remedies. This Agreement shall be enforceable in any court of competent jurisdiction by either the County or the Developer, or by any successor or successors in title or interest or by the assigns of the Parties. Enforcement may be sought by an appropriate action at law or in equity to secure the performance of the covenants, agreements, conditions, and obligations contained herein.

a. In the event of a material breach of this Agreement, the Parties agree that the County and the Developer shall have thirty (30) days after delivery of notice of said breach to correct the same prior to the non-breaching party's seeking of any remedy provided for herein; provided, however, that in the case of any such default that cannot with diligence be cured within such thirty (30) day period, if the defaulting Party shall commence to cure the same within such thirty (30) day period and thereafter shall prosecute the curing of same with diligence and continuity, then the time within which such failure may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity.

b. In the event the performance of any covenant to be performed hereunder by either the County or the Developer is delayed for causes which are beyond the reasonable control of the Party responsible for such performance, which shall include, without limitation, natural disasters, pandemics, changes in the law, emergency orders, acts of civil disobedience, strikes or similar causes, the time for such performance shall be extended by the amount of time of such delay.

7. **Notices.** Any and all notices, demands, requests, and other communications required to be given hereunder by either of the Parties shall be in writing and be deemed properly served or delivered, if delivered by hand to the Party to whose attention it is directed, or when sent, two (2) days after deposit in the U.S. mail, postage prepaid, addressed as follows:

To the County:

Valley County
c/o Director, Planning & Development Services Department
219 N. Main St.
Cascade, Idaho 83611

To the Developer:

Groves Family, LLC
Attn: Craig Groves _____
P.O. Box 10014 _____
Donnelly, Idaho 83615 _____

or at such other address, or to such other Party which any Party entitled to receive notice hereunder designates to the other in writing as provided above.

8. **Attorneys' 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. This provision shall survive any default, termination, or forfeiture of this Agreement.

9. **Time is of the Essence.** The Parties acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the Party so failing to perform.

10. **Binding upon Successors.** This Agreement shall be binding upon and inure to the benefit of the Parties' respective heirs, successors, assigns, and personal representatives, including the County's corporate authorities and their successors in office. This Agreement shall be binding on the owner of the Property, each subsequent owner and each other person acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefitted and bound by the conditions and restrictions herein expressed.

11. **Final Agreement; Modification.** This Agreement sets forth all promises, inducements, agreements, conditions, and understandings between the Developer and the County relative to the subject matter hereof, and there are no promises, agreements, conditions, or understanding, either oral or written, express or implied, between the Developer and the County, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to County, to a duly adopted ordinance or resolution of the County.

a. This Agreement shall not preclude the application of any law that is specifically mandated and required by changes in state or federal laws or regulations. In the event such law prevents or precludes compliance with one or more provisions of this Agreement, the County and the Developer shall meet and confer to determine how provisions of this Agreement would need to be modified or suspended in order to comply with the law while still allowing the project to proceed substantially in accordance with the Written Decision. The Developer shall prepare and process the necessary amendment or amendments to this Agreement reasonably required in order to complete the development of the Property in accordance with the Written Decision.

12. Invalid Provisions. If any provision of this Agreement is held invalid, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect any of the other provisions contained herein, except that if any provision of this Agreement is held invalid which the Developer deems essential to its development of the Property, the Developer may, at its sole discretion, declare this entire Agreement null and void of no force and effect and thereby relieve all Parties from any obligations hereunder.

13. No Agency, Joint Venture or Partnership. The County and the Developer hereby agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the County and the Developer joint venturers or partners.

14. Construction. This Agreement has been reviewed and revised by legal counsel for both the County and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

15. Choice of Law. This Agreement and its performance shall be construed in accordance with and governed by the laws of the State of Idaho, with venue for any action brought pursuant to this Agreement to be in the Fourth Judicial District, Valley County, State of Idaho.

[end of text; signatures on following page]

IN WITNESS WHEREOF, the Parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year last written below, the same being done after public hearing, notice and statutory requirements having been fulfilled.

THE COUNTY:

VALLEY COUNTY, IDAHO,
an Idaho municipal corporation

By: Elting A. Hasbrouck
County Commissioner
Dated: 11-12-24

By: Sherry Maupin
County Commissioner
Dated: 11-12-24

By: Neal Thompson
County Commissioner
Dated: 11-12-24

ATTEST:

By: Wesley A. Hill
Ex-Officio County Clerk
Dated: 11-12-2024

STATE OF IDAHO)
) ss.
County of Valley)

On this 12th day of November 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Sherry Maupin, Neal Thompson, and Elting Hasbrouck known or identified to me to be the Valley County Board of Commissioners and EX-OFFICIO COUNTY CLERK of VALLEY COUNTY, the body politic of the State of Idaho that executed the instrument or the person who executed the instrument on behalf of said body politic, and acknowledged to me that such body politic executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Gabrielle Knapp
Notary Public for Idaho
Residing at Cascade
My commission expires: April 21, 2029

THE DEVELOPER:

GROVES FAMILY, LLC,
an Idaho limited liability company

RSG
By: R. CRAIG GROVES
its, Manager
Dated: 11-20-24

STATE OF Idaho)
County of Valley) ss.

On this 20th day of November, 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Craig Groves, known or identified to me to be the MANAGER of GROVES FAMILY, LLC, the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Johanna Defort
Notary Public for State of Idaho
Residing at Cascade ID
My commission expires: 12/14/2027

EXHIBITS:

- Exhibit A: Legal Description of the Property
- Exhibit B: Conditions of PUD Approval
- Exhibit C: Concept Plan
- Exhibit D: Clubhouse Depictions
- Exhibit E: Open Space, Trails, and Pathways Plan
- Exhibit F: Amenities Plan
- Exhibit G: Parking Plan
- Exhibit H: Phasing Plan

EXHIBIT A
Legal Description of the Property

Parcel RP16N03E270005 located at the intersection of Loomis Lane and
Old State Road, in the NE¼ Section 27, T. 16N, R. 3E, Boise Meridian,
Valley County, Idaho

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING THE NORTHEAST QUARTER (NE¼) OF SECTION 27, TOWNSHIP 16 NORTH, RANGE 3 EAST, BOISE MERIDIAN, VALLEY COUNTY, IDAHO.

EXCEPTING THEREFROM THAT PORTION AS DEEDED TO STATE OF IDAHO BY RIGHT-OF-WAY DEED DATED APRIL 16, 1931 AND RECORDED ON APRIL 22, 1931, AS INSTRUMENT NO. 15684.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 27, MARKED BY A 5/8" REBAR WITH YELLOW PLASTIC CAP "USBR PC PE 836-1975" PER CP&F INSTRUMENT NO. 283785, FROM WHICH THE NORTHEAST SECTION CORNER OF SAID SECTION 27, MARKED BY A RAILROAD SPIKE PER CP&F INSTRUMENT NO. 352120, BEARS SOUTH 89°12'55" EAST, A DISTANCE OF 2658.50 FEET, **THE REAL POINT OF BEGINNING;**

THENCE SOUTH 89°12'55" EAST, COINCIDENT WITH THE NORTH SECTION LINE OF SECTION 27, A DISTANCE OF 2625.50 FEET TO A POINT ON THE WESTERLY LINE OF THAT STATE OF IDAHO RIGHT-OF-WAY AS DESCRIBED IN INSTRUMENT NO. 15684, VALLEY COUNTY RECORDS;

THENCE SOUTH 00°24'13" WEST, COINCIDENT WITH SAID WESTERLY RIGHT-OF-WAY LINE BEING OFFSET 33 FEET WESTERLY OF AND PARALLEL WITH THE EAST SECTION LINE OF SAID SECTION 27, A DISTANCE OF 2628.11 FEET TO A POINT ON THE EAST-WEST CENTER SECTION LINE OF SAID SECTION 27, FROM WHICH THE EAST ¼ OF SAID SECTION 27 MARKED BY A 1" IRON PIPE WITH NO CAP PER CP&F INSTRUMENT NO. 351993 BEARS SOUTH 89°28'16" EAST, 33.00 FEET;

THENCE NORTH 89°28'16" WEST, COINCIDENT WITH SAID EAST-WEST CENTER SECTION LINE, A DISTANCE OF 1295.23 FEET TO THE C-E 1/16 CORNER OF SAID SECTION 27, MARKED WITH A 1/2" REBAR WITH NO CAP, SAID POINT ALSO BEING THE NORTHEAST CORNER OF DONNELLY ESTATES SUBDIVISION, RECORDED IN BOOK 5, PAGE 11 (INSTRUMENT NO. 81950), VALLEY COUNTY RECORDS;

THENCE NORTH 89°27'26" WEST, COINCIDENT WITH SAID EAST-WEST CENTER SECTION LINE AND THE NORTHERLY BOUNDARY LINE OF SAID DONNELLY ESTATES SUBDIVISION, A DISTANCE OF 1329.14 FEET TO THE CENTER ¼ CORNER OF SAID SECTION 27, MARKED BY A 1/2" REBAR WITH NO CAP, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID DONNELLY ESTATES SUBDIVISION AND A POINT ON THE EASTERLY BOUNDARY OF RAILROAD VILLAGE AS RECORDED IN BOOK 9, PAGE 48 (INSTRUMENT NO. 281121), VALLEY COUNTY RECORDS;

THENCE NORTH 00°22'50" EAST, COINCIDENT WITH THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 27, ALSO BEING THE EASTERLY BOUNDARY OF SAID RAILROAD VILLAGE, A DISTANCE OF 2639.51 FEET TO THE **POINT OF BEGINNING.**

THE ABOVE-DESCRIBED PARCEL CONTAINS 6,913,693 SQUARE FEET OR 158.72 ACRES,
MORE OR LESS.

THIS PARCEL IS SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD OR
IMPLIED.

EXHIBIT B
Conditions of PUD Approval

1. **Compliance with Plans.** Substantial compliance with plans and specifications submitted to and on file in the Planning and Zoning Department pursuant to PUD 23-02 and CUP 23-52, except as expressly modified herein or pursuant to application to the County. All conditions of the Development Agreement will apply to each of the future conditional use permits/preliminary plats.
2. **Maximum Units.** The maximum number of residential lots allowed shall be 341.
3. **Annexation.** The covenants, conditions, and restrictions for the Project (the "CCRs") shall include a requirement and consent on behalf of all future and current landowners to annexation to the City of Donnelly at such time as the Project is contiguous to the City of Donnelly. By acquiring a lot in the Project, each landowner shall be deemed to have consented to such annexation.
4. **Amenities.** The Project shall include the following amenities: recreational courts, a supporting out-building and village plaza, seasonal outdoor ice-skating rink, pathways, and approximately forty-nine (49) acres of open space, as further depicted on **Exhibit F**, attached hereto and made a part hereof (the "**Amenities Plan**"). Amenities shall be installed in accordance with the Phasing Plan attached hereto as **Exhibit H** and made apart hereof. Unless an amenity described in the Amenities Plan is already completed by the end of its specified phase, the Developer will provide an irrevocable letter of credit prior to final plat recording in an adequate amount to complete the amenities for such phase.
5. **Marketing.** Developer shall market the lots in each phase first to local (Valley County) full-time residents, and in its sales approach will provide those residents initial priority.
6. **Short-Term Rentals.** The CCRs shall require that no more than fifteen percent (15%) of lots in each phase can be used as short-term rentals. The homeowners' association ("**HOA**") for the Project shall be responsible for enforcement of such limitation. All other rentals shall be a minimum of three (3) months. Any owner or purchaser seeking to use a lot as a short-term rental shall obtain all necessary permits and/or approvals from the County in accordance with Valley Code Section 9-4-10, as well as approval of the HOA.
7. **Infrastructure.**
 - a. **Sewer and Water.** An agreement with North Lake Recreational Sewer and Water District ("**NLRSWD**") providing for water and wastewater connection and ongoing service must be finalized prior to final plat recordation and prior to approval of residential building permits they must have a sewer/water permit. Such agreement shall include all improvements to area sewer and water infrastructure sufficient to permit NLRSWD to service the Project. It is understood that occupancy of the residence will not be given until connected to sewer and water. Prior to the recordation of the final plat, sanitary restrictions must be lifted by Central District Health.
 - b. **Ponds Operations Plan.** Prior to recording the final plat, Developer shall provide to the County an operations and maintenance plan for the ponds within the Property (the "**Pond Operations Plan**"). The Pond Operations Plan shall describe the timeline for the creation of the pond, the initial and long-term maintenance schedule of the ponds, techniques for ensuring the ponds will be aerated and adequately hold water, the timing of operations and maintenance in conjunction with phase build-out of the Project, and the estimated dimensions and capacity of the ponds. The pond water will be used for irrigation of common areas but can also be used on non-common area lots should there be excess availability of the allotted surface water right after irrigation use of the common areas. The County's engineer shall review and approve the Pond Operations Plan prior to recordation

of the first final plat containing the ponds. Developer currently owns Water Right 65-2609 and shall submit in conjunction with its Pond Operations Plan proof of a current water right with a beneficial use adequate to serve the ponds.

- c. **Stormwater Management.** Prior to recording the final plat, Developer shall provide County its stormwater management plan for the entirety of the Property, in particular the ponds, backyards and drainage along the east side of the railroad. The County's engineer shall review and approve the proposed detailed stormwater management plan. Any work necessary to facilitate the stormwater management plan that is located in areas of the Project adjacent to property in Railroad Village will be communicated to the County and notice of such work shall be provided to applicable landowners in Railroad Village thirty (30) days prior to commencement of the work. The CCRs will set forth maintenance requirements of each lot in the Project that are consistent with Section 9-4-3-4.F of Valley County Code, as amended from time to time, regarding best management practice for surface water management.
8. **Traffic Mitigation.** Developer has submitted a traffic impact study dated February 1, 2024 (the "TIS"), pursuant to which the following road mitigation will be constructed (by Developer or others):
- a. Prior to recording Phase 1: 4-way stop signs at intersection of Loomis Lane/Old State Road will be installed by Developer or at Developer's expense. Signs shall comply with all applicable federal, state and local sign standards.
 - b. Prior to recording Phases 2: a traffic analysis and/or changes to the TIS, in cooperation with Idaho Transportation Department and Valley County, will be done to determine if amendments need to be made to the traffic mitigation noted in the TIS, e.g., turn lanes at intersection of State Highway 55 and Loomis Lane. Developer agrees that an updated traffic analysis or amendments to the TIS may require additional mitigation measures ("Additional Mitigation Measures"). The Parties shall determine which Additional Mitigation Measures the Developer shall be responsible for completing, up to the Developer's proportionate share of the construction costs. The Developer's proportionate share shall be negotiated by the Parties following the completion of the Phase 2 traffic analysis.
 - c. Prior to 2028 or recording Phase 2, whichever comes later: a right-turn lane for the southbound approach for the intersection of Loomis Lane/Old State Road;
 - d. Prior to recording Phase 3, a right-turn lane for the southbound approach for the intersection of State Highway 55/Old State Road;
 - e. Prior to recording of Phase 3, a southbound right-turn lane at the intersection of State Highway 55 and Loomis Lane; and
 - f. Prior to recording of Phase 5: a left-turn lane for the northbound approach at the intersection of State Highway 55 and Loomis Lane.

All the foregoing improvements are subject to the availability of right-of-way. It is understood by the Parties that if private property is required to be purchased to acquire enough right-of-way, the Parties will cooperate in good faith to acquire the necessary property. If adequate right-of-way cannot be acquired, subsequent phases may not be approved by the County unless the Developer places the funds that would be spent on the relevant improvements into a road trust with the County, which will permit the County to construct such improvements at such time as right-of-way is acquired. Such road trust shall require that the funds be applied to the improvements for which the payment has been made, and shall have a term of seven (7) years, after which time the funds associated with the foregoing improvements will be returned if not otherwise spent. Successful completion of traffic mitigation required in this Section 8 is a condition precedent of all subsequent phases of PUD 23-02 and CUP 23-52.

Due to the size and phased approval of this development, Developer agrees to provide an annual update in January of each year to the Valley County Board of Commissioners. Developer shall coordinate the date and time of the annual update with the Valley County Clerk to ensure that it

gets on an agenda at least once annually to report progress toward Traffic Mitigation benchmarks and other milestones of this development.

Unless the TIS update process identified in Section 8.b directs otherwise, the foregoing improvements are deemed by the County to satisfy Valley County Road & Bridge requirements pursuant to its February 13, 2024 correspondence.

If another development project is proposed (each, an "**Outside Project**") that would generate traffic impacts contributing to the need for the improvements identified above, and such Outside Project is reviewed by the County prior to construction of the improvements identified in this Section 8, the County shall evaluate and, where equitable, require such Outside Project to contribute proportionally to the cost of the foregoing improvements via condition of approval.

9. **Dust Mitigation.** Developer will ensure that dust during construction of the Project will be controlled in accordance with standards set forth by Idaho Department of Environmental Quality and any other local government having jurisdiction.
10. **Public Service Lot.** Developer has identified a one-acre lot within the Project that will be developed as a public area that can be used as a parking area and trailhead. The site will be developed at the same time and with the first final plat containing the ponds. The CCR's shall contain a provision that prohibits overnight parking on the public service lot, to be enforced by the HOA the same as other parking restrictions within the development. The site should be posted as "Day Use Only."
11. **Landscaping.** The CCR's shall contain provisions governing the landscaping of the common areas including that fertilizer use shall be minimized, planted grasses thereon must be those that grow naturally in Valley County and require less water, and noxious weeds shall be adequately controlled. Prior to recording the final plat of each phase, Developer shall provide the County with a timeline of when landscaping will be installed along Loomis Lane and Old State Road in areas where such roadways abut the Property. Developer will install minimal landscaping, place a pathway, and improve the appearance along Loomis Lane during Phase 1 in areas where such roadway abuts the Property; said landscaping along Loomis Lane will be completed by recordation of Phase 3.
12. **Fencing.** Developer will require open rail fencing along pathways, which the applicable HOA will maintain. Privacy fencing in the back yard of lots will be allowed subject to allowances set forth in the CCRs.
13. **Wetlands.** Developer previously submitted a wetland delineation determination to the U.S. Army Corps of Engineers and will continue to work in good faith with said Corps of Engineers in accordance with the wetland delineation report(s) that may be issued, as well as using best efforts to reasonably incorporate and preserve wetlands along the Project's western boundary.
14. **Western Trees.** Developer desires to preserve the existing trees located along the upper western boundary of the Project and will take reasonable measures to preserve the same to extent preservation is feasibly possible.
15. **Wildlife Friendly Corridors.** The Project's existing open space corridors between residential blocks will have wildlife friendly features such as wildlife friendly fencing and landscaping, including a restriction in the CCRs on Japanese Yew within the Project.
16. **Dogs.** To help mitigate possible adverse impact on wildlife, the CCRs will provide that dogs are not allowed to roam within the Project and must be contained in an enclosed area or handled on a leash when outside of residential structures.

17. **Wildlife Management Program.** The CCRs shall provide that each residential lot shall remit an annual contribution of Twenty-Five and 00/100 Dollars (\$25.00) to the HOA which funds will be set aside in a designated fund to implement responsible wildlife management programs on-site or off-site pursuant to the discretion of the HOA's governing board.
18. **On-Street Parking.** The CCRs shall provide enforcement so that no on-street parking will be permitted within the Project.
19. **Ice Rink Operations Plan.** Prior to recording the first final plat, Developer shall provide a facilities operations and maintenance plan for the seasonal ice rink within the Property (the "**Ice Rink Operations Plan**"), The Ice Rink Operations Plan shall describe the use of the rink, hours and months of operation, and plans of how the rink will be used as a community gathering area during the months it is not an operational ice rink. Small ensembles for community gatherings will be allowed at the ice rink, but shall conclude by 9:00 p.m.
20. **Phasing Plan.** The Project shall be phased in accordance with that certain phasing plan attached as **Exhibit H**, attached hereto and made a part hereof.
21. **Amendment.** No changes to this Agreement shall be permitted unless specifically agreed to in writing by Developer and the County in accordance with then-applicable County ordinance requirements.
22. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein. Any violation of any portion of the permit will be subject to enforcement and penalties in accordance with Title 9-2-5; and, may include revocation or suspension of the conditional use permit.
23. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
24. The final plats of Phase 1 and Phase 2 shall be recorded by December 2029, or an extension obtained, or this permit will be null and void.
25. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
26. Must have an approved storm water management plan and site grading plan approved by the Valley County Engineer prior to any work being done on-site.
27. Prior to each final plat, the applicant's engineer shall certify that the roads have been built to approved standards or be financially guaranteed. Applicant's engineer shall also confirm all utilities were placed according to the approved plans.
28. Wetlands must be delineated and shown on the final plat.
29. All easements shall be shown on the final plat.
30. Must bury conduit for fiber optics with utilities.
31. Building setbacks shall be noted on the final plat.

32. A Private Road Declaration is required to confirm that the roads will be maintained.
33. A Declaration of Installation of Utilities is required with the final plat.
34. The Wildland Urban Interface Protection Plan shall be recorded and noted on the face of the plat.
35. Must comply with the requirements of the Donnelly Rural Fire Protection District unless specifically allowed as a variance in regards to a planned unit development or a letter of approval is received from Donnelly Rural Fire Protection District.
36. CCR's should address lighting, noxious weeds, wildfire prevention, fire wise wildland urban interface landscaping requirements, dogs being a nuisance to adjacent agricultural uses, and limit each lot to one wood-burning device.
37. CCR's will state that there is no long-term parking of Recreational Vehicles, boats, etc. in the platted private road right-of-way; and that there will be no parking in the travelled way. Long-term parking should be defined in the CCR's as over 48 consecutive hours.
38. Must have a fencing plan with neighboring properties if they run livestock for over 30 days per year, consistent with Idaho Code.
39. All lighting must comply with the Valley County Lighting Ordinance.
40. Shall place addressing numbers at each residence.
41. A Development Agreement should be agreed upon for off-site road improvements and matters agreed upon in the application and presentation prior to the recording of Phase 1.
42. An agreement with North Lake Recreational Sewer must be finalized prior to approval of building permits.
43. The applicant will update the Planning and Zoning Commission on a biannual basis.
44. The following notes shall be placed in the notes on the face of the final plat:
 - a. "The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed."
 - b. "All lighting must comply with the Valley County Lighting Ordinance."
 - c. "Surrounding land uses are subject to change."
 - d. When contiguous with the City of Donnelly, the City can annex MacGregor Townsite without dispute.
45. Footing drains will be part will be part of structure design if there are crawl spaces. Draining plans for each individual lot shall be submitted and reviewed by the applicable architectural control committee.
46. Snow storage areas will be identified on the final plats. The Valley County Engineer will verify that the snow storage areas are adequate.
47. Open space easements will be removed from the rear yards. Recommend open rail fencing be required along pathways and maintenance of the open rail fencing will be done by the Homeowner's Association. Privacy fencing in the back yard will be allowed subject to placement allowance in the CCR's.

48. Music concerts will not be allowed without first obtaining a conditional use permit after which approval from the Board of the Home Owner Association will be required, which approval will not be unreasonably withheld and will ensure said concerts substantially comply with the conditional use permit. Small ensembles of community gatherings will be allowed up to 9:00 p.m. in the evening.
49. Pressurized irrigation system for entire subdivision not just the common areas, if water rights allow.
50. Snow storage easements shall be depicted on the final plat of each but not exceed twelve feet (12 ft.).

EXHIBIT C
Concept Plans and Depictions

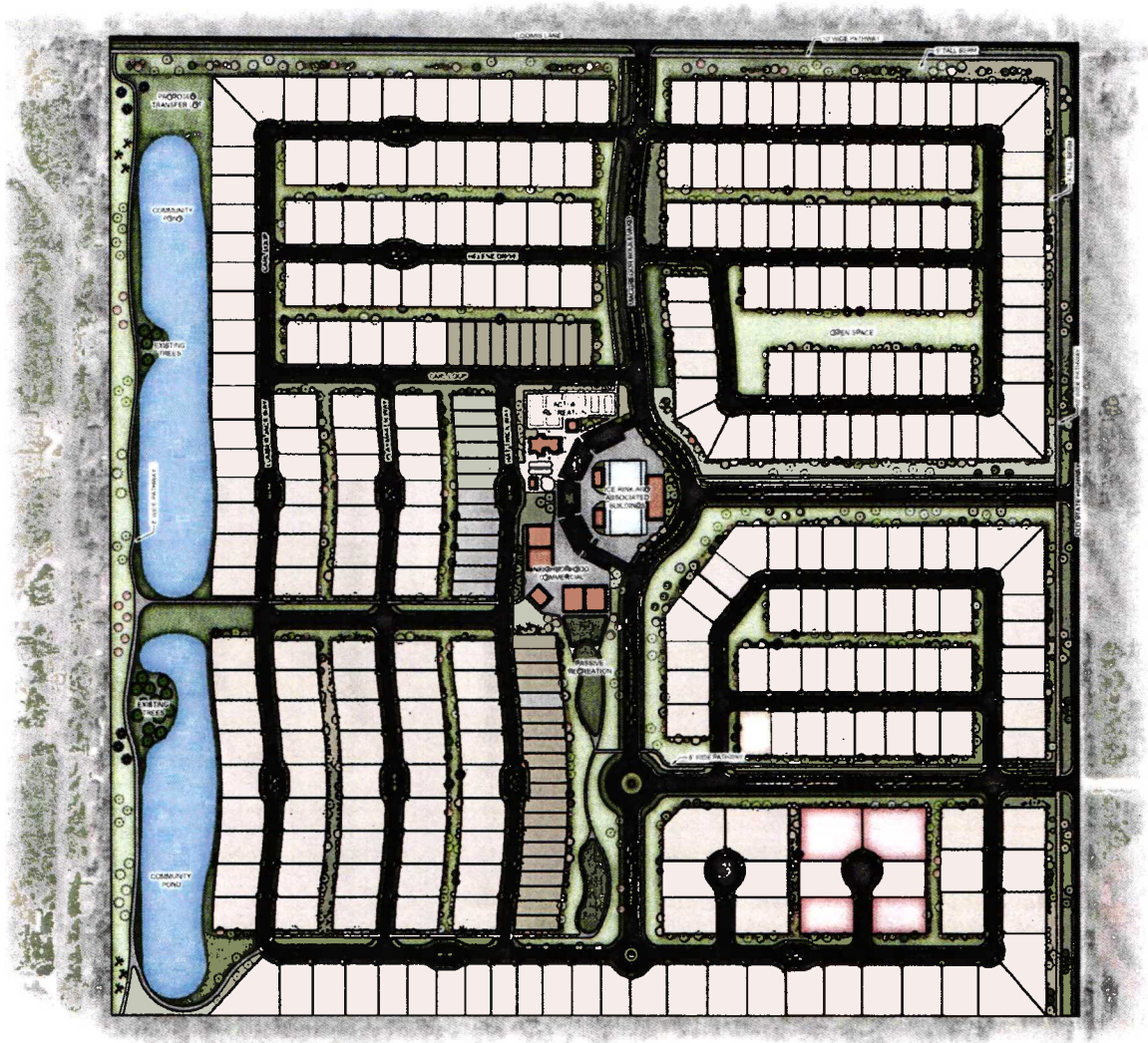
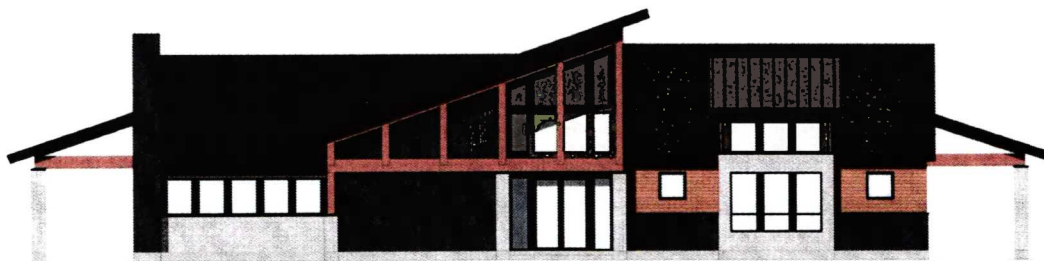
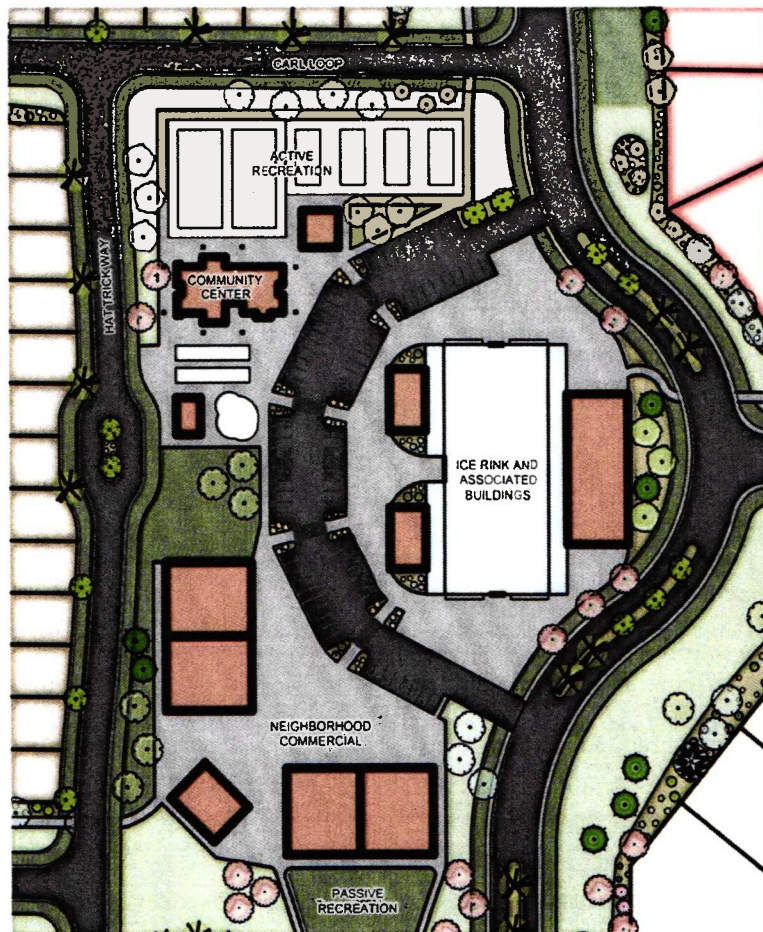


EXHIBIT D
Clubhouse Depictions



COMMUNITY CENTER ELEVATION

EXHIBIT E
Open Space, Trails, and Pathways Plan

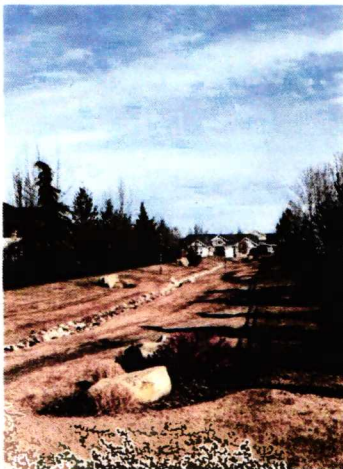
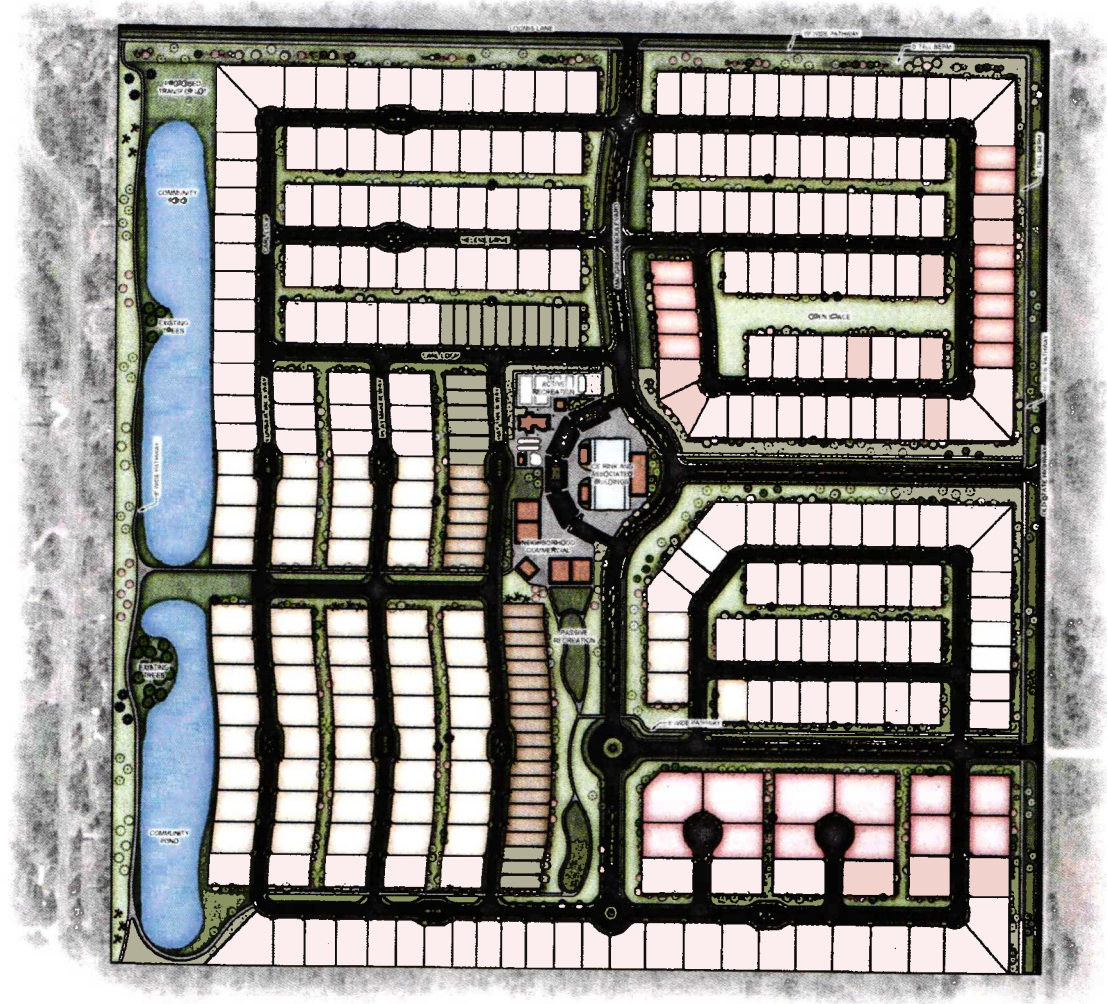


EXHIBIT F
Amenities Plan

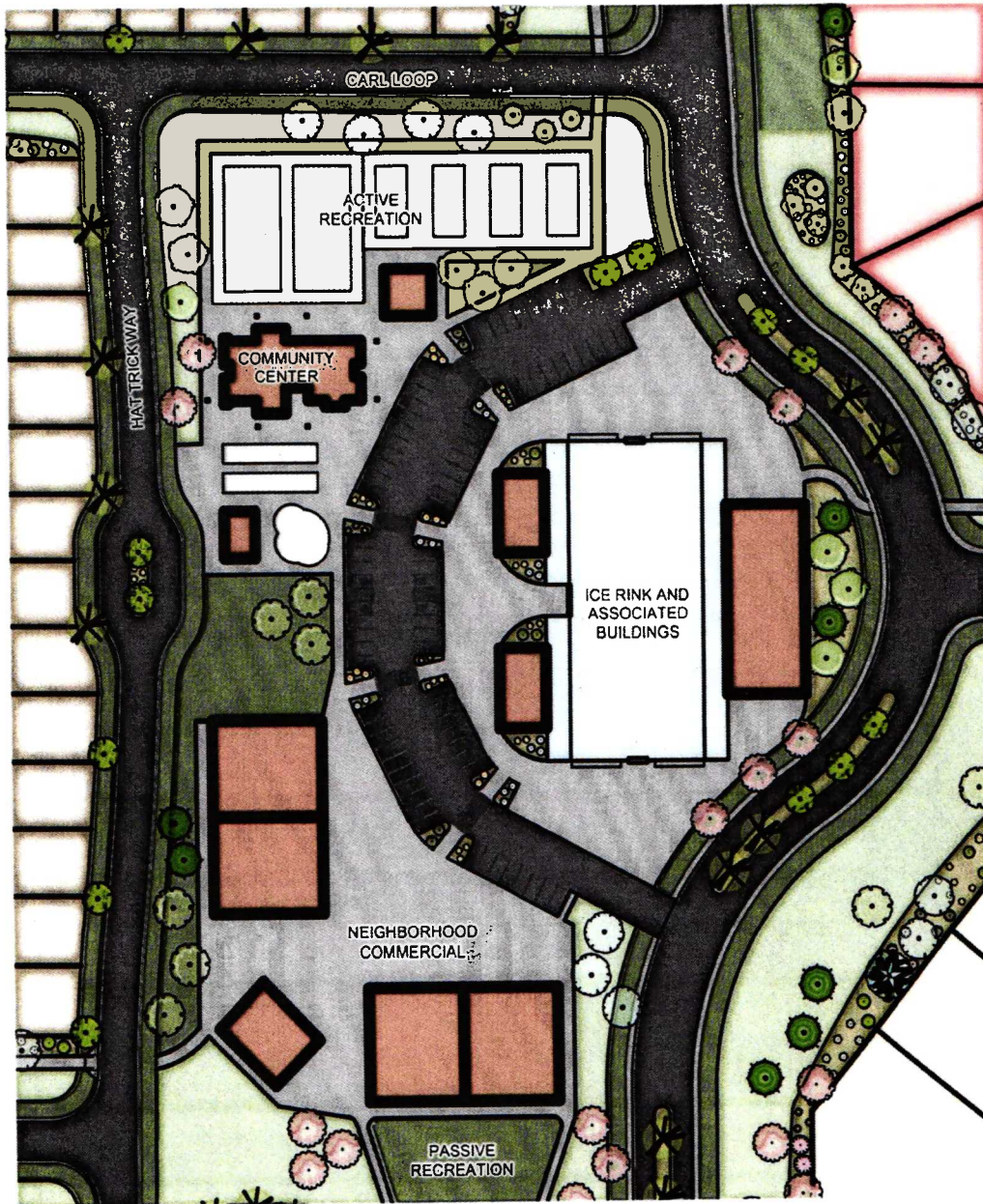


EXHIBIT G
Parking Plan



[illegible]