



City of Twin Falls
Special Meeting Notice & Agenda

Impact Fee & Improvement Reimbursement Committee

Meeting

November 29, 2018

12:00 PM

City Council Chambers

203 Main Avenue East

Twin Falls, ID 83301

Kelli Ebersole
Planning & Zoning
Administrative Assistant
208-735-7267



Twin Falls Development Impact Fee Advisory Committee & Improvement Reimbursement Commission Agenda

Thursday, November 29, 2018, 12:00 PM

Members: Gerald Martens, Nathan Bishop, Ross Conlin, Chad DeBie, Andrew DiPietro, Jennifer Jensen, Susan Petruzzelli, Colby Ricks

Council Liaison: Chris Talkington

- 1) Confirmation of Quorum/Call Meeting to Order
- 2) Consent Calendar
 - a) **ACTION ITEM:** Approval of minutes from the following meeting: 10-25-18
- 3) Improvement Reimbursement Items
 - a) **ACTION ITEM:** Broadmoor Subdivision Reimbursement Request
By: Troy Vitek, Assistant City Engineer
- 4) Upcoming Meeting(s)
 - a) **INFORMATIONAL:** April 18, 2019
- 5) Adjournment

Any person(s) needing special accommodations to participate in the above-noticed meeting could contact Lisa A. Strickland (208) 735-7267 at least two working days before the meeting. Si desea esta información en español, llame Leila Sanchez (208) 735-7287.

Public Input Procedures

1. Individuals wishing to provide public input regarding matters relevant to the City of Twin Falls shall
 - wait to be recognized by the Mayor or Chairman
 - approach the microphone/podium
 - state their name and address, and whether they are a resident or property owner in the City of Twin Falls, and proceed with their input.
2. The Mayor or Chairman may limit input to no less than two (2) minutes. Individuals are not permitted to give their time to other speakers.

Public Hearing Procedures for Zoning Requests

1. Prior to opening the first Public Hearing of the session, the Mayor or Chairman shall review the public hearing procedures.
2. Individuals wishing to testify or speak before the City Council or Planning and Zoning shall wait to be recognized by the Mayor or Chairman, approach the microphone/podium, state their name and address, then proceed with their comments. Following their statements, they shall write their name and address on the record sheet(s) provided by the staff. The staff shall make an audio recording of the Public Hearing.
3. The Applicant, or the spokesperson for the Applicant, will make a presentation on the application/request (request). No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing. The presentation should include the following:
 - A complete explanation and description of the request.
 - Why the request is being made.
 - Location of the Property.
 - Impacts on the surrounding properties and efforts to mitigate those impacts.
4. Applicant is limited to 15 minutes, unless a written request for additional time is received, at least 72 hours prior to the hearing, and granted by the Mayor or Chairman.
5. A City Staff Report shall summarize the application and history of the request.
6. The City Council or Planning & Zoning Commission may ask questions of staff or the applicant pertaining to the request.
7. The general public will then be given the opportunity to provide their testimony regarding the request. The Mayor or Chairman may limit public testimony to no less than two (2) minutes per person.
 - Five or more individuals, having received personal public notice of the application under consideration, may select by written petition, a spokesperson. The written petition must be received at least 72 hours prior to the hearing and must be granted by the Mayor or Chairman. The spokesperson shall be limited to 15 minutes.
 - Written comments, including e-mail, shall be either read into the record or displayed to the public on the overhead projector.
 - Following the Public Testimony, the applicant is permitted five (5) minutes to respond to Public Testimony.
8. Following the Public Testimony and Applicant's response, the hearing shall continue. The City Council or Planning & Zoning Commission, as recognized by the Mayor or Chairman, shall be allowed to question the Applicant, Staff or anyone who has testified. The Mayor or Chairman may again establish time limits.
9. The Mayor or Chairman shall close the Public Hearing. The City Council or Planning and Zoning Commission shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed. Legal or procedural questions may be directed to the City Attorney.

* Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and, thereafter removed from the room by order of the Mayor or Chairman.



Twin Falls Development Impact Fee Advisory Committee & Improvement Reimbursement Commission Minutes

Thursday, October 25, 2018, 12:00 PM

203 Main Avenue East
Twin Falls, ID 8301

SPECIAL MEETING

Members: Gerald Martens, Nathan Bishop, Chad DeBie, Andrew DiPietro, Jennifer Jensen, Susan Petruzzelli, Colby Ricks

Council Liaison: Greg Lanting

1) Confirmation of Quorum/Call Meeting to Order

Members Present: Martens, Bishop, DeBie, DiPietro, Petruzzelli, Ricks

Staff Present: Spendlove, Humble, Strickland, O'Connor, Vitek, Ebersole, Fehringer, Race

Council Liaison Present: Lanting

Chairman DeBie called the meeting to order and confirmed a quorum.

2) Consent Calendar

3) Introduction of New Members

Member Conlin has resigned from the committee as of October 2018.

4) Review of Member Terms

a) Membership Information

PZ Director Spendlove stated the committee does not have any "term outs" prior to our next meeting. Andrew DiPietro's 1st terms expire in April of 2019 and we will address this at the next meeting. There are two spots open and replacements will need to be found by the next meeting.

Agenda items adjusted as follows.

6) Improvement Reimbursement Items

a) Broadmoor Subdivision Reimbursement Request

Member Martens stepped down (applicant).

Assistant City Engineer Vitek stated that there are issues with the reimbursement application and that City Attorney Nope has asked to table this item until further review can be done.

Motion:

Member Petruzelli made a motion to table the item for 30 day. Member Bishop seconded the motion.

Unanimously Approved.

Member Martens returned to his seat.

5) Impact Fee Items

- a) Review, Discussion and Action on the Annual Financial Report, Impact Fee Program, and implementation of the Capital Improvement Plan.

Staff Presentation:

PZ Director Spendlove stated the 2018 financial report is attached for your review. Following the Committee review, staff will prepare the Annual Impact Fee Report to the City Council, including an updated financial report.

The report indicates expenditures which took place this past calendar year. Some expenditures of note include the Fire Station Review Study (~\$400,000) , the North College Road Extension Engineering Plans (~\$300,000), and additional trail extensions / enhancements along The Preserve trail section (~\$180,000).

The FY 2019 Budget included ~\$900,000 for the construction of the North College Road Extension. The contracted price recently awarded amounts to ~\$770,000.

In addition to the Finance Report, the Annual Impact Fee Report to the City Council shall include other recommendations from the Committee:

1. Periodic reports, at least annually, with respect to the Capital Improvements Plan and report to the governmental entity any perceived inequities in implementing the plan, or imposing the development impact fees; and"
2. "Advise the governmental entity of the need to update or revise land use Assumptions, Capital Improvement Plan and Development Impact Fees."

The current Capital Improvement Plans have been operating well for the past 4 years, with minimal negative feedback received by staff.

Discussion Followed: Without Concerns

Motion:

Committee Member Bishop made motion to accept the annual report. Committee Member Ricks seconded.

Unanimously approved.

- b) Review and action on recommendation to City Council on the automatic Impact Fee increase scheduled January 1, 2019.

Staff Presentation:

PZ Director Spendlove stated the current fee rates are listed on the attached file. These rates went into effect April 1, 2018.

Per City Code 10-18-12, on January 1 of each year the amount of the impact fee shall automatically increase to account for inflation increases in the cost of providing police, fire, parks and recreation, and street public facilities to serve new development.

The amount to be adjusted will be based on the municipal cost index (MCI) as published by the American Cities and Counties Magazine.

According to the latest numbers, September 2018, the MCI is currently at a 3.236% increase over last year. As prices of construction and materials increase, it is prudent to stay in line with actual costs of projects listed on the Capital Improvement Program.

Discussion Followed:

- Chairman DeBie asked if how fees are determined and if they are based on actual costs to the city to do business.
- CFO Race stated fees are based month to month and the increase percentage was calculated from Sept. 2017 - Sept. 2018.
- Committee Member Martens stated concern regarding the inequity of impact fees for multifamily units compared to a conventional single family home project. He would like the formula looked at as to how the fees are calculated, but would approve fee increases at current percentage. He stated that 3.236% is on low side for increase and will not overly impact construction costs.
- Planning and Zoning Director Spendlove reminded committee that the increase percentage could change once the final report is completed.

Motion:

Committee Member Martens motion to recommend the automatic increase to Council, but not to exceed 3.5%. Committee. Member Ricks seconded.

Unanimously approved

- c) Discussion and Action on recommending review and update of the Capital Improvement Plans.

Staff Presentation:

PZ Director Spendlove stated per State Statute, the Capital Improvement Plan shall be reviewed at least once every 5 years. As we look forward to this next year, the current

iteration will be reaching that 5 year mark and will need to be updated.

As this update process can be intensive and time consuming, staff wishes to be underway in January 2019. In order to proceed Staff recommends the Committee discuss and forward a recommendation to begin the Capital Improvement Plan update process.

Discussion Followed:

- Committee Member Martens stated you have to be careful at looking at other communities and how they are charging fees because there may be different scenarios that apply to those areas. He thinks Twin Falls fees are fair. He has not felt a need to mess with the formulas, except now with multifamily fees due to the change in community goals and needs.
- Committee Member Petruzzelli stated you still need to look at other communities that have addressed same housing issues and needs that Twin Falls is experiencing.
- Committee Member Bishop stated that the multi-family home fees need to account for amount of people in those homes and services needed to service those people.
- Committee Member Martens stated that a homeowner gets a homeowners exemption vs. the renter living in an apartment or the owner of the complex. This affects the city fees in two ways: taxing and impact fees.
- Committee Member Bishop stated that encourages homeownership.

Motion: Committee Member Petruzzelli motioned to recommend initiating the process to review and update the Capital Improvement Plan and Impact Fee Report. Committee Member Marten seconded.

Unanimously Approved.

7) Upcoming Meeting(s)

- Next regular meeting: Tentative April 18, 2019.
- Special meeting (if needed): Kelli Ebersole will contact committee with date through email.

8) Adjournment

Chairman DeBie adjourned meeting at 1:14 pm.

Kelli Ebersole –Administrative Assistant



Date: Thursday, November 29, 2018
To: Impact Fee & Improvement Reimbursement Committee
From:

ACTION ITEM

Request:

Broadmoor Subdivision Reimbursement Request

Time Estimate:

Staff estimates 15 minutes to explain the application.

Background:

Broadmoor subdivision received its preliminary plat approval on July 10, 2007 as a whole subdivision. On October 27, 2015 the final plat was recorded which included both north and south portions as shown on the attached final plat document. Part of the requirement to receive approval to record the final plat is to demonstrate that the subdivision can receive water, sewer, PI, storm drainage, parks requirement, and roadway development to support subdividing. The original developer submitted a full set of construction plans that met the requirements. At time of construction the Perrine Point pressure irrigation station was not developed as originally proposed and a new location was proposed to hook into an existing station known as the Riverhawk PI station. This change was required by the City to meet City Code section 7-8-4 (E) that reads “ (E) Notwithstanding the foregoing, the use of the city's potable water supply as the primary source of irrigation water in all new developments shall be prohibited. For purposes of this subsection, the term "new development" means any new subdivision or ZDA, or any development of any parcel of land of two (2) acres or larger that is not part of a subdivision or ZDA. (Ord. 3082, 12-8-2014)”. On February 1, 2016 a proposed plan of the offsite PI extension was delivered to the City and eventually approved. On March 4, 2016 the construction plans were approved for the entire Subdivision and later on June 22, 2016 a revised phasing construction plan was approved for everything south of Ridgeway Drive (Jade Portion).

Subsequent to the approval of the Final Plat of the Broadmoor Subdivision, the original developer (Rusmor) sold to Gerald Martens the northerly portion of the Broadmoor Subdivision, and later sold the remaining southerly portion of the Broadmoor Subdivision to Jade Development. Gerald Martens began development of the northerly portion of the Broadmoor Subdivision and extended pressure irrigation distribution south to the southerly portion of Broadmoor Subdivision. Gerald Martens is the “initial developer” as defined in the Improvement Reimbursement Resolution. See page 2 of the Resolution, attached.

The Improvement Reimbursement Resolution was passed to allow compensation for water distribution system, waste water collection system, transportation system, pressure irrigation pump stations, PI distribution systems, and Twin Falls Canal Company water delivery system, made by an initial developer to be compensated by a subsequent developer who benefits from the improvement. The resolution details how those reimbursements are to be made and responsibilities. No provisions are included in this resolution with regards to parks or storm water retention since the design of those improvements are meant to be only for the subdivision and not benefiting adjacent properties.

Broadmoor Subdivision has constructed an offsite Pressure irrigation distribution system that serves both

the north and south developments. This meets the requirements of the reimbursement resolution PI section. See pages 17-21 of the Resolution. It is the duty of the Improvement Reimbursement Commission to determine proper compensation, in the manner described in the Resolution. The City will enter the information into the City GIS database.

The applicant for a connection permit, final plat approval, acceptance of any improvement, or any certificate of occupancy that desires to connect to existing public improvements eligible for reimbursement, shall make application to the Engineering Department to determine the Reimbursement obligation related to those improvements. The applicant can pay the required reimbursements and provide a receipt of proper compensation to the Commission or request the Commission reevaluate the required reimbursement by appealing the reimbursement amount and providing additional information to the Commission to make a new determination of proper compensation. The Commission reserves the right to request additional documentation of proper compensation. The Initial Developer will be given a reasonable time and opportunity to respond to the appeal before the hearing, and to appear and defend the determination at the hearing.

If the initial developer and subsequent developer agree on the proper compensation, the subsequent developer may file a notarized and agreed amount between the initial developer who installed the existing system and the subsequent developer or property owner who desires to connect to the existing system. The amount may be based upon any agreed portion of the cost, such as frontage, acreage or number of lots, but shall not exceed the total cost of the system.

City staff has communicated with the initial developer and the subsequent developer and is aware of the fact that there is dispute between the parties as to whether or not proper compensation for the eligible improvement has already been satisfied in the terms of a Purchase and Sale Agreement. Neither the Commission nor the City Staff is in a position to make a legal determination as to the meaning and legal effect of the Purchase and Sale Agreement. The issue of whether or not proper compensation has already been made is for another forum and should not be a relevant subject for the Commission's determination.

Approval Process:

The Commission can accept the application as presented, deny the application or accept the application with changes. A motion with a majority vote is required for execution.

Budget Impact:

N/A

Regulatory Impact:

N/A

History:

N/A

Analysis:

N/A

Conclusion:

Staff has verified the boundary of the Payback and agrees that the Pressurized Irrigation distribution

system improvements meet the requirements of the resolution and are eligible for reimbursement. The storm water retention improvements and Park Area are not in meeting with the Resolution and recommended not to be included with this reimbursement request. A third party reviewer has attached a letter that indicates they have reviewed the items, quantities and associated costs to meet the intent of the reimbursement resolution. (Letter included)

Staff recommends approval of the June 7, 2018 reimbursement request for Pressurized Irrigation Improvements totaling \$65,625.00 with a 15% markup available per the resolution for an additional \$9,843.75 for a total of \$75,468.75 with staff recommendations, as presented.

Attachments:

1. Broadmore Reimbursement Application
2. Resolution-2017-013
3. Arial of Broadmoor
4. 11505698_1_2018.11.19 Letter to Twin Falls_F. Wonderlich and T. Rothweiler



RECEIVED

SEP 28 2018

CITY OF TWIN FALLS
ENGINEERING DEPT.

To: Mr. Troy Vitek, P.E.

From: Gerald Martens, P.E.

Date: June 7, 2018

RE: Payback Request For Broadmoor Subdivision – Pressurized Irrigation & Storm Drainage

Please accept this transmittal as formal request to be considered as an initial developer for the Broadmoor Subdivision for the lots located north of Ridgeway Road and eligible for reimbursement for construction costs. At my expense an extension of pressurized irrigation main line has been installed to connect to the Riverhawk Pressurized Irrigation Pump Station running parallel to North College Road. Additionally, I have constructed the storm water retention basin within the park area of the City and completed seeding and other improvements for this area according to the requirements of City Code. Therefore, in accordance with Resolution No. 2017-13 I hereby request that I be identified as the initial developer and be reimbursed according to City Code provisions.

Pressurized Irrigation Improvements

Connection to Existing Station @ \$800.00 Lump Sum	\$800.00
1,700 LF of 10" PVC P.I. Main Line @ \$18.00/LF	\$30,600.00
182 LF of 6" PVC P.I. Main Line @ \$13.75/LF	\$2,502.50
220 CY of ¾" Gravel for Backfill @ \$28.00/CY	\$6,160.00
525 SY of Asphalt Patch Back & Repair @ \$36.50/SY	\$19,162.50
(2) 10" Gate Valves @ \$1,200.00 Each	\$2,400.00
(3) 10" 90° Elbows @ \$500.00 Each	\$1,500.00
(1) 10"x6"x6" Tee @ \$1,500.00 Each	\$1,500.00
Traffic Control @ \$1,000.00 Lump Sum	\$1,000.00

Storm Drainage Improvements at Park Area

Retention Basin @ \$45,000.00 Lump Sum	\$45,000.00
(40) Tree Plantings @ \$250.00/Tree	\$10,000.00
Irrigation & Hydro Seed at Park (Playground Area)	\$35,145.56
Irrigation & Hydro Seed at Park (Retention Pond Area)	\$28,532.17

Total Improvement Costs Identified Above \$184,302.73

This work involved installation of the pressurized irrigation main line, asphalt patch back and repair, as well as traffic control. A full compensation for the eligible reimbursement amount plus 15% to address the costs of engineering, management, interest, and inspection is requested for these improvements.

621 North College Rd., Suite 100 • Twin Falls, Idaho 83301 • [208] 734-4888 • Fax [208] 734-6049
 3501 W. Elder St., Suite 100 • Boise, Idaho 83705 • [208] 386-9170 • Fax [208] 386-9076

815 Yakima Ave.
Filer, ID 83328
208.420.9624
Jd.hg.barnes@gmail.com

9/11/2018

City of Twin Falls
Attn: Troy Vitek, P.E.
324 Hansen St. E.
Twin Falls, ID 83301

Dear Mr. Vitek,

Mr. Gerald Martens retained my services to conduct a third-party review of the submitted Improvement Reimbursement Application for the northern portion of Broadmoor Subdivision. After a thorough review it is my opinion that the application was completed professionally and the items, quantities, and associated costs successfully meet the intent of the City of Twin Falls adopted Ordinance #2974 and Resolution 1816.

Should the City have any questions regarding this review, please feel free to contact me at 208-420-9624 or jd.hg.barnes@gmail.com.

Kind regards,

Hailey G. Barnes, P.E.



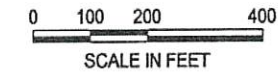
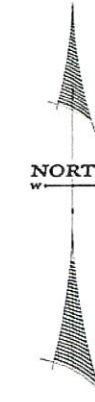
Attachments: Broadmoor Subdivision Payback Request Package

Cc: Gerald Martens, P.E.; David Thibault, P.E.

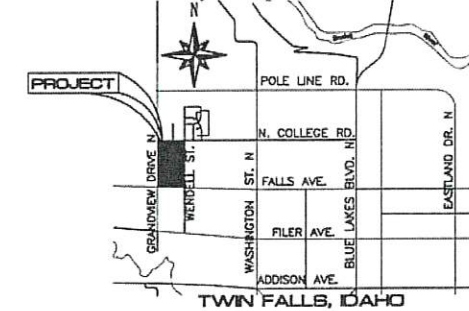
Broadmoor Subdivision (Northern Portion) 131 Lots

BROADMOOR SUBDIVISION

A SUBDIVISION OF
Lots 61 Thru 65, Lot 40 and A Portion of Lots 41 and 42 of
"ORCHALARA SUBDIVISION"
LOCATED IN A PORTION OF
SW 4 OF SECTION 5 &
NW 4 OF SECTION 8
TOWNSHIP 10 SOUTH,
RANGE 17 EAST, B.M.,
TWIN FALLS COUNTY, IDAHO
2015



Vicinity Map



Legend

SUBDIVISION BOUNDARY LINE	—————
SECTION LINE	———
EASEMENT LINE	- - - - -
ADJACENT PROPERTY LINE	—————
CENTERLINE OF STREET	—————
LOT LINE	—————
CALCULATED POINT (NOT SET)	△
FOUND BRASS CAP	⊕
FOUND 5/8" REBAR, LS 8077	○
SET 5/8" x 24" REBAR & CAP - LS 10110	●
TO BE SET 1/2" x 24" REBAR & CAP - LS 10110	●
TO BE SET 5/8" x 24" REBAR & CAP - LS 10110	●

Notes:

1. A 15 FOOT WIDE UTILITY EASEMENT EXISTS ADJACENT TO ALL FRONT LOT LINES AND ADJACENT TO STREET FRONTAGES.
2. ALL TRAFFIC ACCESS ON LOTS ADJACENT TO COLLECTOR OR ARTERIAL ROADS WILL BE PROVIDED FROM INTERIOR RESIDENTIAL STREETS INCLUDING RIDGEWAY DRIVE EXCEPT FOR COMBINED ACCESS ON LOTS 6, 7, 9, 11, 13 AND 16 OF BLOCK 6.

Health Certificate

"SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE TITLE 50, CHAPTER 13, HAVE BEEN SATISFIED BASED ON THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF SANITARY RESTRICTIONS. BUYER IS CAUTIONED AT THE TIME OF THIS APPROVAL, NO DRINKING WATER OR SEWER/SEPTIC FACILITIES WERE CONSTRUCTED. BUILDING CONSTRUCTION CAN BE ALLOWED WITH APPROPRIATE BUILDING PERMITS IF DRINKING WATER OR SEWER FACILITIES HAVE SINCE BEEN CONSTRUCTED OR IF THE DEVELOPER IS SIMULTANEOUSLY CONSTRUCTING THOSE FACILITIES. IF THE DEVELOPER FAILS TO CONSTRUCT FACILITIES OR MEET OTHER CONDITIONS OF DEQ, THEN SANITARY RESTRICTIONS MAY BE RE-IMPOSED, IN ACCORDANCE WITH SECTION 50-1326, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL, AND NO CONSTRUCTION OF ANY BUILDING OR SHELTER REQUIRING DRINKING WATER OR SEWER/SEPTIC FACILITIES SHALL BE ALLOWED."

DISTRICT HEALTH DEPARTMENT, REHS

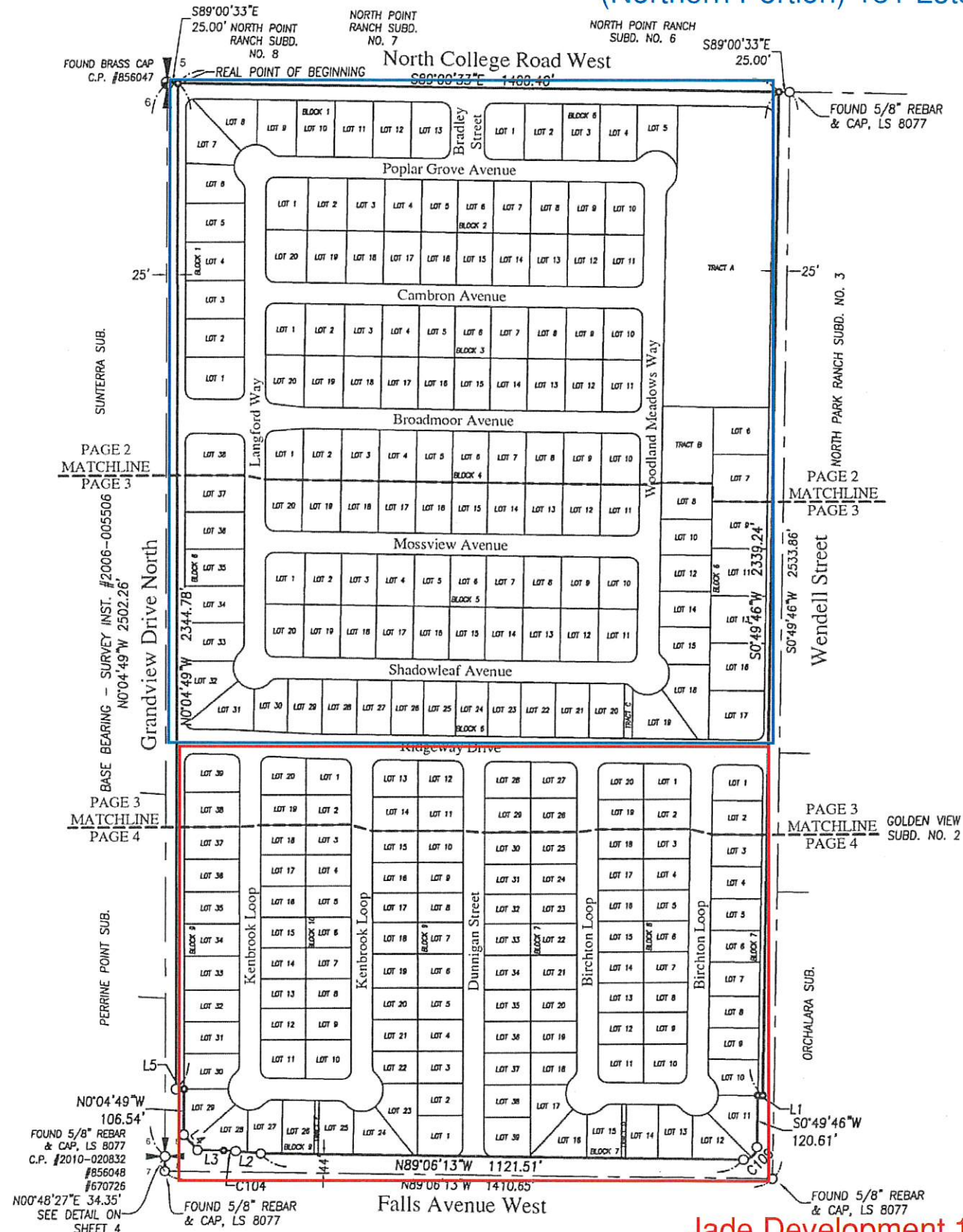
DATE: _____

Tracts Owned & Maintained By:

- TRACT A - CITY OF TWIN FALLS
- TRACT B - HOMEOWNERS ASSOCIATION
- TRACT C - CITY OF TWIN FALLS
- TRACT D - CITY OF TWIN FALLS
- TRACT E - CITY OF TWIN FALLS



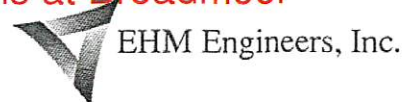
V 008-07 FP
SHEET 1 OF 7



Monument Certification

THE INTERIOR MONUMENTS ON THIS PLAT SHOWN AS "TO BE SET" WILL BE SET IN ACCORDANCE WITH SECTION 50-1333, IDAHO CODE, ON OR BEFORE 1 YEAR AFTER THE RECORDATION OF THE FINAL PLAT OR AS DETERMINED BY THE CITY OF TWIN FALLS.

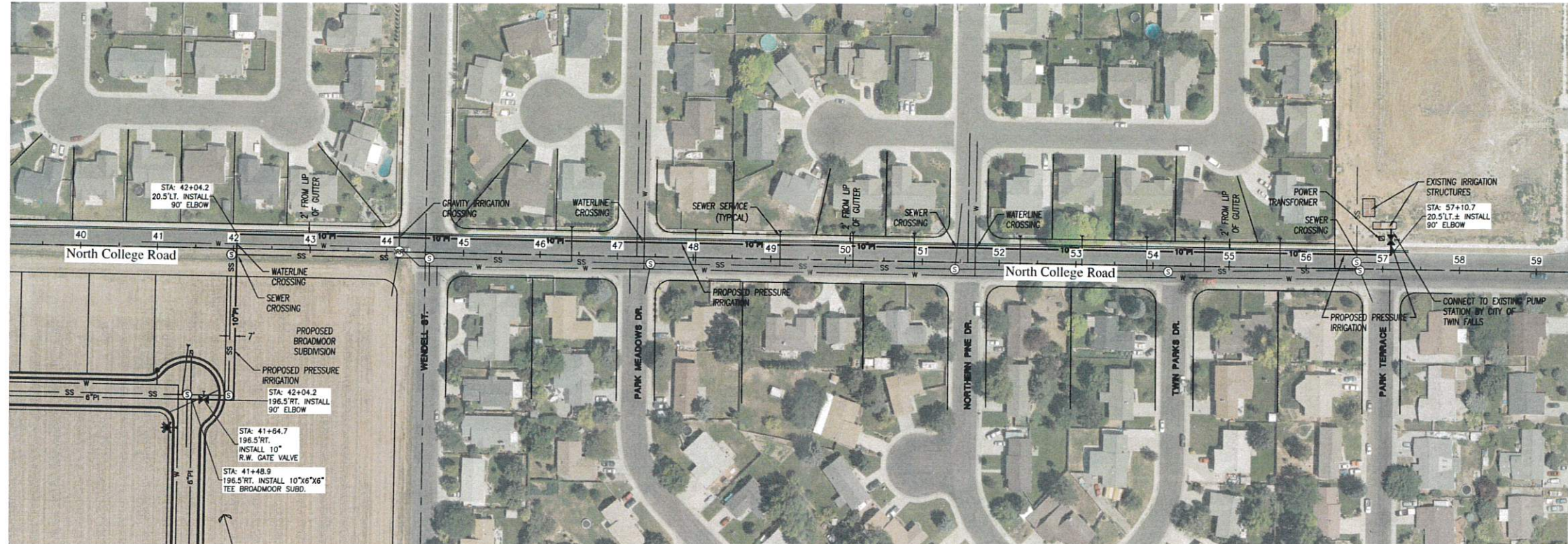
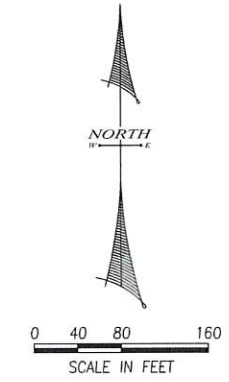
**Jade Development 118 Lots in
The Falls at Broadmoor**



EHM Engineers, Inc.

10" Pressurized Irrigation Main Extension to Existing Pumping Station along North College Rd. ~ 1,700 Lineal Feet of 10" Dia. PVC Pipe.

- (3) 90-Degree Elbows
- (2) 10" Gate Valves
- (1) 10"x6"x6" Tee
- Roadway Cut and Patchback
- 220 CY of 3/4" Gravel for Backfill
- 525 SY of Asphalt Patchback
- Traffic Control Required



SEE BROADMOOR SUBDIVISION PLANS FOR DISTRIBUTION SYSTEM WITHIN THE SUBDIVISION.

NOTES:
ALL PIPE INSTALLATION SHALL BE PERFORMED USING CITY OF TWIN FALLS STANDARD DRAWING T-1.

EHM Engineers, Inc.
BUILDING THE FUTURE ON A FOUNDATION OF EXCELLENCE
Engineers / Surveyors / Planners
621 North College Road, Suite 100 Twin Falls, Idaho 83301
P (208) 734-4888 fax (208) 734-6049 web: ehminc.com

PROPOSED OFFSITE PRESSURE IRRIGATION PLAN
for
BROADMOOR SUBDIVISION

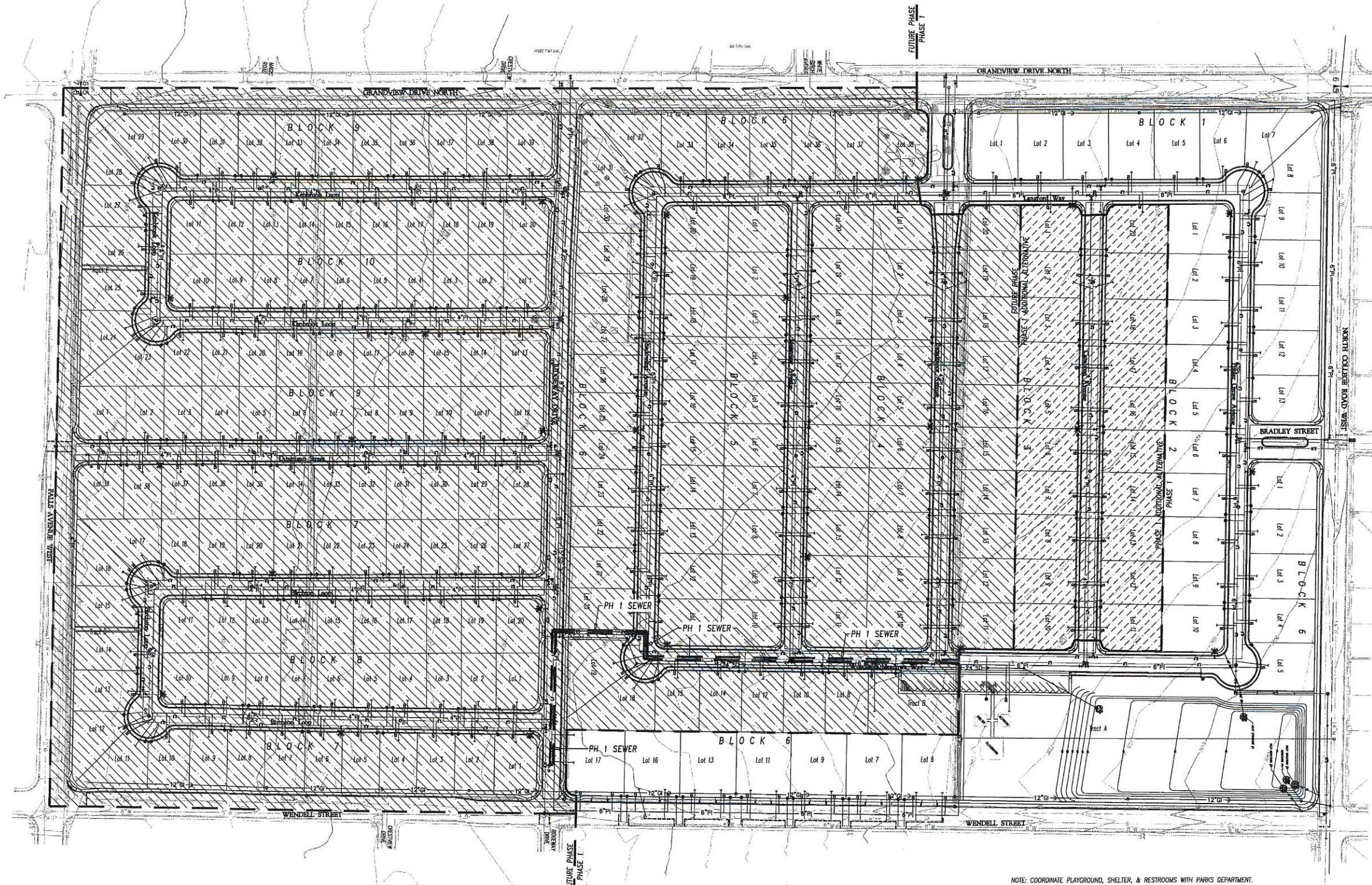
REVISIONS

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5	-
6	-
7	-

DO NOT SCALE DRAWINGS
CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ENGINEER OF ANY DIMENSIONAL ERRORS, OMISSIONS, OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.

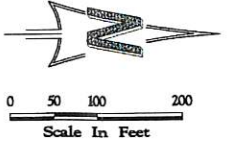
STAMP

APPROVED	DLT
DESIGN	DLT
DRAWN	DJS
DATE	2/1/2016
SCALE	AS SHOWN
C 426-15 N COLL PI	
SHEET	
C 5.01 PI	



NOTE: COORDINATE PLAYGROUND, SHELTER, & RESTROOMS WITH PARKS DEPARTMENT.

Tract A is a Retention Facility and Park Area. The retention basin services the entire Broadmoor Subdivision including both the North and South Portions. The area has been seeded and an irrigation sprinkler system meeting the City of Twin Falls requirements has been installed. Trees have been purchased to be planted around the perimeter of the park area.

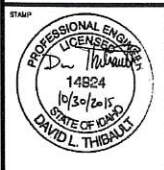


EHM Engineers Inc.
 ENGINEERS/SURVEYORS/PLANNERS
 821 N. COLLEGE RD. SUITE 100
 TWIN FALLS, IDAHO 83301
 PH. 208 734 4888 FAX 208 734 6049
 E-MAIL: ehm@ehm-inc.com

MASTER UTILITY PLAN
 for
BROADMOOR SUBDIVISION

DO NOT SCALE DRAWINGS
 CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ENGINEER OF ANY DIMENSIONAL ERRORS, OMISSIONS, OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.

REVISIONS
 REV. - DLT - AUG 2011
 CTF REVIEW LETTER
 JAN. 2014 - MHL
 REV. PER COTF REVIEW #3
 OCT. 2015 - WAS
 PHASE 1 CONST. PLANS



APPROVED	
DESIGN	
DRAWN	R. WATSON
DATE	MAY 2007
SCALE	SHOWN
CAD FILE	C-426-15CONSTPLANS
JOB NO.	426-15

MU-1

RESOLUTION NO. 2017-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING THE CITY'S IMPROVEMENT REIMBURSEMENT RESOLUTION BY PROVIDING CHANGES TO THE TERMINATION OF RIGHT TO REIMBURSEMENT SECTION RELATING TO MAJOR WATER DISTRIBUTION LINES, THE EXTENSION OF THE TERM OF ELGIBILITY AND ADDITION OF REIMBURSEMENT FOR THE COSTS OF PRIVATE AND PUBLIC IMPROVEMENTS RELATING TO TWIN FALLS CANAL COMPANY WATER DELIVERY SYSTEM.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

Purpose:

Whenever any extension is made by a developer (initial developer) to the City of Twin Falls' (City) water distribution system, wastewater collection system, transportation system, pressure irrigation pump stations and distribution systems, in such a manner as to enable a subsequent private developer or property owner to connect to or extend the previously extended water distribution system, wastewater collection system, transportation system, pressure irrigation pump stations and distribution systems, the subsequent private developer or property owner (subsequent developers) shall first make proper compensation to the initial developer for the costs of the water distribution system, wastewater collection system, transportation system, pressure irrigation pump stations and distribution systems (improvements). The following information is for reimbursement standards only and does not establish development standards for the City of Twin Falls.

Application By Initial Developer for Participation in Reimbursement Program:

The initial developer, who installs the improvements, must make an application for reimbursement to the Improvement Reimbursement Commission (Commission) thru the City Engineering Department within ninety (90) calendar days of acceptance of the system by the City. If the improvements were installed by the initial developer and accepted by the City prior to this Resolution, the developer shall have 90 days from the adoption of this Resolution to make an application for reimbursement. The initial developer's application shall identify all improvements proposed for compensation and shall include actual costs and all other requested data as required by the Commission to determine proper compensation. Also, Applicant will estimate the improvement boundaries per this Resolution. The Engineering Department will verify the improvements are located according to the Application and that they have been accepted by the City. The Engineering Department will not be responsible to verify the value of the improvements. The Engineering Department will review the GIS system for any previous Commission agreements. The City Engineer will review the proposed boundaries and confirm or adjust them. In the case that the City Engineer adjusts the boundaries, the initial developer will be notified by mail of the change. The initial developer can make a request to the Engineering Department to discuss this adjustment. The City Engineer has the final authority to determine the boundaries of all improvements. The Engineering Department will create a staff report including the pertaining information regarding the improvement reimbursement request and provide a copy to the initial developer prior to the Commission meeting. The Commission will review the application at their next public meeting and make a determination if the information in the application is correct by a vote of the members of the Commission. Besides

approving the application, the commission can also vote to approve the application with adjustments or vote to deny the application and request the Initial Developer correct the application and reapply for consideration. Once the Improvement Reimbursement request is approved by the Commission, the Engineering Department will enter the appropriate information into their system. The purpose of the Commission is to determine if a reimbursement is fair and equitable to the subsequent developers and qualifies for a future reimbursement. The initial developer must maintain proper identity and current address with the City Engineer in order to be eligible for proper compensation.

“Initial Developer” is hereby defined as any entity, individual, corporation, quasi-public corporation, non-profit organization, district, housing agency, partnership, firm, association, limited liability partnership or other such entities as recognized by the state of Idaho. This definition is intended to exclude the City of Twin Falls, the State of Idaho, and other governmental entities that fund or construct public improvements (as defined herein) in the ordinary course of their business.”

“Improvement” is hereby defined as one or more of the following: The completed improvement of water distribution system, wastewater collection system, transportation system, pressure irrigation pump stations and distribution systems, i.e. any public works improvement(s) that has been approved and accepted by the City. It is the completed improvement where the subsequent developer or property owner desires to connect, or the total or upgraded portion of any pump or unitized facility installed by the previous developer that will serve the subsequent development or property owner.

“Cost” is hereby defined as the following:

- (1) Receipted actual amounts for the installation of the public works improvement;
- (2) If unable to substantiate then:

The average of actual costs of public improvements installed by other private contractors within the past five (5) years, or,

The estimated costs documented by a nationally recognized estimating system.

- (3) Estimate constructed from the Improvement Reimbursement Commission Agreements on file with the City of Twin Falls.

Improvements must be accepted by the City of Twin Falls to be eligible for reimbursement.

Responsibilities of the City:

The City Engineer will incorporate all “as-built” drawings into the City’s GIS program, so that the name of the initial developer that installed the existing system and the date it was “as-built” can be quickly retrieved.

The City Engineer will not issue a connection permit, sign a final plat, accept any improvement, or sign off on any certificate of occupancy without first checking the “as-built” drawings or the geographical information system (GIS) to determine if the improvement that is being connected to is less than ~~20~~ 25 years old and whether the initial developer has applied for participation in the reimbursement program. If the improvement is less than ~~20~~ 25 years old and if the initial developer has applied for participation in the reimbursement program, the City Engineer will inform the applicant (subsequent developer) that they must complete the financial obligations for reimbursement. The application will be thru the Engineering Department to the Commission for verification that the reimbursement has been made and be provided with a receipt of proper

compensation from the Commission, and receive approval by that commission. The City Engineer reserves the right to allow connections for emergency or other health and safety circumstances without receipt of proper compensation from the Commission. This does not satisfy the proper compensation requirement and the liability for payment will remain in place.

If the improvements required herein are a City requirement when a building or structure is constructed, placed, erected or enlarged or when there is a change of use of a building, structure or parcel of land, unless otherwise provided, all required improvements shall be a condition of any building permit and they shall be completed prior to final inspection and occupancy of the building. However, a reimbursement is not required for the City to approve minor modifications or additions to existing buildings or structures when the modifications and improvements do not constitute more than a twenty five percent (25%) increase over the square footage of the existing buildings or a total increase in square footage over ten thousand (10,000) square feet whichever is less, within any three (3) year period from date of completion of other expansion or modification.

Application for Verification of Payment of Proper Compensation:

The applicant for a connection permit, final plat approval, acceptance of any improvement, or any certificate of occupancy that desires to connect to existing public improvements eligible for reimbursement, shall make application to the Engineering Department to determine the Reimbursement obligation related to those improvements. The applicant can pay the required reimbursements and provide a receipt of proper compensation to the Commission or request the Commission reevaluate the required reimbursement by appealing the reimbursement amount and providing additional information to the Commission to make a new determination of proper compensation. The Commission reserves the right to request additional documentation of proper compensation. The Initial Developer will be given a reasonable time and opportunity to respond to the appeal before the hearing, and to appear and defend the determination at the hearing.

If the initial developer and subsequent developer agree on the proper compensation, the subsequent developer may file a notarized and agreed amount between the initial developer who installed the existing system and the subsequent developer or property owner who desires to connect to the existing system. The amount may be based upon any agreed portion of the cost, such as frontage, acreage or number of lots, but shall not exceed the total cost of the system. The agreement must accompany the receipt of proper compensation when presented to the Commission.

All applications shall include:

1. An application, including a complete explanation, documentation and calculations for the determination of proper compensation.
2. A fee for City administration of the Reimbursement system will be added to proper compensation. These fees will be adopted by separate resolution.
3. There will be no consideration for depreciation or inflation.

The Twin Falls City Code, Zoning Ordinances and Engineering Standards are subject to revision. In the case that a current City Code, Zoning Ordinance or Engineering Standard requires a different improvement than the completed improvement and the completed improvement no longer meets the current City Code, Zoning Ordinance or Engineering Standard, either an adjusted reimbursement or no reimbursement may be possible. Reimbursement can also be in the form of an agreement between two or more developers granting access easements in exchange for monetary compensation as long as the Original Developer releases the reimbursement liability.

The City of Twin Falls shall be exempt from all reimbursement requirements.

All individual service connections, engineering and surveying cost, and all City of Twin Falls fees including but not limited to: application fee, review fee, connection fee, water tap fee, water meters, and any capacity fees are not eligible for reimbursement.

In the case that either the applicant or the initial developer does not agree with the proper compensation determined by the Commission and chooses to appeal to the City Council, the applicant or the initial developer may appeal the decision to the City Council within fourteen (14) days of receipt of the written determination by filing an appeal with the City Council through the City Manager. If the applicant requests to proceed with their development, they shall provide a deposit in the form of a cash payment or an enforceable financial guarantee, equal to the amount of the approved determined proper compensation, to a title company to be put in escrow account authorized by the Commission. This will fulfill the subsequent developer's proper compensation receipt requirement and the Commission shall provide approval to the City Engineer. If the City Council rules in favor of the initial developer, the full deposit for proper compensation shall be provided to the initial developer. If it is determined that the proper compensation amount is to be a lesser amount, then the subsequent developer would only be responsible for the revised amount. If cash payment was made, the Commission would authorize the title company to pay the revised amount to the initial developer and the balance will be refunded to the subsequent developer. If an enforceable financial guarantee is used, the Commission would authorize the title company to pay the revised amount to the initial developer from the financial guarantee.

Termination of Right to Reimbursement:

The period of compensation to the initial developer shall be terminated at the earliest of any of the following conditions:

- (1) For all reimbursements except for water distribution systems of lines greater than 12-inch that provide additional water capacity for a service area greater than 160 acres, full compensation for the determined eligible reimbursement amount based on the actual cost plus 15% to address costs for engineering, management, fees, interest and inspection.;
or,
- (2) For all reimbursements for water distribution systems of lines greater than 12-inch that provide additional water capacity for a service area greater than 160 acres, full compensation for the determined eligible reimbursement amount based on the actual cost of the entire project cost including engineering, management, fees, and inspection plus 25% to address costs for the longer reimbursement period; or,
- (3) ~~(2)~~ Failure on the part of the initial developer or their assigns to maintain proper identity and address on file with the Improvement Reimbursement Commission; or,
- (4) ~~(3)~~ A date ~~twenty~~ twenty-five (25) years after the acceptance of the improvement by the City.

Water Distribution System Reimbursement Standards:

Proper compensation for reimbursement of costs of water distribution systems shall be the proportion of frontage footage of the proposed development, up to one half (1/2) of the actual cost, plus 15% to address costs for engineering, management, fees, interest and inspection, for any public works improvement(s) for properties that shares a common property boundary.

Private developers are required to provide a water distribution system within its development. The water distribution system is a looped or connected system and multiple water lines benefit many other properties over long distances. The minimum requirements the developer is responsible for are construction of 12" water mains on Arterial streets, 10" water mains in Collector streets, and 6" or 8" water mains on interior streets that are located within the boundary of their development depending on the water model results. If these water mains are located within the right of way on a common property line, the improvement costs of these water mains are eligible for reimbursement and would be based on the amount of frontage feet along the water main. The cost of the water line would be split in half with each side of the Right of Way and each adjacent property owner would pay 50 % of the improvement cost. If there are multiple properties along the water line, the owners of those properties would be responsible for their frontage feet along the water main. If a parcel is located within the 1/8 mile rule of an Arterial or Collector water main but does not border along the right of way the water line is located in, that parcel may be responsible for a portion of the cost of that water main. (See 1/8 Mile Rule Standard) If the private developer constructs any of the water distribution system improvements outside the boundaries of their development, those items may be eligible for reimbursement. The reimbursement amount shall be the percentage of benefit to the other property in which the water distribution system improvement was completed.

In cases where the water distribution system requires upsizing or other additional items, the difference in cost of material would be eligible for reimbursement from properties served by the upsizing or additional items. For developments that extend the water line from a source point not directly adjacent to their property, the entire offsite line is subject to reimbursement either from the properties it crosses, or the properties adjacent to the water line at time of tie in, or the properties that benefit within a defined area. Off site adjacent properties shall be responsible for 50% of the cost of the water line if bordered on one side, or 100% of the cost of the water line if property borders the water line on both sides, or for developments that the water distribution system requires the installation of a major distribution line larger than a 12-inch that provides sufficient water supply for an entire defined area that is greater than 160 acres, all undeveloped properties within that defined area shall be responsible for their share of the cost of the water line.

The boundaries shall be based on the following: All water lines on Arterial streets, Collector streets and interior streets are consider part of the overall water distribution system and may not necessary benefit every development but are the responsibility of the original development. The original development is responsible for all of its boundaries where future main water lines will be required. These boundary water mains are eligible for future reimbursement. The boundary for main water lines on Arterial and Collector Street is based on the percentage of frontage that is up to +/- 1/8th of a mile deep. (See 1/8 Mile Rule Standard) All required interior lines are not eligible for reimbursement unless they required upsizing or extension of the Water distribution system. Eligible cost for upsizing (not for extensions) would include the increase expenditure of the material only (pipe, valves, and fittings). Future reimbursement will be based on a pro rata per acre basis.

The water distribution system costs would include the installation cost and additional unusual conditions like rock removal or fill requirements and all materials including piping, valves, and all required fittings. Additional items like thrust blocking and assemblies including back flow prevention assembly and reduced pressure assembly are eligible for reimbursement. The fire hydrants must benefit the subsequent development to be eligible for reimbursement.

Line extensions or additional unusual conditions including additional depth that only benefit future development are eligible as reimbursement cost.

If the main water line runs parallel to the boundary of the property and is within dedicated city right of way for any type of street, it shall be considered bordered on one side.

If a pump station is required, the cost to complete the facility would include the pump and all required fittings and parts, the structure and related expenses; any City required landscaping and fencing, and any Special electrical power requirements. Future reimbursement will be based on a pro rata per acre basis.

Areas that would not qualify for reimbursement are interior water lines that only provide service to the original development.

Examples:

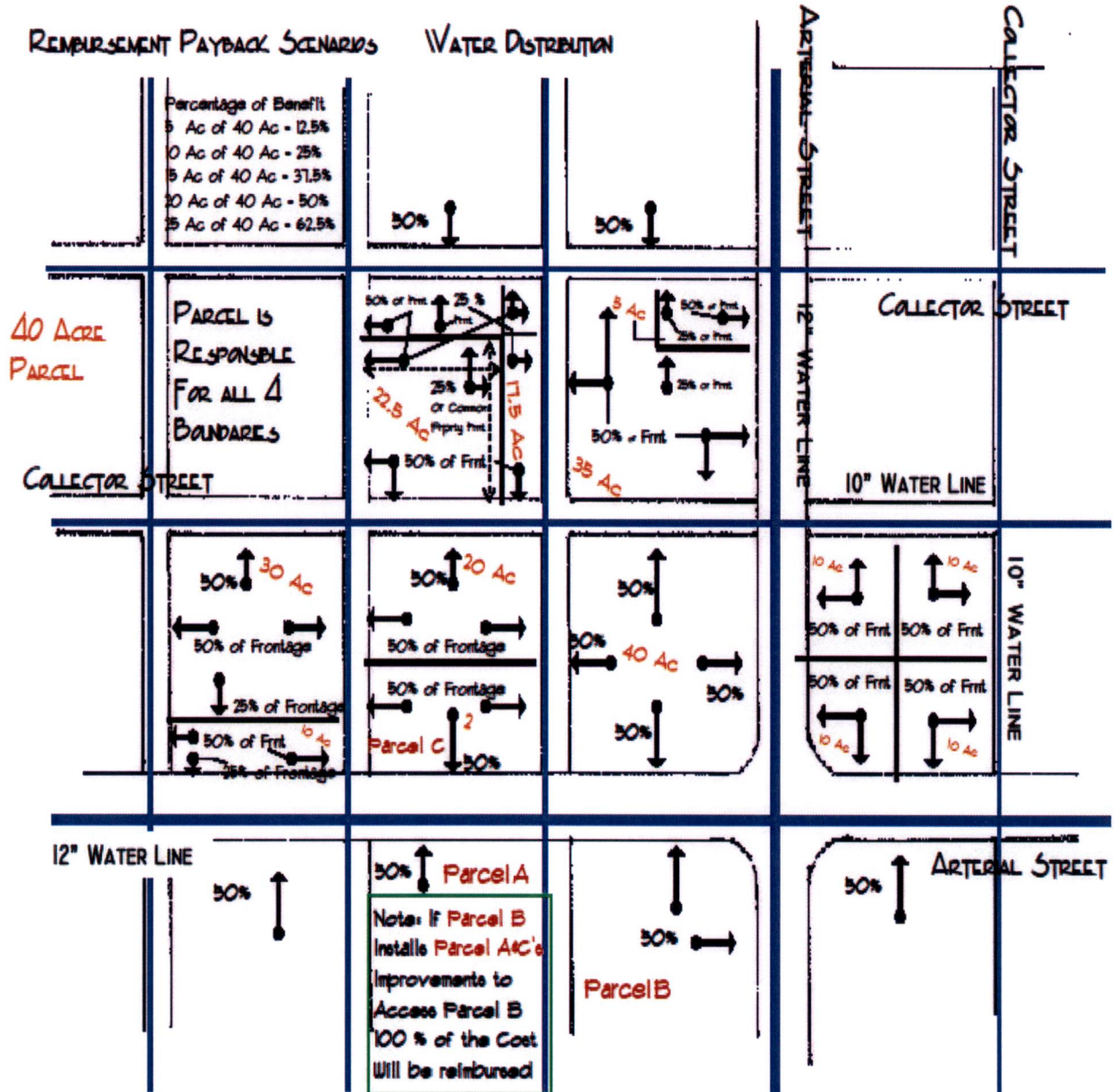
A developer is required to install a 12" main water line on a shared Arterial street; the adjacent property owner would pay one half or 50 % of the cost of that water line. If there are multiply owners along the shared Arterial Street, each owner would be responsible for their frontage along the water line. If a parcel is within the 1/8 mile rule of the 12" main water line, they would be responsible to reimburse the original developer per the 1/8 mile rule guideline before they would be permitted to connect to that line.

If the developer of parcel B crosses the shared boundary of parcel A and C to access its development, 100 % of the water distribution system improvement cost is eligible for reimbursement. If the water main is the standard size, 100 % of the cost would be paid by the owners of parcel A and C to the developer of parcel B. The amount would depend on the percentage of benefit to each parcel so in this case each parcel would reimburse parcel B for their 50% of the cost.

On Arterial and Collector streets, if a future development does not border any designated street, reimbursement still may be required. The original development is responsible for installing the required improvements on its boundaries on the water distribution system. There are future reimbursements for the cost of these completed improvements by subsequent developments.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.

REIMBURSEMENT PAYBACK SCENARIOS WATER DISTRIBUTION



Waste Water (Sewer) Collection Reimbursement Standards

Proper compensation for waste water (sewer) collection systems shall use equivalent residential units (ERU) in determining the improved capacity of the waste water collection system as determined by the Improvement Reimbursement Commission, times the actual cost of the subject existing improvements, plus 15% to address costs for (engineering, management, fees, interest and inspection).

The waste water collection system is not a looped grid type system and it is easier to determine the connection point to the existing system. Because developers are required to install minimum 8" sewer mains in all developments to provide individual sewer services and City development standards require developments to extend sewer mains to property lines with no reserve strips, the cost of reimbursements are more difficult to calculate. The other issues with sewer mains is that the design does not follow Arterial or Collector right of ways and are usually located within the boundaries of the development. For this reason all 8" sewer lines located in the interior of a development shall not be entitled to reimbursement unless the line only extends service for future connections. The cost of upsizing of a sewer main above 8" or to attain necessary depth to service adjacent subdivision from the stub extension to the property line shall be subject to reimbursement in the future from the adjacent parcel or parcels. Only the extra excavation and/or rock removal cost for additional depth would be eligible for reimbursement. The eligible cost for upsizing would include the increase expenditure for the material only (pipe, larger manholes or cleanouts, and fittings) except for improvements required for Major Sewer Trunk Lines or Line Replacements. If the original developer chooses to upsize the sewer main to provide additional depth for their subdivision, the upsizing is not subject to reimbursement. The reimbursement for upsizing shall be based on an ERU (equivalent residential unit) basis. If the new development is bounded on either side by an existing sewer lines but does not connect to or benefit from that line, the new development may be responsible for reimbursement of the cost of the existing sewer lines depending on other factors. A developer installs a 8" sewer main in a Collector right of way and the property that is located on the opposite side of the right of way plans to connect into sewer main or immediately downstream of that sewer main, that property would be responsible for 50% of the reimbursement for the lineal footage of sewer main including manholes, cleanouts, misc fittings and installation costs. Major off-site improvements such as major trunk lines or lift stations that are required by the City of Twin Falls will be entitled to reimbursement. The reimbursement will be based on a parcel's ERU requirement divided by pro rata share of ERU's available upon completion of the improvement. See examples below.

The original development is responsible for all of its boundaries where future sewer lines will be required. All minimum sewer lines on Arterial and Collector streets are consider part of the overall sewer collection system and may not necessary benefit every development but are the responsibility of the original development. However, reimbursement may be possible on sewer lines that provide future benefit to other parcels but do not benefit the original development. The boundary for sewer lines on Arterial and Collector street is based on the percentage of area that is up to +/- 1/8th of a mile deep (See 1/8 Mile Rule). All required interior lines are not eligible for reimbursement unless they required upsizing or extension of the sewer collection system. Replacement of an existing City-wide collection system trunk line or pump station would be eligible for future reimbursement based on the equivalent residential unit (ERU) increased capacity of the new line or pump station.

The waste water collection system costs would include installation cost and additional unusual conditions like rock removal or fill requirements and all materials including piping, manholes, cleanouts, and all required fittings. Line extensions or additional unusual conditions including additional depth that only benefit future development are eligible as reimbursement cost.

If a sewer pump station is required, the cost to design and complete the facility would include the pump and all required fittings and parts, the structure and related expenses; any City required landscaping and fencing, and any special electrical power requirements. Pre-development market value of the land dedicated for the pump location would be included in the overall cost of the pump station. Future reimbursement will be on an ERU basis.

Areas that would not qualify for reimbursement are interior sewer lines that only provide service to the original development and all individual sewer service connections

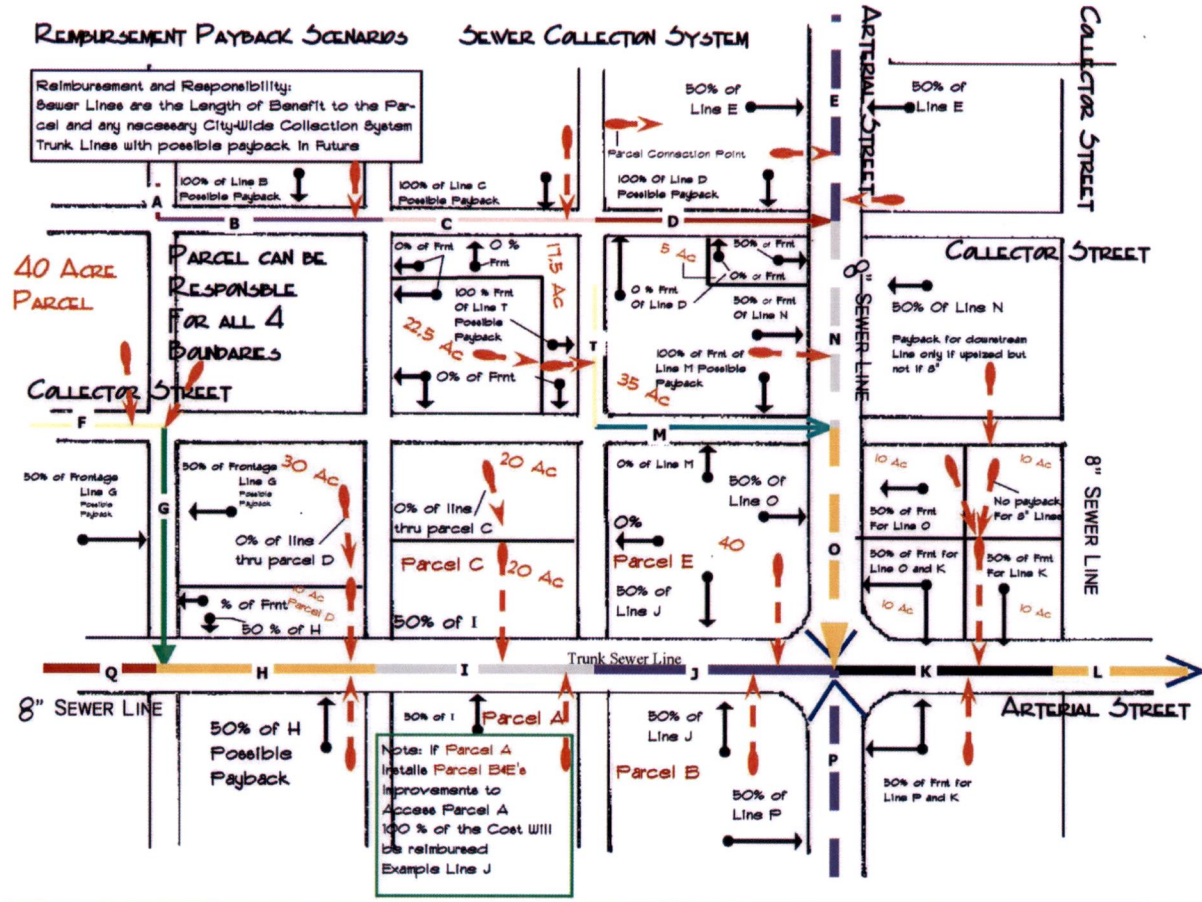
Examples:

If the current sewer main is capable of delivering 500 ERU's but there is no more capacity and a developer improves the system to carry 1000 ERU's. The additional 500 ERU's will be entitled to reimbursement from any future development upstream of the improved area. Therefore a 10 ERU development will be responsible for 2% of the cost of improvements.

A developer is required to install a minimum of a 8" sewer line on a shared Arterial street; the adjacent property owner would pay one half or 50 % of the cost of that sewer line based on their lot or parcel frontage. If there are multiple owners along the shared Arterial Street, each owner would be responsible for their frontage along the sewer line. If a parcel is within the 1/8 mile rule of the said sewer line, they would be responsible to reimburse the original developer per the 1/8 mile rule guideline before they would be permitted to connect to that line.

If the developer of Parcel B installs an 8" sewer main across the shared boundary of Parcel A and C to access its development, 100 % of the waste water collection system improvement cost is eligible for reimbursement. The amount would depend on the percentage of benefit to each parcel. If the sewer line crossed the shared boundary, each parcel would reimburse Parcel B for 50% of the cost for a total of 100 %. The original development is responsible for installation of its required improvements on its boundaries on the waste water collection.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.



Transportation Reimbursement Standards

Proper compensation for reimbursement of costs of transportation systems shall be the proportion of frontage footage of the proposed development, up to one half (1/2) of the actual cost, plus 15% to address costs for engineering, management, fees, interest and inspection, for any public works improvement(s) for properties that shares a common property boundary.

Developers are required to provide transportation improvements like curb, gutter, sidewalk or bike paths, landscape strips between curb and sidewalk or bike path, and asphalt roadway to centerline of the various types of approved streets per City of Twin Falls standards and specifications as part of development of the property. In certain cases a median may be also required. When the original developer constructs any of the transportation improvements outside the boundaries of their development, those items may be eligible for reimbursement. The reimbursement amount shall be the percentage of benefit to the other property in which the transportation improvement was completed.

The boundaries shall be based on the following; the original development is responsible for all of its boundaries where future roadways will be required. If the improvements are required to be placed on the adjacent right of way owned by another party, the original development is eligible for future reimbursement. If a parcel is located within the 1/8 mile rule of an Arterial or Collector roadway but does not border along the right of way the improvements are located in, that parcel may be responsible for a portion of the cost of the transportation improvements. (See 1/8 Mile Rule Standard)

The following types of roadways are eligible for reimbursement: Arterial streets, Collector streets, local streets, and alleyways:

Reimbursement is based on a roadway that is sized to be the narrowest approved width required. The improvements eligible for reimbursement would be excavation, compaction, gravel road base and leveling course, asphalt pavement, concrete pavement, parking striping, asphalt/concrete cutting, removal and patching, curb and gutter, roll curb, standard curb, curb ramp, curb scupper, catch basins, sidewalks (the size to be the narrowest approved width required), sidewalk scupper, sidewalk catch basins, sidewalks requiring retaining walls, concrete sign post pads, standard or monolithic extruded curb- gutter and sidewalk, medians and traffic islands which included curb and/or curb and gutter, gravel, concrete sign post pads, interior improvements like: concrete/asphalt/gravel, and/or landscaping including sprinkler system with controls, parkways (the size to be the narrowest approved width required) including interior concrete, asphalt, gravel and landscaping includes a sprinkler system with controls, approaches including Arterial approaches, standard approaches, valley gutters, wheel-chair ramps, and driveway approaches, transportation ramps including public ramps with hand rails, bike paths that are either asphalt paths, concrete paths, gravel paths, metal guardrail, signage such as required public safety signs, utility sleeves that are installed for natural gas, electrical, and cablevision, telephone or any future non-City of Twin Falls utilities, and saw cutting for both expansion joints and standard joints, and saw cutting of asphalt at new street patch back. Traffic Signals are eligible for reimbursement using the 1/8 mile rule standard.

The following areas that would not qualify for reimbursement are buried non-City of Twin Falls utilities, interior transportation improvements that only provide service to the original development, and mail box pads.

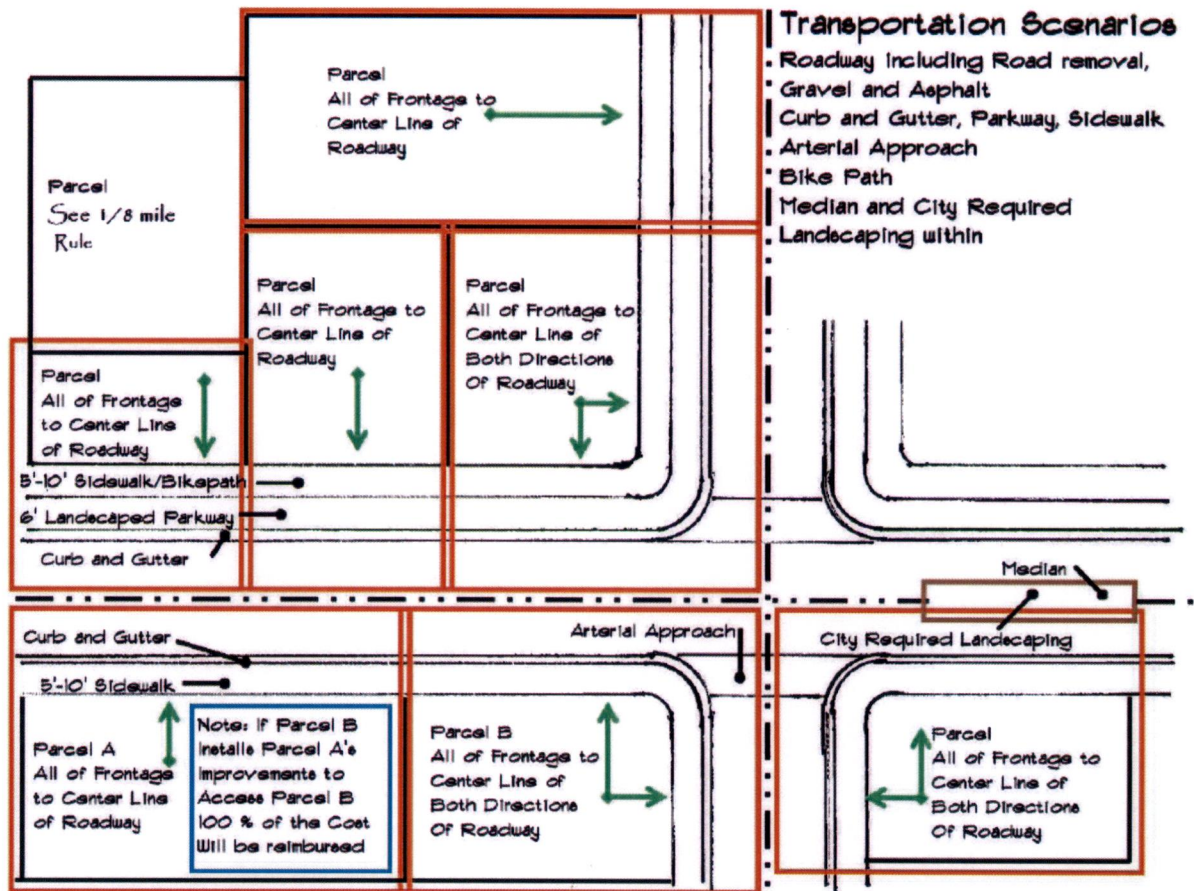
Examples:

A developer of parcel B is required to improve an additional width of twelve (12) feet of roadway on the adjacent property of parcel A to meet the road width requirement for its development, that improvement is eligible for 100 % reimbursement from the owner of parcel A.

If the developer of parcel B crosses the shared boundary of parcel A and C to access its development, 100 % of the improvement cost is eligible for reimbursement. The amount paid by the owners of parcel A and C would be the pro rata share of the improvements located on parcel A and C.

A parcel is responsible for the cost for all of its required improvements on its boundaries on the transportation system to the edge of its property including the roadway improvement within the future public right of way.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.



Pressurized Irrigation (PI) Pump Station Reimbursement Standards

Proper compensation for reimbursement of costs of pressure irrigation (PI) pump station reimbursement standards shall be the proportion of the total acreage, including impervious areas, of the proposed development or property owner desiring to connect to the existing system, installed by the initial developer, within the boundaries served by the improvements, as determined by the City Engineer and verified by the Commission, times the actual pro rata cost of the existing improvements, plus 15% to address costs for (engineering, management, fees, interest and inspection).

Developers have many options available regarding the type of Irrigation System they utilize for their development but all new developments will be required to comply with the City's pressurized irrigation system requirements. This plan requires the use of PI pump stations to supply irrigation water to their development. When possible, the use of regional PI pump stations will be incorporated into the larger area surrounding the development. There will be both public and private systems. However, for regional PI pump stations, they will be designed and sized sufficiently for the acreage to be served. As properties connect to the station, they will be subject to a pro rata share of acres requesting service divided by the design capacity of acres available. For example: The capacity of a PI pump station is 1000 acres of service and the property requesting to be connected to the station is 40 acres, the reimbursement will be 4% of the cost of the station in addition to 40 shares of Twin Falls Canal Company water being able to be transferred from said property to the City of Twin Falls.

The design and boundary of the PI pump station will vary according to location of available water and the requirements of the region. The design and boundary of the service area will be determined by the City Engineer and the percentage of benefit will determine the amount of future reimbursement. Subdivisions that are completely developed and fully accepted by the City of Twin Falls are not subject to any reimbursement requirements unless the subdivision is connected to the regional pump station in the future.

The PI pump station costs would include the installation cost and unusual conditions like rock removal or fill requirements and all materials including piping, valves, and all required fittings. Also included are additional costs for the assemblies including back flow valves, pressure reducing valve, blow off valves, diversion and overflow structures, and overflow piping, structure and related expenses, any City required landscaping and fencing, and any special electrical power requirements. The total cost shall include land costs based on pre development appraisal per acre market value of the land dedicated for the pump location.

Future reimbursement will be based on acres served and not water shares. It is the same for residential, commercial, institutional and industrial uses.

Areas that would not qualify for reimbursement are PI pump stations that only provide service to the original development and all individual PI service connections.

Examples:

If a PI pump station is designed and completed to service 640 acres, and a 20 acre development is required to connect to the pump station to provide PI to their development. The 20 Acres development would be responsible for 3.125 % of the total cost of the pump station. Ex. $20 \text{ Acres} \div 640 \text{ Acres} = 3.125\%$.

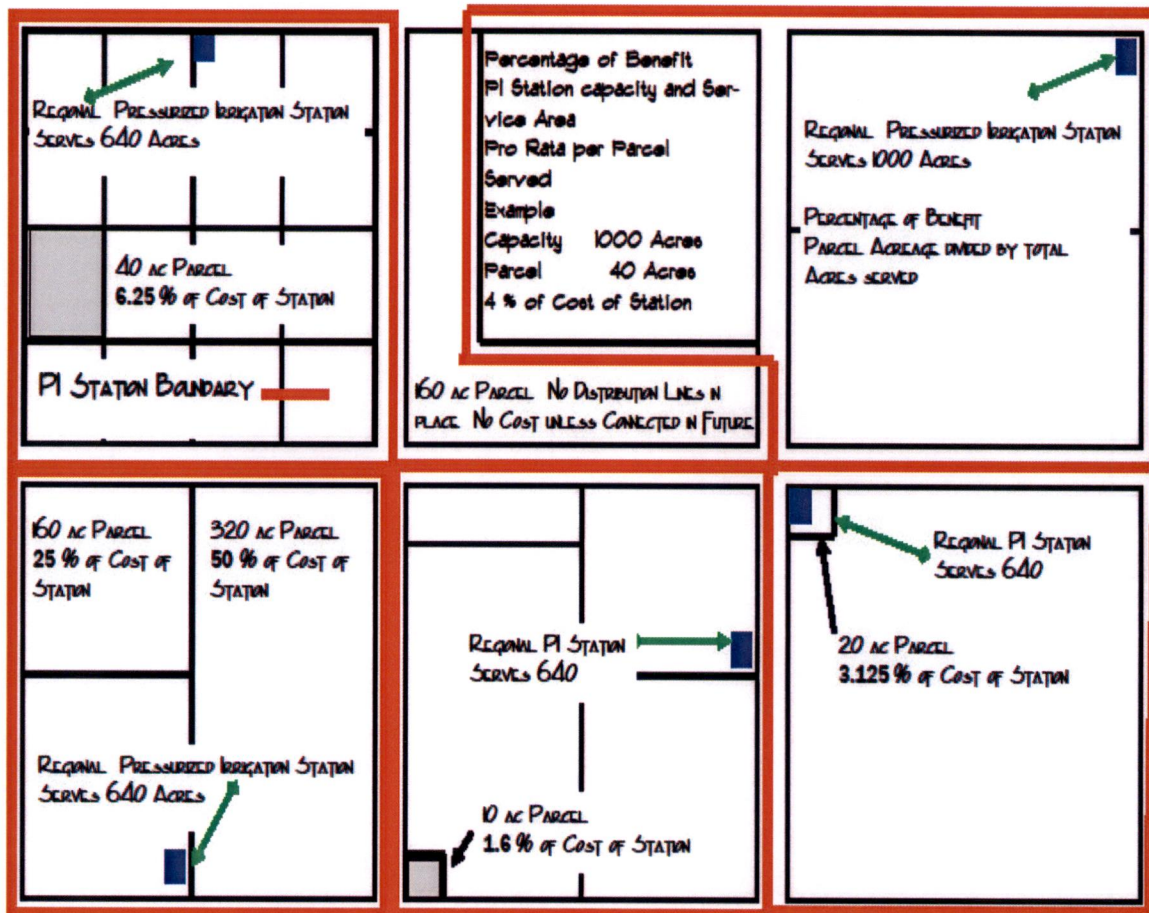
If a PI pump station is designed and completed to service 1000 acres, and a 40 Acre development is required to connect to the pump station to provide PI to their development. The 40

Acres development would be responsible for 4.00 % of the total cost of the pump station. Ex. 40 Acres divided by 1000 Acres would be 4.00%.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.

REIMBURSEMENT PAYBACK SCENARIOS

PRESSURIZED IRRIGATION STATION



Pressurized Irrigation (PI) Distribution Reimbursement Standards

Proper compensation for reimbursement of costs of pressure irrigation distribution systems shall be the proportion of frontage footage of the proposed development , up to one half (1/2) of the actual cost, plus 15% to address costs for engineering, management, fees, interest and inspection, for any public works improvement(s) for properties that shares a common property boundary.

Private developers are required to provide a pressurized irrigation (PI) distribution system within its development. The PI distribution system is a looped or connected system and multiple PI lines benefit many other properties over long distances. The developer is responsible for construction of PI mains on Arterial streets, Collector streets, interior streets that are located within the boundary of their development. If these PI mains are located within the right of way on a shared property line, the improvement costs of these PI mains are eligible for reimbursement and would be based on the amount of frontage along the PI main. The cost of the PI line would be split in half with each side of the right of way and each property owner would pay 50 % of the improvement cost. If there are multiple properties along the PI line, the owners of those properties would be responsible for their frontage along the PI main. If a parcel is located within +/- 1/8 of a mile of an Arterial or Collector PI main but does not border along the right of way the line is located in, that parcel may be responsible for a portion of the cost of that PI main. (See 1/8 Mile Rule Standard) If the initial developer constructs any of the PI distribution system improvements outside the boundaries of their development, those items may be eligible for reimbursement. The reimbursement amount shall be the percentage of benefit to the other property in which the PI distribution system improvement was completed.

In cases where the PI distribution system requires upsizing or other additional items, the difference in cost of material would be eligible for reimbursement from properties served by the upsizing or additional items. For developments that extend the PI line from a source point not directly adjacent to their property, the entire offsite line is subject to reimbursement from the properties it crosses or the properties adjacent to the PI line at time of tie in. Offsite adjacent properties shall be responsible for 50% of the cost of the PI line if bordered on one side or 100% of the cost of the PI line if property borders the PI line on both sides.

All PI lines on Arterial streets, Collector streets and interior streets are consider part of the overall PI distribution system and may not necessary benefit every development but are the responsibility of the original development. The original development is responsible for all of its boundaries where future main PI lines will be required and may be eligible for future reimbursement. The boundary for main PI lines on Arterial and Collector Street is based on the percentage of frontage that is up to +/- 1/8th of a mile deep. (See 1/8 Mile Rule Standard) All required interior lines are not eligible for reimbursement unless they required upsizing or extension of the PI distribution system to benefit adjacent properties. Eligible cost for upsizing (not for extensions) would include the increase expenditure of the material only (pipe, valves and fittings, etc.). Future reimbursement will be based on a pro rata per acre basis.

If the main PI line runs parallel to the boundary of the property and is within dedicated city right of way for any type of street, it shall be considered bordered on one side.

The PI distribution system costs include the installation cost and additional unusual conditions like rock removal or fill requirements and all materials including piping, valves, and all required fittings. Also additional items like thrust blocking and assemblies including back flow

prevention assembly, reduced pressure assembly, blow off assembly, air injection assembly and air release/vacuum assembly.

Line extensions or additional unusual conditions including additional depth that only benefit the new development are eligible as reimbursement cost.

If a pump station is required, see the pressurized irrigation pump station standards.

Areas that would not qualify for reimbursement are interior PI lines that only provide service to the original development and all individual PI service connections.

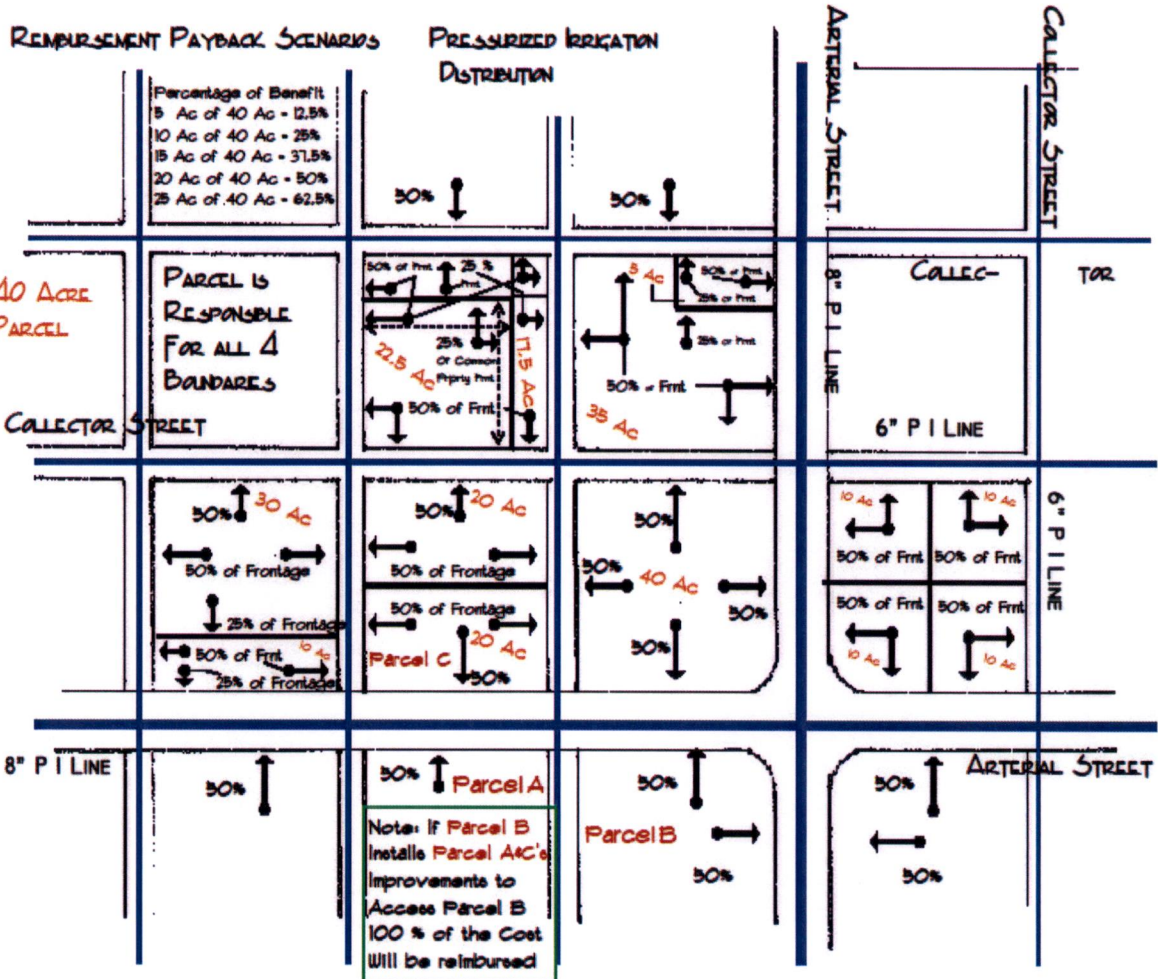
Examples:

A developer is required to install an 8" main PI line on a shared Arterial street; the adjacent property owner would pay one half or 50 % of the cost of that PI line. If there are multiply owners along the shared Arterial Street, each owner would be responsible for their frontage along the PI line. If a parcel is within the 1/8 mile rule of the 8" main PI line, they would be responsible to reimburse the original developer per the 1/8 mile rule guideline before they would be permitted to connect to that line.

If the developer of parcel B crosses the shared boundary of parcel A and C to access its development, 100 % of the PI distribution system improvement cost is eligible for reimbursement. If the PI main is the standard size, 100 % of the cost would be paid by the owners of parcel A and C to the developer of parcel B. The amount would depend on the percentage of benefit to each parcel. The amount would depend on the percentage of benefit to each parcel so in this case each parcel would reimburse parcel B for their 50% of the cost.

On Arterial and Collector Streets, if a future development does not border any designated street, reimbursement still may be required should the PI system provides service to the parcel. The original development is responsible for the installation for all of its required improvements on its boundaries on the PI distribution system. There are future reimbursements for the cost of these completed improvements by subsequent developments.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.



1/8 Mile Rule Standards:

Proper compensation for reimbursement of costs under the 1/8 mile rule standards shall be the percentage of benefit to the proposed development times the actual cost, plus 15% to address costs for (engineering, management, fees, interest and inspection) that improves any property that connects to any public works improvement(s).

The Area of Impact and the area within the City of Twin Falls City Limits are laid out in tracts of land on a Meridian, Township and Section system of survey.

A section is an area nominally one mile square containing 640 acres. Each Section is further divided into sixteen ¼ mile sections (or 1/16th sections of approximately 40 acres each) parcels that are approximately 1320' by 1320'. The City standards specify right of ways on these mile section boundaries for Arterial roadways, the ¼ mile increments between the Arterial right of ways are for Collector roadways. The City's water distribution system, wastewater collection system, transportation system, pressure irrigation pump stations and distribution utilize this right of way to locate future improvements and create certain boundaries.

When these improvements work as a whole system, some of the improvements benefit all the developments within the 1/4 mile section and possibly other ¼ mile sections as well. Any parcel, regardless of the location within 660 +/- linear feet of the center line of the right of way of said utility would be responsible for a portion of the cost of the improvements located on the Collector or Arterial right of ways. To determine this benefit, any parcel that is located within approximately 1/8 of a mile or 660 +/- lineal feet of a Collector or Arterial right of way measuring perpendicular from the center line of the right of way, a percentage of the improvement cost would be paid by this parcel.

The method of calculating this percentage with based on the following formula: since a 40 acre parcel will be bounded on 4 sides by either a Collector or Arterial right of way, the 40 acre parcel will be reduced to four equal square areas of 10 acres. The parcel in question in that 10 acres will pay a reimbursement amount based on the amount of area no matter where it is located or arranged in those 10 acres. I.E. 3 acre parcel will pay 3/10ths of the cost of the improvements located within either the Arterial or Collector right of way or both.)

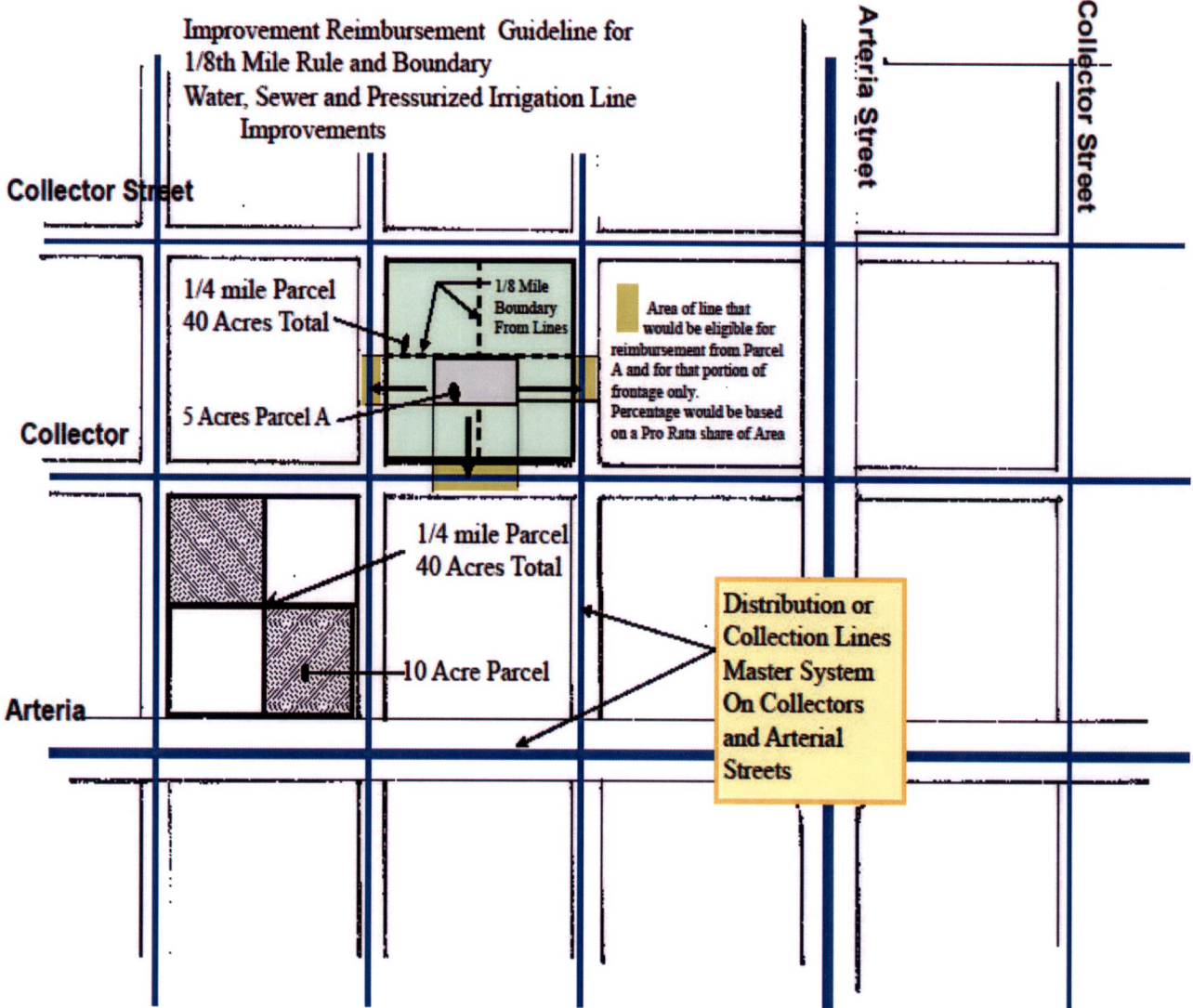
This method would apply to water distribution system, transportation, pressurized irrigation distribution system, and waste water collection system. This method would not apply to the pressured irrigation pump station systems.

Examples:

The initial developer improves a 5 acre parcel that is 660' by 330' that runs east to west and is parallel along an Arterial right of way located on the development's south property line and a Collector right of way on the development's west property line. The developer installs a 12" water main line in the Arterial right of way at a cost of \$30,000.00 and a 10" water main line in the Collector right of way at a cost of \$20,000.00. The developer also installs an 8" PI line in the Arterial right of way at a cost of \$10,000.00 and a 6" PI line in the Collector right of way at a cost of \$5,000.00 for a total improvement cost of \$65,000.00. This cost would be shared by the property or properties (see 1/8 mile rule) south of the Arterial right of way and west of the Collector right of way on a 50/50 basis. These parcels would reimburse the original developer for 50 % of the total cost of \$65,000.00 or \$32,500.00 plus an additional 15 % (See Resolution for explanation).

A 3 acre Parcel is located directly north of the original developer's property and part of the property is within 1/8 of a mile from the center line of the Arterial right of way with the water and PI improvements. This parcel would be responsible for the amount of acreage that is within 660 +/- linear feet or in this case the 3 acres would be 3/10th of the 10 acre grid method. The cost for the water main line and the PI line on the Arterial right of way was \$40,000.00. The parcels located south of the Arterial right of way would reimburse the original developer for half of the improvement cost or \$20,000.00 plus the 15 % which is \$23,000.00. Since the 3 Acre parcel is located perpendicular to the right of way, that parcel would reimburse the original developer for 3/10th of the remaining half of the cost of \$20,000.00 or \$6,000.00 plus the 15% which is \$6,900.00 for the Water and PI improvements located on the Arterial right of way However, because the 3 acre parcel is not located within the 660 +/- linear feet measuring perpendicular from the Collector right of way, there would be not be any reimbursement by the 3 acre parcel for the cost of the water and PI improvements located on the Collector right of way.

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.



Twin Falls Canal Company Water Delivery System Reimbursement Standards

The Twin Falls Canal Company, known as “TFCC” in this section, owns and operates the irrigation water delivery system consisting of irrigation structures and head gates, canals and laterals, known as “Irrigation Improvements” in this section, located in easements and right of ways throughout the City of Twin Falls. The City of Twin Falls aids the TFCC in the design, maintenance and oversight of their water delivery system. All TFCC Irrigation Improvements become part of the overall design of any subdivision and requires approval by the City of Twin Falls Engineering Department.

Proper compensation for reimbursement of costs of the TFCC water delivery systems shall use the degree of benefit as determined by the Improvement Reimbursement Commission, times the actual cost of the subject improvements, plus 15% to address costs for engineering, management, fees, interest and inspection.

The TFCC water delivery system is not a looped grid type system and per a State Agreement, the TFCC has recorded and unrecorded rights-of-ways along the sides of its main canals (50 feet), major laterals (30 feet), and smaller laterals (15 feet or a proportionate width) by a 1903 Agreement with the State of Idaho. These measurements are from the toe of the bank.

The Irrigation Improvements follow a gravity path and are not located per property boundaries. Irrigation Improvements can be located partially on two different properties and the cost of reimbursements are more difficult to calculate. The 1/8th mile rule will not apply to Irrigation Improvements reimbursement. Degree of benefit is determined by the location of the Irrigation Improvements. All reimbursements will be determined per the historical location and right of way of any Irrigation Improvement. Benefit is determined by the location of the center of the Irrigation Improvement, the toe of the bank and the TFCC right of way. The Irrigation Improvements cannot be relocated on an adjacent property to create benefit where benefit did not previously exist.

To qualify as an Irrigation Improvement eligible reimbursement, the improvement must involve replacing a canal or lateral with approved TFCC pipe using an underground installation and/or the improvement or replacement of existing or new irrigation structures and head gates; and is required as a condition of approval by the TFCC and the City of Twin Falls.

The Irrigation Improvements costs would include installation cost and additional unusual conditions like rock removal or fill requirements and all materials including piping, irrigation structures and head gates, cleanouts, and all required fittings.

If the Irrigation Improvement is required to cross an adjacent property, the adjacent property owner is responsible for 100 % of the cost of the Irrigation Improvement for that portion located on their property. If the Irrigation Improvement is located on two adjacent properties, both property owners are responsible for 50% of the cost of the Irrigation Improvement when one toe of the bank of the canal or lateral is located within their property boundary or any part of the irrigation structure is located on their property. Where a portion of the right of way is located on a property but the Irrigation Improvement is not, there is no benefit and the cost of the Irrigation Improvement is not eligible for reimbursement.

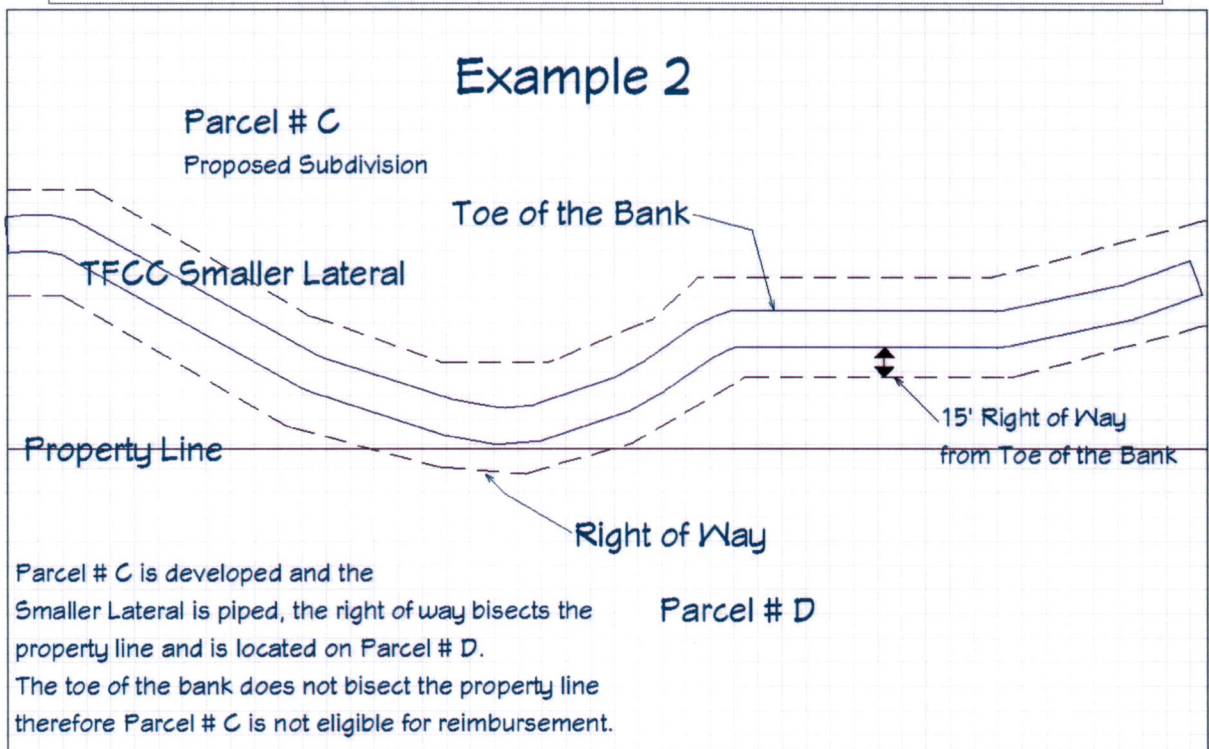
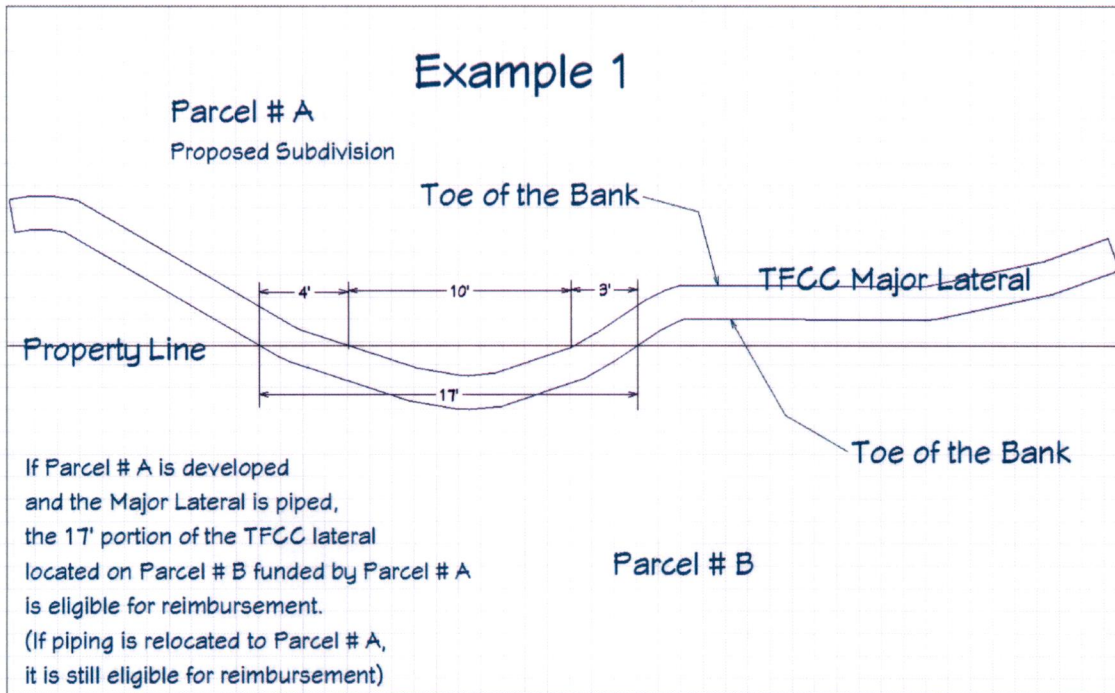
Examples:

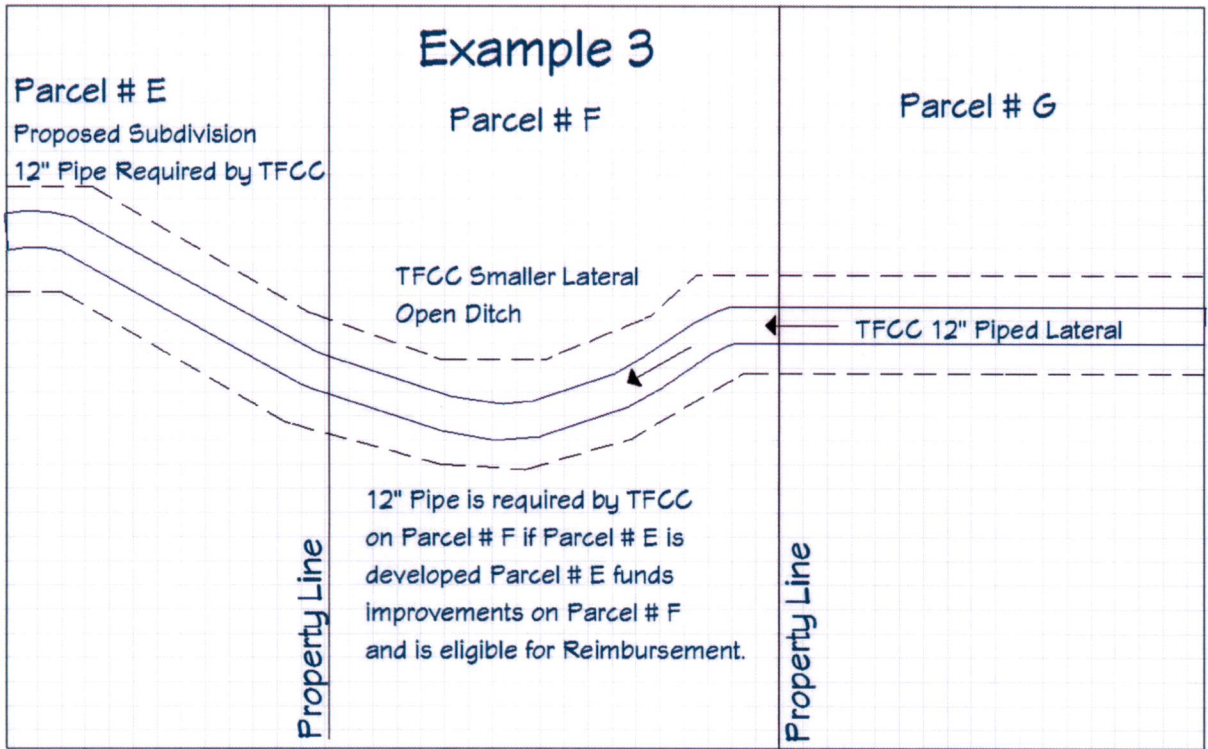
A developer of Parcel A is required to install Irrigation Improvements as part of the development of their subdivision and the Irrigation Improvements are located parallel to Parcel B and where any toe of the bank of the canal or lateral or an irrigation structure crosses Parcel B for any length those improvements are eligible for reimbursement. There is benefit to Parcel B therefore 50% of the cost of the Irrigation Improvement for the length of one toe of the bank crosses the boundary between Parcel A and B or if any portion of the irrigation structure is located on both properties are eligible for reimbursement. When both toes of the bank of the canal or lateral or all the irrigation structure is located on Parcel B, 100% of the cost of the Irrigation Improvements are eligible for reimbursement for that portion. See Example 1.

A developer of Parcel C is required to install Irrigation Improvements as part of the development of their subdivision and the Irrigation Improvements are located parallel to Parcel D. If the irrigation structure or the toe of the bank of the canal or lateral does not cross Parcel D at any point although the right of way does, there is no benefit to Parcel D therefore the Irrigation Improvement are not eligible for reimbursement. See Example 2

A developer of Parcel E is required to install Irrigation Improvements as part of the development of their subdivision and there is a canal or lateral delivering TFCC water to the subdivision on Parcel F that the TFCC requires to be improved. The developer of Parcel E will complete the required Irrigation Improvement within the TFCC right of way on Parcel F and the owner of Parcel E will be eligible for 100 % of the cost from Parcel F as an improvement reimbursement. See Example 3

The following drawing will help to illustrate the proper compensation to be paid to an initial developer under the rules set forth above. If there is any conflict between the text and the illustration, the rules contained in the text shall prevail.



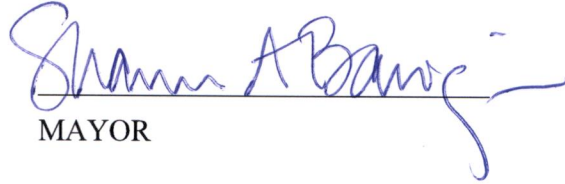


PASSED BY THE CITY COUNCIL

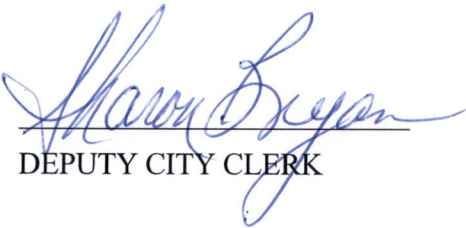
August 28, 2017.

SIGNED BY THE MAYOR

August 28, 2017.


MAYOR

ATTEST:


DEPUTY CITY CLERK

LYNNETTE M. DAVIS
ADMITTED TO PRACTICE LAW IN IDAHO
EMAIL: LDAVIS@HAWLEYTROXELL.COM
DIRECT DIAL: 208.388.4944
DIRECT FAX: 208.954.5213

November 19, 2018

TRANSMITTED VIA E-MAIL

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Re: *Jade Development, LLC / Gerald Martens Application for Reimbursement*

Troy and Fritz:

As you are aware, I represent Jade Development, LLC (“Jade”) with respect to Gerald Martens’ application for reimbursement for the installation of pressurized irrigation and storm/waste-water retention systems in the Broadmoor Subdivision. Unfortunately, I am unable to attend the informal meeting scheduled for Monday, November 19, 2018. As Fritz and I discussed on November 12, 2018, I am providing this letter to explain Jade’s position regarding Mr. Martens’ request. This letter is divided into two sections—the first section summarizes the facts, and the second section explains Jade’s concerns.

FACTS

Rusmor, LLC (“Rusmor”) was the original owner of the Broadmoor Subdivision (“Subdivision”). Rusmor retained Mr. Martens’ engineering company, EHM Engineers, Inc. (“EHM”) to perform certain engineering work on the Subdivision. In 2015, Rusmor executed a Real Estate Purchase and Sale Agreement (“Agreement”) by which it sold the northern portion of the Subdivision to Mr. Martens (“Martens’ Property”). Rusmor retained the remaining property (“Retained Property”). The Agreement is attached hereto as Exhibit A.

Joe Russell, the principal owner of Rusmor, negotiated the Agreement with Mr. Martens. The terms of the Agreement require Mr. Martens to install, at his expense, certain utilities for the

Retained Property such as pressurized irrigation and storm/waste-water runoff systems. Further, the Agreement requires Mr. Martens and EHM to provide all remaining engineering and related services for the Retained Property. In exchange, Mr. Russell significantly reduced the purchase price of Martens' Property.

Sometime later, Rusmor sold the Retained Property to Jade. Pursuant to paragraph 15 of the Agreement and Jade's agreement with Rusmor, which expressly referenced the Agreement and Mr. Martens' obligations thereunder, Jade was bound by, and received the benefit of, the Agreement. Accordingly, Jade expected Mr. Martens to install the pressurized irrigation and storm/waste-water runoff systems for the Retained Property, which Mr. Martens did.

In May 2017, Mr. Martens sent Jade a letter requesting that Jade pay for a portion of storm/waste-water improvement costs. Mr. Martens' request is attached hereto as Exhibit B. Mr. Martens' request included a document drafted by EHM, which estimated a total cost of \$147,156.17.¹ Mr. Martens asserted that Jade was responsible for 47.39% of the cost: \$69,737.31. Also attached to the request were estimates from subcontractors for other development-related work, such as pressurized irrigation, water, and sewer. Jade discussed Mr. Martens' request with Rusmor and confirmed that Mr. Martens was obligated to pay the storm/waste-water improvement cost. Accordingly, Jade advised Mr. Martens that because it was his sole obligation to provide the storm/waste-water improvement, Jade would not pay any portion of the cost. As will be discussed in greater detail below, Mr. Martens' 2017 request is noteworthy because it demonstrates that, as of May of 2017, he was willing to pay for the pressurized irrigation costs.

On December 29, 2017, Mr. Martens sent an application for reimbursement to Troy Vitek (Assistant City Engineer) requesting reimbursement for: (1) \$9,003.00 for sanitary sewer improvements; and (2) \$65,625 for pressurized irrigation improvements. Mr. Martens' December application is attached hereto as Exhibit C. Instead of submitting Mr. Martens' request to the Improvement Reimbursement Committee ("IRC") for approval, Mr. Vitek advised Jade that the City does not like to get in the middle of disputes between private parties and suggested that Jade and Mr. Martens resolve the issue between themselves. Based upon its discussions with Mr. Vitek, Jade understood that the IRC or Mr. Vitek rejected Mr. Martens' request for reimbursement because it did not comply with the requirements of Resolution 2017-13. Jade agreed with Mr. Vitek's suggestion and organized a meeting with Mr. Martens, John Fitzgerald (attorney for Rusmor), and Scott Allen (Project Manager for Jade) and Jade personnel. The meeting occurred on April 23, 2018. During the course of the meeting, Mr. Martens

¹ Martens later acknowledged that the \$147,156.17 was an overstatement of the costs related to the storm/waste-water improvements. Indeed, he later submitted a request for nearly \$30,000 less than originally requested.

acknowledged that the Agreement required him to install, at his expense, the various utilities provided for in the Agreement. However, when it became apparent that Jade expected him to honor the terms of the Agreement, he made the following threat to Jade:

Nobody bullies me. The City and I will stop you in your tracks
unless you pay me.

Following the meeting, Scott Allen called Mr. Martens to further discuss the issue, but no resolution was achieved. Thereafter, Mr. Allen sent an email to Troy Vitek (Assistant City Engineer) wherein he: (1) confirmed that the Agreement required Mr. Martens to provide the utilities to Jade's portion of the Subdivision; (2) advised the City of Jade's attempts to resolve the issues with Mr. Martens; (3) confirmed Jade's understanding that Mr. Martens' reimbursement request had been denied by the IRC; and (4) requested immediate notice should Mr. Martens seek reimbursement from Jade in the future. Mr. Allen's email is attached hereto as Exhibit D.

On October 25, 2018, Jade discovered that Mr. Martens had submitted another reimbursement request to the IRC, and that the IRC was meeting to consider the request that day. Mr. Martens' application asserts that the total reimbursable cost was: (1) \$65,625 for pressurized irrigation; (2) \$118,677.73 for storm/waste-water retention; and (3) an additional 15% to address engineering, management, and inspection costs. Mr. Martens' application is attached hereto as Exhibit E.

Without notifying Jade, the IRC held a meeting on October 25, 2018 to evaluate Mr. Martens' reimbursement application. The City Attorney was unable to attend the IRC meeting but advised the IRC to table Mr. Martens' application. Mr. Martens, who is a member of the IRC, recused himself, and EHM's principal engineer, David Thibault, presented Mr. Martens' reimbursement application to the IRC. Mr. Thibault explained that the total improvement costs, plus 15%, totaled \$211,948.14, and based upon Jade's ownership of 47.4% of the Subdivision acreage, Jade was responsible for \$100,463.42.

In response, Jade representatives explained that Mr. Martens' reimbursement application conflicted with the Agreement. The Chairman of the IRC, Chad Debie, argued that the IRC should evaluate the reimbursement application and presumably approve it, without regard to the Agreement. Specifically, Chairman Debie stated "[T]he scope of this board has nothing to do with their purchase and sale agreement." Chairman Debie reasoned that "it doesn't make any difference whether or not [Jade and Mr. Martens] had a purchase and sale agreement in place," because Mr. Martens' entitlement to reimbursement was unrelated to the Agreement. Fortunately, City representatives explained to Chairman Debie that a premature ruling on Mr. Martens' application would likely lead to a lawsuit involving the City. Ultimately, the IRC tabled the decision for 30 days to allow the City Attorney to investigate Jade's argument.

JADE'S CONCERNS

Jade has four concerns related to Mr. Martens' reimbursement application.

1. According to the Agreement, Mr. Martens is Not Entitled to Reimbursement from Jade.

The plain language of Agreement demonstrates that Mr. Martens is not entitled to reimbursement from Jade. Indeed, paragraphs 4, 10(a)(iii), and 10(d) state as follows, in pertinent part:

EHM, Engineers, Inc. [] waive[s], and release[s] [Rusmor] from any and all liability for, said unpaid outstanding fees, costs and expenses charged by of [sic] EHM Engineers, Inc. for said engineering and related professional services to subdivide, and cause the subdivision plat of Broadmoor Subdivision to be accepted and recorded, and otherwise attributable to Broadmoor Subdivision.

....

[Mr. Martens'] obligation to install any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property.

....

Contemporaneous with [Mr. Martens] providing active utility service connections of municipal water, sanitary sewer, and pressurized irrigation, pursuant to this Section, [Mr. Martens] shall construct and provide waste water runoff facilities on [Martens' Property], to include, without limitation, retention ponds and conduits, all as necessary and appropriate for the conveyance, transfer, delivery and storage of waste water runoff from the Retained Real Property to [Martens' Property].

Agreement §§ 4, 10(a)(iii), and 10(d).

Again, these provisions were included in the Agreement in exchange for a significant price reduction. The only provision in the entire Agreement that contemplates a reimbursement arrangement is paragraph 10(e). Paragraph 10(e) addresses the construction of Ridgeway Drive,

which is the road that divides the Retained Property and Martens' Property. Ridgeway Drive was important to Mr. Russell because it provides access to the Retained Property, and Mr. Russell planned to further develop the Retained Property. To ensure that Ridgeway Drive was constructed in a timely manner, Mr. Russell insisted on maintaining responsibility to construct the road; however, each party remained responsible to construct the sidewalk, curb, and gutter on their respective side of the road. The parties recognized that it was impractical to construct the road separate from the sidewalk, curb and gutter. Therefore, Mr. Martens and Mr. Russell discussed that, in the event that Rusmor constructed the road and both the northern and southern sides of the sidewalk, curb, and gutter, Mr. Martens would reimburse Rusmor for his portion of the sidewalk, curb, and gutter. To that end, the Agreement includes the following reimbursement clause:

[I]n the event that [Rusmor] constructs the sidewalk, curb and gutter of and along the northern right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, [Mr. Martens] shall promptly reimburse [Rusmor], within sixty (60) days of notice for reimbursement, for all costs and expenses incurred by [Rusmor] for the northern sidewalk, curb and gutter of and along said right-of-way.

Agreement § 10(e). This provision demonstrates that the parties had discussed reimbursement and were capable of drafting a clause to that effect. Had the parties intended for Rusmor to reimburse Mr. Martens for the other improvements (engineering, pressurized irrigation, and storm/waste-water runoff), then paragraphs 4, 10(a)(iii), and 10(d) would include a reimbursement clause. They do not. Therefore, according to the plain language of the Agreement, Mr. Martens is not entitled to reimbursement for those improvements.

I understand that Fritz has reviewed the Agreement and believes that Mr. Martens is obligated to "install" the pressurized irrigation improvements. However, I understand that Fritz is troubled by the lack of any language stating that Mr. Martens would be responsible for all "costs" associated with the installation. Due to the absence of such language, Fritz stated that he was not able to determine that it was Mr. Martens' responsibility to pay the total cost to install the utilities. Presumably, Fritz's position focuses on the term "install" in the following provision of the Agreement:

[Mr. Martens'] obligation to **install** any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property.

Agreement, § 10(a)(iii) (emphasis added).

Travis Rothweiler
Fritz Wonderlich
November 19, 2018
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I respectfully disagree with Fritz's position. Fritz's position conflicts with the plain language of Resolution 2017-13, which states that an Initial Developer "who **installs** the improvement" is entitled to reimbursement. Resolution, p. 1 (emphasis added). Notably, the Resolution does not specify that the Initial Developer must "install and pay for" an improvement; rather, it implies that the word "install" includes payment. The same reasoning should be applied to the Agreement. Further, Jade's position is buttressed by the introductory phrase in section 10(a): "[Mr. Martens] **shall provide** for the development, use and benefit of the Retained Real Property active utility service connections of municipal water, sanitary sewer and pressurized irrigation . . . as follows." Agreement, § 10(a) (emphasis added). When read in conjunction, the terms "install" and "shall provide" demonstrate that Mr. Martens was obligated to install the utilities at his sole expense. Additionally, as previously mentioned, the parties were capable of drafting a reimbursement clause but did not add such a clause to the pressurized irrigation provision. Finally, Joe Russell has not only confirmed our understanding of the Agreement but has provided the IRC with a declaration, which is attached hereto as Exhibit F.

Jade's position—that Mr. Martens is not entitled to reimbursement—is further supported by Mr. Russell and his attorney's recollection. I have discussed the matter with Mr. Russell and his attorney, who drafted the Agreement. Both recalled that Mr. Martens' obligation to provide, at his sole cost, all engineering services and utilities was a material, negotiated, and mutually understood term of the Agreement. Again, the price of the sale was significantly reduced in light of Mr. Martens' obligations. As an aside, both Mr. Russell and his attorney expressed surprise and disappointment regarding Mr. Martens' attempt to deny his obligations.

Jade's position is further supported by the fact that Mr. Martens' previously acknowledged his obligations. Indeed, in his May 2017 reimbursement request, Mr. Martens requested reimbursement only for storm/waste-water improvements. At the time, Mr. Martens had estimates for other improvements, including pressurized irrigation, water, and sewer. The fact that Mr. Martens did not request reimbursement from Jade for these other improvements demonstrates that he understood that he was obligated for the pressurized irrigation costs. Similarly, in his December 2017 request, Mr. Martens did not seek reimbursement for storm/waste-water improvements; thus, he understood that he was obligated for the storm-waste-water improvement costs. The scope of Mr. Martens' request changed again in his 2018 application, where he dropped his request for sanitary sewer reimbursement, but added a request for storm/waste-water reimbursement. It stands to reason that if Mr. Martens truly believed that he was entitled to reimbursement, his requests would be consistent. The ever-changing nature of Mr. Martens' requests indicates that he did not believe that he had a true entitlement; rather, he was attempting to take whatever he could get from Jade. Moreover, in a meeting between the parties, Mr. Martens acknowledged that he was obligated to install, at his sole expense, the pressurized irrigation system.

Based on the foregoing, Mr. Martens is not entitled to a reimbursement. Therefore, the City should deny his application. At the very least, the City should refrain from ruling upon Mr. Martens' application until the dispute between Jade and Mr. Martens has been resolved by the parties or a court of law.

2. There are Numerous Red Flags Related to Mr. Martens' Reimbursement Application and the Process by Which it was Reviewed.

Assuming, *arguendo*, that the Agreement did not exist, there are still serious concerns with Mr. Martens' reimbursement application. First, as Fritz has acknowledged, initial developers are not entitled to reimbursement for storm drainage improvements. Indeed, Resolution 2017-13 makes no mention of storm drainage improvements. Therefore, Mr. Martens' reimbursement application for \$118,677.73 related to storm drainage improvements must be denied. Similarly, the Resolution provides that the following costs are not eligible for reimbursement: "[a]ll individual service connections, **engineering and surveying cost**, and all City of Twin Falls fees including but not limited to: application fee, review fee, **connection fee**, water tap fee, water meters, and any capacity fees." Resolution 2017-13, p. 4 (emphasis added). Accordingly, Mr. Martens' reimbursement application for \$800 related to a pressurized irrigation connection fee and \$2,502.50 related to a PVC connection line must be denied. Further, the 15% allotment for, *inter alia*, engineering fees, must be decreased in light of the ineligibility of engineering costs. In sum, even if the Agreement did not exist, Mr. Martens' reimbursement application overstates his entitlement by at least \$121,980.23.

As you can imagine, Mr. Martens' attempt to slip \$121,980.23 into his application raises other concerns. For instance, it raises questions related to Hailey Barnes' independent third-party review of the application. In her letter, Ms. Barnes states that "After a thorough review it is my opinion that . . . the items, quantities, and associated costs successfully meet the intent of the City of Twin Falls adopted Ordinance #2974 and Resolution 1816." Apparently, despite conducting a thorough review, Ms. Barnes did not recognize that Resolution 1816 had been revised and replaced by Resolution 2017-13. Moreover, she failed to notice that neither the ordinance, nor Resolution 1816 or 2017-13, discuss reimbursement for storm drainage improvements.

I have similar concerns with the City Engineer's staff report. According to the Resolution, the City Engineering Department is tasked with creating a staff report for each reimbursement application. The IRC relies on the staff reports when evaluating reimbursement applications. The staff report for Mr. Martens' application is disturbingly superficial. For example, under the analysis section it states "N/A," and the conclusion section relies entirely upon Ms. Barnes' letter.

In sum, even if the Agreement did not exist, Mr. Martens' application overstates his entitlement by at least \$121,980.23. For these reason, the City should deny his application, or at

the very least, refrain from ruling upon the application until Jade and Mr. Martens resolve their dispute.

3. Mr. Martens' application for reimbursement is supported by improper motives.

Jade and Mr. Russell are both surprised and disappointed by Mr. Martens' recent application for reimbursement. More than anything, they are troubled by Mr. Martens' motives in pursuing this matter. After all, Mr. Martens has acknowledged his obligation to provide, among other things, engineering services, pressurized irrigation, and waste-water runoff systems. During the October 25, 2018 committee meeting, Mr. Thibault helped shed light on the true motivation for Mr. Martens' actions, when he stated:

Gerald grabbed me and just said that our concern is that [Jade is] continuing to pull building permits and we have over \$180,000 that we paid for improvements. If those improvements weren't put in, then they wouldn't be able to pull building permits.

IRC Meeting, Oct. 25, 2018, 24:42.

When Mr. Thibault's comments are coupled with Mr. Martens' threat to "stop [Jade] in its tracks" unless Jade paid him the amount demanded, one can only conclude that Mr. Martens is motivated by an intent to interfere with Jade's ability to sell its lots by blocking its ability to pull building permits – unless it pays him the disputed amount. Mr. Martens is a savvy developer and is undoubtedly aware that he would greatly benefit from the IRC approving his reimbursement application. By preventing Jade from pulling building permits, Mr. Martens is preventing Jade from competing with Mr. Martens' development. Equally appealing to Mr. Martens is the fact that if the IRC approves his request, he would receive double-payment for his work, *i.e.*, he already received payment for his work via a lower purchase price, and allowing him to receive reimbursement would double his payment. Finally, Mr. Martens is attempting to gain leverage in the impending contractual dispute with Jade. For instance, despite the plain language of the Agreement, Mr. Martens is trying to strong-arm Jade into contributing to storm water drainage and pressurized irrigation costs in exchange for releasing his reimbursement application. If the latter scenario occurs, Jade will file a lawsuit, which leads me to my final concern.

4. Jade will be forced to sue the City if the IRC prematurely rules upon Mr. Martens' reimbursement application.

Due to Mr. Martens' blatant disregard for the Agreement, legal action will be necessary to resolve the contractual dispute. To be clear, Jade does not desire to involve the City in the

Travis Rothweiler
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November 19, 2018
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legal action. However, if the City prematurely rules upon Mr. Martens' reimbursement application, Jade would have a legitimate claim against the City for the unreasonable denial of building permits. Additionally, there are legitimate questions regarding the validity of Resolution 2017-13, *e.g.*, due process issues regarding notice, opportunity to be heard, and the appeal process; whether the City's reimbursement requirement is an unconstitutional appropriation of funds for a corporation; whether the Resolution is void for vagueness, etc. In sum, it is in the City's best interest to refrain from ruling upon Mr. Martens' reimbursement application until the contractual dispute between Jade and Mr. Martens is resolved.

Lastly, it is my understanding that the IRC has scheduled a meeting on Thursday, November 29, 2018 to address this matter. I also received a revised calendaring appointment which appears to reschedule for Monday, November 26, 2018, the informal meeting originally set for this afternoon. In light of my letter setting forth Jade's position relating to the pending request for reimbursement, I am uncertain if that meeting is still necessary, but I can be available to participate in the meeting if it would be helpful.

Sincerely,

HAWLEY TROXELL ENNIS & HAWLEY LLP



Lynnette M. Davis

LMD:ll
Attachments

cc: Twin Falls City Mayor Shawn Barigar
Twin Falls City Council Members Greg Lanting, Suzanne Hawkins,
Chris Talkington, Chris Reid, and Ruth Pierce
Jade Development, LLC
Scott Allen

EXHIBIT A

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into this 11th day of September, 2015 (the "Effective Date"), by and between **Rusmor, LLC**, an Idaho limited liability company, whose address is 754 North College Road, Suite A, Twin Falls, Idaho 83301 or its assignees ("Seller"), and **Gerald Martens**, whose address is 612 North College Road, Suite 100, Twin Falls, Idaho 83301 or his assignees ("Buyer").

RECITALS:

A. Seller owns certain unimproved subdivided real property commonly known as Broadmoor Subdivision (the "Seller's Real Property") located in the city of Twin Falls, Twin Falls County, state of Idaho; and

B. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, the following lots of the Seller's Real Property: (1) Lots 1 through 13, Block 1; (2) Lots 1 through 20, Block 2; (3) Lots 1 through 20, Block 3; (4) Lots 1 through 20, Block 4; (5) Lots 1 through 20, Block 5; (6) (Lots 1 through 38, Block 6); (7) Tract A; (8) Tract B; and (9) Tract C, together with all improvements and structures thereon, water rights, if any, and all other appurtenances thereto (collectively, the "Subject Real Property"); and

C. Seller shall retain the following portions of the Seller's Real Property, which portions are specifically excluded from this contemplated transaction: (1) Lots 1 through 39, Block 7; (2) Lots 1 through 20, Block 8; (3) Lots 1 through 39, Block 9; and (4) Lots 1 through 20, Block 10; (5) Tract D; and (6) Tract E, together with all improvements and structures thereon, water rights, if any, and all other appurtenances thereto (collectively, the "Retained Real Property").

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

1. The Subject Real Property. Subject to the terms and conditions of this Agreement, Seller shall sell and convey by good and sufficient warranty deed, and Buyer shall purchase of and from Seller, the Subject Real Property.

2. The Retained Real Property. Seller retains the Retained Real Property, and it is specifically excluded from this contemplated purchase and sale transaction.

3. Price and Payment Terms for the Subject Real Property. Buyer shall pay, and Seller shall accept, as the purchase price for the Subject Real Property The Purchase Price shall be paid in cash or certified funds, or by federally insured wire transfer on the date of closing.

4. Subdividing Engineering Fees and Costs. Buyer is a principal of EHM Engineers, Inc., an Idaho corporation. Buyer and Seller acknowledge EHM Engineers, Inc. provided and performed engineering and related professional services for the subdividing, and the acceptance and recordation of the subdivision plat of Broadmoor Subdivision, for which EHM Engineers, Inc. charged fees, costs and expenses. As an inducement to Seller to enter into this Agreement and to sell the Subject Real Property to Buyer, Buyer shall assume, pay and hold Seller harmless from any and all unpaid

outstanding fees, costs and expenses charged by of EHM Engineers, Inc. for said engineering and related professional services to subdivide, and cause the subdivision plat of Broadmoor Subdivision to be accepted and recorded, and otherwise attributable to Broadmoor Subdivision; or otherwise cause EHM Engineers, Inc. to waive, and release Seller from any and all liability for, said unpaid outstanding fees, costs and expenses charged by of EHM Engineers, Inc. for said engineering and related professional services to subdivide, and cause the subdivision plat of Broadmoor Subdivision to be accepted and recorded, and otherwise attributable to Broadmoor Subdivision. Notwithstanding the foregoing or anything to the contrary in this Agreement, any and all fees and charges of the city of Twin Falls, Idaho and the county of Twin Falls, Idaho for recordation of the subdivision plat of Broadmoor Subdivision shall not be assumed, paid, waived or released by EHM Engineers, Inc.; but rather, Seller shall be responsible for, and pay, any and all such fees and charges.

5. Commitment for Title Insurance; Title Insurance. Within ten (10) days of the Effective Date or within a reasonable time thereafter, Seller shall obtain, at its sole cost and expense, a commitment for title insurance from TitleFact, Inc., Twin Falls, Idaho (the "Title Company") on the Subject Real Property. Buyer shall have ten (10) business days after receipt of said commitment for title insurance in which to provide Seller notice of any material defects in said title, as shown by said commitment for title insurance. The term "material defects" means any defect that would substantially affect the marketability of the Subject Real Property. In the event Buyer does not provide such written notice to Seller of any matters shown by said commitment for title insurance, Buyer shall be deemed to have accepted the condition of the title as set forth in the commitment for title insurance (the "Permitted Exceptions"). Notwithstanding the foregoing and without the necessity of notice or objection from Buyer, any deed of trust, mortgage or other lien securing the payment of indebtedness against the Subject Real Property shall not be Permitted Exceptions. If Seller is unable to remedy such identified material defects on or before the closing as provided in Section 6 hereof, Buyer, at Buyer's option, may either accept the title as then existing or may terminate this Agreement. In the event Buyer elects to terminate this Agreement, this Agreement shall thereafter be deemed terminated and of no further force and effect; and Buyer shall have no further right, title or interest in or to the Subject Real Property.

At closing, the parties shall obtain a standard policy of owner's title insurance issued by Title Company insuring Buyer in the amount of the Purchase Price. Such policy shall show clear and marketable title in Buyer, subject to: (1) current taxes and assessments; and (2) all such encumbrances, easements, covenants, and restrictions pertaining and appurtenant to Broadmoor Subdivision; and (3) the Permitted Exceptions as defined in this Section. All costs incurred for said title insurance policy shall be borne by the Seller.

6. Closing and Prorations. The sale herein contemplated shall be closed on or before September 30, 2015, with the parties' mutual intended closing date to be September 28, 2015. Closing shall be at the offices of the Title Company. Any and all real property taxes and assessments levied on the Subject Real Property shall be prorated as of the date of closing, Seller being responsible for all such taxes and assessments to the date of closing. Such taxes and assessments attributable to the Subject Real Property after closing shall be borne by Buyer, and Buyer hereby assumes and agrees to pay the same. The proration of taxes shall be based on the current year's taxes if known, or if not known, on the previous year's taxes. All closing costs imposed by the Title Company or that may be imposed in connection with this transaction shall be borne equally by the parties, except as otherwise provided in this Agreement.

7. Title. The Subject Real Property will be conveyed, by good and sufficient warranty deed, at the time of closing to Buyer free and clear of all liens and encumbrances, with the exception of: (1) current taxes and assessments; and (2) all such encumbrances, easements, covenants, and restrictions pertaining and appurtenant to Broadmoor Subdivision; and (3) the Permitted Exceptions as defined in Section 5 hereof.

8. Risk of Loss; Possession. The risk of loss or damage to the Subject Real Property shall remain with Seller until the sale has been closed, with the risk of loss being with Buyer thereafter. Buyer shall be entitled to possession of the Subject Real Property on closing.

9. Inspection of the Subject Real Property. Upon the closing of this contemplate transaction, Buyer acknowledges he has personally, to include through agents and representatives, inspected and conducted the due diligence investigation of the Subject Real Property he deemed appropriate and necessary, and is purchasing it based upon such personal inspection and due diligence investigation, and is not relying on any representation of Seller in making the decision to purchase the Subject Real Property. Buyer purchases the Subject Real Property "AS IS" and "WITH ALL FAULTS" with no representation, warranty or covenant, express or implied, of any kind or nature, except as to title.

10. Utility Improvements to the Subject Real Property; Availability of Utilities to the Retained Real Property; Waste Water Runoff Facilities and Retention Area(s). With regard to the following agreements in this Section: (1) Buyer and Seller, or Seller's successor-in-interest to the Retained Real Property, will respectively develop and improve the Subject Real Property and the Retained Real Property for the sale and conveyance of the respective lots thereof; and (2) by the nature of Broadmoor Subdivision and the availability of utility services, to include municipal water, sanitary sewer and pressurized irrigation, the development and improvement of the Retained Real Property is to an extent dependent upon the development and improvement of the Subject Real Property; and (3) the following agreements of Buyer and Seller is their express intentions to provide for the coordinated, cooperative, economically efficient and phased development and improvement of both the Subject Real Property and the Retained Real Property; and (4) Seller, or Seller's successor-in-interest to the Retained Real Property, intend to commence, on or after one (1) year from the Effective Date, the development and improvement of the Retained Real Property, which is to be without delay or restriction caused by or attributable to the development and improvement of the Subject Real Property. In consideration of the foregoing:

(a) Within one (1) year of the Effective Date, Buyer shall provide for the development, use and benefit of the Retained Real Property active utility service connections of municipal water, sanitary sewer and pressurized irrigation, to the extent such active utility service connections do not presently exist, as follows:

i. *Municipal Water Service:* Facilities for an active connection to municipal water service for the development, use and benefit of all lots of the Retained Real Property presently exist along the western boundary of the Retained Real Property, subject, however, to the payback provisions or obligations of the city of Twin Falls, Idaho; and

- ii. *Municipal Sanitary Sewer Service:* Seller shall develop the Subject Real Property to install any and all necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property. Said point of connection shall be located from and through the Subject Real Property, through Tract D within Broadmoor Subdivision, to not less than ten feet (10') into and within the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, as depicted and identified on the copy of the "Master Utility Plan for Broadmoor Subdivision" attached, and incorporated herein, as Exhibit A. The facilities for the active connection to municipal sanitary sewer service shall be of sufficient sizing and capacity to provide municipal sanitary sewer service from all lots of the Retained Real Property. Buyer and Seller acknowledge the installation of the necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Subject Real Property and the Retained Real Property is subject to the city of Twin Falls issuing a "will serve" letter for Broadmoor Subdivision in its entirety. Buyer's obligation to install any and all necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property, inclusive of Buyer's obligations under Sections 10. (b), (c) and (d) herein below, is and shall be subject to, and shall be tolled pending, the city of Twin Falls issuing a "will serve" letter for Broadmoor Subdivision in its entirety; and
- iii. *Pressurized Irrigation Service:* Seller shall develop the Subject Real Property to install any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property. Said point of connection shall be located from either Grand View Drive North right-of-way or Wendell Street right-of-way to not less than ten feet (10') into and within the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, as respectively depicted and identified from Grand View Drive North right-of-way and from Wendell Street right-of-way on the copy of the "Master Utility Plan for Broadmoor Subdivision" attached, and incorporated herein, as Exhibit A. The facilities for the active connection to pressurized irrigation service shall be of sufficient sizing and capacity to provide pressurized irrigation service to all lots of the Retained Real Property. Buyer and Seller acknowledge the installation of the necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Subject Real Property and the Retained Real Property is subject to the city of Twin Falls proceeding with its obligation(s) of and associated with the facilities of pressurized irrigation service to Broadmoor Subdivision in its entirety. Buyer's obligation to install any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property,

inclusive of Buyer's obligations under Sections 10. (b), (c) and (d) herein below, is and shall be subject to, and shall be tolled pending, the city of Twin Falls proceeding with its obligation(s) of and associated with the facilities of pressurized irrigation service to Broadmoor Subdivision in its entirety.

- (b) As an alternative to the foregoing, no later than one (1) year from the Effective Date Buyer may enter into an Improvement Agreement for Developments with the City of Twin Falls, Idaho providing for the development of the Subject Real Property, with secured and effective bonding for all applicable and necessary development improvements, inclusive of the utility services of municipal water, sanitary sewer and pressurized irrigation for the Subject Real Property; provided however and so long as the immediate development, sale and conveyance of each and every lot of the Retained Real Property is permissible by reason of, and not otherwise restricted or inhibited by reason of, either: (1) the then state of development of the Subject Real Property; or (2) said Improvement Agreement for Developments and the bonding for the improvements for all applicable and necessary development improvements, inclusive of the utility services of municipal water, sanitary sewer and pressurized irrigation for the Subject Real Property.
- (c) In any event, and notwithstanding anything to the contrary in this Section, Buyer shall provide active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property, as provided in sub-subsection (a)(ii) of this Section above, within four (4) months of written notice to Buyer from Seller, or its successors-in-interest to the Retained Real Property; provided, however, such written notice shall not be effective earlier than eight (8) months from the Effective Date, and Buyer shall have no obligation to provide the said active connection to municipal sanitary sewer service prior to one (1) year from the Effective Date.
- (d) Contemporaneous with Buyer providing active utility service connections of municipal water, sanitary sewer and pressurized irrigation, pursuant to this Section, Buyer shall construct and provide waste water runoff facilities on the Subject Real Property, to include, without limitation, retention ponds and conduits, all as necessary and appropriate for the conveyance, transfer, delivery and storage of waste water runoff from the Retained Real Property to the Subject Real Property.
- (e) Seller shall be responsible for the construction of, and all costs and expenses incurred for, the road of the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, and the southern sidewalk, curb and gutter of and along said right-of-way. Buyer shall be responsible for the construction of, and all costs and expenses incurred for, the sidewalk, curb and gutter of and along the northern right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision. Provided however, in the event Seller constructs the sidewalk, curb and gutter of and along the northern right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, Buyer shall promptly reimburse Seller, within sixty (60) days of notice

for reimbursement, for all costs and expenses incurred by Seller for the northern sidewalk, curb and gutter of and along said right-of-way.

- (f) Buyer and Seller shall cooperatively and mutually establish Covenants, Conditions & Restrictions for and of Broadmoor Subdivision, to include establishment of a homeowner's association, with all terms and provisions typical thereto. The establishment of said Covenants, Conditions & Restrictions shall be completed on or before the closing of this contemplated purchase and sale transaction.

11. Current Farm Lease. The real property of Broadmoor Subdivision is subject to a certain "Cash Rent Farm Lease", a copy of which is attached hereto as Exhibit B (the "Farm Lease"). Notwithstanding the closing of this contemplated purchase and sale transaction: (1) the Farm Lease shall continue in full force and effect, and neither Seller nor Buyer shall disturb the tenant's quiet enjoyment of the real property of Broadmoor Subdivision under the Farm Lease; (2) Seller shall have and retain, without the necessity of apportionment or payment to Buyer, the first cash rent payment due March 15, 2015, and previously paid by tenant; and (3) the second cash rent payment due October 1, 2015 and actually hereafter paid by tenant shall be prorated, shared and distributed between Seller and Buyer on the bases of: (i) a six-month time period applicable to said cash rent payment (July 1, 2015 through December 31, 2015); (ii) the closing date of this contemplated transaction; and (iii) the proportion of the number of lots of the Subject Real Property (131 lots) and the number of lots of the Retained Real Property (118 lots) pursuant to the recorded subdivision plat of Broadmoor Subdivision.

12. Subsequent Farm Lease(s). Buyer shall negotiate and enter, with Seller's approval, into farm lease(s) of the real property of Broadmoor Subdivision for years subsequent to 2015; provided and subject to, however: (1) all such farm lease(s) shall be on a cash rent basis; (2) the term of all such farm lease(s) shall be not more than one (1) year or one (1) crop year; (3) the acreage and term of such farm lease(s) shall be coordinated to the planned development and improvement of the Subject Real Property and the planned development and improvement Retained Real Property; and (4) the rent payment(s) shall be prorated, shared and distributed between Seller and Buyer, as received, on the bases of: (i) the time period applicable to each cash rent payment; and (ii) the proportion of the number of lots of the Subject Real Property subject to such farm lease and the number of lots of the Retained Real Property subject to such farm lease pursuant to the recorded subdivision plat of Broadmoor Subdivision.

13. Real Estate Commissions. The real estate sale transaction herein contemplated does not involve a real estate broker, agent or realtor for either of the parties, and shall not give rise to any real estate commissions with respect to either party hereto. To the extent that any real estate commissions are owed as a result of this transaction by Seller, Seller shall be solely liable therefor, and Seller shall indemnify Buyer from any such commissions. To the extent that any real estate commissions are owed as a result of this transaction by Buyer, Buyer shall be solely liable therefor, and Buyer shall indemnify Seller from any such commissions.

14. Notices. Any notice required or to be given hereunder shall be in writing and shall be deemed to have been duly given: (1) the same day if personally delivered, (2) the next day if sent by an overnight courier service, or (3) after three (3) business days if sent by certified mail, return receipt requested, postage prepaid, to the party at the respective addresses identified below. Either party may

change the person and address to which written notices shall be given at anytime upon prior written notice to the other party.

Seller: Rusmor, LLC
Attn: Joe Russell
754 North College Road, Suite A
Twin Falls, Idaho 83301

Buyer: Gerald Martens
612 North College Road, Suite 100
Twin Falls, Idaho 83301

15. Binding Effect; Parties' Respective Successors-in-Interest. The provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives, and assigns of the parties hereto. Further, the agreements of Sections 10, 11, and 12 of this Agreement shall be binding upon and inure to the benefit of all successors-in-interest to the Subject Real Property and all successors-in-interest to the Retained Real Property without the necessity of formal assignment, recordation of a memorandum of said Sections in the property records of Twin Falls, County, or otherwise; it being specifically acknowledged and agreed the coordinated, cooperative, economically efficient and phased development and improvement of both the Subject Real Property and the Retained Real Property are material and essential to this Agreement. Either Buyer or Seller may record a memorandum of Sections 10, 11 and 12 in the property records of Twin Falls, County.

16. Attorney Fees. If a suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover all costs and attorney fees from the non-prevailing party.

17. Additional Documents. Each of the parties hereto shall execute and deliver at the closing and thereafter any instruments reasonably required to effectuate the terms and conditions of this Agreement and the intent thereof.

18. Applicable Law. This Agreement shall be construed and enforced under the laws of the state of Idaho.

19. Time is of the Essence. Time and timely performance is of the essence of this Agreement and other documents required to effectuate the terms and conditions of this Agreement and the intent thereof.

20. Merger. This Agreement supersedes any and all written or verbal agreements between the parties hereto regarding the real property of Broadmoor Subdivision, the Seller's Real Property, the Subject Real Property and the Retained Real Property that are prior to the time of this Agreement. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein, and the terms and conditions of this Agreement shall survive recordation of the warranty deed(s) hereinabove referred to, and shall remain in full force and effect until duly performed by the parties hereto.

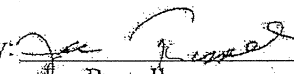
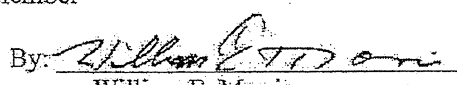
21. Attorney Representation. Buyer acknowledges that the law firm of Worst, Fitzgerald & Stover, P.L.L.C. represents Seller in this transaction. Buyer has been advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement, or otherwise had the opportunity to be advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement. By executing this Agreement, Seller and Buyer acknowledge, respectively, they understand all the foregoing, and consent to all terms of this transaction.

22. Provisions Severable. Every provision of this Agreement is intended to be severable. If any terms or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

23. Authority to Sign. Each signatory has full authority and consent to sign this Agreement.

24. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or electronic transmission of any signed original document shall be the same as delivery of the original.

IN WITNESS WHEREOF, Seller and Buyer have hereunto set their hands the day and year first above written.

<p>"Seller"</p> <p>Rusmor, LLC, an Idaho limited liability company</p> <p>By: <u></u> Joe Russell Its: Member</p> <p>By: Wemgary LP, an Idaho limited partnership Its: Member</p> <p>By: <u></u> William E. Morris Its: General Partner</p>	<p>"Buyer"</p> <p>_____</p> <p>Gerald Martens</p>
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21. Attorney Representation. Buyer acknowledges that the law firm of Worst, Fitzgerald & Stover, P.L.L.C. represents Seller in this transaction. Buyer has been advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement, or otherwise had the opportunity to be advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement. By executing this Agreement, Seller and Buyer acknowledge, respectively, they understand all the foregoing, and consent to all terms of this transaction.

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IN WITNESS WHEREOF, Seller and Buyer have hereunto set their hands the day and year first above written.


<p>"Seller" Rusmor, LLC, an Idaho limited liability company</p> <p>By: _____ Joe Russell Its: Member</p> <p>By: Wemgary LP, an Idaho limited partnership Its: Member</p> <p>By: _____ William E. Morris, Its: General Partner</p>	<p>"Buyer"</p>  <p>Gerald Martens</p>
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EXHIBIT A

(“Master Utility Plan for Broadmoor Subdivision” Attached)

EXHIBIT B

(“Farm Lease”)

CASH RENT FARM LEASE

Owner: Rusmor LLC **Operator:** Brad Requa and Requa Farms **Year:** 2015

1. **Legal Description:** See Attached Description.
2. **Term of Lease:** Beginning March 1, 2015, and ending December 31, 2015.
3. There are approximately **75 Acres** available for farming.

The following housing, buildings and storage structures located on the Real Estate may be used by the Operator for the following purposes:

Structures: None
All gated pipe and irrigation facilities on site March 1, 2015.

4. **Cash Rent:** Operator agrees to pay the Owner cash rent for the use of part or all of the Real Estate as follows:

Cropland: 75 acres + or - = \$22,500.00

Total Annual Rent: \$22,500.00

The cash rent shall be paid as follows:

Due Date: March 15, 2015 - \$11,250.00

Due Date: October 1, 2015 - \$11,250.00

If cash rent is not paid within five (5) days of due date a \$1,000.00 Late Penalty will be assessed and the entire balance will accrue interest, at the rate of Eighteen Percent Annual Percentage Rate, (18% Simple Interest) until paid. Operator additionally agrees to reimburse Owner for 100% of the cost associated with collecting any late balance owing.

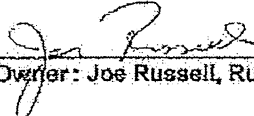
5. **USDA Commodity Program Payments:** Payments shall be paid to the Operator unless otherwise agreed on with the Farm Service Agency.
6. **Listing of Property for Sale:** Property will be listed for sale and a sale of the property will include a provision that, in the event a portion of the farmed property is developed and crops are torn out prior to their harvest by Operator, Property Owner/Developer will reimburse Operator at the rate of \$1,000.00 per acre for those acres rendered no longer harvestable.
7. **Insurance:** Operator agrees to carry a minimum \$1,000,000.00 liability insurance policy to coverage all hazardous risk associated with farming activities during the period of this agreement and to name the Owner as an additional insured on the policy.

8. **Renewability:** This Agreement is only renewable with a written mutual consent by both parties. If not renewed, by mutual written consent, by November 1, 2015, the agreement shall terminate. If this agreement is not renewed for the 2016 crop year, Operator agrees to have his entire farm equipment and crops removed from the farm by March 1, 2016.

9. **Irrigation Pipe:** It is mutually agreed and understood that the irrigation piping located on the subject property is owned by the Owner and will not be removed from the property.

In Witness whereof, we agree to the terms and conditions of this lease and we affix our signatures on this 2 day of ~~January~~, 2015.

February, Joe BR


Owner: Joe Russell, Rusmor LLC


Operator: Brad Requa, Requa Farms

Brad Requa is to personally guarantee the Terms and Conditions of this Lease Agreement, including monetary payments to the Owner.


Operator: Brad Requa

Description
For
RUSMOR, LLC

A parcel of land being described as Lots 40, 41, 42, 61, 62, 63, 64, and 65 of the "Orchalara Subdivision," together with the vacated alley lying North of Lots 64 and 65 and together with vacated Macwaters Avenue lying South of Lots 64 and 65, and together with the Vacated Avenue lying South of Lots 61 and 63, all in the Southwest Quarter of Section 5, Township 10 South, Range 17 East, Boise Meridian, and being more particularly described as follows:

Commencing at the West Quarter corner of Section 5. Said point lies North $00^{\circ}04'49''$ West, 2502.26 feet from the Southwest corner of Section 5. Thence South $89^{\circ}00'33''$ East 25.00 along the North boundary of SW⁴, Section 5 to the REAL POINT of BEGINNING.

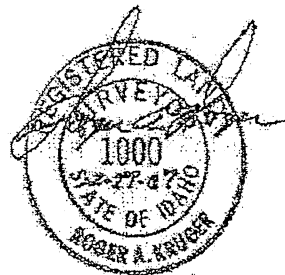
Thence South $89^{\circ}00'33''$ East 1400.40 feet along the North boundary of SW⁴, Section 5.

Thence South $00^{\circ}49'46''$ West 2508.90 feet along the Westerly Right-of-Way on Wendell Street.

Thence North $89^{\circ}06'13''$ West 1360.52 feet along the Northerly Right-of-Way on Falls Avenue West.

Thence North $00^{\circ}04'49''$ West 2511.57 feet along the Easterly Right-of-Way on Grandview Drive North to the REAL POINT of BEGINNING.

Containing approx. 79.55 acres.



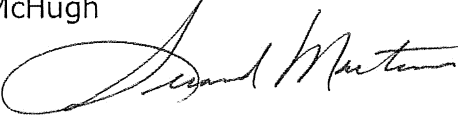
008-07

EXHIBIT B



Date: May 23, 2017

To: Jade Development, LLC
Attn: Timothy McHugh

From: Gerald Martens 

Via: mosichassoc@aol.com

Regarding: Broadmoor Subdivision

We are at the point in construction where I can accurately summarize the costs I have incurred in your behalf for the storm water related aspects of the project. I have allocated the costs based on the number of lots as the retention basin and park area replace the per lot park fee that would otherwise be required.

I have not included any cost relative to the land required or Wendell Street improvements and will absorb those costs and the increased pressure irrigation costs required by the City if we can settle quickly for the amounts detailed on the attached summary.

Please call me at 208-420-2461 if you have questions.

426-15

621 North College Rd., Suite 100 • Twin Falls, Idaho 83301 • [208] 734-4888 • Fax [208] 734-6049
3501 W. Elder St., Suite 100 • Boise, Idaho 83705 • [208] 386-9170 • Fax [208] 386-9076

IN THE FIELDS OF:
PLANNING • SURVEYING • HIGHWAYS • WATER • SEWAGE • STRUCTURAL • SUBDIVISIONS • BRIDGES • ENVIRONMENTAL • QUALITY CONTROL • CONSTRUCTION MGMT.

EHM ENGINEERS, INC.
 621 NORTH COLLEGE RD.
 TWIN FALLS, ID 83301

ENGINEER'S COST ESTIMATE

BROADMOOR PLAYGROUND

Broadmoor North Broadmoor South
 131 Lots 118 Lots
 52.61% 47.39%

ACTIVITY DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL	COST	COST
STORM WATER IMPROVEMENTS						
RETENTION BASIN EXCAVATION	1	EA	\$45,000.00	\$45,000.00	\$23,674.50	\$21,325.50
24" PIPING	305	LF	\$43.00	\$13,115.00	\$6,899.80	\$6,215.20
12" PIPING	50	LF	\$18.50	\$925.00	\$486.64	\$438.36
OVERFLOW PIPING	45	LF	\$18.50	\$832.50	\$437.98	\$394.52
RETENTION BASIN IRRIGATION/LANDSCAPING	1	LS	\$28,532.17	\$28,532.17	\$15,010.77	\$13,521.40
PLAY GROUND IRRIGATION/LANDSCAPING	1	LS	\$35,145.56	\$35,145.56	\$18,490.08	\$16,655.48
DRAIN ROCK	75	CY	\$20.00	\$1,500.00	\$789.15	\$710.85
PLAYGROUND AREA GRAVEL	174	CY	\$32.00	\$5,568.00	\$2,929.32	\$2,638.68
PLAYGROUND AREA PAVING	778	SY	\$12.25	\$9,530.50	\$5,014.00	\$4,516.50
SUBTOTAL				\$140,148.73	\$73,732.25	\$66,416.48
CONSTRUCTION ENGINEERING 5%				\$7,007.44	\$3,686.61	\$3,320.82
TOTAL				\$147,156.17	\$77,418.86	\$69,737.31



Quote

Date 5/16/2017
 Invoice # [100]
 Expiration Date 5/31/2017

Rustic Ridge Landscape & Irrigation
 277 Madrona St
 Twin Falls, ID 83301
 Phone 208-404-0105
 Rusticridgelandscap@gmail.com

TO David Tebo
 EHM Engineers
 621 N College Rd Suite 100
 Twin Falls, ID 83301
 Phone 208-404-0105

Salesperson	Job	Payment Terms	Due Date
Brian Davis	Broadmoore Sub	½ Down	End of Job

Qty	Description	Unit Price	Line Total
1	Irrigation System (City Code) Baseline Controller		\$73,063.10
1	Hydro seed		\$16,700.00
1	Grade Prep		\$5,000.00
	Mow strip Irrigation/ Hydro Seed	\$31,085.37	
	Playground Irrigation/ Hydro seed	\$35,145.56	
	Retention Pond Irrigation/ Hydroseed	\$28,532.17	
Subtotal			\$94,763.10
Sales Tax			
Total			\$94,763.10

Quotation prepared by: BRIAN DAVIS _____

To accept this quotation, sign here and return: _____

Thank you for your business!



1646 Eldridge Ave-PO Box 1657
 Twin Falls, ID 83303-1657
 Phone # 208-733-2585
 Fax # 208-734-4379

Estimate

NAME / ADDRESS
Broadmoor Sub.

DATE	ESTIMATE NO.
11/4/2015	2564

PROJECT

DESCRIPTION	QTY	UOM	COST	TOTAL
ROADWAY				
Grading	61.8	STA	250.00	15,450.00
Excavtion	61.8	STA	1,000.00	61,800.00
1 1/2" Gravel	4,390	CY	28.00	122,920.00
3/4" Gravel	1,330	CY	28.00	37,240.00
2" Asphalt	11,014	SY	12.25	134,921.50
3" Asphalt	10,061	SY	16.50	166,006.50
STD Curb	5,101	LF	16.00	81,616.00
Rolled Curb	2,724	LF	16.00	43,584.00
5' Sidewalk Attached	2,500	SY	33.00	82,500.00
5' Sidewalk Detached	1,983	SY	33.00	65,439.00
6' Sidewalk Detached	107	SY	33.00	3,531.00
24' Art. 1/2 Approach w/4' VG	1	EA	2,100.00	2,100.00
24' Art. 1/2 Approach w/8' VG	1	EA	2,300.00	2,300.00
36' Art. Approach w/ 4' VG	2	EA	4,200.00	8,400.00
66' Art. Approach w/4' VG	1	EA	5,200.00	5,200.00
66' Art. Approach w/8' VG	1	EA	5,800.00	5,800.00
69' Art. Approach w/4' VG	1	EA	5,200.00	5,200.00
69' Art. Approach w/8' VG	1	EA	5,800.00	5,800.00
30' Driveway App.	7	EA	1,400.00	9,800.00
4' Valley Gutter	220	LF	30.00	6,600.00
Asphalt Removal and Patch Back	870	SY	36.50	31,755.00
Traffic Control (inclusive of 10 Barricades)	1	LS	5,500.00	5,500.00
SWPPP	1	LS	6,000.00	6,000.00
Roadway Total - \$909,463.00				
WATER				
6" Water Main	89	LF	16.50	1,468.50
8" Water Main	2,155	LF	17.75	38,251.25
10" Water Main	393	LF	20.50	8,056.50
Fire Hydrant	6	EA	3,900.00	23,400.00
1" Water Service	43	EA	800.00	34,400.00
6" Gate Valve	3	EA	750.00	2,250.00
8" Gate Valve	10	EA	1,050.00	10,500.00
10" Gate Valve	3	EA	1,750.00	5,250.00

Total



1646 Eldridge Ave-PO Box 1657
 Twin Falls, ID 83303-1657
 Phone # 208-733-2585
 Fax # 208-734-4379

Estimate

NAME / ADDRESS
Broadmoor Sub.

DATE	ESTIMATE NO.
11/4/2015	2564

				PROJECT
DESCRIPTION	QTY	UOM	COST	TOTAL
10" Hot Tap	1	EA	2,250.00	2,250.00
Misc. Fittings	1	LS	5,200.00	5,200.00
Water Total - \$131,026.25				
SEWER				
8" Sewer Main	3,266	LF	16.50	53,889.00
10" Sewer Main	495	LF	18.50	9,157.50
Manholes	16	EA	3,000.00	48,000.00
4" Sewer Service	46	EA	300.00	13,800.00
Sewer Total - \$124,856.00				
PRESS. IRRIGATION				
4" PI Main	71	LF	9.75	692.25
6" PI Main	4,141	LF	11.50	47,621.50
8" PI Main	242	LF	13.75	3,327.50
PI Services	46	EA	375.00	17,250.00
4" Gate Valve	4	EA	580.00	2,320.00
6" Gate Valve	14	EA	750.00	10,500.00
8" Gate Valve	2	EA	1,050.00	2,100.00
4" Tap Tee	1	EA	1,500.00	1,500.00
8" Tap Tee	1	EA	2,200.00	2,200.00
Blow Off Ass.	1	EA	2,600.00	2,600.00
Misc. Fittings	1	LS	4,000.00	4,000.00
PI Total - \$94,111.25				
GRAVITY IRR.				
12" G IRR.	2,425	LF	16.00	38,800.00
3'x3' IRR. Box	10	EA	2,100.00	21,000.00
G IRR Manholes	2	EA	2,500.00	5,000.00
Gravity Irr. Total - \$64,800.00				
STORM SEWER				
12" Storm Drain Pipe	130	LF	18.50	2,405.00
24" Storm Drain Pipe	305	LF	43.00	13,115.00
STD Catch Basin	3	EA	1,300.00	3,900.00
Storm Manhole	1	EA	2,800.00	2,800.00
Tract A Retention Basin	1	LS	45,000.00	45,000.00
Storm Drain Total - \$67,220.00				
Total				



1646 Eldridge Ave-PO Box 1657
Twin Falls, ID 83303-1657
Phone # 208-733-2585
Fax # 208-734-4379

Estimate

NAME / ADDRESS
Broadmoor Stb.

DATE	ESTIMATE NO.
11/4/2015	2564

PROJECT

DESCRIPTION	QTY	UOM	COST	TOTAL
Sales Tax			6.00%	0.00
Total				\$1,391,467.00



1646 Eldridge Ave-PO Box 1657
 Twin Falls, ID 83303-1657
 Phone # 208-733-2585
 Fax # 208-734-4379

Estimate

NAME / ADDRESS
Broadmoor Sub. Addative Alternate

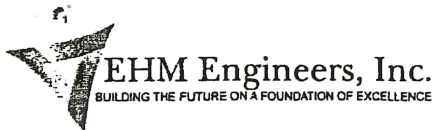
DATE	ESTIMATE NO.
11/16/2015	2565

PROJECT
Phase #1 Addative A...

DESCRIPTION	QTY	UOM	COST	TOTAL
ROADWAY				
Grading	9	STA	300.00	2,700.00
Excavation	9	STA	1,250.00	11,250.00
1 1/2" Gravel	542	CY	32.00	17,344.00
3/4" Gravel	181	CY	32.00	5,792.00
2" Asphalt	3,252	SY	12.75	41,463.00
Rolled Curb	1,704	LF	18.00	30,672.00
5' Attached Sidewalk	947	SY	34.00	32,198.00
Roadway Total - \$141,419.00				
WATER				
6" Water Main	877	LF	17.50	15,347.50
Fire Hydrant	1	EA	4,000.00	4,000.00
1" Water Service	20	EA	800.00	16,000.00
Misc. Fittings	1	LS	2,500.00	2,500.00
Water Total - \$57,847.50				
SEWER				
8" Sewer Main	725	LF	18.00	13,050.00
Manhole	2	EA	3,200.00	6,400.00
Sewer Service	18	EA	325.00	5,850.00
Sewer Total - \$25,950.00				
PRESSURE IRR.				
4" PI Main	877	LF	11.00	9,647.00
PI Services	18	EA	400.00	7,200.00
Misc. Fiting	1	LS	1,000.00	1,000.00
PI Total - \$17,847.00				
Sales Tax			6.00%	0.00

Total	\$222,413.50
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EXHIBIT C



To: Mr. Troy Vitek, P.E.
From: Gerald Martens, P.E. *Gerald Martens*
Date: December 29, 2017
RE: Payback Request For Broadmoor Sanitary Sewer and Pressurized Irrigation

Please accept this transmittal as formal request to be considered as an initial developer for the Broadmoor Subdivision lots located north of Ridgeway Road and eligible for reimbursement for construction costs. At my expense an extension of municipal sanitary sewer main line has been extended to the neighboring property to the south. Also, a pressurized irrigation main line has been installed to connect to the Riverhawk Pressurized Irrigation Pump Station running parallel to North College Road. Therefore, in accordance with Resolution No. 2017-13 I hereby request that I be identified as the initial developer and be reimbursed according to City Code provisions.

Sanitary Sewer Improvements - IN RIDGEWAY ROAD

182 LF of 8" PVC Sewer Main Line @ \$16.50/LF	\$3,003.00
(2) SS Manhole @ \$3,000.00/EA	\$6,000.00

Pressurized Irrigation Improvements

Connection to Existing Station @ \$800.00 Lump Sum	\$800.00
1,700 LF of 10" PVC P.I. Main Line @ \$18.00/LF	\$30,600.00
182 LF of 6" PVC P.I. Main Line @ \$13.75/LF	\$2,502.50
220 CY of ¾" Gravel for Backfill @ \$28.00/CY	\$6,160.00
525 SY of Asphalt Patch Back and Repair @ \$36.50/SY	\$19,162.50
(2) 10" Gate Valve @ \$1,200.00/EA	\$2,400.00
(3) 10" 90° Elbow @ \$500.00 Lump Sum	\$1,500.00
(1) 10"x6"x6" Tee @ \$1,500.00 Lump Sum	\$1,500.00
Traffic Control @ \$1,000.00 Lump Sum	\$1,000.00

Total Improvement Costs **\$74,628.00**

The sanitary sewer main line extension exists between lots 19 and 20 of Block 6. This installation necessitated two additional manholes and 182 lineal feet of sanitary sewer main line. Additionally, a 10" pressurized irrigation main line was installed from the NE at the intersection of Woodland Way and Drayton Ave., then in North College Road to the Riverhawk Pressurized Irrigation Pump Station. This work involved installation of the main line, asphalt patch back and repair, as well as traffic control. Also, an extension between lots 19 and 20 of Block 6 was provided to extend the service to the neighboring property to the south. A full compensation for the eligible reimbursement amount plus 15% to address the costs of engineering, management, interest, and inspection is requested for these improvements.

621 North College Rd., Suite 100 • Twin Falls, Idaho 83301 • [208] 734-4888 • Fax [208] 734-6049
3501 W. Elder St., Suite 100 • Boise, Idaho 83705 • [208] 386-9170 • Fax [208] 386-9076

Broadmoor Subdivision Phase 1 (Base Bid)
 BID TAB

DESCRIPTION	UNIT	ESTIMATED QUANTITY	Engineer's Estimate		McCoy Construction	
			ESTIMATED PRICE	ESTIMATED COST	PRICE	ESTIMATED COST
ROADWAY						
GRAVING	STA	61.8	\$850.00	\$52,830.00	\$250.00	\$15,450.00
EXCAVATION	STA	61.8	\$1,000.00	\$61,800.00	\$1,000.00	\$61,800.00
ROADWAY 1 1/2" GRANULAR BASE	CY	4,390	\$40.00	\$175,800.00	\$25.00	\$122,920.00
ROADWAY 3/4" LEVELING COARSE	CY	1,330	\$40.00	\$53,200.00	\$25.00	\$37,240.00
PLANTMIX PAVEMENT 2" MATT	SY	11,014	\$12.00	\$132,168.00	\$12.25	\$134,921.50
PLANTMIX PAVEMENT 3" MATT	SY	10,051	\$16.50	\$166,046.50	\$16.50	\$166,046.50
STD. CURB & GUTTER W/ BASE	LF	5,101	\$18.00	\$91,818.00	\$16.00	\$81,616.00
ROLLED CURB & GUTTER W/ BASE	LF	2,724	\$17.00	\$46,308.00	\$16.00	\$43,584.00
5' ATTACHED SIDEWALK W/ BASE	SY	2,500	\$38.50	\$96,250.00	\$33.00	\$82,500.00
5' DETACHED SIDEWALK W/ BASE	SY	1,983	\$39.00	\$77,337.00	\$33.00	\$65,439.00
6' DETACHED SIDEWALK W/ BASE	SY	107	\$39.00	\$4,173.00	\$33.00	\$3,531.00
24' ART. 1/2 APPROACH W/ 4" V.G. & BASE*	EA	1	\$2,500.00	\$2,500.00	\$2,100.00	\$2,100.00
24' ART. 1/2 APPROACH W/ 8" V.G. & BASE*	EA	1	\$2,700.00	\$2,700.00	\$2,300.00	\$2,300.00
36' ART. APPROACH W/ 4" V.G. & BASE*	EA	2	\$4,800.00	\$9,600.00	\$4,200.00	\$8,400.00
66' ART. APPROACH W/ 4" V.G. & BASE*	EA	1	\$6,700.00	\$6,700.00	\$5,200.00	\$5,200.00
66' ART. APPROACH W/ 8" V.G. & BASE*	EA	1	\$7,100.00	\$7,100.00	\$5,800.00	\$5,800.00
69' ART. APPROACH W/ 4" V.G. & BASE*	EA	1	\$7,000.00	\$7,000.00	\$5,200.00	\$5,200.00
69' ART. APPROACH W/ 8" V.G. & BASE*	EA	1	\$7,400.00	\$7,400.00	\$5,800.00	\$5,800.00
30' DRIVEWAY APPROACH W/ BASE	EA	7	\$1,500.00	\$10,500.00	\$1,400.00	\$9,800.00
4" VALLEY GUTTER	LF	220	\$40.00	\$8,800.00	\$30.00	\$6,600.00
ASPHALT REMOVAL & PATCH BACK	SY	870	\$95.00	\$82,650.00	\$95.00	\$82,650.00
TRAFFIC CONTROL (Inclusive of 10 Barricades)	LS	1	\$5,000.00	\$5,000.00	\$5,500.00	\$5,500.00
SWPPP	LS	1	\$3,000.00	\$3,000.00	\$6,000.00	\$6,000.00
TOTAL ROADWAYS				\$1,037,940.50		\$909,463.00

WATER						
6" WATER MAIN	LF	88	\$16.00	\$1,424.00	\$16.50	\$1,468.50
8" WATER MAIN	LF	2,155	\$20.00	\$43,100.00	\$17.75	\$38,251.25
10" WATER MAIN	LF	393	\$25.00	\$9,825.00	\$20.50	\$8,058.50
FIRE HYD. W/ VALVE, TEE & LINE	EA	6	\$4,250.00	\$25,500.00	\$3,900.00	\$23,400.00
1" WATER SERVICE	EA	43	\$1,020.00	\$43,860.00	\$900.00	\$34,400.00
6" GATE VALVE	EA	3	\$1,100.00	\$3,300.00	\$750.00	\$2,250.00
8" GATE VALVE	EA	10	\$1,375.00	\$13,750.00	\$1,050.00	\$10,500.00
10" GATE VALVE	EA	3	\$2,500.00	\$7,500.00	\$1,750.00	\$5,250.00
10" HOT TAP	EA	1	\$1,150.00	\$1,150.00	\$2,250.00	\$2,250.00
MISC. FITTINGS, ELBOWS, REDUCERS, ETC.	LS	1	\$2,500.00	\$2,500.00	\$5,200.00	\$5,200.00
TOTAL WATER				\$157,403.00		\$131,028.25

SANITARY SEWER						
8" DIA. PVC SEWER MAIN	LF	3,268	\$21.60	\$70,545.60	\$16.50	\$53,889.00
10" DIA. PVC SEWER MAIN	LF	495	\$30.00	\$14,850.00	\$16.50	\$8,157.50
SEWER MANHOLES	EA	16	\$2,600.00	\$41,600.00	\$3,000.00	\$48,000.00
4" DIA. SEWER SERVICES	EA	46	\$500.00	\$23,000.00	\$300.00	\$13,800.00
TOTAL SEWER				\$149,995.60		\$124,846.50

Broadmoor Subdivision Phase 1 (Base Bid)
 BID TAB

DESCRIPTION	UNIT	ESTIMATED QUANTITY	Engineer's Estimate		McCoy Construction		
			ESTIMATED PRICE	ESTIMATED COST	PRICE	ESTIMATED COST	
PRESSURE IRRIGATION							
4" PI MAIN	LF	71	\$12.00	\$852.00		\$9.75	\$692.25
6" PI MAIN	LF	4,141	\$16.00	\$66,256.00		\$11.50	\$47,621.50
8" PI MAIN	LF	242	\$20.00	\$4,840.00		\$13.75	\$3,327.50
PRESSURE IRRIGATION SERVICES	EA	46	\$480.00	\$22,080.00		\$375.00	\$17,250.00
4" GATE VALVE	EA	4	\$700.00	\$2,800.00		\$560.00	\$2,240.00
6" GATE VALVE	EA	14	\$850.00	\$11,900.00		\$750.00	\$10,500.00
8" GATE VALVE	EA	2	\$1,200.00	\$2,400.00		\$1,050.00	\$2,100.00
4" TAP TEE	EA	1	\$1,600.00	\$1,600.00		\$1,500.00	\$1,500.00
8" TAP TEE	EA	1	\$2,600.00	\$2,600.00		\$2,200.00	\$2,200.00
BLOW-OFF ASSEMBLY	EA	1	\$1,600.00	\$1,600.00		\$2,600.00	\$2,600.00
MISC. FITTINGS, TEES, ELBOWS, ETC.	LS	1	\$9,000.00	\$9,000.00		\$4,000.00	\$4,000.00
TOTAL PRESSURE IRRIGATION				\$125,828.00			\$94,111.25
GRAVITY IRRIGATION							
12" DIA. PVC GIRR MAIN	LF	2,425	\$23.00	\$55,775.00		\$16.00	\$38,800.00
3'x3' IRRIGATION BOX	EA	10	\$2,800.00	\$28,000.00		\$2,100.00	\$21,000.00
GIRR MANHOLES	EA	2	\$2,000.00	\$4,000.00		\$2,500.00	\$5,000.00
TOTAL SEWER				\$85,775.00			\$64,800.00
STORM SEWER							
12" DIA. PVC STRM MAIN	LF	130	\$23.00	\$2,990.00		\$18.50	\$2,405.00
24" DIA. PVC STRM MAIN	LF	305	\$55.00	\$16,775.00		\$43.00	\$13,115.00
STD. CATCH BASIN	EA	3	\$2,100.00	\$6,300.00		\$1,900.00	\$5,700.00
STRM MANHOLES	EA	1	\$2,300.00	\$2,300.00		\$2,800.00	\$2,800.00
TRACT A RETENTION BASIN	LS	1	\$35,000.00	\$35,000.00		\$45,000.00	\$45,000.00
TOTAL SEWER				\$65,365.00			\$67,220.00
BASE BID TOTAL				\$1,640,313.10			\$1,391,467.00



1646 Eldridge Ave-PO Box 1657
Twin Falls, ID 83303-1657

Phone # 208-733-2585
Fax # 208-734-4379

Invoice

BILL TO
Broadmoor Sub.

DATE	INVOICE NO.
6/29/2016	982193

TERMS	PROJECT

DATE	DESCRIPTION	QTY	Unit	Scale#	RATE	AMOUNT
	ROADWAY					
	Roadway Total - \$909,463.00					
	WATER					
	1" Water Service	23	EA ✓		800.00	18,400.00
	Water Total - \$131,026.25					
	SEWER					
	4" Sewer Service	23	EA ✓		300.00	6,900.00
	Sewer Total - \$124,856.00					
	PRESS. IRRIGATION					
	6" PI Main	850	LF ✓		11.50	9,775.00
	PI Services	23	EA ✓		375.00	8,625.00
	PI Total - \$94,111.25					
	GRAVITY IRR.					
	Gravity Irr. Total - \$64,800.00					
	STORM SEWER					
	Storm Drain Total - \$67,220.00					
	Extras					
	10" PI	1,700	LF		18.00	30,600.00
	3/4 Gravel	220	CY		28.00	6,160.00

Total	\$80,460.00
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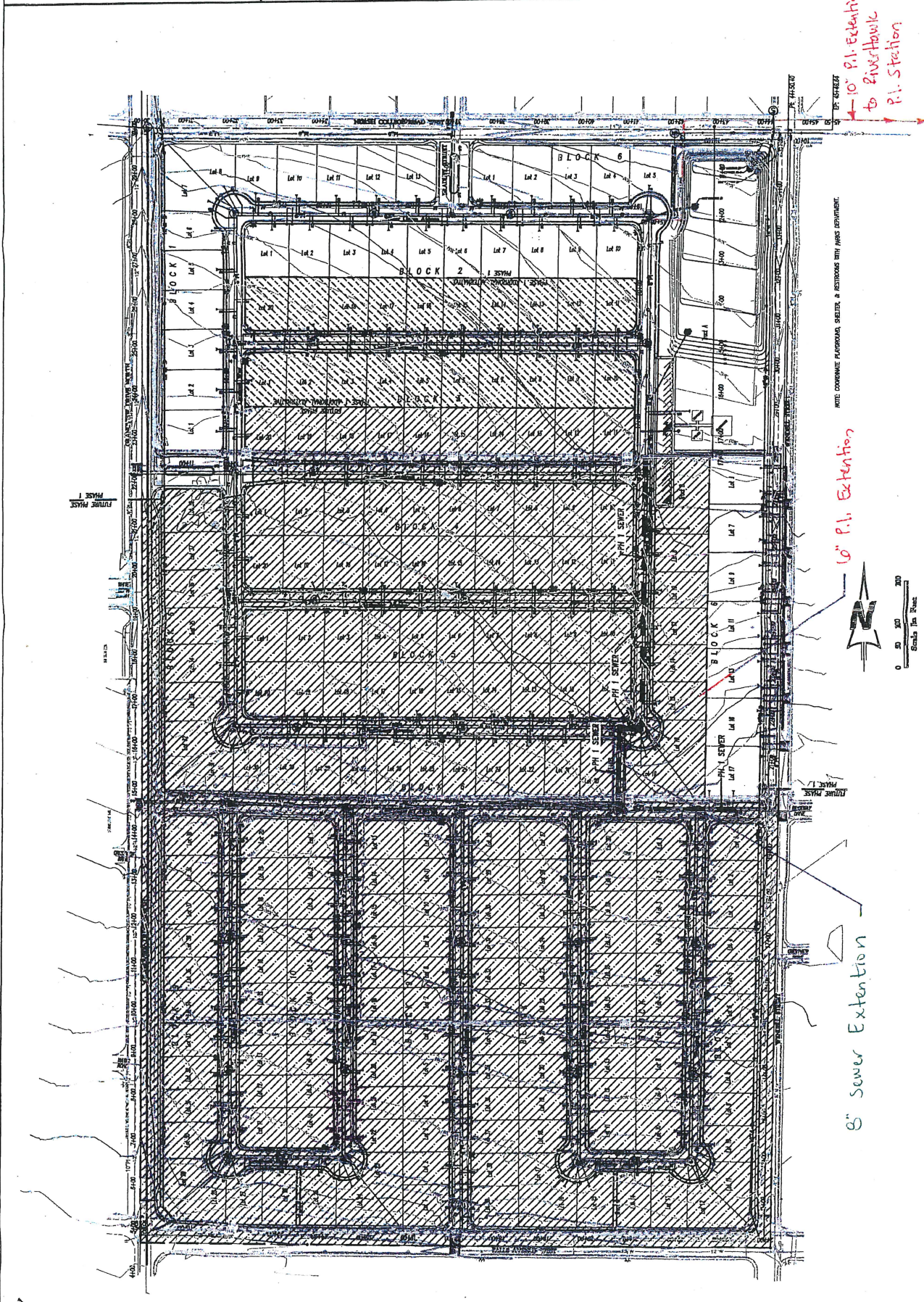
EHM
 ENGINEERS, SURVEYORS, PLANNERS
 823 N. COLLIER BLVD. SUITE 100
 TAMPA, FLORIDA 33610
 PH: 208 734 4808 FAX: 208 734 6048
 E-MAIL: ehm@ehm.com

MASTER UTILITY PLAN
 for
BROADMOOR SUBDIVISION

DO NOT SCALE DIMENSIONS
 CONTRACTOR SHALL VERIFY ALL
 DIMENSIONS AND LOCATIONS OF
 UTILITIES IN THE FIELD. THE
 CONTRACTOR SHALL BE RESPONSIBLE
 FOR VERIFYING THE LOCATION OF
 UTILITIES IN THE FIELD.
 DATE: 03/15/15
 PROJECT: PHASE 1

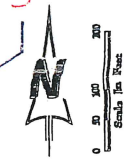
REV.	DATE	DESCRIPTION
1	03/15/15	ISSUED FOR PERMIT REVIEW #1
2	03/15/15	ISSUED FOR PERMIT REVIEW #2
3	03/15/15	ISSUED FOR PERMIT REVIEW #3
4	03/15/15	ISSUED FOR PERMIT REVIEW #4
5	03/15/15	ISSUED FOR PERMIT REVIEW #5
6	03/15/15	ISSUED FOR PERMIT REVIEW #6
7	03/15/15	ISSUED FOR PERMIT REVIEW #7
8	03/15/15	ISSUED FOR PERMIT REVIEW #8
9	03/15/15	ISSUED FOR PERMIT REVIEW #9
10	03/15/15	ISSUED FOR PERMIT REVIEW #10

MUI



NOTE: CONDUIT FOR FUTURE PHASE 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

10' P.I. Extension
 to Riverhawk
 P.I. Station



8" Sewer Extension

EXHIBIT D

Lars Lundberg

From: Brian <mosichassoc@aol.com>
Sent: Friday, November 16, 2018 2:06 PM
To: Lynnette Davis
Subject: Fwd: 180509 Broadmoor South - Payback & Purchase Agreement

Sent from my iPhone

Begin forwarded message:

From: Scott Allen <sallen@jub.com>
Date: May 9, 2018 at 8:04:04 AM MDT
To: "Troy Vitek (tvitek@tfid.org)" <tvitek@tfid.org>
Cc: "Brian Mosich (mosichassoc@aol.com)" <mosichassoc@aol.com>, "Mary O'Riley (jadeidaho5759@gmail.com)" <jadeidaho5759@gmail.com>
Subject: 180509 Broadmoor South - Payback & Purchase Agreement

Troy,

Gerald Martens recently submitted a payback agreement to the City for construction work completed in the north portion of Broadmoor Subdivision which would provide sewer service and pressure irrigation service to the south portion of Broadmoor Subdivision, which is owned by Jade Development. It is my understanding that the City has rejected the aforementioned application due to its incomplete form at time of submittal. Mr. Martens has also submitted separate requests to Jade Development, for prorated payment of the subdivision's park area.

The developer of Broadmoor South, Jade Development, was quite shocked at the attempted submittal of the payback agreement since it was in violation of the executed "Real Estate Purchase and Sale Agreement" for the Broadmoor property in its entirety.

Jade Development met with Mr. Martens on April 23, 2018, at John Fitzgerald's office, to discuss and resolve this matter. Unfortunately, a resolution was not achieved and the meeting was adjourned. Jade Development, via Scott Allen, also reached out to Mr. Martens, following the subject meeting, to discuss this matter in further detail. Once again, a resolution was not achieved.

Therefore, this email is being transmitted to the City as, 1) a record of Jade Development's attempts to resolve this matter, and 2) inform the City that an executed agreement exists which obligates Mr. Martens to provide storm water retention, sewer service and pressure irrigation service to the Broadmoor South development. If Mr. Martens continues to file payback agreements for Broadmoor North, Jade Development is prepared to use legal counsel, as necessary, to assure that Mr. Martens adheres to the conditions outlined in the abovementioned executed real estate purchase agreement for the Broadmoor property.

Please contact Jade Development and J-U-B immediately upon receipt of any payback agreement(s), submitted by Mr. Martens or his partners, which requests reimbursement from Jade Development.

Regards,

SCOTT L. ALLEN
Project Manager
Land Development

J-U-B ENGINEERS, Inc.

115 Northstar Ave. Twin Falls, ID 83301
e sallen@jub.com w www.jub.com
p 208 733 2414 ex 6033 c 208 432-2146



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EXHIBIT E



Date: Thursday, October 25, 2018
To: Impact Fee & Improvement Reimbursement Committee
From: Gerald Martens

ACTION ITEM

Request:

Broadmoor Subdivision Reimbursement Request

Time Estimate:

Staff estimates 5-10 minutes to explain the application.

Background:

Broadmoor Subdivision has constructed improvements that are eligible for payback. A payback ordinance is in place that allows for this to happen. If the commission accepts the payback as presented, the City will enter the payback into the City GIS database and will require it to be fulfilled before executing any more approvals.

Approval Process:

The Commission can accept the application as presented, deny the application or accept with changes. A majority vote is required for execution

Budget Impact:

There is no budgetary impact to the City of Twin Falls. If the commission approves there is a requirement that the beneficiary repay the original developer to the tune of \$184,302.73 for improvements completed.

Regulatory Impact:

N/A

History:

N/A

Analysis:

N/A

Conclusion:

Staff has verified the boundary of the Payback and agrees with the applicant on the boundary. The payback was reviewed by a third party firm who verified the amounts and that the application meets the rules of the ordinance and resolutions. (letter included)

Attachments:

1. Broadmore Reimbursement Application



RECEIVED

SEP 28 2018

CITY OF TWIN FALLS
ENGINEERING DEPT.

To: Mr. Troy Vitek, P.E.

From: Gerald Martens, P.E.

Date: June 7, 2018

RE: Payback Request For Broadmoor Subdivision – Pressurized Irrigation & Storm Drainage

Please accept this transmittal as formal request to be considered as an initial developer for the Broadmoor Subdivision for the lots located north of Ridgeway Road and eligible for reimbursement for construction costs. At my expense an extension of pressurized irrigation main line has been installed to connect to the Riverhawk Pressurized Irrigation Pump Station running parallel to North College Road. Additionally, I have constructed the storm water retention basin within the park area of the City and completed seeding and other improvements for this area according to the requirements of City Code. Therefore, in accordance with Resolution No. 2017-13 I hereby request that I be identified as the initial developer and be reimbursed according to City Code provisions.

Pressurized Irrigation Improvements

Connection to Existing Station @ \$800.00 Lump Sum	\$800.00
1,700 LF of 10" PVC P.I. Main Line @ \$18.00/LF	\$30,600.00
182 LF of 6" PVC P.I. Main Line @ \$13.75/LF	\$2,502.50
220 CY of ¾" Gravel for Backfill @ \$28.00/CY	\$6,160.00
525 SY of Asphalt Patch Back & Repair @ \$36.50/SY	\$19,162.50
(2) 10" Gate Valves @ \$1,200.00 Each	\$2,400.00
(3) 10" 90° Elbows @ \$500.00 Each	\$1,500.00
(1) 10"x6"x6" Tee @ \$1,500.00 Each	\$1,500.00
Traffic Control @ \$1,000.00 Lump Sum	\$1,000.00

Storm Drainage Improvements at Park Area

Retention Basin @ \$45,000.00 Lump Sum	\$45,000.00
(40) Tree Plantings @ \$250.00/Tree	\$10,000.00
Irrigation & Hydro Seed at Park (Playground Area)	\$35,145.56
Irrigation & Hydro Seed at Park (Retention Pond Area)	\$28,532.17

Total Improvement Costs Identified Above \$184,302.73

This work involved installation of the pressurized irrigation main line, asphalt patch back and repair, as well as traffic control. A full compensation for the eligible reimbursement amount plus 15% to address the costs of engineering, management, interest, and inspection is requested for these improvements.

621 North College Rd., Suite 100 • Twin Falls, Idaho 83301 • [208] 734-4888 • Fax [208] 734-6049
3501 W. Elder St., Suite 100 • Boise, Idaho 83705 • [208] 386-9170 • Fax [208] 386-9076

815 Yakima Ave.
Filer, ID 83328
208.420.9624
Jd.hg.barnes@gmail.com

9/11/2018

City of Twin Falls
Attn: Troy Vitek, P.E.
324 Hansen St. E.
Twin Falls, ID 83301

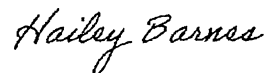
Dear Mr. Vitek,

Mr. Gerald Martens retained my services to conduct a third-party review of the submitted Improvement Reimbursement Application for the northern portion of Broadmoor Subdivision. After a thorough review it is my opinion that the application was completed professionally and the items, quantities, and associated costs successfully meet the intent of the City of Twin Falls adopted Ordinance #2974 and Resolution 1816.

Should the City have any questions regarding this review, please feel free to contact me at 208-420-9624 or jd.hg.barnes@gmail.com.

Kind regards,

Hailey G. Barnes, P.E.



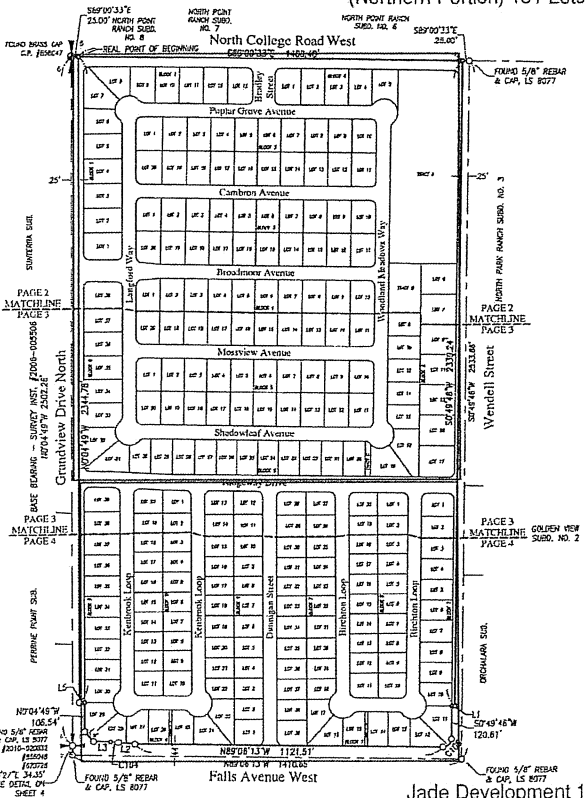
Attachments: Broadmoor Subdivision Payback Request Package

Cc: Gerald Martens, P.E.; David Thibault, P.E.

**Broadmoor Subdivision
(Northern Portion) 131 Lots**

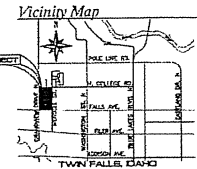
BROADMOOR SUBDIVISION

A SUBDIVISION OF
Lots 61 Thru 65, Lot 40 and A Portion of Lots 41 and 42 of
"ORCHALARA SUBDIVISION"
LOCATED IN A PORTION OF
SW 1/4 OF SECTION 5 &
NW 1/4 OF SECTION 8
TOWNSHIP 10 SOUTH,
RANGE 17 EAST, B.M.,
TWIN FALLS COUNTY, IDAHO
2015



Legend

- SUBDIVISION BOUNDARY LINE _____
- SECTION LINE _____
- EASEMENT LINE _____
- ADJACENT PROPERTY LINE _____
- CENTERLINE OF STREET _____
- LOT LINE _____
- CALCULATED POINT (NOT SET) ○
- FOUND BRASS CAP ○
- FOUND 5/8" REBAR & CAP, LS 8077 ○
- SET 5/8" x 24" REBAR & CAP - LS 10110 ○
- TO BE SET 1/2" x 24" REBAR & CAP - LS 10110 ○
- TO BE SET 5/8" x 24" REBAR & CAP - LS 10110 ○



Notes:

1. A 15 FOOT WIDE UTILITY EASEMENT EXISTS ADJACENT TO ALL FRONT LOT LINES AND ADJACENT TO STREET FRONTS.
2. ALL TRAFFIC ACCESS ON LOTS ADJACENT TO COLLECTOR OR ARTERIAL ROADS WILL BE PROVIDED FROM INTERIOR RESIDENTIAL STREETS INCLUDING ROCKWAT DRIVE EXCEPT FOR EMERGENCY ACCESS ON LOTS 4, 5, 11, 13 AND 16 OF BLOCK 6.

Health Certificate

"SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE TITLE 5A, CHAPTER 11, HAVE BEEN SATISFIED BASED ON THE STATE OF IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF SANITARY RESTRICTIONS. WATER IS CONTAINED AT THE TIME OF THIS APPROVAL. NO DRINKING WATER OR SEWER/SOLID FACILITIES WERE CONSTRUCTED. BUILDING CONSTRUCTION CAN BE ALLOWED WITH APPROPRIATE BUILDING PERMITS IF DRINKING WATER OR SEWER FACILITIES HAVE SINCE BEEN CONSTRUCTED OR IF THE DEVELOPER IS SIMULTANEOUSLY CONSTRUCTING THESE FACILITIES. IF THE DEVELOPER FAILS TO CONSTRUCT FACILITIES OR MEET OTHER CONDITIONS OF DEQ, THEN SANITARY RESTRICTIONS MAY BE RE-IMPOSED. IN ACCORDANCE WITH SECTION 50-1105, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF COMPLETION, AND NO CONSTRUCTION OF ANY BUILDING OR SHEDDING RECEIVING GRABING WATER OR SEWER/SOLID FACILITIES SHALL BE ALLOWED."

DISTRICT HEALTH DEPARTMENT, PDR _____ DATE _____

Tracts Owned & Maintained By:

- TRACT A - CITY OF TWIN FALLS
- TRACT B - HOMEOWNERS ASSOCIATION
- TRACT C - CITY OF TWIN FALLS
- TRACT D - CITY OF TWIN FALLS
- TRACT E - CITY OF TWIN FALLS

Monument Certification

THE MONUMENTS SHOWN ON THIS PLAT SHOWN AS "TO BE SET" WILL BE SET IN ACCORDANCE WITH SECTION 50-1133, IDAHO CODE, ON OR BEFORE 1 YEAR AFTER THE RECORDING OF THE FINAL PLAT OR AS DETERMINED BY THE CITY OF TWIN FALLS.

Jade Development 118 Lots in
The Falls at Broadmoor

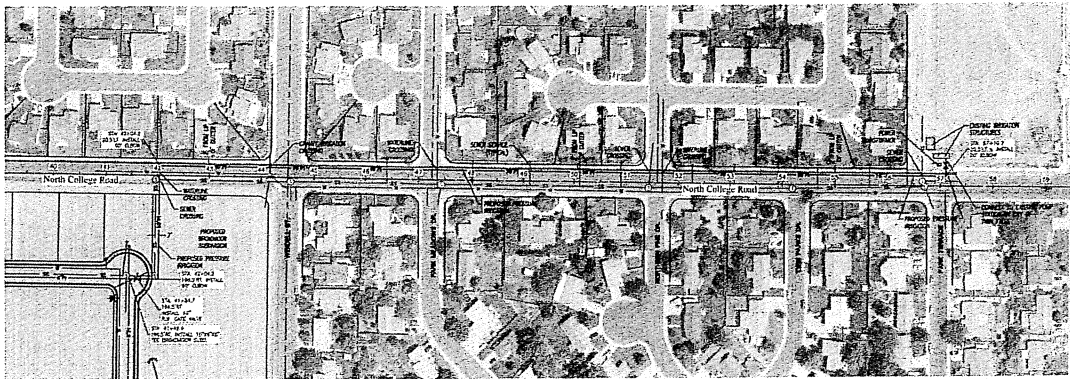
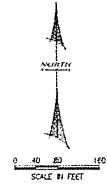
EHM Engineers, Inc.

Sheet Number	Sheet Title
1 of 7	PLAT FACE
2 of 7	PLAT SHEET 2
3 of 7	PLAT SHEET 3
4 of 7	PLAT SHEET 4
5 of 7	LINE & CURVE TABLES
6 of 7	MONUMENTS
7 of 7	CERTIFICATE OF CORRECTION

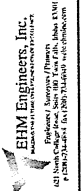


10" Pressurized Irrigation Main Extension to Existing Pumping Station along North College Rd. ~ 1,700 Linear Feet of 10" Dia. PVC Pipe

- (3) 90-Degree Elbows
- (2) 10" Gate Valves
- (1) 10"x5"x5" Tee
- Roadway Cut and Patchback
- 220 CY of 2 1/4" Gravel for Backfill
- 525 SY of Asphalt Patchback
- Traffic Control Required



NOTES:
ALL PIPE INSTALLATION SHALL BE PERFORMED USING CITY OF TWIN FALLS STANDARD DRAWING T-1.

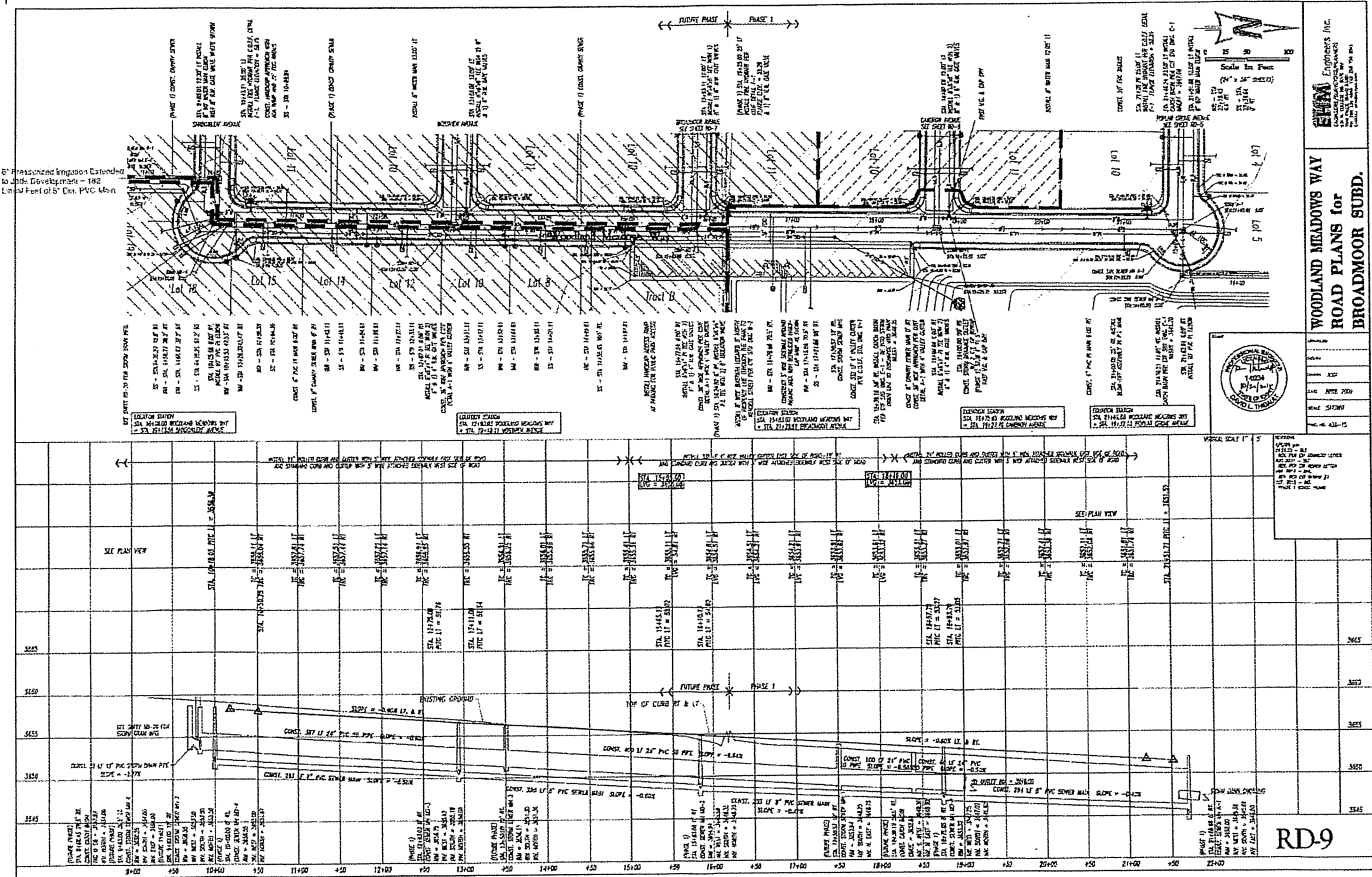


PROPOSED OFFSITE PRESSURE IRRIGATION PLAN
 for
BROADHOOK SUBDIVISION

DATE	1/1/18
BY	DLT
CHECKED	DLS
DATE	1/1/18
BY	DLT

DO NOT SCALE DRAWING
CONTRACTOR SHALL VERIFY ALL
DIMENSIONS AND LOCATIONS OF ALL
EXISTING UTILITIES AND STRUCTURES
BEFORE ANY CONSTRUCTION
OR PATCHBACK WORK

DESIGNED	DLT
DRAWN	DLS
DATE	1/1/2018
CHECKED	DLT
DATE	1/1/2018
SHEET C.5.01 PI	



WOODLAND MEADOWS WAY
ROAD PLANS for
BROADMOOR SUBD.

ENGINEER'S SEAL
 PROJECT NO. 1000
 DATE: 11-15-15
 SCALE: AS SHOWN

RD-9

EXHIBIT F

DECLARATION OF JOE RUSSELL

I, Joe Russell, declare as follows:

1. At all times relevant hereto, I was the principal owner of Rusmor, LLC. I make this declaration based upon my own personal knowledge and review of the real estate purchase and sale agreement (“Agreement”) attached hereto as Exhibit A, and I am competent to testify thereto.

2. I was the principal owner of Rusmor, LLC, which was the original owner of property commonly known as the Broadmoor Subdivision (“Subdivision”). In 2015, I negotiated the Agreement to sell the northern portion of the Subdivision to Gerald Martens. Prior to negotiating the Agreement, I had hired Mr. Martens’ engineering company to perform engineering services related to the Subdivision.

3. While negotiating the terms of the Agreement, Mr. Martens and I discussed that certain improvements were required in order to develop the Subdivision, such as additional engineering services, storm/waste-water runoff facilities, and active utility service connections for pressurized irrigation, sewer, and water. In exchange for a significant reduction to the sale price, Mr. Martens told me that he would provide, and pay for, the aforementioned services and improvements, including without limitation, additional engineering services, storm/waste-water runoff facilities, and active utility service connections to the portion of the Subdivision that Rusmor, LLC retained. Regarding the engineering fees, Mr. Martens told me that he would provide, at no cost, all engineering and related professional services necessary to subdivide the Subdivision and to cause the Subdivision plat to be accepted and recorded. The Agreement

reflects our negotiated terms, and I had no reason to doubt that Mr. Martens understood and agreed to his obligations.

4. The only possibility of reimbursement under the Agreement related to Rusmor, LLC's construction of Ridgeway Drive, which is the road that divides the property that Mr. Martens was purchasing and the property that Rusmor, LLC retained. Ridgeway Drive was uniquely important to me because it provides access to the retained property. I desired to maintain responsibility for the construction of Ridgeway Drive because I intended to further develop the retained lots and wanted to have control of the timing of the construction of the road. Although Rusmor, LLC was responsible for the construction and cost of Ridgeway Drive, Mr. Martens and I discussed that each party would be responsible for its own sidewalk, curb, and gutter along Ridgeway Drive. In other words, Mr. Martens was responsible for the construction and cost of the northern sidewalk, curb, and gutter, and Rusmor, LLC was responsible for the southern sidewalk, curb, and gutter. Due to the permitting and construction process, it is impractical to construct a road separate from the sidewalk, curb, and gutter. Therefore, Mr. Martens and I discussed that, in the event that Rusmor, LLC constructed the entire road and both the northern and southern sides of the sidewalk, curb, and gutter, Mr. Martens would reimburse Rusmor, LLC for his portion of the sidewalk, curb, and gutter. The Agreement includes a term to that effect, and I had no reason to doubt that Mr. Martens understood and agreed to his reimbursement obligation.

5. After selling the northern portion of the Subdivision to Mr. Martens, I sold the retained property to Jade Development, LLC. I expected Mr. Martens to follow through with his obligations because the Agreement specifies that it is binding upon, and inures the benefit to each party's successor-in-interest.

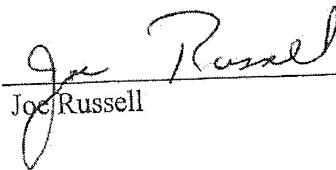
6. After I sold the property to Jade Development, LLC, I became aware that Mr. Martens was seeking reimbursement from Jade Development, LLC for the storm/waste-water runoff facilities. I understand that Mr. Martens and Jade Development representatives met in the Spring of 2018 with my attorney, John Fitzgerald, to discuss this matter. My understanding is that during the discussion of the terms of the Agreement, Mr. Martens acknowledged and confirmed his obligation to construct and pay for the aforementioned improvements.

7. I was stunned to learn that Mr. Martens appears to be once again trying to circumvent his obligations under the Agreement by filing an application with the Improvement Reimbursement Committee (IRC) seeking reimbursement from Jade Development, LLC for the storm/waste-water runoff facilities and pressurized irrigation costs that he incurred in satisfying those contractual obligations.

8. In summary, in return for his agreement to solely pay for those development costs, Mr. Martens received a substantially reduced purchase price on the property he purchased from Rusmor, LLC. If Mr. Martens underestimated the amount of those costs, that does not negate the fact that they are his sole responsibility. Further, if he is now disputing the terms of the Agreement, and specifically that he is obligated to pay all of the Subdivision's development costs outlined therein, that is a matter that should be decided by a Court of law -- not the IRC.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Executed on this 17 day of November, 2018.



Joe Russell

EXHIBIT A

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into this 11th day of September, 2015 (the "Effective Date"), by and between **Rusmor, LLC**, an Idaho limited liability company, whose address is 754 North College Road, Suite A, Twin Falls, Idaho 83301 or its assignees ("Seller"), and **Gerald Martens**, whose address is 612 North College Road, Suite 100, Twin Falls, Idaho 83301 or his assignees ("Buyer").

RECITALS:

A. Seller owns certain unimproved subdivided real property commonly known as Broadmoor Subdivision (the "Seller's Real Property") located in the city of Twin Falls, Twin Falls County, state of Idaho; and

B. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, the following lots of the Seller's Real Property: (1) Lots 1 through 13, Block 1; (2) Lots 1 through 20, Block 2; (3) Lots 1 through 20, Block 3; (4) Lots 1 through 20, Block 4; (5) Lots 1 through 20, Block 5; (6) Lots 1 through 38, Block 6; (7) Tract A; (8) Tract B; and (9) Tract C, together with all improvements and structures thereon, water rights, if any, and all other appurtenances thereto (collectively, the "Subject Real Property"); and

C. Seller shall retain the following portions of the Seller's Real Property, which portions are specifically excluded from this contemplated transaction: (1) Lots 1 through 39, Block 7; (2) Lots 1 through 20, Block 8; (3) Lots 1 through 39, Block 9; and (4) Lots 1 through 20, Block 10; (5) Tract D; and (6) Tract E, together with all improvements and structures thereon, water rights, if any, and all other appurtenances thereto (collectively, the "Retained Real Property").

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

1. The Subject Real Property. Subject to the terms and conditions of this Agreement, Seller shall sell and convey by good and sufficient warranty deed, and Buyer shall purchase of and from Seller, the Subject Real Property.

2. The Retained Real Property. Seller retains the Retained Real Property, and it is specifically excluded from this contemplated purchase and sale transaction.

3. Price and Payment Terms for the Subject Real Property. Buyer shall pay, and Seller shall accept, as the purchase price for the Subject Real Property The Purchase Price shall be paid in cash or certified funds, or by federally insured wire transfer on the date of closing.

4. Subdividing Engineering Fees and Costs. Buyer is a principal of EHM Engineers, Inc., an Idaho corporation. Buyer and Seller acknowledge EHM Engineers, Inc. provided and performed engineering and related professional services for the subdividing, and the acceptance and recordation of the subdivision plat of Broadmoor Subdivision, for which EHM Engineers, Inc. charged fees, costs and expenses. As an inducement to Seller to enter into this Agreement and to sell the Subject Real Property to Buyer, Buyer shall assume, pay and hold Seller harmless from any and all unpaid

outstanding fees, costs and expenses charged by of EHM Engineers, Inc. for said engineering and related professional services to subdivide, and cause the subdivision plat of Broadmoor Subdivision to be accepted and recorded, and otherwise attributable to Broadmoor Subdivision; or otherwise cause EHM Engineers, Inc. to waive, and release Seller from any and all liability for, said unpaid outstanding fees, costs and expenses charged by of EHM Engineers, Inc. for said engineering and related professional services to subdivide, and cause the subdivision plat of Broadmoor Subdivision to be accepted and recorded, and otherwise attributable to Broadmoor Subdivision. Notwithstanding the foregoing or anything to the contrary in this Agreement, any and all fees and charges of the city of Twin Falls, Idaho and the county of Twin Falls, Idaho for recordation of the subdivision plat of Broadmoor Subdivision shall not be assumed, paid, waived or released by EHM Engineers, Inc.; but rather, Seller shall be responsible for, and pay, any and all such fees and charges.

5. Commitment for Title Insurance; Title Insurance. Within ten (10) days of the Effective Date or within a reasonable time thereafter, Seller shall obtain, at its sole cost and expense, a commitment for title insurance from TitleFact, Inc., Twin Falls, Idaho (the "Title Company") on the Subject Real Property. Buyer shall have ten (10) business days after receipt of said commitment for title insurance in which to provide Seller notice of any material defects in said title, as shown by said commitment for title insurance. The term "material defects" means any defect that would substantially affect the marketability of the Subject Real Property. In the event Buyer does not provide such written notice to Seller of any matters shown by said commitment for title insurance, Buyer shall be deemed to have accepted the condition of the title as set forth in the commitment for title insurance (the "Permitted Exceptions"). Notwithstanding the foregoing and without the necessity of notice or objection from Buyer, any deed of trust, mortgage or other lien securing the payment of indebtedness against the Subject Real Property shall not be Permitted Exceptions. If Seller is unable to remedy such identified material defects on or before the closing as provided in Section 6 hereof, Buyer, at Buyer's option, may either accept the title as then existing or may terminate this Agreement. In the event Buyer elects to terminate this Agreement, this Agreement shall thereafter be deemed terminated and of no further force and effect; and Buyer shall have no further right, title or interest in or to the Subject Real Property.

At closing, the parties shall obtain a standard policy of owner's title insurance issued by Title Company insuring Buyer in the amount of the Purchase Price. Such policy shall show clear and marketable title in Buyer, subject to: (1) current taxes and assessments; and (2) all such encumbrances, easements, covenants, and restrictions pertaining and appurtenant to Broadmoor Subdivision; and (3) the Permitted Exceptions as defined in this Section. All costs incurred for said title insurance policy shall be borne by the Seller.

6. Closing and Prorations. The sale herein contemplated shall be closed on or before September 30, 2015, with the parties' mutual intended closing date to be September 28, 2015. Closing shall be at the offices of the Title Company. Any and all real property taxes and assessments levied on the Subject Real Property shall be prorated as of the date of closing, Seller being responsible for all such taxes and assessments to the date of closing. Such taxes and assessments attributable to the Subject Real Property after closing shall be borne by Buyer, and Buyer hereby assumes and agrees to pay the same. The proration of taxes shall be based on the current year's taxes if known, or if not known, on the previous year's taxes. All closing costs imposed by the Title Company or that may be imposed in connection with this transaction shall be borne equally by the parties, except as otherwise provided in this Agreement.

7. Title. The Subject Real Property will be conveyed, by good and sufficient warranty deed, at the time of closing to Buyer free and clear of all liens and encumbrances, with the exception of: (1) current taxes and assessments; and (2) all such encumbrances, easements, covenants, and restrictions pertaining and appurtenant to Broadmoor Subdivision; and (3) the Permitted Exceptions as defined in Section 5 hereof.

8. Risk of Loss; Possession. The risk of loss or damage to the Subject Real Property shall remain with Seller until the sale has been closed, with the risk of loss being with Buyer thereafter. Buyer shall be entitled to possession of the Subject Real Property on closing.

9. Inspection of the Subject Real Property. Upon the closing of this contemplate transaction, Buyer acknowledges he has personally, to include through agents and representatives, inspected and conducted the due diligence investigation of the Subject Real Property he deemed appropriate and necessary, and is purchasing it based upon such personal inspection and due diligence investigation, and is not relying on any representation of Seller in making the decision to purchase the Subject Real Property. Buyer purchases the Subject Real Property "AS IS" and "WITH ALL FAULTS" with no representation, warranty or covenant, express or implied, of any kind or nature, except as to title.

10. Utility Improvements to the Subject Real Property; Availability of Utilities to the Retained Real Property; Waste Water Runoff Facilities and Retention Area(s). With regard to the following agreements in this Section: (1) Buyer and Seller, or Seller's successor-in-interest to the Retained Real Property, will respectively develop and improve the Subject Real Property and the Retained Real Property for the sale and conveyance of the respective lots thereof; and (2) by the nature of Broadmoor Subdivision and the availability of utility services, to include municipal water, sanitary sewer and pressurized irrigation, the development and improvement of the Retained Real Property is to an extent dependent upon the development and improvement of the Subject Real Property; and (3) the following agreements of Buyer and Seller is their express intentions to provide for the coordinated, cooperative, economically efficient and phased development and improvement of both the Subject Real Property and the Retained Real Property; and (4) Seller, or Seller's successor-in-interest to the Retained Real Property, intend to commence, on or after one (1) year from the Effective Date, the development and improvement of the Retained Real Property, which is to be without delay or restriction caused by or attributable to the development and improvement of the Subject Real Property. In consideration of the foregoing:

(a) Within one (1) year of the Effective Date, Buyer shall provide for the development, use and benefit of the Retained Real Property active utility service connections of municipal water, sanitary sewer and pressurized irrigation, to the extent such active utility service connections do not presently exist, as follows:

- i. Municipal Water Service: Facilities for an active connection to municipal water service for the development, use and benefit of all lots of the Retained Real Property presently exist along the western boundary of the Retained Real Property, subject, however, to the payback provisions or obligations of the city of Twin Falls, Idaho; and

- ii. *Municipal Sanitary Sewer Service:* Seller shall develop the Subject Real Property to install any and all necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property. Said point of connection shall be located from and through the Subject Real Property, through Tract D within Broadmoor Subdivision, to not less than ten feet (10') into and within the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, as depicted and identified on the copy of the "Master Utility Plan for Broadmoor Subdivision" attached, and incorporated herein, as Exhibit A. The facilities for the active connection to municipal sanitary sewer service shall be of sufficient sizing and capacity to provide municipal sanitary sewer service from all lots of the Retained Real Property. Buyer and Seller acknowledge the installation of the necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Subject Real Property and the Retained Real Property is subject to the city of Twin Falls issuing a "will serve" letter for Broadmoor Subdivision in its entirety. Buyer's obligation to install any and all necessary and required facilities for an active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property, inclusive of Buyer's obligations under Sections 10. (b), (c) and (d) herein below, is and shall be subject to, and shall be tolled pending, the city of Twin Falls issuing a "will serve" letter for Broadmoor Subdivision in its entirety; and
- iii. *Pressurized Irrigation Service:* Seller shall develop the Subject Real Property to install any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property. Said point of connection shall be located from either Grand View Drive North right-of-way or Wendell Street right-of-way to not less than ten feet (10') into and within the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, as respectively depicted and identified from Grand View Drive North right-of-way and from Wendell Street right-of-way on the copy of the "Master Utility Plan for Broadmoor Subdivision" attached, and incorporated herein, as Exhibit A. The facilities for the active connection to pressurized irrigation service shall be of sufficient sizing and capacity to provide pressurized irrigation service to all lots of the Retained Real Property. Buyer and Seller acknowledge the installation of the necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Subject Real Property and the Retained Real Property is subject to the city of Twin Falls proceeding with its obligation(s) of and associated with the facilities of pressurized irrigation service to Broadmoor Subdivision in its entirety. Buyer's obligation to install any and all necessary and required facilities for an active connection to pressurized irrigation service for the development, use and benefit of all lots of the Retained Real Property,

inclusive of Buyer's obligations under Sections 10. (b), (c) and (d) herein below, is and shall be subject to, and shall be tolled pending, the city of Twin Falls proceeding with its obligation(s) of and associated with the facilities of pressurized irrigation service to Broadmoor Subdivision in its entirety.

- (b) As an alternative to the foregoing, no later than one (1) year from the Effective Date Buyer may enter into an Improvement Agreement for Developments with the City of Twin Falls, Idaho providing for the development of the Subject Real Property, with secured and effective bonding for all applicable and necessary development improvements, inclusive of the utility services of municipal water, sanitary sewer and pressurized irrigation for the Subject Real Property; provided however and so long as the immediate development, sale and conveyance of each and every lot of the Retained Real Property is permissible by reason of, and not otherwise restricted or inhibited by reason of, either: (1) the then state of development of the Subject Real Property; or (2) said Improvement Agreement for Developments and the bonding for the improvements for all applicable and necessary development improvements, inclusive of the utility services of municipal water, sanitary sewer and pressurized irrigation for the Subject Real Property.
- (c) In any event, and notwithstanding anything to the contrary in this Section, Buyer shall provide active connection to municipal sanitary sewer service for the development, use and benefit of all lots of the Retained Real Property, as provided in sub-subsection (a)(ii) of this Section above, within four (4) months of written notice to Buyer from Seller, or its successors-in-interest to the Retained Real Property; provided, however, such written notice shall not be effective earlier than eight (8) months from the Effective Date, and Buyer shall have no obligation to provide the said active connection to municipal sanitary sewer service prior to one (1) year from the Effective Date.
- (d) Contemporaneous with Buyer providing active utility service connections of municipal water, sanitary sewer and pressurized irrigation, pursuant to this Section, Buyer shall construct and provide waste water runoff facilities on the Subject Real Property, to include, without limitation, retention ponds and conduits, all as necessary and appropriate for the conveyance, transfer, delivery and storage of waste water runoff from the Retained Real Property to the Subject Real Property.
- (e) Seller shall be responsible for the construction of, and all costs and expenses incurred for, the road of the right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, and the southern sidewalk, curb and gutter of and along said right-of-way. Buyer shall be responsible for the construction of, and all costs and expenses incurred for, the sidewalk, curb and gutter of and along the northern right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision. Provided however, in the event Seller constructs the sidewalk, curb and gutter of and along the northern right-of-way identified as Ridgeway Drive on the recorded subdivision plat of Broadmoor Subdivision, Buyer shall promptly reimburse Seller, within sixty (60) days of notice

for reimbursement, for all costs and expenses incurred by Seller for the northern sidewalk, curb and gutter of and along said right-of-way.

- (f) Buyer and Seller shall cooperatively and mutually establish Covenants, Conditions & Restrictions for and of Broadmoor Subdivision, to include establishment of a homeowner's association, with all terms and provisions typical thereto. The establishment of said Covenants, Conditions & Restrictions shall be completed on or before the closing of this contemplated purchase and sale transaction.

11. Current Farm Lease. The real property of Broadmoor Subdivision is subject to a certain "Cash Rent Farm Lease", a copy of which is attached hereto as Exhibit B (the "Farm Lease"). Notwithstanding the closing of this contemplated purchase and sale transaction: (1) the Farm Lease shall continue in full force and effect, and neither Seller nor Buyer shall disturb the tenant's quiet enjoyment of the real property of Broadmoor Subdivision under the Farm Lease; (2) Seller shall have and retain, without the necessity of apportionment or payment to Buyer, the first cash rent payment due March 15, 2015, and previously paid by tenant; and (3) the second cash rent payment due October 1, 2015 and actually hereafter paid by tenant shall be prorated, shared and distributed between Seller and Buyer on the bases of: (i) a six-month time period applicable to said cash rent payment (July 1, 2015 through December 31, 2015); (ii) the closing date of this contemplated transaction; and (iii) the proportion of the number of lots of the Subject Real Property (131 lots) and the number of lots of the Retained Real Property (118 lots) pursuant to the recorded subdivision plat of Broadmoor Subdivision.

12. Subsequent Farm Lease(s). Buyer shall negotiate and enter, with Seller's approval, into farm lease(s) of the real property of Broadmoor Subdivision for years subsequent to 2015; provided and subject to, however: (1) all such farm lease(s) shall be on a cash rent basis; (2) the term of all such farm lease(s) shall be not more than one (1) year or one (1) crop year; (3) the acreage and term of such farm lease(s) shall be coordinated to the planned development and improvement of the Subject Real Property and the planned development and improvement Retained Real Property; and (4) the rent payment(s) shall be prorated, shared and distributed between Seller and Buyer, as received, on the bases of: (i) the time period applicable to each cash rent payment; and (ii) the proportion of the number of lots of the Subject Real Property subject to such farm lease and the number of lots of the Retained Real Property subject to such farm lease pursuant to the recorded subdivision plat of Broadmoor Subdivision.

13. Real Estate Commissions. The real estate sale transaction herein contemplated does not involve a real estate broker, agent or realtor for either of the parties, and shall not give rise to any real estate commissions with respect to either party hereto. To the extent that any real estate commissions are owed as a result of this transaction by Seller, Seller shall be solely liable therefor, and Seller shall indemnify Buyer from any such commissions. To the extent that any real estate commissions are owed as a result of this transaction by Buyer, Buyer shall be solely liable therefor, and Buyer shall indemnify Seller from any such commissions.

14. Notices. Any notice required or to be given hereunder shall be in writing and shall be deemed to have been duly given: (1) the same day if personally delivered, (2) the next day if sent by an overnight courier service, or (3) after three (3) business days if sent by certified mail, return receipt requested, postage prepaid, to the party at the respective addresses identified below. Either party may

change the person and address to which written notices shall be given at anytime upon prior written notice to the other party.

Seller: Rusmor, LLC
Attn: Joe Russell
754 North College Road, Suite A
Twin Falls, Idaho 83301

Buyer: Gerald Martens
612 North College Road, Suite 100
Twin Falls, Idaho 83301

15. Binding Effect; Parties' Respective Successors-in-Interest. The provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives, and assigns of the parties hereto. Further, the agreements of Sections 10, 11, and 12 of this Agreement shall be binding upon and inure to the benefit of all successors-in-interest to the Subject Real Property and all successors-in-interest to the Retained Real Property without the necessity of formal assignment, recordation of a memorandum of said Sections in the property records of Twin Falls, County, or otherwise; it being specifically acknowledged and agreed the coordinated, cooperative, economically efficient and phased development and improvement of both the Subject Real Property and the Retained Real Property are material and essential to this Agreement. Either Buyer or Seller may record a memorandum of Sections 10, 11 and 12 in the property records of Twin Falls, County.

16. Attorney Fees. If a suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover all costs and attorney fees from the non-prevailing party.

17. Additional Documents. Each of the parties hereto shall execute and deliver at the closing and thereafter any instruments reasonably required to effectuate the terms and conditions of this Agreement and the intent thereof.

18. Applicable Law. This Agreement shall be construed and enforced under the laws of the state of Idaho.

19. Time is of the Essence. Time and timely performance is of the essence of this Agreement and other documents required to effectuate the terms and conditions of this Agreement and the intent thereof.

20. Merger. This Agreement supersedes any and all written or verbal agreements between the parties hereto regarding the real property of Broadmoor Subdivision, the Seller's Real Property, the Subject Real Property and the Retained Real Property that are prior to the time of this Agreement. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein, and the terms and conditions of this Agreement shall survive recordation of the warranty deed(s) hereinabove referred to, and shall remain in full force and effect until duly performed by the parties hereto.


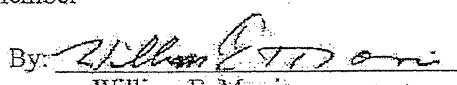
21. Attorney Representation. Buyer acknowledges that the law firm of Worst, Fitzgerald & Stover, P.L.L.C. represents Seller in this transaction. Buyer has been advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement, or otherwise had the opportunity to be advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement. By executing this Agreement, Seller and Buyer acknowledge, respectively, they understand all the foregoing, and consent to all terms of this transaction.

22. Provisions Severable. Every provision of this Agreement is intended to be severable. If any terms or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

23. Authority to Sign. Each signatory has full authority and consent to sign this Agreement.

24. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or electronic transmission of any signed original document shall be the same as delivery of the original.

IN WITNESS WHEREOF, Seller and Buyer have hereunto set their hands the day and year first above written.

<p>"Seller"</p> <p>Rusmor, LLC, an Idaho limited liability company</p> <p>By: <u></u> Joe Russell Its: Member</p> <p>By: Wemgary LP, an Idaho limited partnership Its: Member</p> <p>By: <u></u> William E. Morris Its: General Partner</p>	<p>"Buyer"</p> <p>_____</p> <p>Gerald Martens</p>
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21. Attorney Representation. Buyer acknowledges that the law firm of Worst, Fitzgerald & Stover, P.L.L.C. represents Seller in this transaction. Buyer has been advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement, or otherwise had the opportunity to be advised and counseled by Buyer's own attorney or other competent persons regarding all matters that pertain to this Agreement. By executing this Agreement, Seller and Buyer acknowledge, respectively, they understand all the foregoing, and consent to all terms of this transaction.

22. Provisions Severable. Every provision of this Agreement is intended to be severable. If any terms or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

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IN WITNESS WHEREOF, Seller and Buyer have hereunto set their hands the day and year first above written.

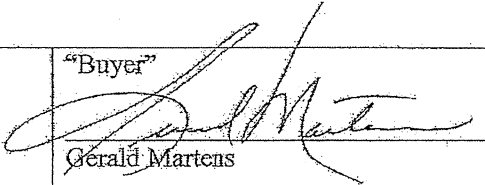
<p>"Seller" Rusmor, LLC, an Idaho limited liability company</p> <p>By: _____ Joe Russell Its: Member</p> <p>By: Wemgary LP, an Idaho limited partnership Its: Member</p> <p>By: _____ William E. Morris, Its: General Partner</p>	<p>"Buyer"</p> <p> Gerald Martens</p>
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EXHIBIT A

(“Master Utility Plan for Broadmoor Subdivision” Attached)

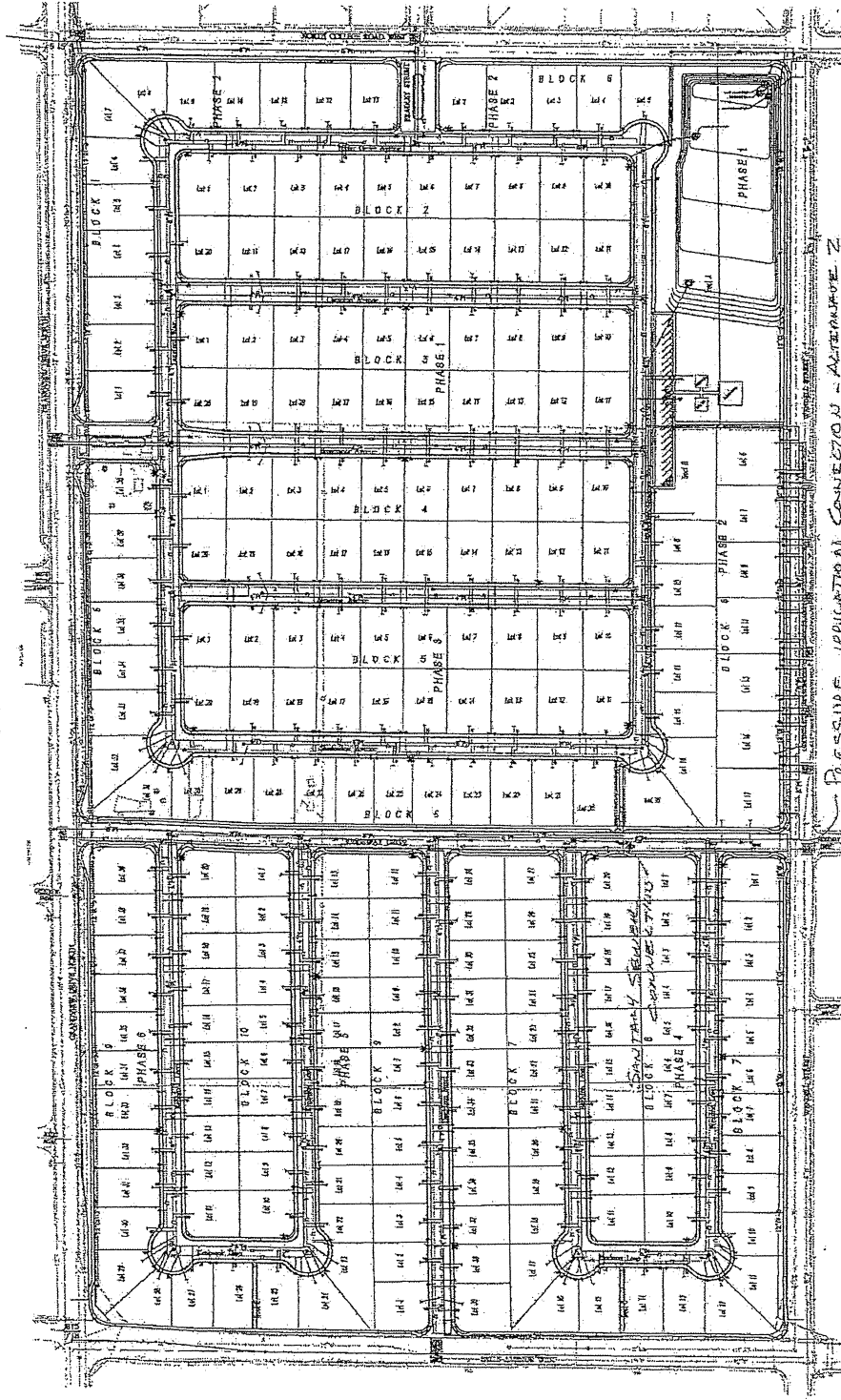
ENGINEERS/SURVEYORS/PLANNERS
 425 N. GALENA RD. SUITE 100
 CHICAGO, ILL. 60612
 TEL: 312.734.4400 FAX: 312.734.8009
 E-mail: info@etm.com

MASTER UTILITY PLAN
 for
 BROADMOOR SUBDIVISION

DATE: 08/11/11
 DRAWN BY: J. W. BROWN
 CHECKED BY: J. W. BROWN
 PROJECT NO.: 11-001
 SHEET NO.: 11-001-11

DATE	08/11/11
DRAWN BY	J. W. BROWN
CHECKED BY	J. W. BROWN
PROJECT NO.	11-001
SHEET NO.	11-001-11

Pressure Irrigation Connection Accurate



Pressure Irrigation Connection - Accurate

11-001-11

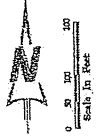


EXHIBIT B

("Farm Lease")

CASH RENT FARM LEASE

Owner: Rusmor LLC **Operator:** Brad Requa and Requa Farms **Year:** 2015

1. **Legal Description:** See Attached Description.
2. **Term of Lease:** Beginning March 1, 2015, and ending December 31, 2015.
3. There are approximately **75 Acres** available for farming.

The following housing, buildings and storage structures located on the Real Estate may be used by the Operator for the following purposes:

Structures: None
All gated pipe and irrigation facilities on site March 1, 2015.

4. **Cash Rent:** Operator agrees to pay the Owner cash rent for the use of part or all of the Real Estate as follows:

Cropland: 75 acres + or - = \$22,500.00

Total Annual Rent: \$22,500.00

The cash rent shall be paid as follows:

Due Date: March 15, 2015 - \$11,250.00

Due Date: October 1, 2015 - \$11,250.00

If cash rent is not paid within five (5) days of due date a \$1,000.00 Late Penalty will be assessed and the entire balance will accrue interest, at the rate of Eighteen Percent Annual Percentage Rate, (18% Simple Interest) until paid. Operator additionally agrees to reimburse Owner for 100% of the cost associated with collecting any late balance owing.

5. **USDA Commodity Program Payments:** Payments shall be paid to the Operator unless otherwise agreed on with the Farm Service Agency.
6. **Listing of Property for Sale:** Property will be listed for sale and a sale of the property will include a provision that, in the event a portion of the farmed property is developed and crops are torn out prior to their harvest by Operator, Property Owner/Developer will reimburse Operator at the rate of \$1,000.00 per acre for those acres rendered no longer harvestable.
7. **Insurance:** Operator agrees to carry a minimum \$1,000,000.00 liability insurance policy to coverage all hazardous risk associated with farming activities during the period of this agreement and to name the Owner as an additional insured on the policy.

8. **Renewability:** This Agreement is only renewable with a written mutual consent by both parties. If not renewed, by mutual written consent, by November 1, 2015, the agreement shall terminate. If this agreement is not renewed for the 2016 crop year, Operator agrees to have his entire farm equipment and crops removed from the farm by March 1, 2016.


9. **Irrigation Pipe:** It is mutually agreed and understood that the irrigation piping located on the subject property is owned by the Owner and will not be removed from the property.

In Witness whereof, we agree to the terms and conditions of this lease and we affix our signatures on this 2 day of ~~January~~, 2015.

February
Joe BR



Owner: Joe Russell, Rusmor LLC



Operator: Brad Requa, Requa Farms

Brad Requa is to personally guarantee the Terms and Conditions of this Lease Agreement, including monetary payments to the Owner.



Operator: Brad Requa

Description
For
RUSMOR, LLC

A parcel of land being described as Lots 40, 41, 42, 61, 62, 63, 64, and 65 of the "Orchalara Subdivision," together with the vacated alley lying North of Lots 64 and 65 and together with vacated Macwaters Avenue lying South of Lots 64 and 65, and together with the Vacated Avenue lying South of Lots 61 and 63, all in the Southwest Quarter of Section 5, Township 10 South, Range 17 East, Boise Meridian, and being more particularly described as follows:

Commencing at the West Quarter corner of Section 5. Said point lies North $00^{\circ}04'49''$ West, 2502.26 feet from the Southwest corner of Section 5. Thence South $39^{\circ}00'33''$ East 25.00 along the North boundary of SW¹, Section 5 to the REAL POINT of BEGINNING.

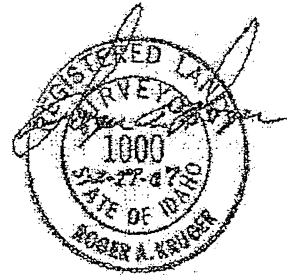
Thence South $39^{\circ}00'33''$ East 1400.40 feet along the North boundary of SW¹, Section 5.

Thence South $00^{\circ}49'46''$ West 2508.90 feet along the Westerly Right-of-Way on Wendell Street.

Thence North $89^{\circ}06'13''$ West 1360.52 feet along the Northerly Right-of-Way on Falls Avenue West.

Thence North $00^{\circ}04'49''$ West 2511.57 feet along the Easterly Right-of-Way on Grandview Drive North to the REAL POINT of BEGINNING.

Containing approx. 79.55 acres.



008-07