

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Edward A. Lawson
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Post Office Box 3310
Ketchum, Idaho 83340

Instrument # 585686

HAILEY, BLAINE, IDAHO

3-7-2011 02:42:02 No. of Pages: 5

Recorded for : LAWSON LASKI CLARK POGUE PLLC

JOLYNN DRAGE

Fee: 22.00

Ex-Officio Recorder Deputy

Index to: AGREEMENTCORRECTION

JD

(Space Above Line For Recorder's Use)

**SECOND AMENDMENT TO WARM SPRINGS RANCH RESORT ANNEXATION AND
DEVELOPMENT AGREEMENT**

This Second Amendment ("Second Amendment") is made as of January 18, 2011 by and between the City of Ketchum, Idaho ("Ketchum"), a municipal corporation, and Helios Development, LLC, a Delaware limited liability company ("Owner", and together with Ketchum, the "Parties").

1. Recitals. This Amendment is made in contemplation of the following facts and purposes:

1.1 Ketchum and Owner are parties to a Warm Springs Ranch Resort Annexation and Development Agreement ("Agreement"), dated August 11, 2009, and recorded on August 13, 2009 in the records of Blaine County, Idaho as Instrument No. 570190, and amended by instrument dated May 10, 2010 and recorded on June 2, 2010 as Instrument No. 577973, records of Blaine County, Idaho, under and by virtue of which the Parties established certain rights and obligations with regard to the annexation of the real property commonly known as the Warm Springs Ranch Resort and more particularly described in Exhibit "A" of the Agreement.

1.2 The parties desire to amend and supplement the Agreement as hereinafter provided.

2. Amendments. In view of the foregoing, the Parties agree to amend and supplement the Agreement, as follows:

2.1 The Parties have adopted a schedule for the performance of the obligations of Owner under the Agreement and all related permits, approvals, and consents ("Performance Schedule"), a copy of which is attached hereto as Exhibit "A". Except as otherwise provided in Section 31 of the Agreement, or agreed upon by the Parties, Owner shall comply with the Performance Schedule in fulfilling its obligations to Ketchum. On or before January 15, 2012, Owner shall submit to Ketchum a revised phasing plan for the Project including estimated commencement dates for each Phase.

2.2 The phrase "Effective Date" is deleted from the first and fourth sentences in Section 4.2 and the date January 15, 2011 is substituted therefore.

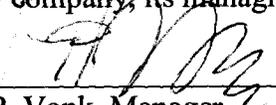
3. Construction. This Amendment and the Agreement constitute one agreement between the Parties. In the event of any inconsistency between this Amendment and the Agreement the terms of this Amendment shall govern. All capitalized terms in the Agreement shall have the meaning in the Agreement when used in this Amendment, unless otherwise defined herein.

4. Ratification. The Agreement, as amended and supplemented by this Amendment, is hereby ratified and affirmed.

This Amendment is executed by the Parties as of the date first above written.

Helios Development, LLC, a Delaware limited liability company
By: Zon Development, LLC, a Delaware limited liability company, its managing member

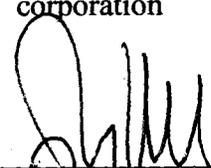
By:



Anton P. Vonk, Manager

City of Ketchum, Idaho, a municipal corporation

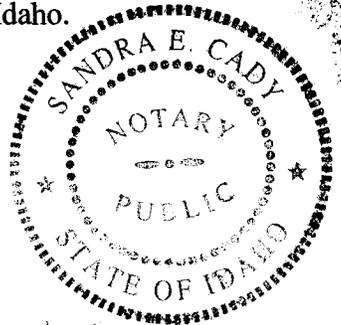
By:



Randy Hall, Mayor

STATE OF IDAHO,)
) ss.
County of Blaine)

On this 18th day of January, 2011, before me, a Notary Public in and for said State, personally appeared Randy Hall, Mayor of the City of Ketchum, Idaho, known or identified to me to be the person whose name is subscribed to the within instrument as the Mayor of the City of Ketchum, Idaho, and acknowledged to me that he executed the same as Mayor of the City of Ketchum, Idaho.



Sandra E. Cady
Notary Public for Idaho
Residing at Hailey Id
Commission expires 11-23-2013

State of Idaho)
) ss.
County of Blaine)

On this 3 day of March, 2011, before me, a Notary Public in and for said State, personally appeared Anton P. Vonk, known or identified to me to be the Manager of Zon Development, LLC, a limited liability company and the managing member of Helios Development, LLC, a limited liability company, the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that such limited liability company executed the same in the name of Helios Development, LLC.



Judith M. Nicholson
Notary Public for Idaho
Residing at Hailey
My Commission expires 8/11/2011

EXHIBIT "A"
PERFORMANCE SCHEDULE

PARTIES:

("O"): Owner

("K"): Ketchum

Action Item	Date¹	Responsible Person	Action/ Reference²	Status
1	8/11/09	O & K	Annexation And Development Agreement Effective Date (§1.7)	Done
2	8/26/09	K	Adoption of Annexation Ordinance (§3)	Done
3	9/26/09	O	Pay Annexation Fee (§3)	Done
4	TBD	O & K	Negotiate amount and due date of fire apparatus fee (§4.5)	
5	4/6/10	O	Record Large Block Plat (§6.4)	Done
6	Before application for Design Review Approval	O	Obtain KCC approval of phasing Plan (§6.7.1)	Done
7	12/31/09	O	Apply for Design Review Approval (§6.7.2)	Done
8	TBD	O	Create historic narrative and brochure (§8.2)	
9	TBD	O	Create SWPPP (§8.6)	
10	TBD	O	Contribution for Trails (§8.7.1)	

¹ All dates are subject to force majeure provision at §31 of Annexation and Development Agreement

² All references are to sections of the Annexation and Development Agreement

11	180 days after notice from O	K	Initiate acquisition of ROW for Warm Springs Road (§10.1)	
12	TBD	O & K	Negotiate protocol for maintenance, repair and snow removal from Bald Mtn Road (§ 10.2)	
13	TBD	O	Provide easement for Townhouse Lane (§10.5)	
14	TBD	O & K	Enter into Road Security Agreement (§10.8)	
15	60 days after written notice from K	O	Pay proportionate amount of Lewis St and Warm Springs Road Intersection improvements (§10.10)	
16	1/15/10	O	Pay \$40K to city for VFD (§11.5)	Done
17	TBD	O & K	Negotiate irrigation water rights agreement (§11.8)	
18	1/15/10	O	Pay up to \$15K for flow analysis (§12.2)	Done
19	1/15/12	O	Update phasing plan	
20	1/15/12	O	Contribute \$200k recreation fee (§16.2)	
21	1/15/15	O	Initiate initial phase (§1.10 and §6.7.1)	
22	1/15/21	O	Complete project (§6.7.1)	