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ORDINANCE NO. 180

TECHNICAL SUPPORT (SB/CH LAND COMPANY VILLAGE)

AN ORDINANCE ANNEXING TO THE CITY OF STAR CERTAIN REAL PROPERTY LOCATED IN THE UNINCORPORATED AREA OF ADA COUNTY, IDAHO, AND CONTIGUOUS TO THE CITY OF STAR, ESTABLISHING THE ZONING CLASSIFICATION OF THE ANNEXED PROPERTY AS RESIDENTIAL (R-3 DA) WITH A DEVELOPMENT AGREEMENT OF APPROXIMATELY 56.85 ACRES; DIRECTING THAT CERTIFIED COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Star, Ada County, Idaho ("the City"), is a municipal corporation organized and operating under the laws of the State of Idaho and is authorized to annex and to incorporate within the boundaries of the City contiguous real property in the manner provided by Section 50-222, Idaho Code; and

WHEREAS, the owners of the real property situated in the unincorporated areas of Ada County and particularly described in "Exhibit A" of this Ordinance have requested, in writing, annexation of said real property to the City of Star; and

WHEREAS, the Mayor and Council, held a public hearing on July 17, 2007 on the proposed annexation and zoning of the property described in "Exhibit A", as required by Section 67-6525, Idaho Code, and determined that the requested annexation should be granted and that the annexed property should be zoned Residential (R-3DA) with a Development Agreement pursuant to the Zoning Ordinance of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF STAR, IDAHO, as follows:

Section 1: The Mayor and Council of the City of Star, Idaho, hereby find and declare that the real property described in "Exhibit A" of this Ordinance is contiguous to the City, that said property can be reasonably assumed to be used for orderly development of the City, that the owner of said property has requested, in writing, annexation of said property to the City, and that the requirements of Section 50-222, Idaho Code, for annexation of said property, have been satisfied.

Section 2: The real property, described in the attached "Exhibit A", all situated in Ada County, Idaho, is hereby annexed into the City of Star. From and after the effective date of this Ordinance, the residents and other occupants and property owners within such area shall enjoy all the rights and responsibilities and shall be subject to all ordinances, resolutions, police regulations, taxation and other powers of the City of Star as their fellow residents, occupants, and owners within the City of Star.

Section 3: The zoning land use classification of the land described in "Exhibit A", is hereby established as a Residential (R-3DA) with a Development Agreement

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District, as provided by the Zoning Ordinance of the City. The Zoning Map of the City is hereby amended to include the real property described in "Exhibit A" as a Residential (R-3DA) with Development Agreement, land use classification.

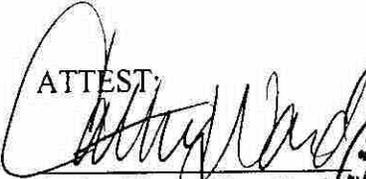
Section 4: The City Clerk is hereby directed to file, within ten (10) days of passage and approval of this Ordinance, a certified copy of this Ordinance with the offices of the Auditor, Treasurer, and Assessor of Ada County, Idaho, and with the State Tax Commission, Boise, Idaho, as required by Section 50-223, Idaho Code, and to comply with the provisions of Section 63-215, Idaho Code, with regard to the preparation and filing of a map and legal description of the real property annexed by this Ordinance.

Section 5: This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire Ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

DATED this 7th day of September, 2007.

CITY OF STAR
Ada County, Idaho

By: 
Nathan Mitchell, Mayor

ATTEST:

Cathy Ward, City Clerk



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EXHIBIT A
LEGAL DESCRIPTION OF ANNEXATION PROPERTY

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Rosti Property

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A parcel located in Government Lots 6 and 7 of Section 6, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, and more particularly described as follows:

BEGINNING at a 5/8 inch diameter iron pin marking the northwest corner of said Government Lot 6, from which an aluminum cap monument marking the southwest corner of said Section 6 bears S 0°29'40" W a distance of 2642.33 feet;

Thence S 88°39' 01" E along the northerly boundary of said Government Lot 6 a distance of 1185.47 feet to a 1/2 inch diameter iron pin marking the northeast corner of said Government Lot 6;

Thence S 0°55'46" W along the easterly boundary of said Government Lots 6 and 7 a distance of 2349.45 feet to a point on the centerline of the Middleton Canal, also known as the Middleton Slough, said point being witnessed by an aluminum cap monument which bears N 0°55'46" E a distance of 20.00 feet from said point;

Thence along the centerline of said Middleton Canal, also known as the Middleton Slough, the following described courses;

Thence N 81°50'06" W a distance of 182.56 feet to a point;

Thence a distance of 64.07 feet along the arc of a 150.00 foot radius curve right, said curve having a central angle of 24°28'23" and a long chord bearing N 69°35'54" W a distance of 63.58 feet to a point;

Thence N 57°21'43" W a distance of 72.70 feet to a point;

Thence a distance of 64.34 feet along the arc of a 145.00 foot radius curve left, said curve having a central angle of 25°25'25" and a long chord bearing N 70°04'26" W a distance of 63.81 feet to a point;

Thence a distance of 209.01 feet along the arc of a 400.00 foot radius curve right, said curve having a central angle of 29°56'19" and a long chord bearing N 67°48'58" W a distance of 206.64 feet to a point;

Thence N 52°50'49" W a distance of 69.09 feet to a point;

Thence a distance of 255.98 feet along the arc of a 4000.00 foot radius curve right, said curve having a central angle of 3°40'00" and a long chord bearing N 51°00'49" W a distance of 255.94 feet to a point;

Thence N 49°10'49" W a distance of 207.98 feet to a point;

Thence a distance of 118.69 feet along the arc of a 600.00 foot radius curve left, said curve having a central angle of 11°20'03" and a long chord bearing N 54°50'50" W a distance of 118.50 feet to a point;

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Thence N 60°30'52" W a distance of 29.57 feet to a point;

Thence a distance of 47.05 feet along the arc of a 90.00 foot radius curve left, said curve having a central angle of 29°57'11" and a long chord bearing N 75°29'27" W a distance of 46.52 feet to a point;

Thence S 89°31'57" W a distance of 30.27 feet to a point on the westerly boundary said Government Lot 7, said point being witnessed by an aluminum cap monument which bears N 0°29'40" E a distance of 10.00 feet from said point;

Thence leaving said Middleton Canal centerline N 0°29'40" E along the westerly boundary of said Government Lots 6 and 7 a distance of 1757.17 feet to the **POINT OF BEGINNING**.

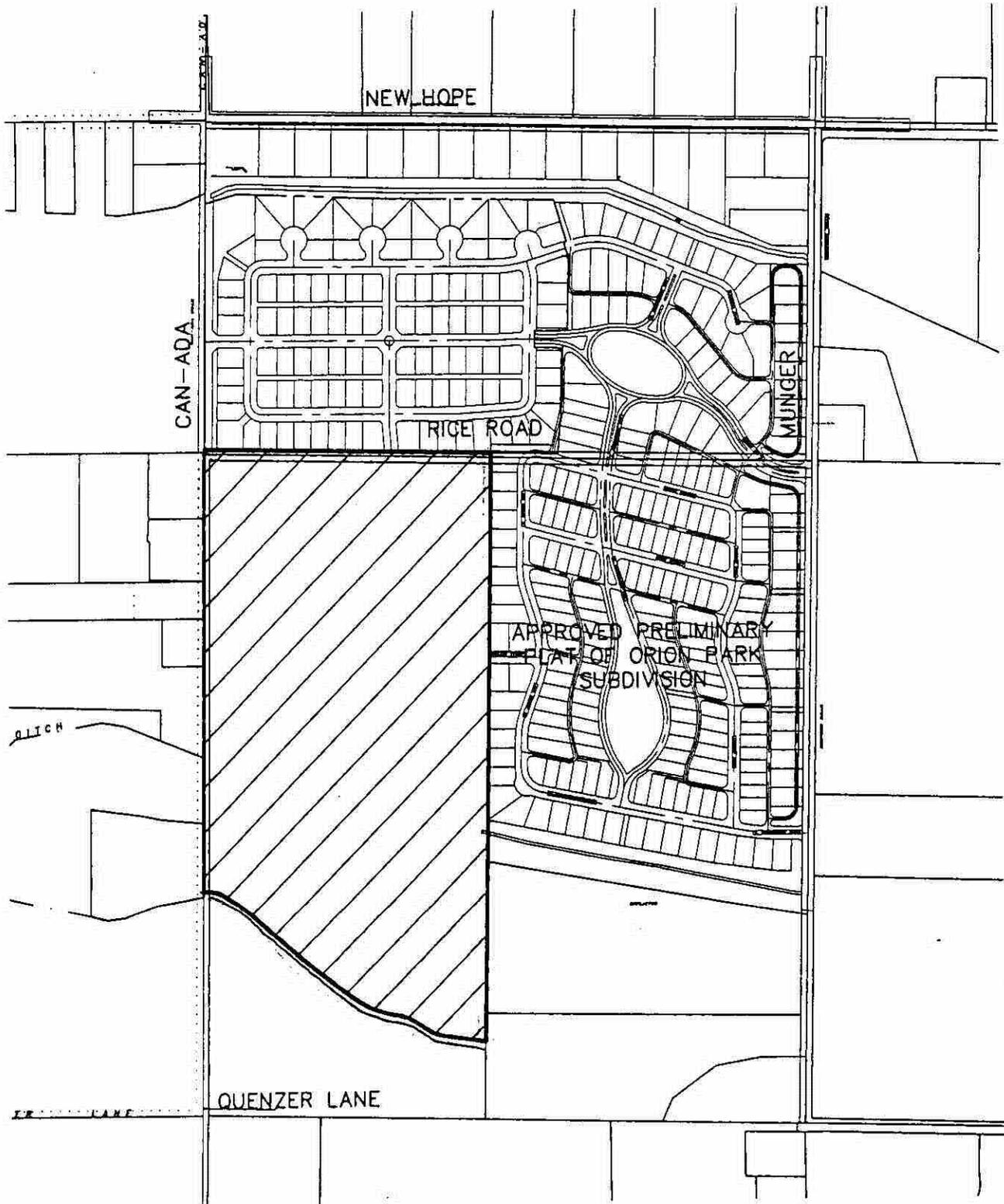
This parcel contains 56.85 acres and is subject to any easements existing or in use.

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TAURUS VILLAGE SUBDIVISION
VICINITY MAP

1"=500'

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EXHIBIT A
LEGAL DESCRIPTION

Cascade Office
PO Box 188
105 N Main Street
Cascade, Idaho 83611
Office: 208-382-4902
Fax: 208-382-4902

Rennison Fodrea
Engineers • Surveyors • Planners

Engle Office
128 S Engle Road
Suite B
Engle, Idaho 83616
Office: 208-938-2440
Fax: 208-938-2441

DATE: 7/7/06

Project No.:1847

56.85 ACRES

A parcel of land located in a portion of Government Lot 6 and Government Lot 7, Section 6, T. 4 N., R. 1 W., B.M., Ada County, Idaho, being more particularly described as follows:

Commencing from a found 5/8 inch rebar marking the west 1/4 corner of said Section 6 (CP&P Inst. No. 8825943, corner records of said Ada County), being the TRUE POINT OF BEGINNING.

Thence a bearing of S 88°39'08" E, a distance of 1185.60 feet on the north boundary of said Government Lot 6 to a found 1/2 inch iron pin marking the center west 1/16 corner of said Section 6; Thence a bearing of S 00°55'45" W, a distance of 2349.46 feet on the east boundary of said Government Lot 6 and Government Lot 7 to a point on the centerline of the Middleton Canal; Thence a bearing of N 81°50'06" W, a distance of 182.56 feet on said centerline to a point; Thence 64.07 feet on the arc of a curve to the right on said centerline, said curve having a radius of 150.00 feet and a long chord which bears N 69°36'01" W, a distance of 63.58 feet to a point; Thence a bearing of N 57°21'56" W, a distance of 72.70 feet on said centerline to a point; Thence 64.34 feet on the arc of a curve to the left on said centerline, said curve having a radius of 145.00 feet and a long chord which bears N 70°04'37" W, a distance of 63.81 feet to a point; Thence 209.01 feet on the arc of a curve to the right on said centerline, said curve having a radius of 400.00 feet and a long chord which bears N 67°49'12" W, a distance of 206.64 feet to a point; Thence a bearing of N 52°51'06" W, a distance of 69.09 feet on said centerline to a point; Thence 255.98 feet on the arc of a curve to the right on said centerline, said curve having a radius of 4000.00 feet and a long chord which bears N 51°01'06" W, a distance of 255.95 feet to a point; Thence a bearing of N 49°11'06" W, a distance of 207.98 feet on said centerline to a point; Thence 118.69 feet on the arc of a curve to the left on said centerline, said curve having a radius of 600.00 feet and a long chord which bears N 54°51'06" W, a distance of 118.49 feet to a point; Thence a bearing of N 60°31'06" W, a distance of 29.57 feet on said centerline to a point; Thence 47.05 feet on the arc of a curve to the left on said centerline, said curve having a radius of 90.00 feet and a long chord which bears N 75°29'36" W, a distance of 46.51 feet to a point; Thence a bearing of S 89°31'54" W, a distance of 30.27 feet on said centerline to a point on the west boundary of said Government Lot 7; Thence leaving said centerline, a bearing of N 00°29'29" E, a distance of 1757.21 feet on the west boundary of said Section 6 to the POINT OF BEGINNING.

Said parcel of land contains 56.85 acres, more or less, together with and subject rights-of-way and easements of record and/or use.



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**TAURUS VILLAGE
ANNEXATION AND DEVELOPMENT AGREEMENT**

TECHNICAL SUPPORT

THIS TAURUS VILLAGE ANNEXATION AND DEVELOPMENT AGREEMENT (this "Agreement"), entered into this 25th day of September, 2007, by and between the CITY OF STAR, IDAHO, a municipal corporation ("City"), and SB/CH LAND COMPANY (ROSTI), LLC, an Idaho limited liability company authorized to do business in the state of Idaho ("Developer").

RECITALS

This TAURUS VILLAGE ANNEXATION AND DEVELOPMENT AGREEMENT is predicated upon the following facts:

WHEREAS, Developer owns contiguous parcels of land approximately 56.85 acres in size currently within County of Ada and more particularly described in **Exhibit A**, attached hereto and made a part hereof, which is currently zoned Rural Residential under Ada County's Zoning Ordinance and designated Medium Residential on the City of Star Comprehensive Plan Map. (the "Property");

WHEREAS, the surrounding land uses and zoning include R-3 to the North and East ("Orion Park" Subdivision), RR to the South, and Ag to the West;

WHEREAS, Developer has requested that the Property be annexed into and developed as an R-3 zone, which is in accordance with the applicable ordinances and regulations of the City of Star and this Agreement;

WHEREAS, Developer, as the owner of the Property, agreed to submit the Property to an annexation and development agreement pursuant to Star's City Code, Chapters 8 and 10. An affidavit of Developer, as owner of the Property, agreeing to submit the Property to this Agreement and to the development agreement provisions of Idaho Code Section 67-6511A and the applicable provisions of Star's City Code have been provided to City by Developer and incorporated herein by reference;

WHEREAS, City is a municipal corporation having all of the powers and authority granted municipalities under the laws of the State of Idaho, including, without limitation, the authority to contract (Idaho Code § 50-301), to annex (Idaho Code § 50-222), to zone parcels of real property (Idaho Code § 67-6511), and to enter into development agreements (Idaho Code § 67-6511A);

WHEREAS, Developer filed with the City of Star Planning and Zoning Department in connection with development of the Property, a Request for Annexation of the Property and Zoning upon Annexation as provided further in City File No. AZ-07-06;

WHEREAS, City having held all lawfully required public hearings and meetings for consideration of said annexation request and this Agreement, and on the 17th day of July, 2007, City Council ("Council") approved the annexation request and zoning subject to this Agreement, and

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Council, on the 21st day of August, 2007, adopted findings of fact, conclusions of law and a written decision with regard thereto;

WHEREAS, it is in the best interests of City that the Property be annexed into the City and be developed in accordance with this Agreement;

WHEREAS, Council has determined that annexation of the Property constitutes an orderly extension of City's municipal boundaries and property; that such annexation is (1) appropriately zoned with an R-3 zoning designation as set forth in the Zoning Ordinance and Map; (2) complies with the requirements of all state statutes; and (3) it is in the best interests of City to enter into this Agreement in order to provide for orderly annexation and development of the Property;

WHEREAS, Developer has agreed to the use restrictions and other limitations set forth herein upon the use and development of the Property and the zoning designation to be placed upon the Property;

WHEREAS, the intent of this Agreement is to protect the rights of Developer's use and enjoyment of the Property while at the same time mitigating any adverse impacts of the development upon neighboring properties and the existing community and ensuring the Property is developed in a manner consistent with City ordinances; and,

WHEREAS, Developer and City enter this Agreement for the purpose of establishing certain rights and obligations of the parties with regard to annexation of the Property, and the development of Property including limitations as to the use, development and design.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, Developer and City hereby mutually covenant and agree as follows:

1. **DEFINITIONS.** Throughout this Agreement, the following terms will be defined and certain restrictions and covenants are hereby placed upon the areas so defined, as follows:
 - 1.1 "City" shall mean the City of Star, Idaho, a municipal corporation, acting by and through City's duly elected Council.
 - 1.2 "Developer" shall mean SB/CH Land Company (Rosti), LLC, an Idaho limited liability company.
 - 1.3 "Development Plan" shall mean and consist of the Preliminary Plat, a copy of which is attached hereto as Exhibit B and shall be incorporated herein by reference.
 - 1.4 "District" shall mean the Star Sewer and Water District.
 - 1.5 "Property" shall mean that certain real property legally described in Exhibit A.
 - 1.6 "Star Zoning Ordinance" shall mean the Zoning Ordinance portion of Star's City Code that is approved / current on the date of this agreement.

- 2. **LEGAL AUTHORITY.** This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Star City Code Chapter 10 and other applicable state statutes and city ordinances.
- 3. **ZONING ORDINANCE AMENDMENT.** The City will adopt an ordinance to rezone the property to an R-3 zone. The Ordinance will become effective after its passage, approval, and publication and the execution and recordation of this Development Agreement.
- 4. **USE PERMITTED BY THIS AGREEMENT.** The uses allowed pursuant to this Agreement are those uses allowed under City's Zoning Ordinance in effect on the date of application for Taurus Village and as described and modified in this Agreement. Developer agrees that this Agreement specifically allows only the uses described in the Zoning Ordinance and modified in this Agreement. No change in the uses specified in this Agreement shall be allowed without modification of this Agreement pursuant to the requirements of the City's Zoning Ordinance. In the event Developer changes or expands the uses permitted by this Agreement without formal modification of the Development Plan and this Agreement as allowed by the City's Zoning Ordinance, Developer shall be in default of this Agreement.
- 5. **CONDITIONS ON DEVELOPMENT.**
 - a. **Density and Use.** Developer agrees that, unless otherwise agreed to by the Parties, the Preliminary Plat attached hereto as Exhibit B shall dictate the type of development to be constructed in each of the components of the Project. Residential densities within the Project shall not exceed 3 dwelling units per gross acre with a maximum number of 170 residential lots. Land uses allowed on the Property shall be either permitted uses "P" or the conditional uses "C" under an R-3 zoning district. Along the Southwestern portion of the property, the minimum lot size shall be nine thousand (9,000) square feet.
 - b. **Open Space.** No less than twenty percent (20%), approximately 11.37 gross acres of the Taurus Village Subdivision shall be reserved as open space for the residents thereof. Of the twenty percent, a minimum of fifty percent (50%) of this open space must be useable open space. Useable open space includes areas designed for greenbelts and parks but may not include areas utilized for storm water retention, irrigation facilities, or combination thereof. In the Southeastern portion of the subject property, a one-acre pocket park shall be included and is generally depicted on Exhibit B as Lot 14 Block 9.
 - c. **Micro Paths & Walking Trails.** Developer agrees to develop micro-paths / greenbelt pedestrian pathways throughout the subdivision which are constructed of a solid material as opposed to loose gravel that shall be designed to maximize connectivity. A walking path shall be included but not limited to a walking path along Middleton Mill Canal.

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- d. **City Retains Final Approval of Landscaping and Park Amenities.** At a separate public hearing, the City shall retain final approval of landscaping improvements and utilization of sufficient park amenities. Amenities shall include but shall not be limited to such improvements as a Gazebo, main entrance park, berming, playground equipment, walking paths, and access to the amenities in the adjacent Orion Park Subdivision.
- e. **Dimensional Standards Within the Development.**

Dimensional Standards by Lot Type				
Lot Type	Standard Minimum Lot Dimensions (ft.)	Lot Size (sq.ft.)	Side Setbacks - Interior Lots (ft.)	Side Setbacks - Corner Lots (ft.)
Type I	70x105	7350	5	15
Type II	75x105	7875	5	15

Dimensional Standards by Lot Type				
Lot Type	Lot Size (sq.ft.)	Front Setback To Living or Side Turn Garage* (ft.)	Front Setback To Face of Garage Door (ft.)	Rear Setback (per lot) (ft.)
Type I	70x105	15	20	Min. 15 / Average 20 per lot
Type II	75x105	15	20	
* May include porches that are open on 2 sides				

- 6. **INFRASTRUCTURE IMPROVEMENTS.** Developer shall engineer, construct, and otherwise provide, at Developer's sole expense, the following improvements, facilities and services (public and private) in accordance with each detailed phase of the Development Plan and this Agreement. All utilities, including water, sewer, gas, cable, phone and electric shall be installed underground within the street, rights-of-way, or easement prior to completion of the construction of the roads or as otherwise shown on each detailed phase of the Development Plan. Detailed engineered construction drawings and specifications for construction of such improvements shall be prepared by Developer.

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and approved by the applicable governmental entity prior to construction. Developer hereby warrants construction of the public streets, water system and sewer system improvements for one (1) year from acceptance thereof by the applicable governmental entity. All required off-site utility improvements must be completed as directed by the applicable governmental entity or as specified in this Agreement.

7. **FINAL DESIGN REVIEW.** Developer shall receive design review approval for each detailed phase of the Development Plan.

- a. **Streets.** The City of Star does not have a functioning street department and the exclusive general supervisory authority over all public streets and public rights of way within the area of this development which are within Ada County, excepting those under ITD jurisdiction, shall remain and be under the jurisdiction of the Ada County Highway District. Developer agrees to submit all studies and make all improvements as required by ACHD.
- b. **Lighting.** Developer, at Developer's sole expense, shall install street lighting throughout the subdivision in accordance with each detailed phase of the Preliminary Plat and City's code minimizing the impact of such lighting on neighboring properties including those border CanAda Road. The lighting shall be installed in each block of the Property as the same is developed.
- c. **Maintenance.** One or more owners' associations shall be responsible for the year-around maintenance of all common areas, open space, private roadways, if any, driveways, pedestrian pathways, trails and similar access ways, including, without limitation, snow removal to maintain access and parking, as well as emergency vehicle turnaround, within the Property.
- d. **Water System.** Developer has requested water and sewer service from the Star Water and Sewer District (the "District") to the Property at the same fees as equivalent users of water and sewer within the District. Pursuant to Star Sewer and Water District Conditions of Annexation and other applicable District specifications, Developer shall engineer, construct and extend, at Developer's sole expense, or in agreement with latecomer's fees or water and sewer credits, the water system improvements throughout the Property in connection with each detailed phase of the Development Plan. All such improvements shall be designed and constructed in accordance with the Star Sewer and Water District Conditions of Annexation and other applicable standards and construction drawings and specifications approved by the State of Idaho, Department of Health and Welfare and Idaho Department of Water Resources, if applicable. The final construction drawings and specifications shall control over the location and design of water system improvements. Upon completion of each of such improvements and acceptance thereof by District, such improvements and the offsite improvements, if any, to the water system shall become a part of the District water system and the District shall assume all responsibility therefore subject to Developer's warranty set forth above.

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- e. **Private Irrigation Water System.** Developer shall construct, and maintain at Developer's sole expense, a private landscape irrigation system to provide irrigation to the Property in connection with each detailed phase of the Development Plan. Developer shall irrigate said lands using Developer's existing water rights and convey the water rights now appurtenant to the Property necessary therefore to the owners' associations created with regard to the Property or as provided in applicable law. Potable water cannot be used for irrigation purposes.
- f. **Sewer System.** Pursuant to District specifications, Developer shall engineer, construct and extend, at Developer's sole expense, the sewer system throughout the Property. All such improvements shall be designed and constructed in accordance with the standards of and construction drawings and specifications approved by the State of Idaho, Department of Environmental Quality. Upon completion of each of such improvements and acceptance thereof by District, such improvements and the offsite improvements, if any, shall become a part of the District's sewer system and the District shall assume all responsibility therefore subject to Developer's warranty set forth above.
- g. **Electric Power.** All electric power upgrades serving the project, on-site and off-site, shall be underground, with the exception of pad-mounted transformers and other facilities necessary to underground power facilities. City may choose to negotiate exceptions to this provision regarding off-site underground power facilities needed to serve the project once the extent of these facilities is determined. City will take in to account visual impact, and other burdens to existing city residents that may be caused by the addition of new above-ground power facilities.
- h. **Fire.** The Developer will comply with all standard requirements of the Star Fire Department for the mitigation of the Development.
- i. **Landscaping.** The City Council retains final design review of all landscaping improvements. A detailed landscape plan shall be submitted as part of each detailed phase of the Development Plan to be reviewed for approval by City. This landscape plan shall include species sizes, quantities and location. Such landscape plan for each detailed phase of the Development Plan shall be submitted and approved by staff and Council at a separate hearing prior to the issuance of any building permits in such phase.
- j. **Construction Staging and Construction Mitigation.** A detailed construction staging and construction mitigation plan for each detailed phase of the Development Plan shall be approved by Council as part of the detailed phase review process. No building or excavation permits shall be issued prior to Council approval of such construction staging and mitigation plan.

8. **COMMENCEMENT OF CONSTRUCTION.** The Developer shall commence construction of site infrastructure (e.g., grading of streets or installation of utilities)

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within two years of the effective date of this Agreement. In the event the Developer fails to commence construction within the time periods herein stated, the Developer shall be in default of this Agreement.

- 9. **RECORDATION OF SUBDIVISION**. Developer shall record a subdivision plat with the Office of the Ada County Recorder within ^{three year} ~~four~~ years, with allowable extensions of the date of final approval by Council, each with conditions reasonably acceptable to City.
- 10. **FINANCIAL ASSURANCE**. Developer shall enter into a mutually acceptable bonding, set aside or other security agreement for the amount for 120% of the estimated costs associated with the completion of improvements in connection with each detailed phase of the Development Plan as estimated by the City Engineer and approved by City prior to the issuance of an occupancy permit for any of the buildings within the detailed phase of the Development Plan for which said improvements are required to be constructed.
- 11. **SUBSEQUENT FILINGS AND APPROVALS**. Developer shall submit and City shall consider all subsequent applications for development of the Property in accordance with the approved Development Plan and this Agreement. Nothing contained herein is intended to limit the police powers of City in reviewing any subsequent applications, but in the exercise of City's discretion, City shall act in a manner which is not inconsistent with this Agreement.
- 12. **EXPANDED USE**. No change in the use or restriction specified in this Agreement shall be allowed or changed without modification of this Agreement pursuant to the requirements of the Star City Code. In the event Developer changes or expands the use permitted by this Agreement or fails to comply with the restrictions without formal modification of this Agreement as allowed by the Star City Code, Developer shall be in default of this Agreement.
- 13. **SALE OR TRANSFER OF THE PROPERTY**. This Agreement, which shall be duly recorded in the records of Ada County, Idaho, shall run with the land comprising the Property as provided further herein, and it shall be binding upon and benefit both Developer, and any successor in interest to any portion of the Property, as provided in this Agreement. No person or entity acquiring any portion of the Property shall be permitted to develop, construct, erect, or install any building, utility, improvement or landscaping which does not conform in all respects to this Agreement. In the event that Developer or a successor in interest to Developer, sells or transfers the Property, or any portion thereof, written notice of said transaction shall be given to City no less than thirty (30) days prior to the closing in connection with such transfer. This requirement shall not apply to the sale and/or transfer of individual lots.
- 14. **AMENDMENT OF AGREEMENT AND CHANGES TO DEVELOPMENT PLAN**. This Agreement shall be amended or cancelled, in whole or in part, only by the mutual consent of the parties, executed in writing. Both parties acknowledge that the site plans, building locations, floor plans, elevations and design of the buildings will be refined prior to submission in connection with each conceptual phase of the Development Plan and final construction drawings for building permits and other permits.

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15. **SUPERSEDING PRIOR AGREEMENTS.** This Agreement supersedes and extinguishes all prior agreements, if any, between the parties with regard to the Property or any portion thereof.

16. **DEFAULT AND ENFORCEMENT.** In the event Developer, Developer's heirs, successors, assigns or any other person acquiring an interest in the Property, fail to substantially comply with all of the terms and conditions included in the Agreement, this Agreement may be modified or terminated by City upon compliance with the requirements of the Zoning Ordinance, Chapter 10. Additionally, the City may withhold issuing building or occupancy permits after a written notice has been issued to the developer with a 30-day time period to remedy any items of concern. In the event City determines that this Agreement shall be modified, the terms of this Agreement shall be amended and Developer shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event City, after compliance with the requirements of City's Code, determines that this Agreement shall be terminated, the zoning of the property shall revert to RT zoning. All land uses that are not consistent with RT zoning shall cease. In such event, nothing herein shall prevent the owner of any portion of the Property from applying for any nature of use permit consistent with RT zoning.

A written waiver by City of any default by Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of City or apply to any subsequent breach of any such or other covenants and conditions.

17. **REMEDIES.**

a. **Consent to Rezone.** Developer, by entering into this Agreement, does hereby agree that in the event there shall be a default in the terms and conditions of this Agreement that this Agreement shall serve as consent to a reversion of the subject property to RT (Rural Transitional) Zoning.

b. **Remedies and Specific Performance.** In addition to the remedies provided by City's Zoning Ordinance, and the Default provisions herein, Findings of Facts and Conclusions of Law issued by City may be revoked at any time for a material violation of the permit, or any material violation of any condition thereof, by motion of Council after notice and an opportunity to cure, followed by a due process hearing upon at least thirty (30) days written notice to Developer. In the event a breach of this Agreement in addition to all other remedies at law or in equity, and as set forth in this Agreement.

18. **POLICE POWERS.** Nothing contained herein is intended to limit the police powers of City or City's discretion in reviewing subsequent applications regarding development and construction of the Property. This Agreement shall not be construed to modify or waive any law, ordinance, rule, or regulation, including without limitation, applicable building codes, fire codes, zoning ordinances, subdivision ordinances, or comprehensive plan provisions, unless expressly provided herein.

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- 19. **TIMELINES.** Time and timely performance are of the essence of this Agreement.
- 20. **RELATIONSHIP OF PARTIES.** It is understood the contractual relationship between City and Developer is such that Developer is not the agent, partner, or joint venturer of City. Developer hereby guarantees actual development and performance in accordance with the terms and conditions set forth herein.
- 21. **FORCE MAJEURE.** If either party hereto is delayed in the performance of any of such party's obligations hereunder because of inclement weather, labor dispute or strike, civil strife, act of God, the time of performance for completion of such amenity or improvement shall be extended for the same time as lost by Developer.
- 22. **ATTORNEY FEES AND COSTS.** If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to reasonable attorney fees and costs incurred with regard to such action including, without limitation, any appeals.
- 23. **NOTICES.** All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid. Notices shall be deemed properly served or delivered, if delivered by hand to the party to whose attention it is directed, or when sent, two (2) days after deposit in the U.S. mail, postage prepaid. Notices required to be given to City shall be addressed as follows:

City of Star
 c/o City Clerk
 P.O. Box 130
 Star, Idaho 83669

Notices required to be given to Developer shall be addressed as follows:

SB/CH Land Company (Rosti), LLC
 391 W. State Street, Suite E
 Eagle, Idaho 83616

A party may change the address by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

- 24. **BINDING EFFECT AND COVENANTS RUNNING WITH THE LAND.** Upon becoming effective, this Agreement shall inure to the benefit of and be binding upon City and Developer, their successors and assigns, and be a covenant running with the Property. The words "successors and assigns" as used in this Agreement shall include all successors, assigns, personal representatives, administrators, trustees and holders of a security interest in the Property or any portion thereof or interest therein.
- 25. **NO WAIVER.** In the event City or Developer does not strictly comply with any of City's or Developer's, as applicable, obligations or duties herein thereby causing a default of this Agreement, or any forbearance of any kind that may be granted or allowed by City or Developer to the other under this Agreement shall not in any manner

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any way be deemed or construed or considered as waiving or surrendering any of the conditions or covenants of this Agreement or any subsequent default.

26. **RECORDATION.** This Agreement, including subsequent amendments thereto, shall be recorded in the Offices of the Ada County Recorder, Caldwell, Idaho, by Developer and Developer shall pay the costs of recordation.

27. **PARTIAL INVALIDITY.** In the event any portion of this Agreement or part thereof shall be determined by any Court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions hereunder, or parts thereof, shall remain in full force and effect.

28. **ENTIRE AGREEMENT.** This Agreement constitutes the full and complete Agreement of and between the parties hereto. No representations or warranties made by either party or such party's officers, employees or agents shall be binding unless contained in this Agreement or subsequent written amendments thereto.

29. **NO PRESUMPTION.** No presumption shall exist in favor or against any party to this Agreement as a result of the drafting and preparation of this Agreement.

30. **NO THIRD PARTY BENEFICIARIES.** Nothing contained herein shall be deemed or construed to create any third party beneficiaries or third party rights.

31. **RULES OF CONSTRUCTION.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive. The captions to paragraphs of this Agreement are for convenience only and shall not be deemed to enlarge, diminish, explain or in any manner affect the meaning of such paragraphs.

32. **CHOICE OF LAWS.** This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Ada County, Idaho.

33. **EXHIBITS.** Attached to this Agreement and made a part of this Agreement by reference are the following Exhibits:

- A - Legal Description of Annexation Property
- B - Preliminary Plat

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34. **RECITALS INCORPORATED.** The recitals set forth in this Agreement are hereby incorporated herein by reference.

35. **AUTHORITY TO EXECUTE.** Each of the persons executing this Agreement represent and warrant that such person has the lawful authority and authorization from such person's respective entities to execute this Agreement, as well as all applications, plats and other documents required hereunder for and on behalf of the entity executing this Agreement.

- 36. **AGREEMENT SUBJECT TO.** This Agreement is subject to and shall become effective upon annexation of the Property with the conditions acceptable to City.
- 37. **RELIANCE BY THE CITY.** This Agreement is intended by Developer to be considered by City as part of Developer's request for annexation. Developer acknowledges and intends for City to consider and rely upon this Agreement in City's review and consideration of said annexation request.

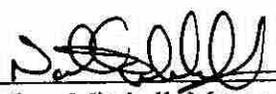
IN WITNESS WHEREOF, the parties hereto have executed this Agreement in accordance with the laws of the State of Idaho, the date and year first written above.

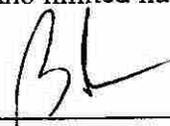
CITY:

DEVELOPER:

CITY OF STAR CITY
an Idaho municipal corporation

SB/CH Land Company (Rosti), LLC,
an Idaho limited liability company

By: 
Nathan Mitchell, Mayor

By: 
Brace Palmbaum, Managing Member

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STATE OF CALIFORNIA)
) ss.
County of _____)

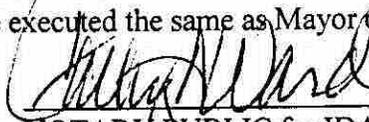
On this _____ day of _____, 2007, before me, a Notary Public in and for said State, personally appeared _____, known or identified to me to be a Managing Member of SB/CH Land Company (Rosti), LLC, a Delaware limited liability company, that executed the within instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

See Attached

NOTARY PUBLIC for CALIFORNIA
Residing at _____
Commission expires _____

STATE OF IDAHO)
) ss.
County of Ada)

On this 25th day of September, 2007, before me, a Notary Public in and for said State, personally appeared Nathan Mitchell, Mayor of the City of Star, Idaho, known or identified to me to the person whose name is subscribed to the within instrument as the Mayor of the City of Star, Idaho, and acknowledged to me that he executed the same as Mayor of the City of Star, Idaho.



NOTARY PUBLIC for IDAHO
Residing at Star, Idaho
Commission expires 3-22-08
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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT TECHNICAL SUPPORT

State of California

County of Sacramento

} ss.

On 9-20-07

Date

before me,

Regina Cooper, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

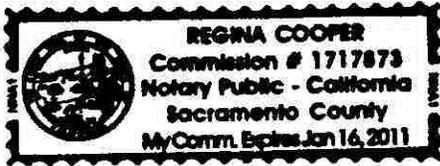
personally appeared

Bruce Palmbaum

Name(s) of Signer(s)

personally known to me

~~proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.~~



WITNESS my hand and official seal.

Regina Cooper
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

EXHIBIT A
LEGAL DESCRIPTION OF ANNEXATION PROPERTY

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Rosti Property

A parcel located in Government Lots 6 and 7 of Section 6, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, and more particularly described as follows:

BEGINNING at a 5/8 inch diameter iron pin marking the northwest corner of said Government Lot 6, from which an aluminum cap monument marking the southwest corner of said Section 6 bears S 0°29'40" W a distance of 2642.33 feet;

Thence S 88°39' 01" E along the northerly boundary of said Government Lot 6 a distance of 1185.47 feet to a ½ inch diameter iron pin marking the northeast corner of said Government Lot 6;

Thence S 0°55'46" W along the easterly boundary of said Government Lots 6 and 7 a distance of 2349.45 feet to a point on the centerline of the Middleton Canal, also known as the Middleton Slough, said point being witnessed by an aluminum cap monument which bears N 0°55'46" E a distance of 20.00 feet from said point;

Thence along the centerline of said Middleton Canal, also known as the Middleton Slough, the following described courses;

Thence N 81°50'06" W a distance of 182.56 feet to a point;

Thence a distance of 64.07 feet along the arc of a 150.00 foot radius curve right, said curve having a central angle of 24°28'23" and a long chord bearing N 69°35'54" W a distance of 63.58 feet to a point;

Thence N 57°21'43" W a distance of 72.70 feet to a point;

Thence a distance of 64.34 feet along the arc of a 145.00 foot radius curve left, said curve having a central angle of 25°25'25" and a long chord bearing N 70°04'26" W a distance of 63.81 feet to a point;

Thence a distance of 209.01 feet along the arc of a 400.00 foot radius curve right, said curve having a central angle of 29°56'19" and a long chord bearing N 67°48'58" W a distance of 206.64 feet to a point;

Thence N 52°50'49" W a distance of 69.09 feet to a point;

Thence a distance of 255.98 feet along the arc of a 4000.00 foot radius curve right, said curve having a central angle of 3°40'00" and a long chord bearing N 51°00'49" W a distance of 255.94 feet to a point;

Thence N 49°10'49" W a distance of 207.98 feet to a point;

Thence a distance of 118.69 feet along the arc of a 600.00 foot radius curve left, said curve having a central angle of 11°20'03" and a long chord bearing N 54°50'50" W a distance of 118.50 feet to a point;

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Thence N 60°30'52" W a distance of 29.57 feet to a point;

Thence a distance of 47.05 feet along the arc of a 90.00 foot radius curve left, said curve having a central angle of 29°57'11" and a long chord bearing N 75°29'27" W a distance of 46.52 feet to a point;

Thence S 89°31'57" W a distance of 30.27 feet to a point on the westerly boundary said Government Lot 7, said point being witnessed by an aluminum cap monument which bears N 0°29'40" E a distance of 10.00 feet from said point;

Thence leaving said Middleton Canal centerline N 0°29'40" E along the westerly boundary of said Government Lots 6 and 7 a distance of 1757.17 feet to the **POINT OF BEGINNING**.

This parcel contains 56.85 acres and is subject to any easements existing or in use.

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EXHIBIT B - CONCEPTUAL DEVELOPMENT PLAN

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ADA COUNTY RECORDER J. DAVID NAVARRO AMOUNT .00 26
BOISE IDAHO 10/23/07 08:51 AM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Star City



Re-record

**This sheet has been added to document
to accommodate recording information.**

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