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IN THE

**SUPREME COURT
OF THE
STATE OF IDAHO**

ISC #44583, 44584, 44585
Bonner #CV2009-1810

Valiant Idaho, LLC
Cross-Claimant/Respondent

vs.

**North Idaho Resorts
JV, LLC
VP Incorporated**
Cross-Defendants/Appellants

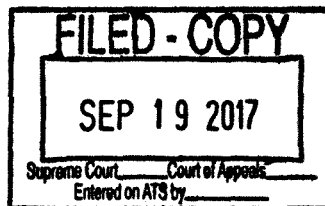
CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner*

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44583

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FILED
2009-01-10
CLERK OF DISTRICT COURT
DISTRICT OF IDAHO

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly
known as NATIONAL GOLF BUILDERS,
INC., a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada limited
liability company; et al.,

Defendants.

Case No. CV-2009-01810

DECLARATION OF RICHARD VILLELLI
IN OPOSITION TO VALIANT IDAHO,
LLC'S MOTION FOR MOTION FOR
ORDER OF SALE

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

Pursuant to Rule 7(d) of the Idaho Rules of Civil Procedure and Idaho Code § 9-1406,
Richard Villelli declares as follows:

1. I am over the age of 18, and competent to testify to the matters set forth herein. I make this Affidavit of my own personal knowledge, and have personal knowledge of the facts herein contained.
2. I am the President of VP, Incorporated.

DECLARATION OF RICHARD VILLELLI IN OPOSITION TO VALIANT IDAHO,
LLC'S MOTION FOR ORDER OF SALE: 1

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ORIGINAL

3. I am the president of Vilelli Enterprises, Inc. Vilelli Enterprises, Inc. is the managing member of North Idaho Resorts, LLC.
4. I have reviewed the Declaration of Charles Reeves in Support of Valiant Idaho, LLC's Motion for an Order of Sale of Real Property. Portions of the Declaration are inaccurate and portions are misleading.
5. In 1995, VP, Inc. purchased an existing water system from JV, LLC which serviced lots to the Hidden Lakes subdivision in Bonner County. The water system was created and installed in 1985. The purchase included all the existing infrastructure, easements, operating permits, a well, and a water reservoir.
6. In 1995, VP, Inc. purchased an existing sewer system from JV, LLC.
7. The sewer system purchase included an existing lagoon, all infrastructure, an assignment of easements, lift stations and operating permits. The sewer system serviced the Hidden Lakes Golf Course, three subdivisions, a maintenance facility and an existing club house. The sewer system was installed in 1985.
8. Since the purchase of these systems, VP has continuously held all necessary permits to operate the water and sewer system which now also services portions of the Idaho Club properties.
9. In 2000, the water and sewer systems were extended by VP to 49 lots in the Golden Tee Estates and Golden Tee Estates First Addition subdivision.
10. In 2004, North Idaho Resorts, LLC began negotiations with MDG Nevada, Inc., and its affiliate, Pend Oreille Bonner Investments, LLC (POBI) regarding the sale of undeveloped real property in Bonner County which surrounded and lay in the general vicinity of the Golden Tee Estates and Golden Tee Estates First Addition subdivisions.

On January 6, 2005, a Third Amended and Restate Real Property and Purchase Agreement was entered into with POBI. POBD specifically declined the purchase of the sewer and water system that was originally offered to the Buyer. The sale excluded domestic water rights, which were retained by VP, Inc. and reserved easements for the existing water system, sewer lagoon and land application. The sales agreement allowed the buyer to relocate the lagoon easement and alter the land application easement site conditioned upon DEQ approval. The Purchase and Sale Agreement recognized that VP, Inc. owned the domestic water and sanitary systems and that VP, Inc. would serve the Idaho Club with these services. The Purchase and Sale Agreement required VP, Inc. to provide a will serve letter to Bonner County indicating VP, Inc. would serve the Idaho Club with domestic water and sewer service. The Purchase and Sale Agreement relieved the Buyer and any party who purchased a lot in the Project from the Buyer to pay any hook-up fee to VP, Inc. In return POBD agreed to pay to NIR, the parent Company of VP Inc., 20% of sales and or release prices as compensation to NIR and VP Inc. The Purchase and Sale Agreement allowed expansion of the sewer and water system as long as Buyer paid for and constructed any expansion of the sewer and water system and transferred ownership of those improvements to VP Inc. as called for in both the CUP and the PUD Submissions made and attested to by POBD to Bonner County and as noted in Exhibits A, B and C. A copy of the executed Purchase and Sale Agreement is attached hereto as Exhibit "A".

11. On June 13, 2006 VP entered into a Construction and Operation Agreement with Pend Oreille Bonner Development, LLC (POBD). The subject of the agreement was "construction and operation of the sewer and water systems which VP owns..." The

Agreement allowed POBD to extend VP's water and sewer system to serve properties owned by Pend Oreille Bonner Development Holdings, Inc (POBDH) (a predecessor to POBD). The agreement required POBD to grant easements for all extensions of VP's system. A copy of the Agreement is attached hereto as Exhibit "B".

12. POBD proceeded to submit plats to Bonner County for approval. VP, Inc. was requested to issue a will serve letter in connection with the plats, and subsequently reviewed the plats. All plats contained a "Water and Sewer Service Note" which indicated that "all Lots shown on the Plat will receive water and sewer service from VP, Inc. (PWS No. 1090195.)" Each plat also contained a reference to a lienholder's certificate filed by R. E. Loans agreeing to the subdivisions as shown on the plat recorded in Bonner County as Instrument No. 714036. The plats showed the water and sewer system extension easements on the face of the plats. On July 7, 2005, VP's Director of Operations issued a will serve letter for the Idaho Club. A copy of the letter is attached hereto as Exhibit "C".

13. After the purchase of the property, POBD relocated the land application area for the sewer system effluent. POBD obtained a permit from the Idaho Department of Environmental Quality (DEQ) for the new land application. The permit number was LA 0000123-02. POBD identified VP Incorporated as a Responsible Official in the permit. The permit applied only to the land application of effluent and did not replace or modify any of VP's existing permits.

14. Pursuant to the parties' agreement, POBD began paying Bob Hansen of Water System Management for his services in overseeing the land application of effluent to the golf

course. POBD subsequently defaulted on paying Bob Hansen and VP resumed paying for his services.

15. In 2008 and 2009, VP was contacted by DEQ regarding failure by POBD to comply with the land application permit, and was required to request two emergency extensions.
16. In February, 2011, DEQ sent a non-compliance letter to Chuck Reeves. A copy of the non-compliance letter is attached hereto as Exhibit "D".
17. On April 15, 2011, DEQ issued a Notice of Violation to POBD. A copy of the letter and notice of violation issued by DEQ are attached hereto as Exhibit "E".
18. On July 8, 2011, DEQ entered into a consent order with POBD. A copy of the consent order is attached hereto as Exhibit "F".
19. On April 3, 2012, DEQ sent a non-compliance letter to POBD. A copy of letter is attached as Exhibit "G".
20. On September 11, 2013, DEQ entered into a Compliance Agreement with POBD and VP. The compliance agreement required POBD to deed a lot upon which the wastewater lagoon was situated to VP; transfer a lot upon which the water reservoir was situated to VP; transfer the lot upon which the well reservoir was stated and the booster pump lots to VP by September 13, 2013. A copy of this agreement is attached as Exhibit "H".
21. On September 20, 2013, POBD quitclaimed these lots to VP. A copy of the recorded lagoon lot deed is attached as Exhibit "I". A copy of the recorded pumping station lot deeds are attached as Exhibit "J" and "K". A copy of the recorded water reservoir deed is attached as Exhibit "L".

22. Following the recording of the deeds, VP paid all back real property taxes owed to Bonner County and has continued to pay taxes to date due on these lots. These lots were not part of the tax redemption with Bonner County.

23. Bonner County assesses these parcels as "common area" of the Idaho Club.

24. VP, Inc. bills for its water and sewer services. It has always billed all lots created by POBD in the Idaho Club. Every individual parcel that receives water and sewer service has entered into a service agreement with VP, Inc. for such services.

I hereby certify and declare, under penalty of perjury pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

DATED this 4th day of August, 2015.


Richard Vilelli

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 4th day of August, 2015:

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-263-8211

Gary A. Finney
FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
Sandpoint, ID 83864

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-489-0110
+ e-mail

Richard Stacey
McConnell Wagner Sykes & Stacey, PLLC
827 East Park Blvd., Ste. 201
Boise, ID 83712



THIRD AMENDED AND RESTATED
REAL PROPERTY PURCHASE AND SALE AGREEMENT

This Third Amended and Restated Real Property Purchase and Sale Agreement ("this Agreement"), the original predecessor of which was entered into on January 6, 2005, between MDG Nevada, Inc., a Nevada corporation, ("MDG") and North Idaho Resorts, LLC, and which was subsequently assigned to MDG's affiliate Pend Oreille Bonner Investments, LLC, a Nevada limited liability company, (referred to as "PBI" or "Buyer") on August 10, 2005, is entered into and made effective as of March 9, 2006 (the "Agreement Date") by and between PBI or such affiliate of PBI as PBI shall designate (in either case "Buyer") and NORTH IDAHO RESORTS, LLC, a Pend Oreille limited liability company ("Seller").

RECITALS

- A. Seller owns developed and undeveloped real property (collectively the "Land") located in County of Bonner (the "County"), State of Idaho. The Land is described in Exhibit A hereto. The Land consists of multiple parcels and is subject to different uses and the Land and the property which Seller is selling to Buyer pursuant to this Agreement shall include, without limitation, the following:

the existing golf course commonly known as "Hidden Lakes Golf Course", including the existing clubhouse and related amenities and facilities as well as the personal property used in connection therewith;

the portion of the Land located north of Highway 200 subject to Seller's current development plan including, without limitation, the seven acre parcel, the ten acre parcel and the twelve acre parcel, the Cedar Cabins site, the Cottonwood condominium site, existing structures already

Exhibit
A

NIR000118

- constructed ~~lots~~ not sold; and all unsold lots;
- all the property owned by Seller south of Highway 200 commonly called "Moose Mountain";
 - the two lakefront parcels;
 - existing intellectual property rights in connection with the foregoing such as, for example, the name of the golf course and other trade and marketing names used in connection with the Property;
 - all personal property used in connection with the Land and improvements on the Land, including, without limitation, furnishings, fixtures, equipment, vehicles, golf carts, supplies, accounts receivable, pro shop merchandise, claims and all other tangible and intangible property of Seller (including, without limitation, Seller's permit to sell alcoholic beverages) used in connection with the management, maintenance and operation of the Land and improvements on the Land, etc.;
 - all Seller's right, title and interest in and to all entitlements, easements, rights of way, rights of entry, rights of use and other appurtenances benefiting the Land and the improvements thereon;

As used herein, the term "Property" shall include: the Land; any improvements on or appurtenant to the Land; the items owned by Seller enumerated above; and all right, title and interest of Seller in and to all entitlements, easements, mineral rights, oil and gas rights, water, water rights (excluding domestic water rights which are retained by sewer and water company V.P. Inc. including easements for operation and delivery of said domestic water and sewer service including sewer lagoon and land application; Buyer may move lagoon and may alter land application sites, but must provide approved alternate application site and build adequate new lagoon all to DEQ's approval) air rights, development rights, licenses, permits, maps and privileges appurtenant to the Land and/or to any improvements on the Land. Seller's current development plan is described

NIR000119

...schematically on ~~Exhibit B~~ hereto and shows the locations of the components of the Property itemized above. The physical elements which constitute, and the development, marketing and disposition of the Property by Buyer, is hereinafter called the "Project".

B. As used in this Agreement the term "Developer Group" shall mean and include each and any combination of the following: (i) Chip L. Bowlby, (ii) Thomas J. Merschel, (iii) Charles W. Reeves, and/or (iv) and their respective membership or shareholder interests in any entity wholly owned or jointly and severally owned by any one or any combination of said three individuals and their respective spouses. As used in this Agreement the term "Developer Group Interest" shall mean the ownership interest of any member of the Developer Group in Buyer and/or in any project entity which Buyer may hereafter form for purposes of owning and managing the Project.

C. Seller wishes to sell the Property to Buyer, and Buyer wishes to purchase the Property from Seller, all pursuant to the provisions of this Agreement.

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants contained in this Agreement, receipt of which the parties hereby acknowledge, Buyer and Seller agree as follows:

1. Purchase and Sale. Seller shall sell the Property to Buyer, and Buyer shall purchase the Property from Seller, subject and pursuant to all the provisions of this Agreement.

2. Purchase Price.

(a) Purchase Price. The purchase price (the "Purchase Price") for the Property shall be the sum of (i) a down payment (the "Down Payment") of Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000), which Buyer shall deposit in Escrow in immediately available funds prior to close of Escrow for delivery to Seller at Closing (as the terms "Escrow" and "Closing" are hereinafter defined) plus (ii) accepting title to the Property subject

to the deeds of trust which secure the payment of two promissory notes, for which, upon transfer of title to the Property to Buyer, Buyer shall assume payment responsibility. One of said two promissory notes is payable to Mr. Berry (the "Berry Note") and the other is payable to R.E. Loans LLC, a California limited liability company (the "REL Note"). The Berry Note is originally dated October 24, 1995 and in the revised principal amount of \$2,565,000, and has been previously modified by the original maker and Mr. Berry; a copy of the Berry Note is attached hereto as Exhibit G. The REL Note is originally dated March 17, 2005 and in the original principal amount of \$8,515,000; provided, however, that if Seller reduces the principal amount of the REL note prior to closing, Buyer, at its sole discretions, shall either execute a promissory note at closing to Seller for the exact amount of such principal reduction, which note shall be subordinate to financing Buyer may obtain and which shall otherwise be repaid to Seller under the same terms and conditions of the REL note and at the same interest rate, or pay in cash to Seller at closing the amount of such principal reduction made by Seller; a copy of the REL Note is attached hereto as Exhibit H. The above items included in (i) and (ii) are collectively referred to as the Down Payment. In addition to the Down Payment, the Purchase Price shall also include (i) the sum of \$441,000 to be paid as additional Participation after the Seller has received \$22 million in proceeds from the Down Payment and Participation; and (ii) a participation (the "Participation") in gross sales revenue which Buyer receives from the Project equal to twenty percent (20%) of the gross sales revenue in excess of Eighty Million Dollars (\$80,000,000) (the "Base Revenue Goal") which Buyer receives as the proceeds of sales of Project land (including sales of lots and parcels), sales of dock slips, and sales of golf course memberships in Project golf courses, whether such sales are to an entity affiliated with Buyer or to an unaffiliated third party; provided, however, that the 49 platted lots currently owned by third parties, of which seven of these 49 lots have been purchased prior to closing by Buyer or any affiliated entity or individuals set forth in Recital B above, all as finally configured in Buyer's land plan, shall not be included as lots or parcels in the calculation of the Participation, nor shall the 6 lots numbered 5, 6, 8, 9, 10, and 14 as labeled on the Hidden Lakes sales brochure attached hereto as Exhibit I, all of which are located west

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of Lower Packer Road, purchased prior to closing by Buyer or an affiliated entity or group of Buyer or the individuals set forth in Recital B above, be included in the calculation of the Participation. If Buyer produces finished residential units for sale, Buyer shall designate a dollar value to each of the lots underlying each release of such units, and Buyer shall notify Seller in writing of the designated dollar values, before Buyer offers the finished residential units for sale to any unaffiliated third party. Only the amount of the designated lot value shall be included in gross sales revenue for purposes of calculating the Base Revenue Goal and the Participation. If Seller disagrees with any such designated lot value, Seller may cause the residual value of the lot without any unit on it to be appraised by a mutually acceptable qualified appraiser, and the appraised value shall be used instead of the value designated by Buyer. Subject to any applicable restrictions and conditions on payment of the Participation imposed by Buyer's lender(s) who provide Buyer with financing for the Project, Buyer shall pay the Participation to Seller on an on-going basis out of the sale escrow for each lot and parcel which Buyer sells; accordingly Buyer shall instruct the escrow agent, for all such sales which first occur after gross sales exceed the Base Revenue Goal, to distribute to Seller twenty percent (20%) of the gross sales price for each such sale after achievement of the Base Revenue Goal upon close of the escrow for such sale. If, however, Buyer finances any such sale which closes after achievement of the Base Revenue Goal, the obligation of Buyer to pay the Participation on such a Buyer-financed sale shall be contingent upon the availability of cash proceeds of sale in the escrow sufficient to pay, first, all other costs of closing, and then the Participation; to the extent the cash proceeds do not suffice to pay the entire Participation due on the sale, the proceeds Buyer receives from payments on the purchaser's promissory note to Buyer shall be paid to Seller until Seller has received the full amount of the Participation due on the sale.

(b) Example of Participation. To illustrate calculation of the Participation, if the gross sales revenue which Buyer receives from the Project were to equal One Hundred Eighty Million Dollars (\$180,000,000), as the parties presently anticipate, then the Participation payable to Seller would be Twenty Million Dollars (\$20,000,000). For $\$180,000,000 - \$80,000,000 =$

100% of \$100,000,000 and 20% of \$100,000,000 = \$20,000,000

(c) Early Payment of the Participation. Seller shall be entitled to receive fifty percent (50%) of the first Twelve Million Dollars (\$12,000,000) of profit earned by Buyer after the date of Close of Escrow which Buyer (subject to any applicable restrictions and conditions on distributions imposed by Buyer's lender(s) who provide Buyer with financing for the Project) from time to time designates for actual distribution to any member of the Developer Group on account of any such member's Developer Group Interest. Buyer shall pay Seller's share of any such profit so designated for actual distribution to Seller concurrently with the payment of the distribution to the holder of the Developer Group Interest. Seller shall not be entitled to receive more than Six Million Dollars (\$6,000,000) pursuant to this Section 2(c), and all payments to Seller pursuant to this Section 2(c) shall apply to and be credited as payments on account of the Participations next coming due to Seller under Section 2(a) above. Seller acknowledges that development and/or management fees paid to any affiliate of Buyer and/or the Developer Group for services in connection with the development of the Project shall be recorded as Project expenses, shall not exceed industry standards, and shall not be deemed to be profits distributed to Buyer and/or any member of the Developer Group. The provisions of this Section 2(c) shall cease to operate and apply at such time as the sum of (i) the Down Payment (with any deductions for early closing excluded from the calculation of down payment) and (ii) payments to Seller on account of the Participation equal Twenty-Two Million Dollars (\$22,000,000).

(d) Protection of Participation. In order to protect Seller's anticipated profit referred to herein as the Participation, Seller shall be afforded the following rights:

(i) If Buyer elects to enter into a sale (a "Bulk Sale") of fifty percent (50%) or more of the assets included in the Property, such percentage to be determined by value not land area, Seller shall have the right to acquire the portion of the Project subject to the Bulk Sale on the same terms and conditions as the Bulk Sale purchaser. Buyer shall give written notice of the terms and conditions of any such proposed Bulk Sale to Seller and

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shall offer Seller the right to enter into the Bulk Sale on such terms and conditions. Seller shall have thirty (30) business days to notify Buyer whether Seller accepts or refuses Buyer's offer. If Seller fails to notify Buyer in writing prior to the expiration of said thirty (30) day period that Seller accepts such offer, and to accompany such written notice with any earnest money deposit which the terms and conditions of the Bulk Sale require, Seller's right to enter into the Bulk Sale shall lapse and be of no further force or effect. If the Bulk Sale shall then fail to close, Seller's right of first refusal to future Bulk Sales shall continue.

(ii) If Buyer closes a Bulk Sale to a third party purchaser of assets included in the Property, Buyer having complied with the provisions of Subsection (i) above, Buyer shall have the right either (A) to pay Seller Thirty-Four Million Dollars (\$34,000,000) in proportion to the value of the assets which are part of the Property included in the Bulk Sale based on the projected gross revenue which the Business Plan allocates to such assets in full satisfaction of the Participation otherwise payable for the assets included in the Bulk Sale, whereupon Seller's rights to any additional Participation hereunder as to said assets shall cease and thereby terminate any further obligation or (B) to obtain the agreement of the Bulk Sale purchaser in favor of Seller, which shall be memorialized in a recorded memorandum acceptable in form to Seller, Buyer and the purchaser, to pay the Participation to Seller with respect to the portion of the Project covered by the Bulk Sale if the Bulk Sale is for any amount less than \$180,000,000. As an example if Buyer closes a Bulk Sale for \$120,000,000, the difference is \$60,000,000 and Seller shall have the right to the Participation in gross sales revenue from sales of the portion of the Project covered by the Bulk Sale equal to 6.66%. This percentage is obtained by dividing the difference of \$60,000,000 by \$180,000,000 the resulting percentage of which is multiplied by participation percentage ($\$60,000,000/\$180,000,000 = 33.33\% \times 20\% = 6.66\%$).

(iii) If Buyer shall sell unplatted lots or parcels (Acreage Sales) then Seller shall be entitled to payment of release amounts on a per acre basis, which shall apply on account of and shall reduce pro tanto Buyer's obligation to pay the Participation hereunder. The per acre release price

for sales on ~~Noose Mountain~~ shall be \$25,000 per acre, with one acre of greater than 35% slope land be released for each acre of less than 35% released, for sales on Idaho Country Resorts \$250,000 per acre, and for land north of Highway 200 \$100,000 per acre excluding the Hidden Lakes Golf course. The release price for the Hidden Lakes Golf course shall be \$8,000,000.

(iv) Recordation of Memorandum. At or before Close of Escrow the parties shall execute in recordable form, and deposit in Escrow for recordation at Close of Escrow, a memorandum of the Participation which shall be substantially in the form of Exhibit F hereto.

(e) Deposit. Provided Buyer has delivered the Acceptance Notice to Seller on or before February 10, 2005 (subject to the extension of said deadline in connection with the review of title as provided below), Buyer shall deposit in Escrow in immediately available funds, Two Hundred Fifty Thousand Dollars (\$250,000) (the "Deposit") on February 10, 2005. Said amount shall be released as provided for in paragraph 6(d) of this Agreement.

3. ESCROW.

(a) General. Within five (5) business days after both Buyer and Seller have executed this Agreement in at least three counterparts, Buyer shall open an escrow account (the "Escrow") in the office of Sandpoint Title Insurance Inc. ("Sandpoint") located at the following address:

120 S. 2nd Avenue
Sandpoint, Idaho 83864

Telephone No. 208-263-2222
Facsimile No. 208-265-4040
Email Address julina@sandpoint.com

Escrow Officer Julina Skinner
Title Officer Larry Morrison

Buyer shall deposit one fully executed counterpart of this

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Agreement with Sandpoint; arrange for Sandpoint to execute counterpart joinders, and deliver one counterpart joinder fully executed by Sandpoint to Seller. Buyer shall also obtain the number of the Escrow and notify Seller in writing of the number of the Escrow. Buyer and Seller each agree and intend that Sandpoint shall serve as both administrator of the Escrow and as issuer of title insurance to Buyer.

(b) Reinsurance. Buyer and/or Buyer's lender shall have the reasonable right to require the title insurance to be issued by Sandpoint to be reinsured by one or more additional title insurers reasonably acceptable to Buyer and/or Buyer's lender with principal amounts of reinsurance coverage acceptable to Buyer and/or Buyer's lender.

4. Sales of Adjacent Properties. As used in this Agreement the term "DRP" (for Development Related Property) shall mean a property which is not part of the Property and which is a property (a) record title to which vests in Buyer not later than three years from the date of this agreement, (b) the purchase of which by Buyer was arranged or assisted by Seller, and (c) which is either (i) contiguous to the Property and becomes part of the overall Project, or (ii) a property onto which Buyer transfers units or lots which the initially approved Business Plan contemplated would be developed on the Property. If Buyer acquires record title to a DRP, Buyer shall pay Seller an amount equal to twenty percent (20%) of the net pre-tax profit of Developer Group from each such property. Pre-tax profit shall mean the net pre-tax profit arising from the sale of the DRP which is allocated to any member of the Developer Group on account of such member's interest in the entity which effected the sale. Pre-tax profit shall mean, for purposes of this Section, the profit remaining after payment of all debt service and financing costs, hard and soft acquisition and development costs including any reasonable allocations of community development costs to such property, development and/or management fees paid to any affiliate of Buyer for services in connection with the development of the Project, and costs of administration, marketing and sales. All indirect costs incurred in determining pretax profit shall be consistent with industry standards.

5. Review Period.

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(a) Definition. As used herein, the term with which to make the payment "Review Period" shall mean the time period which commences on the Agreement Date and ends at midnight Pacific Time on February 10, 2005 (the "Review Period Expiration Date"). Notwithstanding the foregoing, Seller acknowledges that the information Buyer requires to review title to the Property was delivered to Buyer too few days before February 10, 2005 to allow Buyer a reasonable time to review title. Accordingly Seller hereby agrees that Buyer shall have until February 28, 2005 (the "Extended Title Review Date" in which to complete Buyer's review of title as to those items enumerated on Schedule A. If Buyer shall not affirmatively approve title by written notice delivered to Seller on or before the Extended Title Review Date, Seller, upon written demand from Buyer, shall return the Deposit to Buyer if Buyer has delivered the Deposit to Escrow. The above notwithstanding, Buyer accepts the exceptions noted in the preliminary title report subject to the removal of all statutory and monetary liens pursuant to paragraph 5(b)(vi) below, and the removal of title exceptions numbered 20 and 67 relating to the right of way held by Idaho Department of Transportation.

(b) Due Diligence Activities.

(i) In General. Buyer shall undertake during the Review Period, at Buyer's sole cost and expense, such inspections, testings, analyses and feasibility studies concerning the Property as Buyer shall deem useful or advisable (including, without limitation, geologic, seismic, soils, engineering, topographical, drainage, archaeological, environmental, biological, land planning, financing and marketing investigations), all of which are collectively called "Investigations" herein. In connection with the Investigations, Buyer, at Buyer's sole cost and expense, may retain engineers, contractors, soils and geological consultants, architects, natural scientists, environmental auditors, economists, accountants, attorneys, planners and all such other advisors as Buyer deems useful or advisable, all of whom are collectively called "Buyer's Advisors" herein. In the course of the Investigations and Buyer's other activities in connection with the Project during the Review Period, and at all times after the Review Period Expiration Date while this Agreement is in effect and Close of Escrow has not occurred, Buyer shall prevent any lien being placed on the Property on account of any action of Buyer or any of Buyer's Advisors, and should any

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such lien be placed on the Property notwithstanding Buyer's best efforts to prevent such an occurrence, Buyer shall immediately cause any such lien to be removed.

(ii) Environmental Audit. During the Review Period Buyer shall have the right, in particular, to cause an environmental audit of the Property to be conducted, at Buyer's sole cost and expense, by an Advisor designated by Buyer.

(iii) Physical Inspections.

A. Insurance. As a condition precedent to any entry onto the Property by Buyer or any of Buyer's Advisors pursuant to this Agreement, Buyer shall have delivered to Seller evidence (in the form of a copy of the relevant insurance policy or of a certificate thereof which describes the policy limits and shows Seller as an additional named insured party) that any property damage or personal injury or death resulting from said entry is insured against under a comprehensive general public liability insurance policy in favor of Buyer, which policy shall (I) have a combined as well as single occurrence limit of One Million Dollars (\$1,000,000), (II) name Seller as an additional insured party, and (III) be issued by an insurance company licensed to do business in the State of Idaho.

B. Entry. At any time and from time to time during the Review Period (and for the remainder of the term of this Agreement if Buyer shall have issued the Acceptance Notice as said term "Acceptance Notice" is defined below), Buyer and any of Buyer's Advisors, upon at least two (2) business day's prior written notice to Seller, may enter upon and conduct physical inspections and tests upon and to the Property. Said activities may include, without limitation, taking samples of air, water, soils and other materials from the Property, installing and maintaining monitoring devices, drilling test holes and digging test trenches, conducting seismic investigations, surveying, and performing engineering studies. If Buyer or Buyer's Advisors bore holes or dig trenches, the same shall be refilled and leveled upon completion of the testing.

C. Hold Harmless. Buyer shall indemnify and hold Seller harmless from any liens imposed against the Property on account of investigations and from

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all claims, demands, liabilities and costs, including reasonable legal fees, arising out of any damage to the Property or out of injury to or death of any person as a direct result of Buyer's Investigation on the Property prior to close of Escrow. Buyer shall have no obligation, however, to indemnify or hold Seller harmless on account of damages, personal injuries or loss of life resulting from the intentional or negligent acts or omissions of Seller. Buyer shall have no obligation to remedy or compensate Seller for any conditions or defects on or under the Property not caused by Buyer but discovered by Buyer in the course of the Investigations.

(iv) Documents:

A. Delivery to Buyer. As used in this Agreement the term "Seller's Documents" shall mean any and all documents in the possession or custody of Seller, or reasonably available to Seller, which pertain to the Property, to its current use, or to its use for a resort and residential subdivision, including, without limitation, contracts, maps, plans, blueprints, photographs, studies and reports, records of actual or threatened litigation, administrative proceedings, land use proceedings, eminent domain or condemnation proceedings, records of fees and charges paid to governmental agencies, utilities bills, records relating to taxes and assessments, records relating to prior ownerships and prior uses, correspondence and other records of whatsoever nature. Within three (3) business days after the Agreement date Seller shall deliver to Buyer (I) an itemized list of all of Seller's Documents and (II) originals or copies of all of Seller's Documents.

B. Assignment at Close of Escrow: At Buyer's written request made at the close of Escrow, Seller shall assign to Buyer all Seller's right, title and interest in, to, and under any of Seller's Documents which Buyer shall designate for assignment. As part of such assignment, Seller shall also assign to Buyer: (I) all claims, counterclaims, defenses and/or actions, whether at law or pursuant to any other applicable federal, state or local law, which Seller may have against any third parties relating to the design and/or construction of the Project and/or the existence of Hazardous Materials (as the term "Hazardous Materials" is hereinafter defined) in, at, on, under or about the Property; (II) any warranties, guaranties or other assurances from suppliers and vendors

of materials and equipment incorporated in the Project; (III) any vehicles and other self-propelled machines owned by Seller and used in connection with the Project; and (IV) existing contracts with consultants (such as civil engineers, environmental consultants, soils engineers, architects, etc.) whose services Buyer elects to retain in connection with the Project. The assignment to be made pursuant to this Subsection B shall be substantially in the form of the written assignment (the "General Assignment") attached hereto as Exhibit C.

C. Definition of "Hazardous Materials". As used in this Agreement the term "Hazardous Materials" shall mean any substance, material, waste, chemical, mixture or compound which: (I) is flammable, ignitable, radioactive, hazardous, toxic, corrosive or reactive, and which is regulated under law or by a public entity, (II) is a "Hazardous Substance" as defined or listed under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, or under any regulations promulgated thereunder as amended, (III) is crude oil, petroleum, natural gas, or distillates or fractions thereof, and/or (IV) damages or threatens to damage health, safety, or the environment or is required by any law or public entity (including, without limitation, the County) to be remediated, including remediation which such law or public entity requires in order for the Property to be used for any lawful purpose, including, without limitation, use as a residential subdivision.

D. Remediation. If any remediation is required by any law or public entity with respect to Hazardous Materials which affect the Property, Seller, at Seller's sole cost and expense, shall cause the remediation promptly to be undertaken, diligently prosecuted, and fully completed prior to close of Escrow. Seller hereby warrants to Buyer that all remediation work shall be performed without defects or deficiencies in accordance with all applicable legal requirements and guarantees the integrity and effectiveness of such work. Seller shall indemnify and hold Buyer harmless against any claims, demands, damages, liabilities, costs and expenses which Buyer may suffer or incur on account of Hazardous Materials existing in, at, on, under or about the Property prior to close of Escrow on account of any remediation work.

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performed by Seller.

(v) Title. At the time Buyer opens the Escrow, Buyer shall order from Sandpoint a preliminary report of title (the "Report") on the Property, together with complete and legible copies of all the matters (collectively "Exceptions" and individually "Exception") which the Report shows as exceptions to title. Seller shall immediately engage a licensed civil engineer or surveyor to conduct a boundary survey (the "Survey") of the Property in sufficient detail and standards to enable Sandpoint to use such boundary Survey to issue an ALTA policy of title insurance on the Property at close of Escrow; provided, however, that Buyer shall be responsible for completing any survey and site work within the boundaries of the Property necessary for ALTA purposes. Seller shall pay the surveyor for the cost of the boundary survey portion of the Survey, and Buyer shall pay any additional survey and site work costs necessary to produce a survey which satisfies the requirements for an acceptable ALTA survey. Buyer shall have until the later of (A) the Review Period Expiration Date or (B) ten (10) days after Buyer has received the Report, the Exceptions, and the Survey, in which to examine title to the Property; provided, however, that if Buyer shall not have received all of the Report, the Exceptions and any Survey which Buyer shall have ordered on or before January 15, 2005, Buyer shall have the right to extend the Review Period Expiration Date one day for each day after January 15, 2005, which elapses until Buyer has received all said material. Prior to expiration of the Review Period Expiration Date, Buyer shall notify Seller in writing of any objections to title arising from Buyer's review of the Report, the Exceptions and any Survey. Within three (3) business days after receipt of Buyer's notice of objections to title, Seller shall inform Buyer in writing (I) if there are any matters to which Buyer objected that Seller is unable or unwilling to remove, and (II) how Seller plans to remove the objections that Seller is willing to remove. If following the conclusion of the Review Period Expiration Date, Seller or Buyer shall discover an exception to title (a "Late Exception") which was not disclosed by the Report or a Survey, the discovering party shall immediately notify the other party thereof; Buyer shall then have three (3) business days to notify Seller if Buyer objects to the Late Exception. If Buyer does object to a Late Exception, then

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Seller, within the next two (2) business days shall notify Buyer whether or not Seller will remove the Late Exception and, if yes, how. If there are objections (whether to Exceptions and/or to Late Exceptions) which Seller is unable or unwilling to remove, Buyer shall have the right either to accept the exception(s) in question or to terminate this Agreement, in which latter case Escrow Holder shall immediately return the Deposit to Buyer in immediately available funds. If there are objections which Seller states it will remove, and if removal may require the expenditure of funds, Buyer shall have the right to require Seller to effect the removal by an agreed date or to post security in an amount agreed to by both parties that is adequate to cover the cost of removal, so that Buyer shall have reasonable assurance, as Buyer expends funds and manpower in satisfaction of Buyer's obligations under Section 6(a) below, that the objection will in fact be removed before or removable at the close of Escrow.

(vi) Approved Exceptions. As used herein the term "Approved Exceptions" shall mean (A) a lien for non-delinquent property taxes and assessments, (B) any exceptions to title shown in the Report and/or any Survey to which Buyer did not object prior to expiration of the Review Period, (C) exceptions to title shown in the Report and/or Survey and/or Late Exceptions to which Buyer did timely object, which Seller then timely notified Buyer that Seller was unable or unwilling to remove, in which notice from Seller Buyer then acquiesced, and (D) liens and encumbrances (including entitlements) imposed on the Property at or prior to close of Escrow at the instance of or with the consent of Buyer. Any Exception which evidences a lien or other security interest (collectively "Monetary Liens") against the Property to secure any indebtedness of Seller or any other party other than Buyer (excluding, however, statutory liens to secure the payment of real property taxes and assessments) shall automatically constitute a disapproved Exception, and Seller hereby covenants to cause all Monetary Liens to be removed not later than Close of Escrow.

(c) Acceptance Notice. If Buyer, as a result of the Investigations, wishes to proceed under this Agreement and to keep this Agreement in effect, Buyer, prior to expiration of the Review Period, shall deliver written notice (the "Acceptance Notice") to both Seller and Sandpoint stating that Buyer will proceed under this

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Agreement.

(d) Termination. Buyer shall have the right, exercisable in Buyer's sole and absolute discretion at any time during the Review Period, by written notice to Seller and to Sandpoint, to terminate this Agreement if the results of the Investigations do not meet with Buyer's approval. If Buyer does terminate the Agreement prior to the Review Period Expiration Date (as the same may be extended in connection with title review), this Agreement and the Escrow shall automatically terminate, and the parties shall have no further obligations or liabilities to each other hereunder.

(e) No Earnest Money. Seller acknowledges that Buyer will expend material amounts of manpower and money in conducting Buyer's investigations pursuant to this Agreement and that, as an integral part of Buyer's Investigations, Buyer, at Buyer's expense, will commence the preparation of preliminary development materials such as a final land plan, golf course routings, a business plan for the Project and pro forma budgets and financial projections. Seller further acknowledges that the manpower and money which Buyer so expends will constitute a detriment to Buyer if Buyer elects not to deliver the Acceptance Notice to Seller, thereby terminating Buyer's interest in the Project. Recognizing said detriment as a valid consideration, Seller has agreed not to require any earnest money payment on account of the Purchase Price upon the execution of this Agreement by the parties. Buyer, in reciprocation, hereby covenants, if Buyer elects not to deliver the Acceptance Notice, to deliver to Seller the information about the Property resulting from Buyer's Investigations and the preliminary development materials which Buyer shall have prepared unless Buyer is restricted by contract or by law from delivering any such information and/or material to Seller. Buyer shall use its best efforts to obtain, in any contract Buyer enters in furtherance of Buyer's Investigations, the consultant's permission to deliver to Seller, if Buyer elects not to deliver the Acceptance Notice, whatever written information and/or material is generated pursuant to the contract.

6. Rights and Obligations of the Parties.

(a) Planning Work.

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(i) Entitlements. Concurrently with conducting its Investigations during the Review Period, Buyer shall undertake the land use entitlement work necessary to submit a final development plan for the Project to the County and shall diligently prosecute the work required to prepare such a submittal. If Buyer shall issue the Acceptance Notice, Buyer, unless Buyer has previously made the submission, shall as soon as possible after the date of the Acceptance Notice submit to the County and diligently pursue applications for, and use Buyer's best reasonable professional efforts to obtain, the land use entitlements (individually "Entitlement" and collectively "Entitlements") necessary for all the distinct parcels which the Land comprises, recognizing that said parcels are not all contiguous and that distinct parcels may require separate applications, including, without limitation, the entitlements listed in Exhibit B-2 hereto. The term "Entitlements" as used herein shall also include such other permits, licenses, approvals and governmental authorizations (whether from the County or from any other local, state or federal agency with jurisdiction over the Property) as may be necessary for lawful development of the Project in accordance with Buyer's development plan. Buyer, at Buyer's sole cost and expense, shall pay for the governmental fees, charges and taxes, which are payable in connection with applying for the Entitlements and for the cost of the planning, engineering and architectural services necessary to prepare the submittals which the application procedures require.

(ii) Definition of "finally approved". As used in this Agreement the term "final" or "finally approved" shall mean, with respect to any Entitlement that (A) the necessary governmental agency which is required to approve an Entitlement shall have approved the Entitlement and such approval shall be stated in a resolution adopted by such agency and certified by the secretary of such agency and (B) the time period for filing or entering any administrative or legal appeal from or objection to the approval of an Entitlement shall have expired without an appeal or objection having been filed or entered, or, if an appeal or objection has been filed or entered, that the proceedings on such appeal or objection shall have been

terminated with the approval of the Entitlement being upheld substantially as initially approved, and the time period for filing or entering any administrative or legal appeal from the upheld decision shall have expired without further appeals or objections having been made.

(iii) Business Plan. Seller acknowledges that Buyer intends to prepare a business plan (the "Business Plan") for the development of the Project as a high-end resort and residential community and that, as of the Agreement Date, the work necessary to complete the Business Plan has only just commenced and is therefore in a preliminary, formative stage. Buyer covenants, however, to use diligent efforts to complete the Business Plan prior to the Review Period Expiration Date and to submit the completed Business Plan to Seller for review and approval. The purpose of granting Seller the right to review the Business Plan is to assure Seller that the Business Plan does not differ materially from Seller's existing development plan for the Project taking into account that the Business Plan will likely include high-end resort and residential community features, which Seller hereby accepts and approves, such as a single family lots, home units which may be free-standing and/or attached, hotel units, units to be sold and integrated into a rental pool, time-share and/or fractional interest units, one or more championship golf courses, and other amenities appropriate for a first-class resort. Therefore the scope of Seller's review of the Business Plan shall be limited to determining that the Business Plan does not differ materially from Seller's existing development plan in light of the variations and augmentations for developing the Project as a high-end resort and residential community included in the Business Plan. Seller shall not unreasonably withhold or delay its approval of the Business Plan within the aforesaid scope of review. Unless Seller notifies Buyer in writing of specific objections to the Business Plan within ten (10) days after Buyer has delivered the Business Plan to Seller for review, Seller shall be deemed to have approved the Business Plan. Once the Business Plan is approved, Buyer shall use Buyer's best reasonable efforts to execute the Business Plan as approved subject to whatever changes in the Business Plan are necessary to respond prudently to actual market circumstances and to any changed conditions. It is agreed and understood that Seller is entering into this agreement with the anticipation of

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profiting from the overall sales anticipated by said plan. Seller's approval of said Business plan is in anticipation of a sharing of profits that should reach \$20,000,000 for Seller's share. Said \$20,000,000 is over and above the \$16,000,000 down payment. Any Business Plan that shows anticipated profits to Seller of an amount less than said \$20,000,000 or that shows profits that are unrealistically achievable may be grounds for Seller's rejection of said Business Plan.

(b) Reservations in favor of Seller.

(i) Lots. From time to time as final subdivision maps are recorded upon the Land, Seller shall have the right, for at least fourteen (14) days prior to release of such lots to the public for purchase, to select and purchase up to a maximum of seven (7) lots on which no units are planned for construction for eighty percent (80%) of the intended release prices

(ii) Golf Memberships. If Buyer determines that golf privileges at any Project golf course shall be subject to private golf memberships (each, a "Membership"), then, Seller shall be entitled to seven (7) honorary memberships, i.e., memberships for which Seller shall be exempt from paying the purchase price. But Seller shall be responsible for paying periodic dues, greens fees, and other charges which are a function of the use which the holders of said seven (7) memberships make of golf course facilities. Said seven (7) honorary memberships are personal to Seller and are not transferable or redeemable. Each Membership shall in any event be on such terms and conditions as Buyer determines in Buyer's sole and absolute discretion, including, without limitation, terms and conditions as to the cost of Membership, tee-time priority, greens-fee discounts, pro shop merchandise discounts and termination of the Membership. Buyer, furthermore, shall have the right to determine, in Buyer's reasonable discretion exercised in good faith, whether to implement, and thereafter whether to continue or terminate, any Membership program. Notwithstanding the foregoing, but without in any way limiting Buyer's right to determine all other terms and conditions of any private golf Membership program, so long as Buyer elects to implement and continue a private

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Membership program at the Project golf course, Buyer hereby agrees that Buyer shall not terminate without cause any of the seven (7) honorary Memberships hereby granted to Seller. Buyer is hereby informed that there are several life time memberships that were a part of the membership of the existing Hidden Lakes Golf Course when acquired by Seller and those memberships must remain. Buyer is further hereby informed that various lot purchasers have time remaining on golf membership rights and boat slip privileges. Seller shall furnish a list of said life time memberships and said lots purchasers with unexpired rights to Buyer prior to January 25, 2005.

(c) Seller's Cooperation. Throughout the term of this Agreement, Seller shall cooperate with Buyer and with Buyer's efforts to secure final approval of the Entitlements. Buyer shall be responsible for the payment of application and processing fees charged by governmental agencies and for the services of such Advisers as Buyer may utilize in connection with the processing for the Entitlements.

(d) Deposit to Seller. Upon the date which is the earlier of (i) the date upon which Buyer submits its application to the County for issuance and approval of the Entitlements or (ii) the Review Period Expiration Date (as the same may be extended for title review as provided herein), the Deposit shall be released to Seller.

(e) Discount to Cottonwood Buyers. Buyer agrees to offer a \$20,000 discount off any retail purchase price set established by Buyer on any lot or home that Buyer constructs to any person who as of the date of this Agreement had a valid and buying deposit on a Cottonwood Condominium, such parties being identified on Schedule B. Such right to purchase shall be subject to all rules and regulations set forth by Buyer as to any priority system of choosing lots and homes so that Buyer, in its sole discretion may determine who has first choice of such lots and homes. This discount shall apply to the first release only of lots and homes and if the prospective purchaser elects not to purchase then such right shall forever be waived. Further, such right shall not apply or be used as part of the Founder program, but only to the sale of lots or homes to the general public on a retail basis.

(f) Inventory and Bill of Sale. Immediately

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Following the Agreement Date Seller, at Seller's expense, shall prepare, for review and testing by Buyer's auditors (whose expense Buyer shall pay) a complete and detailed written inventory (the "Inventory") of all the personal property which the Property encompasses (including, without limitation, furniture, fixtures, appliances, equipment, cars and other vehicles, golf carts, pro shop merchandise, supplies and accounts receivable). The Inventory shall be based upon a physical inventory of the personalty which the Property includes and which shall be conducted in the presence of an auditor whom Buyer designates. Seller shall deliver the Inventory to Seller for review at least thirty (30) days prior to Close of Escrow. At Close of Escrow Seller shall execute and deliver to Buyer a written certification (the "Inventory Certification") that the Inventory, subject to any corrections and additions made between the date Seller first submits the Inventory to Buyer and Close of Escrow, constitutes a complete itemized description of all the personal property which the Property includes. At Close of Escrow Seller shall also deliver to Buyer a bill of sale (the "Bill of Sale"), which shall be substantially in the form of Exhibit D hereto, conveying marketable title to said personal property to Buyer free and clear of any liens, claims, security interests and encumbrances.

(g) Protocol for Prorating Golf Course Operations. Buyer and Seller shall prorate and settle the allocation of operating income and operating expenses as of the Closing Date or as of such other date upon which they may agree. Buyer shall pay for Seller's inventory at cost, which payment shall be in addition to the Purchase Price; the inventory shall include, without limitation, food and beverages, clothing, wine and liquor, fuels, and maintenance supplies. The operating expenses to be prorated shall include, but not be limited to, management fees payable under any applicable management agreement; insurance; water and sewer charges, maintenance, supply costs, personnel and payroll costs, and charges for electricity, gas, telephone and other utilities and license fees. Any utility deposits ("Utility Deposits") made with utilities providers shall be transferred and assigned to Buyer as part of the Property in consideration for the Purchase Price. If the parties are unable to make a final reconciliation of any Utility Deposits as of Close of Escrow, the Utility Deposits shall be subject to adjustment promptly upon receipt of deposit information sufficient to

permitted completion of said adjustment, Seller shall also transfer and assign to Buyer, as part of the Property, any and all amounts associated with any Project golf course which originated as refundable membership deposits or initiation fees, all outing, tournament, and banquet deposits, all deposits or membership fees paid in connection with season or annual golf passes or similar play-privilege programs, and all complimentary play awards (collectively, the "Accrued Deposits"). Buyer shall take title to the Property at Close of Escrow subject to the liabilities and obligations associated with the Accrued Deposits. Seller shall have all rights to any deposit refunds and/or the benefit of any bonds securing the obligation for completion of the intersection at Lower Pack River Road and Seller shall be responsible for any unfinished portions of that intersection.

(h) As-Built Plans. Within three (3) days after the Agreement Date Seller shall deliver to Buyer, in each case to the extent in Seller's possession or in the possession of Seller's consultants or otherwise reasonably subject to Seller's control: (i) as-built plans, if any, for existing structures and facilities (including infrastructure facilities) on the Land; (ii) maps showing the location of existing structures and facilities (including infrastructure facilities); and (iii) any other plans and drawings pertaining to existing or proposed structures and facilities for the Property.

(i) Seller's Step-In Rights. Buyer shall use Buyer's best reasonable commercial efforts, in negotiating and concluding an institutional loan for the acquisition and development and for the construction of the Project, to obtain provisions in the loan documentation requiring the lender to notify Seller upon the occurrence of an event of default on the part of Buyer under any such loan and allowing Seller the right to cure such default.

(j) Termination by Buyer. At any time between the Agreement Date and Close of Escrow, Buyer, by written notice to Seller and Sandpoint, may terminate this Agreement without liability to Seller. If Buyer does so terminate this Agreement, Seller shall retain the Deposit and the parties shall have no further liability to each other hereunder; provided, however, if Buyer submits plans

to the County for approval, such plans are approved, but an appeal or lawsuit is filed that prevents Buyer from having Final Approvals by January 31, 2007; and Buyer elects to terminate this Agreement, then Buyer shall receive a percentage ownership in the Property in a ratio equal to the total amount of all deposits paid by Buyer to \$35,000,000.

7. Close of Escrow.

- (a) Time for Close of Escrow. Escrow shall close on the business day which first occurs after twenty (20) calendar days shall have elapsed after all the Entitlements for all the parcels which the Land comprises have been finally approved unless the parties shall hereafter mutually agree upon another earlier or later date. The above notwithstanding, closing shall occur on or before June 30, 2006, unless an appeal or lawsuit has been filed challenging the project, in which case Buyer may extend the closing to January 31, 2007, by paying Seller the sum of \$500,000, of which \$250,000 shall be applicable against the Down Payment at closing. Buyer shall use its best efforts to, and diligently proceed with, the submittal of all entitlement documents, pursuing the entitlements with the County, and defending any actions challenging the approvals obtained. Buyer shall have no obligation to proceed to close the purchase of the Property unless and until all the Entitlements have been approved and/or issued. Seller presently anticipates that all the Entitlements will be approved and/or issued in time for Escrow to close not later than September 30, 2005. Seller recognizes, however, that Close of Escrow may occur later than September 30, 2005. The above notwithstanding, the deeds conveying the two lakefront parcels known as Idaho Country Resorts shall be executed by Seller and placed in escrow at Sandpoint Title Company, and the release from escrow and recordation of such deeds shall be at such time as Buyer determines in its sole discretion, but in no event later than November 15, 2006. The use of such property during the period of time the deeds are held in escrow shall be governed by separate agreement executed between the Buyer and

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(b) Precise Moment of Closing. The closing of the purchase and sale transaction which this Agreement contemplates and the close of Escrow shall each be deemed to occur at the moment when the grant deed from Seller to Buyer (described in Section 8(b) below) is recorded in the Official Records of the County.

(c) Closing Costs and Prorations. As part of the closing proceedings, Sandpoint shall charge the parties for various costs and prorations, allocating them as follows. Seller shall be charged and shall pay for: any documentary transfer and municipal transfer taxes charged by the County or other governmental agencies; the premium for Buyer's title insurance; any monumentation fees; the cost of recording the grant deed; and one-half of Sandpoint's fees for administering the Escrow. Buyer shall pay for one-half of Sandpoint's fees for administering the Escrow. Sandpoint shall prorate non-delinquent property taxes and assessments as of the date of close of Escrow. Sandpoint shall allocate any other charges or costs which closing the Escrow entails in accordance with custom in the County.

(d) Proceedings at Close of Escrow. This Agreement shall constitute joint escrow instructions to Sandpoint. The parties shall execute such additional instructions not inconsistent with the provisions of this Agreement as Sandpoint may reasonably request; provided, however, that as between the parties, if any conflict arises between the provisions of this Agreement and the provisions of any of Sandpoint's separate instructions, then the provisions of this Agreement shall control. Sandpoint is designated the "real estate reporting person" for purposes of Section 6045 of the Internal Revenue Code of 1986, as amended and Treasury Regulation 1.6045-4, and any instructions or settlement statement prepared by Sandpoint shall so provide. Sandpoint shall be responsible for filing Form 1099-S with the Internal Revenue Service. Buyer and Seller may each submit separate additional written escrow instructions to Sandpoint for Sandpoint's direction and use in administering the closing. Such separate additional instructions shall be consistent with, and shall not contradict, the provisions of this Agreement. In case of any conflict between any instructions which either Seller or Buyer shall submit and the provisions of

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Under this Agreement, the provisions of this Agreement shall prevail and control.

8. Conditions Precedent to Close of Escrow.

(a) Conditions Precedent in favor of Seller. At or prior to close of Escrow, the following condition precedent shall have been satisfied: namely, that Buyer shall have deposited in Escrow in immediately available funds the sum of (i) the entirety of the Purchase Price due at closing, subject to a credit for the Deposit, and (ii) Buyer's share of closing costs and prorations.

(b) Conditions Precedent in favor of Buyer. At or prior to close of Escrow, each of the following conditions precedent shall have been waived by Buyer (any such waiver to be in writing and delivered to Sandpoint) or satisfied:

(i) Seller shall have performed all its obligations hereunder to be performed prior to close of Escrow and shall not be in breach of any representation or warranty of Seller made herein.

(ii) Seller shall have deposited the following instruments in Escrow: (A) a grant deed, executed in recordable form, sufficient according to Sandpoint to convey marketable fee simple title to the Property to Buyer subject only to Approved Exceptions; (B) the General Assignment, executed in final form by Seller; and (C) the Inventory Certification and the Bill of Sale (D) documentation necessary to relieve Buyer of its obligation to withhold taxes from the Purchase Price in accordance with the Foreign Investment in Real Property Tax Act and any equivalent Idaho statute or regulation. The documentation for clause (D) of the preceding sentence shall be reasonably satisfactory in form and substance to Buyer and Buyer's legal counsel.

(iii) The Entitlements shall have been finally approved for all parcels which the Land includes.

(iv) Seller shall have approved the Business Plan.

(v) Seller shall have fully performed and fully paid for any remediation work required pursuant to

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Section 5(b)-(iv) (D) hereof.

(vi) Sandpoint shall be ready and willing to issue, conditioned only upon payment of the premium therefore, its standard A.L.F.A. policy of title insurance (1970 Form-B), together with such endorsements as Buyer and/or Buyer's lender may reasonably require (including, without limitation, a lien-free endorsement), dated and effective as of the time of close of Escrow and supported by such policies of reinsurance as Buyer and/or Buyer's lender may require, insuring Buyer in the principal amount of the Purchase Price that marketable fee simple title to the Property is vested in Buyer subject only to Approved Exceptions, and insuring Buyer's lender (if any) that the deed of trust securing said lender's purchase money loan to Buyer is a lien of first priority against the Property.

(vii) Buyer and Seller shall have completed the prorations and inventory as contemplated in Section 6(g) above.

(viii) Buyer shall have received estoppel certificates from each of Seller's consultants whom Buyer shall designate, dated as of the date of Close of Escrow, and otherwise satisfactory to Buyer and Buyer's legal counsel in form and substance, certifying that work which such consultant has done in connection with the Project, describing any work which is unperformed under the consultant's contract with Seller, certifying that the consultant has completed the scope of work specified in its contract with Seller and has been fully paid for its services in connection with the Property (or, if the contractor has not completed its work and/or has not been fully paid, describing (A) amounts billed to Seller and unpaid under such contract, (B) amounts accrued but unbilled, and (C) the cost to complete work yet unperformed under the contract).

(ix) There shall have been no material adverse

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changes to the physical condition of or title to the Property between the Agreement Date and the Close of Escrow.

(x) Effective not later than Close of Escrow, Seller shall have terminated the employment in connection with the Property of all employees of Seller or of any affiliate of Seller and shall have fully paid all such employees all compensation due to such employees for such employment through the effective date of their respective terminations, including all benefits to which such employees are entitled, payroll taxes and withholding taxes.

(xi) Seller shall have delivered to Buyer the will serve letter required in Section 11(j) below.

(xii) Seller shall have secured consents from Mr. Berry and R.E. Loans LLC, respectively, for transfer of the Property to Buyer upon the understanding that Buyer will accept title to the Property subject to the deeds of trust which secure the Berry Note and the REL Note and will become responsible for the payments due under said two promissory notes. Buyer agrees to pay to R.E. Loans LLC one point for the assumption of said loan.

(xiii) Mr. Berry shall have agreed to a modification of the Berry Note to provide that the Berry Note shall be payable on an interest-only basis, with installments of interest payable monthly/quarterly/annually in arrears, with all amounts of principal and interest due under the Berry Note payable in full on or before the third anniversary of close of Escrow.

(xiv) Buyer will waive the entitlement contingency on the lakefront property and close on all the property upon receipt of entitlements on the mountain and golf parcels, all under the

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frames, as outlined in the third amendment and Seller agrees to the same, and the closing of such lakefront parcels shall occur as described in paragraph 7(a) above.

(c) Failure of Conditions. If any one or more of the conditions precedent in favor of Buyer listed above in Section 8(b) shall not be waived by Buyer or satisfied, Escrow shall not close, and Buyer, at Buyer's sole and exclusive election, may either (i) unilaterally extend the time for close of Escrow for such reasonable period as in Buyer's commercial judgment is sufficient for permitting satisfaction of any such failed condition or (ii) by written notice to Seller and Sandpoint terminate this Agreement and the Escrow. Thereafter the parties shall have no further obligations or liabilities to each other hereunder; provided, however, if Escrow fails to close by reason of the default of Seller under this Agreement, Buyer shall be entitled to immediate return of the Deposit in immediately available funds and to exercise, singly or in any combination, any and all remedies available to Buyer at law or in equity.

9. Liquidated Damages. IF BUYER HAS DELIVERED THE ACCEPTANCE NOTICE TO SELLER AND THEREAFTER ALL THE CONDITIONS PRECEDENT IN FAVOR OF BUYER HAVE BEEN WAIVED BY BUYER OR ARE SATISFIED, AND BUYER THEN FAILS TO PAY THE PURCHASE PRICE TO SELLER AND DOES NOT CLOSE THE ESCROW IN ACCORDANCE WITH BUYER'S OBLIGATIONS UNDER THIS AGREEMENT, BUYER AND SELLER AGREE THAT THE DAMAGES TO SELLER WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. ACCORDINGLY BUYER AND SELLER HAVE AGREED TO FIX AS LIQUIDATED DAMAGES THE AMOUNT EQUAL TO THE PLAN SUBMITTAL PAYMENT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000). SAID AMOUNT SHALL BE RELEASED AND RETAINED BY SELLER AS LIQUIDATED DAMAGES AND SHALL CONSTITUTE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR BUYER'S FAILURE TO PURCHASE THE PROPERTY. THE RETENTION OF SAID AMOUNT BY SELLER AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY; IT IS INTENDED INSTEAD AS LIQUIDATED DAMAGES. SELLER AGREES THAT SAID AMOUNT AS LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY, INCLUDING, WITHOUT LIMITATION, SPECIFIC PERFORMANCE OR DAMAGES TO WHICH SELLER MIGHT OTHERWISE BE ENTITLED, WHETHER UNDER THIS AGREEMENT OR AT LAW OR IN EQUITY. SELLER AND BUYER SPECIFICALLY

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ACKNOWLEDGE THEIR AGREEMENT TO THIS LIQUIDATED DAMAGES PROVISION BY SIGNING THIS SECTION IN THE APPROPRIATE SPACES BELOW:

Seller's signature

Buyer's signature

North Idaho Resorts, LLC

Pend Oreille Bonner Investments, LLC

By Vilelli Enterprises Inc.
Managing Member

By Richard Vilelli
Richard Vilelli
President

By Chip L. Bowlby
Chip L. Bowlby
Member

10. Seller's Covenants.

(a) Insurance. Throughout the term of this Agreement Seller shall keep in effect all existing insurance on the Property in effect, which shall include, at a minimum, a comprehensive general public liability policy with a combined and single occurrence coverage of at least One Million Dollars (\$1,000,000).

(b) New Transactions. Throughout the term of this Agreement, Seller shall not enter or extend any existing leases, occupancy agreements or other arrangements which confer any possessory rights in the Property upon third parties, or grant any easements or other rights which would constitute exceptions to title to the Property, or grant or suffer any liens or encumbrances against the Property on account of monetary or other obligations of Seller, or increase the amount of any indebtedness secured by the Property on the Agreement Date unless such increases occur in the ordinary course of operating the ongoing business and provided that any such indebtedness obligations shall be the responsibility of the Seller.

(c) Existing Transactions. Throughout the term of this Agreement, Seller shall timely and fully perform the obligations of Seller under any existing leases,

contracts, loan agreements, security instruments (such as mortgages, deeds of trust, and Uniform Commercial Code financing statements and security agreements), bonds or other agreements affecting the Property and shall take such actions and enter such further agreements as are necessary to enable Seller to cause all such existing agreements to be terminated at or prior to close of Escrow.

(d) Delivery of Possession. Immediately upon close of Escrow Seller shall tender delivery of possession of the Property to Buyer, free and clear of the occupancy of any third persons or entities and free and clear of the personal property of any third persons or entities except those persons occupying RV spaces at Idaho Country resorts shall have until the later of (i) September 30, 2005 and (ii) Close of Escrow to vacate their spaces and manager of said resorts shall be allowed to remain on premises until given 90 day notice by Buyer after Close of Escrow. Seller shall be responsible for causing occupants of the RV spaces to vacate by not later than the later of (i) September 30, 2005 and (ii) Close of Escrow and, at Close of Escrow, shall provide Buyer with a written agreement from the resort manager agreeing to vacate his premises upon receipt of a 90 day notice from Buyer. Seller shall have caused any third persons or entities fully to have vacated the Property by the close of Escrow and to have removed any personal property belonging to such third persons or entities. All risk of material or immaterial loss and damage (including condemnation of the Property) by casualty or other cause shall be and remain with Seller until close of Escrow. Upon close of Escrow all risk of material and immaterial loss and damage to the Property shall pass to Buyer.

(i) If any damage or destruction to any of the Property occurs prior to Closing (including the destruction of natural vegetation by fire), Seller shall immediately give Buyer written notice of such damage or destruction, and Buyer shall have the option, exercisable within ten (10) days thereafter either (A) to terminate this Agreement, in which case Sandpoint shall immediately return all documents, instruments and monies to the Party which deposited same in respect of the Closing and Seller shall immediately return to Buyer the Deposit, or (B) to accept the Property in its condition at that time, and to receive an assignment of all of Seller's rights to any insurance proceeds payable by reason of such damage or

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destruction, with a commensurate reduction in the Purchase Price for loss over and above insurance proceeds. If Buyer elects to proceed under clause (B) above, Seller shall not compromise, settle or adjust any such insurance claims without Buyer's prior written consent.

(ii) If prior to the Closing all or any portion of the Property is subject to an actual or threatened taking by a public authority, by the power of eminent domain or otherwise, Buyer shall have the right, exercisable by giving written notice to Seller within ten (10) days after Buyer's receipt of written notice of such taking, either (A) terminate Escrow, in which case Escrow Holder shall immediately return all documents, instruments and monies to the Party which deposited same in respect of the Closing and Seller shall immediately return to Buyer the Deposit or (B) to accept the applicable portion of the Property in its then condition, and to receive an assignment of all of Seller's rights to any condemnation award payable by reason of such taking. If Buyer elects to proceed under clause (B) above, Seller shall not compromise, settle or adjust any claims to such award without Buyer's prior written consent.

(e) Disclosure Statement. Within five (5) business days after the Agreement Date, Seller shall deliver to Buyer a written statement (the "Disclosure Statement") in which Seller shall set forth in itemized fashion all information, facts and circumstances of which Seller is aware (or by examination of Seller's records and other information available to Seller could become aware) concerning the matters enumerated below in this Section 10(e). Thereafter, throughout the term of this Agreement, Seller shall update and augment the Disclosure Statement by notifying Buyer in writing of any information of which Seller becomes aware which adds to or is contrary to information that Seller has previously provided to Buyer. To the extent that Seller does not provide any information to Buyer regarding any matter enumerated below in this Section 10(e), Seller shall be deemed to have represented to Buyer that Seller has no knowledge regarding such matter. Seller acknowledges that Buyer intends to rely on the information which Seller provides to Buyer pursuant to this Section 10(e), that the reliability of said information is a material inducement to Buyer to enter this Agreement and to perform Buyer's obligations hereunder, and that Buyer's right of reliance and Seller's representation

shall survive and be enforceable after the close of Escrow.

Seller shall inform Buyer with respect to the following matters regarding the Property:

(i) Whether Seller's interest in the Property is anything other than fee simple title to the Property.

(ii) Whether there are any mortgages, liens, encumbrances, leases, tenancies, security interests, covenants, conditions, restrictions, rights-of-way, easements, judgments, and rights of succession, options, or any other matters affecting title to the Property, except for those matters identified in the Report and/or the Survey.

(iii) Whether the Property presently consists of one or more legally subdivided parcels.

(iv) Whether any of the Property is subject to a conservation easement or other land use arrangement which precludes or restricts the development and sale of the property for commercial purposes.

(v) Whether: (A) the Property has been or is in violation of, or has been or is under investigation for a violation of, any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions in, at, on, under or about the Property including but not limited to soil and ground water conditions; (B) the Property has been subject to, or is within 2000 feet of, a deposit of Hazardous Materials; (C) Seller or any third party has used, generated, manufactured, stored or disposed in, at, on, under or about the Property or transported from the Property any Hazardous material; (D) there has been any discharge, migration or release of any Hazardous Material from, into, on, under or about the Property; (E) any underground and/or above-ground storage tanks currently exist or have existed in the past on the Property; and (F) whether any shooting ranges (including target ranges, skeet or trap ranges, and the like) currently exist or have existed in the past on the Property and, if so in either case, indicating the location of each such shooting range.

(vi) Whether there are any seismic safety

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problems relating to the Property, and/or, whether known or suspected fault lines and fault zones underlie and/or are located in the vicinity of the Property.

(vii) Whether there are any endangered or threatened species or protected natural habitat, wetlands, flora and/or fauna on the Property or lands adjacent to the Property or any areas that are or could be designated as wetlands.

(viii) Whether any portion of the Property is located in a flood zone.

(ix) Whether there are any existing, proposed or threatened eminent domain or condemnation actions or assessment district proceedings relating to the Property.

(x) Whether there are any facts or circumstances that would preclude Seller from delivering fee simple title to the Property to Buyer at close of Escrow subject only to Approved Exceptions.

(xi) Whether there is any governmental policy or action precluding or inhibiting (A) issuance of grading or building permits, (B) approval of precise engineering plans, environmental impact reports, or tentative or final subdivision maps, (C) issuance of certificates of occupancy, or (D) issuance of water, sewer, or other utility connection permits affecting the Property.

(xii) Whether there are any new development fees, impact fees or other fees, and/or increases therein, which will be levied (or are under consideration by any governmental agency or body) in connection with the development of the Property.

(xiii) Whether there is any action, suit or proceeding pending or threatened against or affecting the Property, or any portion thereof, or relating to or arising out of the operation or the use thereof, in any court or before any federal, state or local agency, or other governmental instrumentality.

(xiv) Whether the Property is not in compliance with all applicable governmental laws, ordinances, rules and regulations, including without

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... such as ~~concern~~ Hazardous Materials, zoning, and building regulations, and all licenses, permits and other governmental approvals and/or authorizations relating to the Property.

(xv) Whether there are any approvals and consents necessary in connection with the execution of this Agreement by Seller or the performance by Seller of Seller's obligations under this Agreement that have not been obtained.

(xvi) Whether this Agreement or anything to be done under this Agreement violates or will violate any contract, document, agreement or instrument to which Seller is a party or by which Seller is bound.

(xvii) Whether any of Seller's Documents is inaccurate or misleading in any material respect, and whether any of the agreements to which Seller is a party and included among Seller's Documents is not a true, correct and complete copy thereof or is not binding upon Seller.

(xviii) Whether there are any archaeological features and/or remains on the Property, and whether there are any cemeteries, burial grounds or other Native American sites on the Property.

(f) Release of Options and Rights of First Refusal.

Not later than fifteen days after the date of this agreement Seller, at Seller's exclusive cost, shall cause any purchase options or rights of first refusal or any other rights to acquire a legal or equitable interest in all or any portion of the Property, which presently exist in favor of any third party, to be released, terminated and extinguished (but subject to the provisions of Section 11(h) below. To the extent any such right exists of record, Seller shall cause the right to be terminated of record. Seller shall indemnify, protect, defend, and hold and save Buyer harmless from and against any failure of Seller to perform the covenant set forth in this Section 10(f).

11. Seller's Representations and Warranties.
Seller hereby makes the following representations and

Warranties to Buyer, which shall survive the Close of Escrow and be enforceable at all times thereafter.

(a) Seller's Authority. Seller is a limited liability company duly formed and in good standing under the laws of the State of Idaho. Seller or Seller's partners own marketable fee simple title to the entirety of the Property. Seller has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated in this Agreement.

(b) No. Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Seller do not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon the Property or any other assets of Seller by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Seller is a party or which is or purports to be binding upon Seller or which otherwise affects Seller, which will not be discharged, assumed or released at the Close of Escrow. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Seller in accordance with its terms.

(c) Pending Actions. There are no pending or threatened actions, suits, arbitrations, claims, or proceedings, at law, in equity or otherwise, affecting, or which may affect, all or any portion of the Property or in which Seller is or will be a party by reason of Seller's ownership of the Property, including, but not limited to, judicial, municipal or administrative proceedings in eminent domain, collection or bankruptcy actions or proceedings to establish a new assessment district or increase the assessments imposed by an existing assessment district, zoning change, moratorium or other government policy or practice which affects the Property or Buyer's anticipated development of the Property.

(d) Violations. Seller has received no notice of any alleged building code violations, health and

safety violations, and federal, state, or local agency actions regarding environmental matters, federal environmental protection agency or zoning violations.

(e) Consultants' Work Product. Except as provided in Section 6(a) above, after Close of Escrow Buyer shall have the right to use all work product produced by or for Seller prior to the Close of Escrow with respect to soils, engineering and architectural work, at no additional cost to Buyer. The Purchase Price is consideration for, and the Property includes all such work product. Seller represents and warrants that (i) all Seller's contracts with its consultants are listed on Exhibit E hereto; (ii) all amounts due to consultants for their work product under said contracts have been paid in full by Seller through the date of this Agreement, and amounts which accrue hereafter shall be paid in full prior to Close of Escrow, other than miscellaneous reimbursements which Seller covenants to pay on or before the Close of Escrow; (iii) no further amounts are due to any consultant, other than miscellaneous reimbursements which Seller covenants to pay on or before the Close of Escrow; (iv) neither Seller nor any other party to any of said contracts are in default thereunder; (v) all work to be performed under said contracts has been completed or will be completed prior to Close of Escrow; and (vi) that no consultant has filed a lien against the Property on account of work such consultant has performed. Seller agrees, at Closing, to assign to Buyer all of Seller's rights, including, without limitation, all guarantees, warranties, representations and indemnities, whether contractual or statutory (collectively, the "Warranties"), under said contracts. If any of the Warranties or any other rights assigned to Buyer pursuant to the foregoing are not enforceable by Buyer, or if Buyer is not named as an additional insured on any policy of insurance for which Seller was added as an additional insured by the contracting party, under any of said contracts, then Seller shall, at Buyer's request, exercise good faith efforts to enforce (y) such Warranties or other rights for the benefit of Buyer, or (z) Seller's rights under such additional insured endorsement for the benefit of Buyer, as the case may be; provided, that Buyer shall pay Seller's reasonable out-of-pocket costs incurred in such enforcement efforts to the extent that Buyer would have incurred such costs had such Warranties or other rights been enforceable directly by Buyer or had Buyer been named as an additional insured with respect to work

performed under the Subject Documents. The intent of the foregoing provision is to put Buyer and Seller in the same position they would have been in whether or not the Warranties or other rights of Seller become enforceable directly by Buyer or had Buyer been named as an additional insured on any policy of insurance for which Seller was added as an additional insured to the third party's insurance.

(f) Occupancy Rights. There are no leases, occupancy agreements or other arrangements which confer any possessory rights in the Property on third parties and Seller shall deliver the Property to Buyer at the Close of Escrow free of any and all third party occupancy rights except for those at Idaho Country Resorts described above.

(g) Hazardous Materials. There are no Hazardous Materials present on, in or under the Property. There are chemicals and fuels stored for golf course maintenance purposes.

(h) Binding Obligations. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally. Neither this Agreement nor the consummation of any of the transactions contemplated hereby violates or shall violate any provision of any agreement or document to which Seller is a party or to which Seller is bound. No consent from any third party is required before any of the Property may be conveyed to Buyer. Buyer acknowledges that the Moose Mountain property is encumbered by a first right of refusal and a profit sharing restriction in favor of JV LLC. Seller covenants to attempt to obtain a release (the "Moose Mountain Release") of said right of first refusal and restriction, executed in recordable form by JV LLC, which shall be satisfactory to Buyer in form and substance, and to deliver the Moose Mountain Release to Buyer not later than fifteen days from the date of this agreement. If Seller fails to deliver the Moose Mountain Release to Buyer by said date, Buyer shall have the right to terminate this Agreement. For purposes of this agreement and for purposes of presenting holder of the first right of refusal, the purchase price of Moose Mountain shall be \$7,400,000. Notwithstanding, Seller covenants to present and disclose this Agreement in

NIR000154

the entirety to the holder of the option and right of first refusal.

(i) No Insolvency Condition. Neither Seller, nor any entity or person that directly or indirectly owns or controls Seller is bankrupt or insolvent under any applicable Federal or state standard, nor has any such party filed for protection or relief under any applicable bankruptcy or creditor protection statute nor has any such party been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute. Seller is not entering into the transactions described in this Agreement with intent to defraud any creditor or to prefer the rights of one creditor over any other. Seller and Buyer have negotiated this Agreement at arms-length and the consideration to be paid represents fair value for the assets.

(j) No Hook-Up Fees. Seller (or its affiliate VP Inc.) owns the domestic water and sanitary sewer systems which serves and will serve the Project. Said systems presently have approvals to provide sufficient and adequate service to the Project for 326 units. At Close of Escrow Seller shall deliver a will serve letter for 326 units to Buyer less whatever hook-ups have already been provided to the existing Hidden Lakes community, which shall reasonably acceptable to Buyer in form and substance. Neither Buyer nor any party who purchases a lot or residential unit in the Project from Buyer shall be required or have any obligation to pay any hook-up fee to Seller or to any other party as a condition to receiving water and sanitary sewer services. The existing systems may be expanded upon the issuance of proper governmental approvals (by extension of the existing pipelines and provision of additional lagoon and land application capacity) to provide sufficient and adequate service additional units, in excess of the aforesaid 326 units, specified in Buyer's Business Plan; provided, the foregoing representation and warranty relating to service for any such additional units is made subject to the understanding that Seller shall not be responsible for the costs of expanding said systems to accommodate any such additional units. Buyer acknowledges that the ability to increase capacity is subject to governmental approvals and that Buyer must finance any such expansion. VP Inc., which owns and operates the existing water and sewer facilities, is an affiliate of Seller. Seller therefore hereby represents, warrants and covenants

Buyer shall, VP, Inc. will enter into any agreements, execute any land use entitlement applications, and grant new rights of use or easements and remove any existing rights of use and easements (such as for sewer line, water line and lagoon use and land application) necessary or useful for the system and the development of the property by the Buyer. Buyer hereby represents, warrants and covenants to VP, Inc. that Buyer will enter into any agreements, execute any land use entitlement applications, and grant rights to use and easements for sewer lines, water lines and lagoon use and land application necessary or useful for system.

12. Indemnify. At all times from and after the Agreement Date Seller shall indemnify, protect, defend, save and hold Buyer harmless against any and all claims, losses, expenses, damages, liabilities, and causes of action which Buyer may suffer or incur at any time after the Agreement Date in consequence of any breach or default on the part of Seller under this Agreement and/or on account of the failure of Seller to perform any obligation of Seller relating to the Property which obligation first arises prior to the Closing Date hereunder. From and after Close of Escrow, Buyer shall indemnify, protect, defend, save and hold Seller harmless against any and all claims, losses, expenses, damages, liabilities, and causes of action which Seller may suffer or incur in consequence of the failure of Buyer to perform any obligation of Buyer relating to the Property which obligation first arises after the Closing Date hereunder.

13 Notices. All notices required hereunder shall be in writing and shall be delivered by personal delivery, commercial courier, by facsimile transmission (provided that receipt is confirmed by telephone or otherwise); or by mailing such notice by first class mail, certified, return receipt requested, postage and fees prepaid, addressed as follows:

SELLER

North Idaho Resorts, LLC

To Both

c/o Hidden Lakes Golf Resort

151 Clubhouse Way

Sandpoint, Idaho 83864

Attention: Mr. Richard Villaluz

NIR000156

Telephone: (208) 255-4500
Facsimile: (208) 255-4498

Lee Deierling
Vilelli Enterprises Inc.
1001 W Whittier Blvd.
La Habra, CA 90631

Telephone 562-697-5000
Facsimile 714-5260212

BUYER

Pend Oreille Bomber Investments, LLC
To both:

6900 South McCarran Boulevard
Suite 1010
Reno, Nevada 89509
Attention: Chip L. Bowlby

Telephone: (775) 324-6900
Facsimile: (775) 324-6922

9781 Blue Larkspur Lane
Monterey, CA 93940
Attention: Charles W. Reeves

Telephone: (831) 658-0395
Facsimile: (831) 642-9179

With a copy to:

William W. Sterling, Esq.
1821 Shoreline Highway
Sausalito, CA 94965

Telephone: (415) 381-6455
Facsimile: (415) 388-9615

SANDPOINT

Sandpoint Title Insurance, Inc.
120 S 2nd Ave
Sandpoint Idaho 83864

NIR000157

Telephone

Telephone 208-263-2222
Facsimile 208-265-4040

or to such other address as either party may designate by written notice to the other. All notices shall be deemed delivered upon actual receipt or refusal of delivery.

14. Broker's Commission. Seller has used the services of one or more finders, real estate brokers and/or real estate salesmen in connection with the purchase and sale of the Property; Seller shall be exclusively responsible for the payment of any fees and commissions owing to such persons. Buyer represents and warrants to Seller that Buyer has not engaged any person, firm or entity to represent it in connection with the purchase and sale of the Property. Each party shall indemnify and hold the other harmless against any breach by it of the foregoing representation and warranty.

15. Nominee. At any time after the Agreement Date Buyer may assign any or all of its right, title and interest in and to this Agreement to another party or parties (collectively "Nominee") each of which is, directly or indirectly, an affiliate of Buyer and/or any of Chip E. Bowby, Thomas J. Merschel, and Charles W. Reeves. Provided Nominee shall assume in writing all the then unperformed obligations of Buyer under this Agreement, Buyer shall thereupon automatically be relieved of all its liabilities and obligations under, and shall be fully released from, this Agreement. Buyer shall notify Seller and Sandpoint in writing upon the occurrence of any such assignment, and in the notice shall provide the name, address, telephone and facsimile numbers of Nominee.

16. Confidentiality. Buyer and Seller shall at all times keep the transactions contemplated hereby and all documents received from each other confidential, except (a) to the extent necessary to comply with applicable laws and regulations, (b) for discussion with Buyer's Advisors, (c) as needed to carry out the obligations of the parties hereunder, including, in the case of Buyer, arranging equity investments and debt financing for the Property.

17. Miscellaneous Provisions.

NIR000158

(a) Effectiveness of Instrument. This Agreement shall not constitute a binding agreement between Seller and Buyer until such time as both Buyer and Seller have executed this Agreement by completing and signing the signature blocks below and by signing and/or initialing the liquidated damages provisions in Section 9, above.

(b) Governing Law; Amendment; Construction. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Idaho. Any modification of this Agreement must be in writing and signed by both Buyer and Seller. This Agreement memorializes the agreements reached after arms-length bargaining between Seller and Buyer; the parties and their counsel have reviewed it fully and it shall be deemed jointly drafted. Words, phrases, and all provisions hereof shall, except as specifically defined herein, be interpreted in accordance with their ordinary meanings. All personal pronouns used in this Agreement shall include the other genders. The singular shall include the plural, and the plural the singular, whenever and as often as may be appropriate. The captions and headings in this Agreement are for convenience only, are not part of the substantive provisions of this Agreement, and do not in any way limit or amplify the provisions hereof.

(c) Entire Agreement. This Agreement (together with any Exhibits hereto) constitutes the sole and entire agreement between Seller and Buyer concerning the Property and supersedes any and all prior oral or written agreements or understandings between them pertaining to the transactions contemplated herein. No representations, warranties or inducements, express or implied, have been made by either party to the other, except as set forth herein.

(d) Partial Invalidity. If a court of competent jurisdiction shall hold that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall in no way be impaired or invalidated. The parties shall, however, substitute for the provision held to be invalid or unenforceable a provision which is valid and enforceable which approximates as closely as possible the commercial and economic intent of the stricken provision.

(e) Attorney's Fees. Each party shall be separately responsible for any attorney's fees it may incur in connection with the negotiation and preparation of this Agreement, any Exhibits hereto and any other instruments or documents mentioned herein, as well as for such fees incurred in connection with the closing of the Escrow. If there is any legal action or proceeding between Seller and Buyer to enforce any provision of this Agreement or to protect or establish any right or remedy of either party hereunder, the prevailing party shall be entitled to all its costs and expenses, including attorney's fees and expert witness fees, incurred in connection with such action and in any appeal therefrom.

(f) Successors and Assigns. The provisions of this Agreement shall survive recordation of the grant deed (by which title to the Property is conveyed from Seller to Buyer) and close of Escrow. The provisions of this Agreement shall inure to the benefit of and bind Seller and Buyer and their respective successors and assigns.

(g) Further Documents. At any time and from time to time during the term of this Agreement, as well as following the close of Escrow, each party, at the expense of the requesting party, shall execute and deliver (and acknowledge before a notary public where necessary) such instruments of transfer and such other documents as the other party may reasonably request or as are necessary to carry out and give effect to the purposes and intent of this Agreement.

(h) Definition of "business day". The term "business day" shall mean those weekdays on which Bank of America, National Association, is open for business to the public and is conducting its customary retail banking transactions in the State of California.

(i) Payment of Escrow Fees on Early Termination. If this Agreement terminates for any reason other than by close of Escrow, Seller and Buyer shall each pay directly to Sandpoint, upon demand, one-half of any fees or other charges owed to Sandpoint in its capacities as Sandpoint and Sandpoint hereunder.

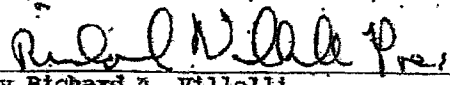
(j) Incorporation of Exhibits. Any Exhibit mentioned in this Agreement shall be deemed incorporated in this Agreement by reference as though the provisions of the


... which were fully set forth herein.

(k) Memorandum of this Agreement for Recordation. Neither Seller nor Buyer shall cause or permit the recordation of this Agreement. Upon the request of Buyer or Seller, however, made concurrently with or at any time after the execution of this Agreement by both parties, Buyer and Seller shall execute in recordable form and deliver to Buyer and Seller a memorandum of this Agreement, in the form of Exhibit F hereto, which Buyer and Seller may record, at recording party's expense, in the Official Records of the County.

(l) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be a fully binding and enforceable contract and agreement against the party signing such counterpart, but all such counterparts shall together constitute but one agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Agreement Date.

SELLER NORTH IDAHO RESORTS, LLC, an Idaho limited liability company
By Vilelli Enterprises Inc.
Managing Partner

By Richard A. Vilelli
President

BUYER Fend Orells Bonner Investments, LLC, a Nevada limited liability company
BY 
Chip A. Bowley
Member MANAGER

NIR000161

CONSTRUCTION AND OPERATING AGREEMENT

This Construction and Operating Agreement ("this Agreement") is entered into this ~~17th~~ day of June 2006 by and between VP Inc., an Idaho Corporation ("VP") and Pend Oreille Bonner Development, LLC, a Nevada limited liability company ("Company"). This Agreement concerns the construction and operation of the sewer and water systems which VP owns and which are located on the property (the "Property") which was purchased by Pend Oreille Bonner Development Holdings, Inc., a Nevada corporation ("Buyer"), from North Idaho Resorts, LLC, an Idaho limited liability company. Buyer will then contribute the Property to Company. The Property is described in title insurance Commitment No. 00041847 dated April 17, 2006 issued by Sandpoint Title Insurance, Inc..

RECITALS

A. As used herein the term "Systems" shall mean the sanitary sewer system and the water system (including potable domestic water and water for fire prevention purposes) for the residential, commercial and recreational facilities which Company intends to develop on the Property

B. As used herein the term "System Improvements" shall mean all improvements necessary for the construction and operation of the Systems including, without limitation: a structure located on the Property containing adequate space for the operation and monitoring Systems services, storage facilities, underground main collection and distribution lines, pumps, wells, casings, motors, screens, pitless adaptors, hydrants, valves, sensors, electrical lines, septic tanks, meters, landscaping, risers, vents, lagoons, power service, pumping stations, land application equipment, sensors, monitors, sending units, sprinklers, fire hydrant lines and hydrants, office facility land application, leach or drip areas and back up for those areas if so required now or at a future date and any and all other equipment including installation labor and costs as deemed necessary by VP for the purposes of operating the Systems as required by the, United States Environmental Protection Agency Idaho Department of Environmental Quality, the Idaho Department of Water Resources, Panhandle Health District, and any other governmental agencies having jurisdiction over the operation and maintenance of the Systems on the Property.

C. As used herein the term "Plans" shall mean the civil improvement plans and drawings for the System Improvements prepared and to be prepared by Toothman-Orton Engineers. Conceptual plans for the System Improvements currently exist and

Exhibit

B

(A)

NIR000100

Toothman-Orton Engineers are engaged in preparing final plans for approval by the Idaho Department of Environmental Quality and the Panhandle Health District. A copy of the existing conceptual plans is attached hereto as Exhibit ___.

AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which VP and Company each acknowledge, VP and Company hereby agree as follows.

1. **Construction of System Improvements.** Company, at Company's sole cost, shall cause the System Improvements to be constructed in accordance with the Plans.
2. **Grant of Easements.** Following Company's acquisition of title to the Property, Company shall grant non-exclusive public utility easements in favor of VP for the purpose of constructing and maintaining the System Improvements and operating the Systems. Such easements shall be in, over, and under land areas of sufficient dimension to allow for operation, maintenance and repair or complete replacement of the System Improvements. Upon completion of construction of the System Improvements, Company shall cause the exact location of said easements to be surveyed and/or described by a qualified surveyor or civil engineer, whom Company shall engage to prepare final easement documentation for recording showing the exact location of said easements. Company, at Company's cost, shall have the right to relocate System Improvements from time to time provided that, upon completion of the relocation work, any easement no longer needed shall be abandoned and a new easement shall be recorded to accommodate the relocated portion of the Systems. Upon the direction of Company, VP shall execute in recordable form such quitclaims and other abandonment documents as are necessary to abandon and extinguish easements which cease to be needed for the Systems.
3. **Additional Facilities for Storage and Other Purposes.** Company shall provide sufficient areas on the Property to accommodate lagoon storage, land application, drip system and leach areas which are necessary for the Systems in order to insure that the Systems comply with current and future sewer and water requirements imposed by governmental agencies having jurisdiction over the design and operation of the Systems systems, all as designed by Toothman-Orton and approved by IDEQ.
4. **Land Application of Effluent.** Company and VP acknowledge and agree that (a) the land application for effluent from the sewer component of the Systems as the Systems are currently designed in the Plans requires that effluent be land applied to the golf course which Company will develop on the Property, (b) said land application is of a nature that the quantities and quality of effluent to be applied must be monitored closely, (c) Company, at the Company's cost, shall monitor the application on the Golf Course, and (d) VP shall monitor the quality of the water coming out of the

NIR000101

lagoon and going into the irrigation lakes and shall have the right to jointly monitor with Company the physical application to the golf course, all as may be required by the governmental agencies. All costs of monitoring effluent at the point of discharge from the storage lagoon shall be borne by VP and all costs of monitoring land application on the golf course shall be borne by Company. Company shall be solely liable and responsible for meeting all governmental regulations for said land application on the golf course and VP shall be solely liable and responsible for providing effluent that meets all governmental regulations, and each party shall hold harmless the other for damages that may occur as a result of the aforementioned treatment and land application performed.

5. **Mode of Construction.** Company shall cause the construction of the System Improvements to be performed in accordance with the Plans and in a workmanlike manner in accordance with all applicable rules, by a licensed public works contractor. Company shall be responsible for, and Company shall be exclusively entitled to receive any insurance proceeds and to exercise any remedies in connection with any repairs or reconstruction or damages which result from defects and deficiencies in design and/or construction work.

6. **Pre-Completion Changes.** If any agency with jurisdiction over the operation and maintenance of or design of the Systems shall require any change in the Plans, land application, storage or treatment facilities prior to the completion of the construction of the Systems, Company, at Company's cost, shall cause such changes to be made.

7. **Post-Completion Changes.** If any agency with jurisdiction over the operation and maintenance of the Systems shall require changes in the Systems as completed, in land application, storage or treatment facilities after completion of the Systems, VP shall bear the cost (including capital costs) of making such changes; provided, however, that VP shall be allowed to pass those costs along to customers using the Systems to the extent permitted by the services contracts between VP and said customers. Completion of Systems shall occur at such time as all construction of the System on Property shall be finished per Plans.

8. **Service Contracts.** VP and Company shall enter into a master service contract for the provision of Systems services to each residential and commercial unit requiring Systems services including units currently existing on the Property and units constructed on the Property after the date of this Agreement. The master service contract shall provide for individual service agreements between VP and the owner of each of the aforesaid units. The master service contract as well as the individual agreements shall provide for fees for the use of Systems services. A copy of the master service contract which the parties intend to execute is attached hereto as Exhibit. The form of individual service agreement which the parties foresee will be utilized is attached hereto as Exhibit.

9. **Individual Service Agreements.** Company shall require (a) any entity or association formed to operate or responsible for operating restrooms, picnic facilities

and/or other recreational amenities which use System services and (b) all purchasers of commercial and/or residential lots and/or units which Company develops on the Property, prior to and as a condition to close of escrow for the purchase and sale of any such lot and/or unit, to enter into an Individual service agreement with VP providing for System services to such lot and/or unit.

10. **Provision of System Services.** In consideration for the rate revenue which VP receives for providing System services, VP hereby agrees, at all times after Company acquires title to the Property, to provide Systems services to all lots and/or units on the Property which presently or hereafter require Systems services upon installation of said services by Buyer. VP shall commence charges for sewer and water services provided to Company for the Hidden Lakes Clubhouse, Maintenance facility, and the Old clubhouse immediately upon closing of escrow on Property. VP Shall commence service charges for sewer and water services for any new platted parcel or parcels at such time as those parcels are sold by Buyer or Buyer commences vertical construction on a parcel, providing that the construction of sewer and/or water service has been completed to said parcels. Buyer agrees that in the event construction has not commenced on a parcel not sold within one year of the recording of any plat then Buyer or subsequent parcel buyers shall commence paying service charges whether or not sewer and water service has been completed to those platted parcels.

11. **Assignment of Rights.** Company shall assign to VP any rights, and any and all right title and interest in and to any permits or licenses which Company may presently hold or may hereafter obtain: (a) which allow Company to provide domestic water and sewer services for the Property. and (b) which Company may have in any currently existing wells and/or well lots or in wells and/or well lots hereafter developed on the Property. All existing and future well lots shall be deeded to VP at close of sale of Property, if wells currently exist or, in the case of wells to be built, said well lots shall be deeded to VP upon completion of development of said wells by Buyer. Buyer agrees that the providing of sewer and water service to any and all residential or commercial users or and development requiring sewer or water service on subject Property shall be provided solely by VP

12. **Rate Charges.**

(a) **Monthly Rates.** All charges by VP for Systems services shall be based upon the monthly fees charged by VP for Equivalent Residential Units "ERU's" and the number of ERU's required for each service. .

(b) **No Hook-up Fees.** In no event shall any rates charged or collected by VP include, nor shall VP be entitled directly or indirectly, to any hook-up or tap fees

NIR000103

(however the charge may be designated) imposed in connection with connecting any lot or unit or other water user on the Property to the Systems. Further, VP represents that at the time of this agreement there are no other assessments or fees due relating to sewer and water due against any of the property that Company is purchasing, other than the monthly services fees described above. The same prohibition shall apply to connecting any such lot, unit or user to the sewer component of the Systems.

13. **Fire Protection Systems.** VP currently operates fire protection hydrants located on the Property. The fire hydrant system is part of the water system which the Systems include. After closing and until the new water and fire hydrant system is operational, Company shall continue to operate and maintain and provide water from the lakes and river, all as needed for the proper operation of the fire hydrants. After the new system is operational, then VP shall assume the obligation to operate and maintain the fire hydrant system and provide the water necessary to maintain appropriate water pressure in the hydrant system and to operate said hydrants at all times.

14. **Adjacent Properties.** If Company or any of Company's affiliates shall acquire property adjacent or in near proximity to the Property, VP shall have the absolute right to provide water and sewer system services for such property on terms generally consistent with the provisions of this Agreement.

15. **Miscellaneous.**

(a) **Governing Law.** This agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Idaho.

(b) **Partial Invalidity.** If a court of competent jurisdiction shall hold that any provision of this agreement is invalid or unenforceable, the remainder of this agreement shall continue in full force and effect and shall in no way be impaired or invalidated. The parties shall, however, substitute for the provision held to be invalid or unenforceable a provision which is valid and enforceable which approximates as closely as possible the commercial and economic intent of the stricken provision.

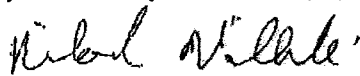
(c) **Attorneys' Fees.** If there is any legal action or proceeding between VP and Company to enforce any provision of this Agreement or to protect or establish any right or remedy of either party hereunder, the prevailing party shall be entitled to all its court-related costs and expenses, including reasonable attorney's fees and expert witness fees, incurred in connection with such action and in any appeal there from.

(d) **Survival.** The provisions of this agreement shall survive Close of Escrow under the purchase agreement and recordation of the grant deed(s) pursuant to which Company acquires the Property. The provisions of this Agreement shall inure to the benefit of and bind VP and Company and their respective successors and assigns.

(c) **Further Instruments.** At any time and from time to time following Close of Escrow under the purchase agreement pursuant to which Company acquires the Property, each party, at the expense of the requesting party, shall execute and deliver (and acknowledge before a notary public where necessary) such instruments of transfer and such other documents as the other party may reasonable request or as are necessary to carry out and give effect to the purposes and intent of this Agreement Concurrently with the closing of escrow on the transfer of Property, from North Idaho Resorts LLC to Buyer a copy of this agreement executed by VP and Buyer or a memorandum of this agreement shall be recorded with the Official Records of Bonner County, Idaho.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

North Idaho Resorts LLC
By Vilelli Enterprises Inc, Managing Partner




By Richard A. Vilelli, President

VP Inc.



By Richard A. Vilelli, President

Pend Oreille Bonner Development LLC .

By 

NIR000105

July 7, 2005

RECEIVED

JUL 11 2005

Mr. Chuck Reeves
Pend Oreille Bonner Investments, LLC
151 Clubhouse Way
Sandpoint, ID 83864

RE: WILL SERVE NOTICE FOR HIDDEN LAKES NEW PLANNED EXPANSION

Dear Mr. Reeves:

V.P. Inc., owners of the existing Hidden Lakes Golf & Planned Unit Development water and wastewater facilities, "WILL SERVE" the new, proposed, Pend Oreille Bonner Investments, LLC, PUD, provided that:

1. Proposed public drinking water system expansion is approved by the Idaho Department of Environmental Quality, Panhandle Health District 1, Idaho Department of Water Resources, Bonner County Planning Department, and any other permitting agency that may be required.
2. Proposed public wastewater system expansion is approved by the Idaho Department of Environmental Quality, Panhandle Health District 1, Bonner County Planning Department, and any other permitting agency that may be required.
3. Appropriate land, easements, and other real property required to appropriately satisfy both the short and long term requirements for water and wastewater infrastructure are made available, and titled, to V.P. Inc., by Pend Oreille Bonner Investments, LLC.
4. The new PUD does not exceed 600 equivalent residential units (ERU's) that are being planned to meet the new proposed project.
5. As you develop the proposed ERU expansion you simultaneously develop and turn over ownership and operation to V.P. Inc. the necessary infrastructure build out. Impacts from the proposed PUD are anticipated to start in 2007.

Water and wastewater infrastructure are in the process of planning in conjunction with planning for the new proposed PUD and there are no apparent obstacles, at this time that would preclude V.P. INC., from serving the proposed PUD.

Sincerely,



Robert Hansen
Director, Operations
V.P. Inc.
HCR 61, Box 169
Bonners Ferry, ID 83805

c: Mr. Martin E. Taylor, James A. Sewell & Associates, 1205 Hwy. 2, Sandpoint, ID 83864
Mr. Scott McNee, Toothman-Orton Engineering, W. 280 Prairie Ave., Coeur d'Alene, ID 83815
Mr. Richard Villelli, V.P. Inc., 151 Clubhouse Way, Sandpoint, ID 83864

Exhibit

C

3043



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway, Coeur d'Alene, ID 83814 (208) 769-1422

C. L. "Butch" Otter, Governor
Toni Hardesty, Director

February 14, 2011

Mr. Chuck Reeves
151 Clubhouse Way
Sandpoint, ID 83864
creeves@theidahoclub.com

Subject: 2010 Annual Report - Comments, Idaho Club
Wastewater Reuse Permit #LA-000123-02

Dear Mr. Reeves:

DEQ received the 2010 Annual Report for The Idaho Club Municipal Wastewater Reuse system on January 31, 2011. The report was prepared by Bob Hansen, operator for The Idaho Club, and details **operational and compliance information** for the system during calendar year 2010. The report has been reviewed and the system is in **apparent violation** of several compliance activities and monitoring requirements set forth in the permit. As mentioned in previous correspondence to you regarding this permit, failure to complete the compliance activities could lead to more formal enforcement actions. At the present time, our office is planning to pursue formal enforcement actions against The Idaho Club due to the deficiencies that are described in this letter.

Permit #LA-000123-02 was issued July 28, 2010 for this system. It was subsequently modified on November 5, 2010 due to the system's inability to complete certain requirements. The modification changed compliance dates for three Compliance Activities (CA): CA-012302, CA-012303, and CA-012304.

Compliance Activities

CA-012301 – Pilot Study Requirements:

The system appears to be in substantial compliance with the 2010 discharge water quality and doesn't appear to require a pilot study. This CA is considered complete.

CA-012302 – Record Drawings and O&M Manual:

This CA includes three items that required completion by January 28, 2011. As of the date of this letter, DEQ has not received confirmation that this item has been resolved.

Idaho Club needs to complete the record drawings for this project. DEQ understands that your engineer of record may no longer be directly involved in the project and it may be necessary to acquire the services of another engineering firm to complete record drawings.

Exhibit
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Mr. Reeves / 2010 Annual Report, Idaho Club
February 14, 2011
Page 2

The system must also provide identification when water and sewer improvements previously approved for construction will be completed and when the related record drawings will be submitted to the Department. That list must be compiled and provided to our office. Additionally, there is a time limitation from the date of approval of plans to the time of completion. Due to on-going delays, DEQ construction approval may no longer be valid for portions of this project. You must submit extension requests or revised construction plans and specifications for the remaining portions of your project that have not been completed.

A draft or outline version of the Plan of Operation and O&M Manual must be submitted to our office for review. The financial problems associated with this system may make it difficult for The Idaho Club to provide final versions of the Plan of Operation and O&M Manual, but the drafts are necessary. Efforts by our Department to assist The Idaho Club and allow additional time to complete these requirements have not worked and future extensions are unlikely. The documents must be prepared immediately and submitted to the Department.

CA-012303 – Completion of power and control systems for lagoon influent flow meters:
Installation of power and controls for the two lagoon influent flow meters was required to be completed by January 28, 2011. As of the date of this letter, DEQ has not received confirmation that this item has been resolved. Monitoring of the lagoon influent flow is a requirement of this permit and failing to resolve this CA creates ongoing monitoring issues for the system. Completion of this item is to be resolved as quickly as possible.

CA-012304 – Final Plan of Operation and O&M Manual:
The due date for this CA was extended on November 5, 2010 and completion is expected by April 28, 2011.

CA-012305 – Pilot Test Report:
The system appears to be in substantial compliance with the 2010 discharge water quality and doesn't appear to require a pilot study. Therefore, a pilot study report is not necessary. This CA is considered complete.

Permit Monitoring Requirements

There are 14 ongoing monitoring activities required for compliance with the reuse permit. For 2010, it appears that seven of those activities were completed as required. However, there are problems associated with the remaining activities. Those problems are detailed below based on information presented in the 2010 Annual Report. They appear in the order shown on the permit.

1. The total volume of wastewater discharged into the 7.6 MG Lagoon was not recorded weekly as required. This is due to CA-102303 not being completed.

7. The depth to groundwater has not been reported, nor is the equipment installed to provide monitoring. The permit does not allow irrigation on sites with groundwater less than 36 inches from the surface.
8. Annual water balance calculations have not been completed. Those calculations help determine compliance with the intent of the permit and must be completed. It is unlikely that these calculations would result in an immediate and noticeable environmental impact, but lack of monitoring and calculation could present long term impacts to the environment.
9. Turbidity monitoring is required to be continuous, automatically recorded, and have an automatic shutoff. Idaho Club has continuous monitoring, but it is not automatically recorded. Therefore, the turbidity monitoring is completed daily and does not include appropriate averaging. The system has an automatic shutoff set for 10 NTU and appears to be appropriate. Turbidity is a primary component of Class B systems and must be monitored appropriately.
10. Calculation of daily average turbidity is not being completed and the equipment has not been installed to do so. Turbidity is a primary component of Class B systems and must be monitored appropriately.
11. Daily monitoring of total coliform counts was conducted as required, but reporting may not have been completed correctly. The seven day median for total coliform detections must be less than 2.3 MPN/100mL and single samples must be less than 23 MPN/100mL. On September 17, 2010, the single sample limit was exceeded with a 50 MPN/100mL result. Samples collected the day before and day after indicate the 2 MPN/100mL, and the excursion appears to be a single day event. However, that is still a violation of the permit and must be reported to DEQ immediately upon discovery. Our office recommends written correspondence to ensure proper documentation.
13. Calibration of flow measurement and monitoring equipment is required annually and has not been completed. The report indicates that the manufacturer's manuals and calibration procedures have not been provided due to lack of funding. Lack of proper calibration brings into question all monitoring data, even those items completed properly. This could be a primary compliance issue and should be resolved as quickly as possible.

Conclusions

The Idaho Club is out of compliance with several requirements of Reuse Permit #LA-0000123-02 and shows no apparent sign of resolving those issues. Previous extensions have been granted in an effort to accommodate your system, but they have not been met. DEQ is unlikely to provide future extensions.

In 2008 and 2009 our office provided unusual approvals of wastewater transfers and emergency land application to accommodate inadequacies of your system. DEQ is unlikely to provide those approvals in the future and immediate actions should be taken to ensure the system is functional during the approved irrigation season in 2011. Information from your operator indicates storage may only be adequate to meet demands through June 2011 and that startup of the treatment system may take four to six weeks.

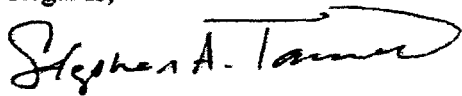
Mr. Reeves / 2010 Annual Report, Idaho Club

February 14, 2011

Page 4

Our office strongly recommends that you initiate actions now to ensure the treatment system is operational during the irrigation season as future extensions and modifications are unlikely to be approved. In addition, immediate action must be taken to resolve outstanding CA and monitoring deficiencies. Please contact me by phone at (208) 666-4634 or by email if you have any questions about the status of the annual report or the permit conditions.

Regards,



For:

Michael Camin, P.E.

Environmental Engineer

michael.camin@deq.idaho.gov

c: Daniel Redline, DEQ CRO Regional Administrator, Daniel.Redline@deq.idaho.gov
Stephen Tanner, DEQ CRO Regional Engineering Manager, Stephen.Tanner@deq.idaho.gov
Rick Huddleston, DEQ Wastewater Program Manager, Richard.Huddleston@deq.idaho.gov
Olga Cuzmanov, DEQ Wastewater Enforcement Program, Olga.Cuzmanov@deq.idaho.gov
Dick Villelli, Idaho Club, HCR 61, Box 169, Bonners Ferry, ID 83805
Bob Hansen, WSMI wsmibob@aol.com
Scott McNee, TO Engineers, smcnee@to-engineers.com
File: Idaho Club LA-0000123-02



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED - CDA

APR 18 2011

PAINE HAMBLEN LLP

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

April 15, 2011

Certified mail no.: 7007 3020 0001 4047 2948
7007 3020 0001 4124 8559

Charles Reeves, Manager
Pend Oreille Development, LLC
59 Damonte Ranch Parkway, B353
Reno, NV 89521

Janet Robnett, Registered Agent
Pend Oreille Bonner Development, LLC
701 Front Ave. Ste 101
Coeur d'Alene, ID 83814

Dear Mr. Reeves and Ms. Robnett:

The Idaho Department of Environmental Quality (Department) administers programs to ensure that businesses and individuals comply with specific rules and statutes designed to protect the citizens and the environment throughout the state. Based on available information, the Department believes that Idaho rules and statutes were violated at the Pend Oreille Bonner Development, LLC site in Bonner County, Idaho. Enclosed is a Notice of Violation describing the violations.

The Department is seeking your cooperation in resolving these matters to the full satisfaction of the parties. You are advised to contact the Department within fifteen (15) days after receipt of this letter. At such time, the Department will schedule a compliance conference at a mutually agreeable date and time, at which time the Notice of Violation can be discussed. If you elect not to contact the Department on the alleged violations, the Department will seek resolution of these matters using its authorities as provided by law. Arrangements to meet should be made by contacting me at (208) 373-0194 or at the following address:

Barry N. Burnell, Administrator
Water Quality Division
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Exhibit

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Thank you in advance for your prompt attention to this matter. The Department is confident that we can work cooperatively to resolve these issues.

Sincerely,

Barry N. Burnell

Barry N. Burnell
Water Quality Division Administrator

Enclosure

BNB:OC:ls

c: Susan Hamlin, DEQ Attorney General's Office
Richard Huddleston, DEQ State Office
Olga Cuzmanov, DEQ State Office
Daniel Redline, Stephen Tanner, Mike Camin, DEQ Coeur d'Alene Regional Office

NOTICE OF VIOLATION

Issued to: Pend Oreille Bonner Development, LLC, d.b.a. Idaho Club
Charles Reeves, Manager
59 Damonte Ranch Parkway
B353
Reno, NV, 89521

Pend Oreille Bonner Development LLC holds title to a municipal wastewater reuse permit for a land development project which involves reconstruction and expansion of the existing Hidden Lakes wastewater system. Pend Oreille Bonner Development LLC also uses the assumed business name of "The Idaho Club" (hereafter "Pend Oreille Bonner Development"). Pend Oreille Bonner Development owns property located on 865-acres in rural Bonner County approximately seven (7) miles east of Sandpoint near the confluence of the Pack River into Lake Pend Oreille. The development is currently named "The Idaho Club" and located at address of 151 Clubhouse Lane, Sandpoint, Idaho 84864.

On July 28, 2010, the Idaho Department of Environmental Quality (Department) issued *Municipal Wastewater Reuse Permit LA-000123-02* (Permit) to Pend Oreille Bonner Development, dba, Idaho Club pursuant to the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater, IDAPA 58.01.17 and the Idaho Environmental Protection and Health Act (EPIA), Idaho Code § 39-101 *et. seq.* The Permit authorizes construction, installation and operation of the wastewater reuse system in accordance with the applicable Idaho Rules and Codes and the terms of the Permit. On November 5, 2010 modifications to the Permit were issued as Appendix "A". The Appendix "A" is incorporated into and constitutes a part of the Permit, and all references hereafter to the Permit include the terms of Appendix A.

Pend Oreille Bonner Development has failed to meet many of the terms and conditions in the Permit. Pursuant to the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater, IDAPA 58.01.17.930 and EPIA, Idaho Code § 39-108, the Department alleges that Pend Oreille Bonner Development is in violation of the terms and condition of the Permit as follows:

VIOLATIONS

Violation No. 1

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part:
Any person violating any provision ...of any
permit ...shall be liable for a civil penalty.....

Idaho Code IC39§39-118 "Review of Plans. (3) Within thirty (30) days of the completion of the construction of facilities ...record plans and specifications...must be submitted to the director...Such submittal by the professional engineer must confirm material compliance with the approved plans or disclose any material deviations therefrom".

Permit Section E – Compliance Activity CA-12302 (Record Drawings and Plan of Operation).

Permit Section E requires *"Submittal of record drawings certified by the engineer for all drinking water and wastewater systems improvements completed to date..."* and *"...an outline or draft Plan of Operation and the draft Operation and Maintenance (O&M) Manual for the wastewater treatment and reuse facility shall be submitted by the design engineer"* and completion was due January 28, 2011.

As of the date of this Notice of Violation, Pend Oreille Bonner Development has not submitted the record drawings and the outline or draft Plan of Operation and Operation and Maintenance (O&M) Manual to the Department as required by the Permit. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$2,500

Violation No. 2

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part: Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

Permit Section E – Compliance Activity CA-012303 (Flow Monitoring).

Permit Section E requires *"Completion of the power and control systems for the two flow meters installed on the lagoon influent mains with notification by the engineer in writing to DEQ that both flow meters are operational and being monitored and recorded by the system operators"* and was due January 28, 2011.

As of the date of this Notice of Violation, Pend Oreille Bonner Development has failed to complete the power and control systems for the two flow meters installed on the lagoon influent as required in its Permit. Monitoring of the lagoon influent is a critical process control that ensures compliance with permit requirements. Pend Oreille Bonner

Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Violation No. 3

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part:
Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

Permit Section G – Monitoring Requirements.

Permit Section G, requires that the permittee shall monitor the volume of wastewater discharged into 7.65 MG Lagoon (LG-012301) *Weekly: May 1st to October 31st [and] Monthly: Nov. 1st to April 30th.*

Pend Oreille Bonner Development has not monitored and measured the volume of wastewater discharge as required by the Permit. Monitoring of the volume of wastewater discharged into 7.65 MG Lagoon (LG-012301) is critical because the approved design flows per equivalent residential user (ERU) are significantly different from typically accepted values. The facility needs to document actual flows to ensure proper capacity of the system. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Violation No. 4

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part:
Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

Permit Section G – Monitoring Requirements.

Permit Section G, requires that the permittee shall monitor depth from surface to ground water *“Once prior to start of irrigation and then weekly until depth to water exceeds 48 inches below ground surface”* at each hydraulic management unit (HMU).

Pend Oreille Bonner Development has not measured the depth from surface to ground water at each HMU as required by the Permit. Irrigation for calendar year 2010 started on September 8, 2010. The depth to ground water was not measured prior to that date,

nor was it monitored weekly during irrigation. The equipment needed for the measurement was not installed and consequently no data was collected. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Violation No. 5

Legal Provision and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part:
Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

Permit Section G – Monitoring Requirements.

Permit Section G requires that the permittee collects data, prepares and submits annually a water balance calculation.

The 2010 annual Report was submitted on January 28, 2011. Pend Oreille Bonner Development failed to provide the required water balance calculation. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Violation No. 6

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part:
Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

IDAPA 58.01.17.600.07.b states in applicable part: Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection.

IDAPA 58.01.17.601.06.a states in applicable part: One (1) in-line, continuously monitoring, recording turbidimeter is for each treatment train after filtration and prior to disinfection.

Permit Section G – Monitoring Requirements.

Permit Section G requires that the permittee monitors Class B wastewater turbidity prior to disinfection continuously and the measurements are automatically recorded, when discharging Class B wastewater.

Notice of Violation - 4

Pend Oreille Bonner Development has failed to record the measurement of the wastewater turbidity as required by the Permit. Pend Oreille Bonner Development has not installed an automatic recording instrument to record the turbidity on a continuous basis. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Violation No. 7

Legal Provisions and Permit Section Violated:

IDAPA 58.01.17.930 states in applicable part: Any person violating any provision ...of any permit ...shall be liable for a civil penalty.....

IDAPA 58.01.17.600.07.b states in applicable part: The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time.

Permit Section G – Monitoring Requirements.

Permit Section G requires that the Class B wastewater turbidity arithmetic mean is calculated daily prior to disinfection, when discharging Class B wastewater.

The turbidity is continuously monitored, but it is not automatically recorded. Consequently the arithmetic mean of turbidity was not calculated. Turbidity is a primary standard for Class B and must be monitored and arithmetic mean must be calculated. Pend Oreille Bonner Development is in violation of this term and condition of the Permit.

Penalty Assessed: \$5,000

Total Penalty Assessed: \$32,500

TIMETABLE

Pend Oreille Bonner Development, LLC may request a compliance conference with the Department to explain the violations and discuss entering into a Consent Order. A Consent Order is an agreement that includes a plan to remedy any damage caused by a violation, pay a penalty, and assure future compliance.

To arrange a compliance conference, Pend Oreille Bonner Development, LLC must contact the Department within fifteen (15) days of receipt of this Notice of Violation. A compliance conference must be held within twenty (20) days of receipt of this Notice of Violation unless a later date is agreed upon by the parties. Failure to arrange and attend a compliance conference or reach agreement on a Consent Order within sixty (60) days after receipt of this Notice of Violation may result in civil action pursuant to the Idaho Environmental Protection and Health Act for injunctive relief, penalties, costs, expenses, attorney fees, and other appropriate relief.

Pend Oreille Bonner Development, LLC may arrange a compliance conference, or make inquiries concerning this Notice of Violation, by contacting the Department as follows:

Barry N. Burnell, Administrator
Water Quality Division
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706-1255
208-373-0194

DATED THIS 14th day of April, 2011



Toni Hardesty
Idaho Department of Environmental Quality



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

July 8, 2011

Certified mail no.: 7007 3020 0001 4124 8665

Mr. Charles W. Reeves
Pend Oreille Bonner Development, LLC
151 Clubhouse Way
Sandpoint, Idaho 83864
creeves@theidahoclub.com

Dear Mr. Reeves:

Enclosed for your file is the fully executed consent order (CO) regarding the actions needed to be taken to bring Pend Oreille Bonner Development in compliance with its current reuse permit. Please bear in mind that this is a legal agreement between Idaho Department of Environmental Quality (DEQ) and Pend Oreille Bonner Development. If difficulties arise such that a required item in the consent order cannot be met by the stipulated date, please contact DEQ as soon as possible.

Thank you for your continued cooperation in this matter and if you have any questions, please contact me at 208-373-0194.

Sincerely,

Barry N. Burnell
Water Quality Division Administrator

Enclosure

BNB:OC:ls

c: Matthew Beeter, Attorney General
Olga Cuzmanov, DEQ State Office
Daniel C. Redline, Stephen Tanner, Michael Camin, DEQ Coeur d'Alene Regional Office
Scott McNee, smcnee@to-engineers.com
Bob Hansen, wsmibob@aol.com
Richard Villelli, villelli@coldreams.com

Exhibit
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IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

In the matter of:)
)
) **CONSENT ORDER**
) **Idaho Code § 39-105 and § 39-108**
Pend Oreille Bonner)
Development, LLC.)
)
)
)

1. Pursuant to the Idaho Environmental Protection and Health Act (EPA), Idaho Code § 39-105 and § 39-108 the Idaho Department of Environmental Quality (Department) enters into this Consent Order with Pend Oreille Bonner Development, LLC, (Pend Oreille Bonner Development).

2. Pend Oreille Bonner Development holds title to a municipal wastewater reuse permit for a land development project which involves reconstruction and expansion of the existing Hidden Lakes wastewater system. Pend Oreille Bonner Development also operated under the assumed business name of "The Idaho Club". Charles Reeves is an owner and manager of Pend Oreille Development, LLC and The Idaho Club. Pend Oreille Bonner Development owns property located on 865-acres in rural Bonner County approximately seven (7) miles east of Sandpoint near the confluence of the Pack River into Lake Pend Oreille.. The development is currently named "The Idaho Club" with offices located at 151 Clubhouse Lane, Sandpoint, Idaho 84864. The Idaho Club development consists of three hundred (300) permitted connections of which eighty one (81) are in use. The wastewater from The Idaho Club is treated through a wastewater reuse facility.

3. On July 28, 2010, the Department issued Municipal Wastewater Reuse Permit LA-000123-02 (Permit) to Pend Oreille Bonner Development, dba, Idaho Club pursuant to the Recycled Water Rules, IDAPA 58.01.17 and the EPA, Idaho Code §39-101 *et. seq.* The Permit authorizes construction, installation and operation of the wastewater reuse system. On November 5, 2010 modifications to the Permit were issued as Appendix "A". The Appendix "A" is incorporated into and constitutes a part of the Permit, and all references to the Permit include the terms of Appendix A.

4. In April 14, 2011, the Department issued a Notice of Violation (NOV) to Pend Oreille Bonner Development for violations of the Recycled Water Rules IDAPA 58.01.17. The NOV is incorporated by reference into this Consent Order. The NOV provided Pend Oreille Bonner Development an opportunity for a compliance conference to discuss the violations and to enter into a consent order. A compliance conference was held on April 27, 2011. During the compliance conference a plan was discussed and agreed upon to address the violations and bring Pend Oreille Bonner Development into compliance with the terms of the Permit.

5. Pend Oreille Bonner Development hereby agrees to the provisions of this Consent Order and the following terms and actions to be completed by the time schedules set forth below:

- a. One hundred twenty days (120) after this Consent Order becomes effective, an operation and maintenance manual (O&M Manual) shall be submitted to the Department for review and approval for the wastewater treatment and reuse facility.
- b. Within thirty (30) days after this Consent Order becomes effective, record plans and specifications for completed improvements to the wastewater collection, treatment, and reuse system shall be submitted to the Department.
- c. Within thirty (30) days of this Consent Order becoming effective, power and control systems for the flow meters installed on the aerated 7.65 million gallons lagoon (LG-012301) influent mains and an automatic recording instrument to record Class B wastewater turbidity after filtration on a continuous basis shall be installed.
- d. Prior to start of irrigation to each hydraulic management unit (HMU-012301, HMU-012302, and HMU-012303) one (1) piezometer shall be installed to monitor the depth from surface water to ground water in that HMU as required by the Permit.
- e. The Annual Wastewater Reuse Site Performance Report shall be submitted to the Department by January 31, 2012. The Wastewater Reuse Site Performance Report shall include all results for monitoring required in Section G of the Permit, including but not limited to the following: the volume of wastewater discharged into 7.65 million gallons lagoon (LG-012301), the water balance calculation, and Class B wastewater turbidity arithmetic mean.
- f. No later than January 31, 2012 a Wastewater Treatment System Winterization Report (WTSW Report) shall be submitted to the Department for review and approval. The WTSW Report shall be prepared by an Idaho licensed Professional Engineer and include steps and deadlines for implementation of the treatment system winterization solution.

6. Pend Oreille Bonner Development requested permission to irrigate Class C recycled water to the Idaho Club golf course, due to the fact that the 7.65 million gallons aerated wastewater lagoon (LG-012301) was exceeding the design storage capacity. During the April 27, 2011 compliance conference it was agreed that Pend Oreille Bonner Development may irrigate the golf course (hydraulic management units (HMU): MU-012301 and MU-012302) with Class C recycled water on a temporary basis. In a May 10,

2011 letter to Chuck Reeves the Department authorized temporary use of the Class C recycled water for irrigation of the golf course. The temporary authorization is superseded by the terms of this Consent Order. The Department grants temporary authorization for irrigation of the golf course (MU-012301 and MU-012302) with Class C recycled water under the following conditions:

- a. The golf course will be closed to public use for the duration of Class C irrigation.
 - b. Irrigation of Class C recycled water shall not exceed three (3) million gallons.
 - c. Irrigation of Class C recycled water shall in no case continue after July 1, 2011.
 - d. Piezometers will be installed at each HMU and measurements of depth below surface ground to ground water will be taken prior to golf course irrigation to ensure the ground water depth exceeds 36-inches.
 - e. The required setbacks to the occupied residences located near the golf course shall be met for Class C recycled water irrigation.
 - f. Signage must be posted on/near the golf course prohibiting use. Signage shall meet the requirements of the Recycled Water Rules IDAPA 58.01.17.603.03.
 - g. Irrigation of recycled water will follow the requirements of the permit with the exception of Class C recycled water on MU-012301 and MU-012302.
 - h. The Annual Wastewater Reuse Site Performance Report due January 31, 2012 shall include a description of how the conditions were met during the irrigation of Class C recycled water on MU-012301 and MU-012302.
7. A civil penalty of thirty two thousand and five hundred dollars (\$32,500) was assessed in the NOV. Within sixteen (16) months of the effective date of this Consent Order, Pend Oreille Bonner Development shall pay to the Department sixteen thousand dollars (\$16,000). The payment shall be made in monthly installments of one thousand dollars (\$1,000) each. Based on discussions and information provided during the compliance conference the Department shall waive the balance of the penalty upon full and timely compliance by Pend Oreille Bonner Development with all terms and conditions of this Consent Order. If Pend Oreille Bonner Development fails to fully and timely comply with any term or condition of this Consent Order, Pend Oreille Bonner Development shall pay the Department the remaining sixteen thousand five hundred dollars (\$16,500) within fifteen (15) days of the Department's written notice of noncompliance.

All payments shall be made by check payable to the Department of Environmental Quality at the following address:

Department of Environmental Quality
Fiscal Office – Accounts Receivable
1410 N. Hilton
Boise, Idaho 83706-1255

8. Unless otherwise directed by Pend Oreille Bonner Development, all communications to be directed to Pend Oreille Bonner Development shall be addressed to:

Charles W. Reeves
Pend Oreille Bonner Development, LLC
151 Clubhouse Way
Sandpoint, Idaho 83864

Unless otherwise directed by the Department, all communications to be directed to the Department shall be addressed to:

Daniel Redline, Regional Administrator
Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho, 83814

9. This Consent Order shall not relieve Pend Oreille Bonner Development from sanitary requirements as provided in Idaho Code §§ 50-1326 through 50-1329. If there is a violation of the sanitary requirements the Department may re-impose sanitary restrictions on any lot in The Idaho Club development as provided in Idaho Code § 50-1326.

10. This Consent Order shall not relieve Pend Oreille Bonner Development from their obligation to comply with any relevant provisions of Idaho's Recycled Water Rules IDAPA 58.01.17 et seq., Idaho's Wastewater Rules, IDAPA 58.01.16 et seq., Idaho's Ground Water Quality Rules, IDAPA 58.01.11 et seq. or any other applicable local, state or federal law.

11. A waiver by the Department of any provision, term, condition or requirement of this Consent Order shall not constitute a waiver of any other provision, term, condition or requirement of this Consent Order.

12. If the Property (or any portion thereof) is sold by Pend Oreille Bonner Development prior to completion of the requirements of the Consent Order and termination thereof, Pend Oreille Bonner Development shall notify any purchaser of the terms and conditions of this Consent Order and the current status of

completion of the requirements of this Consent Order.

13. The sale of the Property or any portion thereof by Pend Oreille Bonner Development shall not relieve Pend Oreille Bonner Development of its obligation to complete the terms and conditions of this Consent Order unless the purchaser enters into a new Consent Order or agrees in writing to the assignment of the obligations of this Consent Order.

14. Any transfer of the permit shall comply with Section 800 "Permit Transferable" of the Recycled Water Rules, IDAPA 58.01.17.

15. This Consent Order shall bind Pend Oreille Bonner Development, its successors and assigns until such time as the terms of the Consent Order are met, and the Department provides Pend Oreille Bonner Development with written notice of Consent Order termination.

16. Pend Oreille Bonner Development expressly recognizes failure to comply with the terms of this Consent Order may result in a district court action for specific performance of the Consent Order, civil penalties, assessment of costs and expenses, attorney's fees, restraining orders, injunctions and other relief available under Idaho Code § 39-108.

17. The Department and Pend Oreille Bonner Development, through the undersigned representatives, each represent and warrant that each has the authority to enter into this Consent Order and to take all actions provided herein.

18. The effective date of this Consent Order shall be the date of the signature by the Director of the Department of Environmental Quality.

DATED this 7th day of July, 2011



Toni Hardesty, Director
Department of Environmental Quality

DATED this 27th day of June, 2011



Charles Reeves, Manager
Pend Oreille Bonner Development, LLC

Mr. Reeves / 2012 Compliance Scheduling, The Idaho Club LA-000123-02
April 3, 2012
Page 2

3. On-going operation and maintenance of the collection, treatment and irrigation systems in compliance with the Reuse Permit.

The last item needs to be addressed no later than April 30, 2012 (30 days following the change in operators):

4. Notify DEQ that you have hired an appropriately licensed responsible charge operator and substitute responsible charge operator for your wastewater treatment and collection systems in compliance with Reuse Permit #LA-000123-02 and IDAPA 58.01.16.203 and 204.

If you have any questions, please contact Michael Camin at (208)769-1422.

Regards,



Michael Camin, P.E.
Environmental Engineer
michael.camin@deq.idaho.gov

- c: Barry Burnell, DEQ State Office barry.burnell@deq.idaho.gov
Olga Cuzmanov, DEQ State Office olga.cuzmanov@deq.idaho.gov
Susan Hamlin, DEQ Deputy Attorney General susan.hamlin@deq.idaho.gov
Chas Ariss, DEQ State Office chas.ariss@deq.idaho.gov
Daniel Redline, DEQ/CRO daniel.redline@deq.idaho.gov
John Tindall, DEQ/CRO john.tindall@deq.idaho.gov
Bob Hansen, WSMI wsmibob@aol.com
Dick Villelli, VP Inc villelli@coldreams.com
File in TRIM: WW Idaho Club



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Curt Fransen, Director

September 12, 2013

Mr. Charles Reeves
Pend Oreille Bonner Development LLC
151 Clubhouse Lane
Sandpoint, ID 83864

CERTIFIED MAIL NO.: 7010 3090 0002 3445 7382
RETURN RECEIPT REQUESTED

Richard A. Villelli
VP Incorporated
533739 Highway 95
Bonners Ferry, ID 83805

CERTIFIED MAIL NO.: 7010 3090 0002 3445 1203
RETURN RECEIPT REQUESTED

Dear Sirs:

Enclosed for your files is a copy of the fully executed Compliance Agreement Schedule (CAS) regarding the actions Pend Oreille Bonner Development LLC (PBD) and VP Inc. (VP) need to take in order to resolve the excessive wastewater elevation that currently exists in the Idaho Club's recycled water lagoon. Please bear in mind that this is a legal agreement between the Department of Environmental Quality (DEQ), and PBD in partnership with VP. If difficulties arise such that a required item in the CAS cannot be met by the stipulated date, please contact DEQ as soon as possible. Thank you for your continued cooperation in this matter and if you have any questions, please contact Daniel Redline at (208) 769-1422 or at the following address:

Daniel Redline, Regional Administrator
Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, ID 83814

Thank you for your prompt attention to this matter. The Department is confident that we can work cooperatively to resolve these issues.

Sincerely,

Barry N. Burnell
Water Quality Division Administrator

Enclosure

BNB:AJM:jy

C: Andrea Courtney, Attorney General
Chas Ariss, P.E., Wastewater Program Manager, A.J. Maupin, P.E., DEQ State Office
Daniel Redline, Administrator, John Tindall, P.E., Engineering Manager, DEQ Coeur d'Alene Regional Office

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

In the matter of:)
Pend Oreille Bonner) COMPLIANCE AGREEMENT SCHEDULE
Development, LLC.) PURSUANT TO
And) Idaho Code § 39-116A
VP Incorporated)
)
)
)

-
1. Pursuant to the Idaho Environmental Protection and Health Act (EPHA), Idaho Code § 39-116A, the Idaho Department of Environmental Quality (DEQ) enters into this Compliance Agreement Schedule (CAS) with Pend Oreille Bonner Development, LLC (PBD) and V.P. Inc. (VP).
 2. PBD has a municipal wastewater reuse permit (Reuse Permit LA-000123-02) for a land development project which involves reconstruction and expansion of the existing Hidden Lakes wastewater system. PBD also operates under the assumed business name of "*The Idaho Club*." Charles Reeves is the president of Pend Oreille Bonner Development Holdings, Inc. (PBDH). PBDH is a member of PBD. PBD owns property located on 865-acres in rural Bonner County approximately seven (7) miles east of Sandpoint near the confluence of the Pack River into Lake Pend Oreille. The development is currently named The Idaho Club with offices located at 151 Clubhouse Lane, Sandpoint, Idaho 83864. The Idaho Club development consists of three hundred (300) permitted connections of which eighty one (81) are in use. The wastewater from The Idaho Club is treated through wastewater reuse facilities.
 3. VP owns and operates a Public Water System (PWS #ID1090195) that supplies potable water to The Idaho Club. VP employs Robert F. Hansen, a licensed Class II drinking water distribution system operator and Backflow Assembly tester as the system's Responsible Charge Operator (RCO). PBD also employs Mr. Hansen as the wastewater and land application system RCO to operate the wastewater treatment and land application systems for The Idaho Club. Mr. Hansen also holds licenses for Class II wastewater treatment, lagoon, land application, and Class II wastewater collection systems.
 4. PBD and VP shall be referred to collectively as the "Parties" within this CAS.
 5. On July 28, 2010, DEQ issued Municipal Wastewater Reuse Permit LA-000123-02 (Permit) to PBD, doing business as "*The Idaho Club*," pursuant to the Recycled Water Rules, IDAPA 58.01.17 and the EPHA. Responsible Officials identified in this Permit are:

a. Charles Reeves
Pend Oreille Bonner Development LLC
151 Clubhouse Lane
Sandpoint, ID 83864

b. Richard A. Vilelli
VP Incorporated
533739 Highway 95
Bonners Ferry, ID 83805

The Permit requires PBD to construct, install and operate the wastewater reuse system. On November 5, 2010 modifications to the Permit were issued as Appendix A. The Appendix A is incorporated into and constitutes a part of the Permit, and all references to the Permit include the terms of Appendix A.

6. On July 26, 2013, DEQ mailed a certified letter (#7011 0110 0000 4529 6278) to PBD, c/o Mr. Reeves, addressing problems with the operational status of The Idaho Club reuse facilities. This letter outlined possible legal and administrative actions that DEQ could initiate if the wastewater treatment and recycled water facilities were not brought into compliance with the Permit in an expeditious manner. These possible actions include:
 - a. Obtain a temporary restraining order, in accordance with Idaho Code § 39-108, that would require the facilities to stop accepting wastewater into the system and develop a detailed plan addressing:
 - i. Proper treatment and disposal of the wastewater currently contained in the lagoon and for wastewater to be received during the remainder of 2013 growing season, and for the 2013-2014 non-growing season.
 - ii. How PBD plans to bring the Recycled Water System back into compliance with the Permit and applicable rule requirements, and
 - iii. Proper system operation that complies with the Permit and the approved Plan of Operation dated November 1, 2011.
 - b. Revoke the Reuse Permit LA-000123-02, due to failure to properly operate and maintain the wastewater system as required in Permit Section I.1.
 - c. Issue a new Notice of Violation and Consent Order to address the emergent Permit and Rule violations.
 - d. Re-impose Sanitary Restrictions on any undeveloped lot in The Idaho Club development as provided in Idaho Code § 50-1326.

DEQ retains the right to initiate any of these courses of action if this CAS is not adhered to in its entirety, and PBD and VP acknowledge that failure to perform work as prescribed in this CAS or as prescribed by a document approved under this CAS shall be grounds for termination of this CAS or other relief as provided by Paragraph 18. Any work that deviates from that prescribed in this CAS or documents approved under this CAS shall require prior written approval from DEQ.

7. The Parties hereby agree to the terms and conditions of this CAS to achieve compliance with the Recycled Water Rules and the Permit as expeditiously as possible. The Parties shall initiate and complete the following activities:
 - a. The Parties requested permission to irrigate Class C recycled water to The Idaho Club golf course because the 7.65 million gallon (MG) aerated wastewater lagoon (LG-012301) is exceeding its design storage capacity. The Parties may irrigate the golf course (hydraulic management units (HMU): MU-012301 and MU-012302) with Class C recycled water only in September and October 2013. This temporary authorization must comply with the terms of this CAS, and is subject to the following conditions:
 - i. The golf course shall be closed to public use for the duration of Class C irrigation.

- ii. Irrigation of Class C recycled water shall not exceed the permit conditions for the months of September and October.
 - iii. Irrigation of Class C recycled water shall in no case continue after October 31, 2013.
 - iv. The required buffer zone distances shall be met for Class C recycled water irrigation in accordance with Section F of the Permit.
 - v. Piezometers installed during the previous Class C recycled water application event, if still present, may be used to measure the depth to ground water. If these piezometers have been removed, they must be replaced prior to Class C recycled water application in the affected HMU(s). Depth to ground water below the ground's surface shall be taken prior to golf course irrigation to ensure the ground water depth exceeds 36-inches. If depth to ground water is less than 36-inches, irrigation shall cease until this minimum separation distance is attained or exceeded.
 - vi. Signage must be posted on/near the golf course that meets the requirements of the Recycled Water Rules (IDAPA 58.01.17.603.03) and states that the golf course is closed.
 - vii. Irrigation of recycled water shall follow the Permit with the following exceptions:
 - 1. Class C recycled water can be irrigated on MU-012301 and MU-012302.
 - 2. Total coliform bacteria analysis will be required on a daily basis when irrigating Monday to Friday. Total coliform bacteria analysis will not be required when irrigating on Saturday and Sunday.
 - 3. Free or total chlorine residual concentration monitoring will be required on a daily basis when irrigating. When not sampling for total coliform, the chlorine residual concentration must be maintained at concentrations that have been correlated to acceptable total coliform bacteria concentrations during this temporary Class C irrigation event.
 - viii. The Annual Wastewater Reuse Site Performance Report due January 31, 2014 shall include a description of how the conditions of the Permit and this CAS were met during the irrigation of Class C recycled water on MU-012301 and MU-012302. The Wastewater Reuse Site Performance Report shall include, but not limited to the following:
 - 1. All results for monitoring required in Permit Section G, and
 - 2. The water balance calculations showing the actual lagoon volume starting in September 1, 2013 through December 31, 2013 and the projected lagoon volume ending August 31, 2014.
- b. The application of recycled water to the land surface requires the direct oversight of a licensed land application RCO (IDAPA 58.01.16.203.07). Consequently, the irrigation schedule for The Idaho Club golf course shall be approved by the land application RCO. Since this is a Rule requirement, the oversight of irrigation operations using recycled water under this Permit shall be the sole responsibility of the RCO and Substitute RCO (SRCO), in the absence of the RCO. Other parties with operational control of the irrigation equipment at the irrigation sites must temporarily relinquish control of the equipment to the RCO and/or SRCO during recycled water application.
- c. Removal of excess wastewater is required to provide adequate winter storage volume in the wastewater lagoon. If application of Class C recycled water onto the designated areas on the

golf course fails to reduce the volume in the 7.65 MG aerated wastewater lagoon (LG-012301) to 5 MG by October 31, 2013, then:

- i. PBD will be obligated to haul wastewater to another wastewater treatment facility for disposal. The wastewater facility that agrees to receive this wastewater shall be disclosed to DEQ prior to commencing hauling. Hauling shall end when the wastewater lagoon volume is 5 MG or less.
 - ii. VP may impose water restrictions to limit the rate and ultimately the volume of wastewater received by the Recycled Water system and stored in the wastewater lagoon (LG-012301). Water usage shall be restricted so that the volume of wastewater in LG-012301 does not exceed 7.65 MG prior to May 1, 2014.
8. Unless otherwise directed by the Parties, all communications to be directed to the Parties must be directed to VP and PBD simultaneously. The correspondence shall be addressed to:

Charles Reeves
Pend Oreille Bonner Development LLC
151 Clubhouse Lane
Sandpoint, ID 83864

Richard A. Vilelli
VP Incorporated
533739 Highway 95
Bonners Ferry, ID 83805

Unless otherwise directed by DEQ, all communications to be directed to DEQ from the Parties shall be addressed to:

Daniel Redline, Regional Administrator
Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814

9. This CAS shall not relieve PBD from sanitary requirements as provided in Idaho Code §§ 50-1326 through 50-1329. If there is a violation of the sanitary requirements, DEQ may re-impose sanitary restrictions on any lot in The Idaho Club development as provided in Idaho Code § 50-1326.
10. Except to the extent expressly provided in this CAS, this CAS shall not in any way relieve the Parties from their obligation to comply with any relevant provisions of Idaho's Recycled Water Rules, Wastewater Rules (IDAPA 58.01.16), Ground Water Quality Rules (IDAPA 58.01.11), Water Quality Standards (IDAPA 58.01.02), the EPHA, or any other applicable local, state or federal law or regulation.
11. PBD shall turn operation of the wastewater reuse system to VP.
- a. VP agrees to comply with the relevant Rules above when overseeing the operation of the wastewater reuse system. In undertaking this operation obligation, VP specifically agrees that it will repair, maintain and/or install aerators, filters and flow meters to make the wastewater reuse facility operational.
 - b. VP further agrees it will contract with Mr. Hansen and pay him to continue to operate the wastewater treatment and land application systems for The Idaho Club.

- c. VP agrees it shall cause the Annual Wastewater Reuse Site Performance Report, due January 31, 2014, to be prepared for submission, and submit the report to DEQ.
 - d. VP also agrees that it will maintain the continuous down-flow sand filter in an operational status prior to and during the application season, which begins May 1, 2014.
 - e. PBD shall execute deeds for the lagoon lot, identified as Block 17, Lot 2, Golden Tee Estates, the well reservoir lots, and booster pump lots to VP by September 20, 2013.
12. A waiver by DEQ of any provision, term, condition or requirement of this CAS shall not constitute a waiver of any other provision, term, condition or requirement of this CAS.
 13. If real property in The Idaho Club (or any portion thereof) is sold by PBD prior to completion of the requirements of this CAS and termination thereof, PBD shall notify any purchaser of the terms and conditions of this CAS and the current status of completion of the requirements of this CAS.
 14. The sale of real property in The Idaho Club (or any portion thereof) by PBD shall not relieve PBD of its obligation to complete the terms and conditions of this CAS unless the purchaser enters into a new CAS or agrees in writing to the assignment of the obligations of this CAS.
 15. Pursuant to Idaho Code § 39-116A, DEQ and the Parties shall meet annually in order to reassess the necessity and appropriateness of this CAS.
 16. If any provision or part thereof is declared unenforceable or invalid, it shall not affect the validity or enforceability of the remaining provisions of this CAS. The provisions contained herein are severable.
 17. This CAS shall bind the Parties, their successors and assigns until such time as the terms of the CAS are met, and DEQ provides the Parties with written notice of CAS termination.
 18. In the event any Party fails to comply with any of the terms and conditions of this CAS, the Party shall notify DEQ of such failure within five (5) business days of said event. The Parties expressly recognize that failure to comply with the terms and conditions of this CAS may result in administrative or civil action for specific performance of this CAS, civil and administrative penalties, assessment of costs and expenses, restraining orders, injunctions, attorney's fees, and other relief available under law.
 19. DEQ and the Parties, through the undersigned representatives, each represent and warrant that each has the authority to enter into this CAS and to take all actions provided herein.

20. The effective date of this CAS shall be the date of the signature by DEQ's Director.

DATED this 11 day of Sept, 2013



Curt Fransen, Director
Department of Environmental Quality

DATED this _____ day of _____, 2013

Charles Reeves, Manager
Pend Oreille ~~Bonner~~ Development, LLC

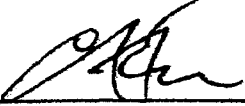
DATED this 1st day of September 2013



Richard A. Vilelli, President
VP Incorporated

20. The effective date of this CAS shall be the date of the signature by DEQ's Director.

DATED this 11th day of Sept., 2013



Curt Fransen, Director
Department of Environmental Quality

DATED this 11th day of September, 2013



Charles Reeves, Manager
Pend Oreille Bonner Development, LLC

DATED this _____ day of _____, 2013

Richard A. Vilelli, President
VP Incorporated

QUITCLAIM DEED

BONNER COUNTY SANDPOINT, IDAHO
5-20-2014 11:08:07 AM No. of Pages: 1
Recorded for: SANDPT TITLE INSURANCE
R. ANN DUTSON-SATE Fee: \$10.00
Ex-Officio Recorder/Deputy
Index to: QUIT CLAIM DEED CB

FOR VALUE RECEIVED,

Pend Oreille Bonner Development, LLC, a Nevada Limited Liability Company

do(es) hereby convey, release, remise and forever quitclaim unto

VP Inc., an Idaho Corporation

whose mailing address is: 533737 Highway 95, Bonners Ferry, ID 83805 the following
described premises together with any after acquired title, to wit:

LOT 2, BLOCK 17, OF THE REPLAT OF GOLDEN TEE ESTATES AND GOLDEN TEE ESTATES 1ST ADDITION AND UNPLATTED LAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN BOOK 8 OF PLATS, PAGE 77, RECORDS OF BONNER COUNTY.

together with their appurtenances.

Dated: September 20, 2013

Pend Oreille Bonner Development, LLC
By: Pend Oreille Bonner Development Holdings, Inc.
Its: Manager

Charles W. Reeves

BY: Charles W. Reeves
ITS: President

ACCOMMODATION RECORDING
SANDPOINT TITLE INSURANCE CO. HAS
NOT EXAMINED THIS DOCUMENT, ASSUMES
NO LIABILITY AS TO THE VALIDITY AND
ITS EFFECTS UPON THE TITLE.

STATE OF IDAHO
COUNTY OF BONNER } ss

On this 20th day of September, 2013, before me, a Notary Public in and for said state, personally appeared Charles W. Reeves as President of Pend Oreille Bonner Development Holdings, Inc known or identified to me to be the Manager in the Limited Liability Company known as Pend Oreille Bonner Development LLC who executed the foregoing instrument; and acknowledged to me that he executed the same in said LLC name.

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

Kathleen Groenkoult
Notary Public for the State of Idaho
Residing at: SANDPOINT, IDAHO
Commission Expires: 4/24/2019



Exhibit

I

QUITCLAIM DEED

BONNER COUNTY, SANDPOINT, IDAHO
6-20-2014 11:08:28 AM of Pages: 1
Recorded for: SANDPTO. FILE INSURANCE
R. ANN DUTSON-SATER Fee: \$10.00
Ex-Officio Recorder Deputy
for the QUIT CLAIM DEED CB

FOR VALUE RECEIVED,

Pend Oreille Bonner Development, LLC, a Nevada Limited Liability Company

do(es) hereby convey, release, remise and forever quitclaim unto

VP Inc, an Idaho Corporation

whose mailing address is 53757 Highway 15, Bonner Ferry, ID 83805 the following described premises together with any other accepted title, to wit:

LOT 1, BLOCK 1, OF GOLDEN TEE ESTATES 3RD ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN BOOK 3 OF PLATS, PAGE 78, RECORDS OF BONNER COUNTY.

together with their appurtenances.

Dated: September 20, 2013

Pend Oreille Bonner Development, LLC
By: Pend Oreille Bonner Development Holdings, Inc.
Its: Manager

Charles W. Reeves

BY: Charles W. Reeves
ITS: President

ACCOMMODATION RECORDING
SANDPOINT TITLE INSURANCE CO. HAS
NOT EXAMINED THIS DOCUMENT, ASSUMES
NO LIABILITY AS TO THE VALIDITY AND
ITS EFFECTS UPON THE TITLE.

STATE OF IDAHO }
COUNTY OF BONNER } SS.

On this 20th day of September, 2013, before me, a Notary Public in and for said state, personally appeared Charles W. Reeves as President of Pend Oreille Bonner Development Holdings, Inc known or identified to me to be the Manager in the Limited Liability Company known as Pend Oreille Bonner Development LLC who executed the foregoing instrument, and acknowledged to me that he executed the same in said LLC name.

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

Kathleen Groenhout
Notary Public for the State of Idaho
Residing at: SANDPOINT, IDAHO
Commission Expires: 4/24/2019



Exhibit
J

QUITCLAIM DEED

BONNER COUNTY, SANDPOINT, IDAHO
5-20-2014 11:04:04 P to. of Pages: 1
Recorded for: SANDP TITLE INSURANCE
R. ANN OUTSON-SATEK Fee: \$10.00
Ex-Office Recorder Deputy
C.A.

FOR VALUE RECEIVED,

Pond Oreille Bonner Development, LLC, a Nevada Limited Liability Company

do(es) hereby convey, release, remise and forever quitclaim unto

VP Inc., an Idaho Corporation

whose mailing address is: 5337 Highway 95, Bonner Ferry, ID 83205, the following described premises together with any other described title, to wit:

LOT 16, BLOCK 2, OF GOLDEN TEE ESTATES 2ND ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN BOOK 8 OF PLATS, PAGE 79, RECORDS OF BONNER COUNTY.

together with their appurtenances.

Dated: September 20, 2013

Pond Oreille Bonner Development, LLC
By: Pond Oreille Bonner Development Holdings, Inc.
Its: Manager

Charles W. Reeves

BY: Charles W. Reeves
ITS: President

ACCOMMODATION RECORDING
SANDPOINT TITLE INSURANCE CO. HAS
NOT EXAMINED THIS DOCUMENT, ASSUMES
NO LIABILITY AS TO THE VALIDITY AND
ITS EFFECTS UPON THE TITLE.

STATE OF IDAHO }
COUNTY OF BONNER } SS

On this 20th day of SEPTEMBER, 2013, before me, a Notary Public in and for said state, personally appeared Charles W. Reeves as President of Pond Oreille Bonner Development Holdings, Inc known or identified to me to be the Manager in the Limited Liability Company known as Pond Oreille Bonner Development LLC who executed the foregoing instrument, and acknowledged to me that he executed the same in said LLC name.

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

Kathleen Groenhout
Notary Public for the State of Idaho
Residing at: SANDPOINT, IDAHO
Commission Expires: 4/24/2014



Exhibit
K

QUITCLAIM DEED

BONNER COUNTY, SANDPOINT, IDAHO
8-20-2014 11:03:17 AM No. of Pages: 1
Recorded for: SANDPT TITLE INSURANCE
R. ANN DUTSON-SATE Fee: \$10.00
Ex-Officio Recorder Deputy
Index for QUIT CLAIM DEED *CA*

FOR VALUE RECEIVED,

Pend Oreille Bonner Development, LLC, a Nevada Limited Liability Company

do(es) hereby convey, release, remise and forever quitclaim unto

VP Inc., an Idaho Corporation

whose mailing address is: 5327 Highway 75 Bonner Ferry, ID 83805, the following described premises together with any other acquired title, to wit:

LOT 7, BLOCK 5, OF GOLDEN TEE ESTATES 4TH ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN BOOK 8 OF PLATS, PAGE 80, RECORDS OF BONNER COUNTY.

together with their appurtenances.

Dated: September 20, 2013

Pend Oreille Bonner Development, LLC
By: Pend Oreille Bonner Development Holdings, Inc.
Its: Manager

Charles W. Reeves

BY: Charles W. Reeves
ITS: President

ACCOMMODATION RECORDING
SANDPOINT TITLE INSURANCE CO. HAS
NOT EXAMINED THIS DOCUMENT, ASSUMES
NO LIABILITY AS TO THE VALIDITY AND
ITS EFFECTS UPON THE TITLE.

STATE OF IDAHO)
COUNTY OF BONNER) SS

On this 20th day of September, 2013, before me, a Notary Public in and for said state, personally appeared Charles W. Reeves as President of Pend Oreille Bonner Development Holdings, Inc known or identified to me to be the Manager in the Limited Liability Company known as Pend Oreille Bonner Development LLC who executed the foregoing instrument, and acknowledged to me that he executed the same in said LLC name.

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


Kathleen Groenhout
Notary Public for the State of Idaho
Residing at: SANDPOINT, IDAHO
Commission Expires: 9/23/2019



Exhibit

L

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
827 East Park Boulevard, Suite 201
Boise, Idaho 83712
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com

APR 15 2009 11:55


Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

DECREE OF FORECLOSURE

Honorable Barbara A. Buchanan

THIS DECREE OF FORECLOSURE IS ENTERED AS FOLLOWS:

1. Pursuant to the Judgment entered in this case, Valiant Idaho, LLC ("Valiant") has and does recover this Decree of Foreclosure, hereby judicially foreclosing those certain mortgages identified as:

i. A mortgage recorded on March 15, 2007 as Instrument Nos. 724829 and 724834, Records of Bonner County, Idaho ("RE Loans Mortgage");

ii. A mortgage recorded on August 6, 2008 as Instrument Nos. 756394, 756395 and 756396, Records of Bonner County, Idaho ("Pensco Mortgage"); and

iii. A mortgage recorded on August 6, 2008 as Instrument Nos. 756397, 756398 and 756399, Records of Bonner County, Idaho ("MF08 Mortgage").

2. The RE Loans Mortgage, the Pensco Mortgage, and the MF08 Mortgage are recorded against real property located in the County of Bonner, State of Idaho, and more particularly described and depicted on Exhibit A attached hereto ("Real Property").

3. The Real Property shall be sold by the Sheriff of Bonner County, Idaho, by levy and execution according to the law and practice of this Court, subject to the statutory right of Defendants to redeem the Real Property in accordance with the laws of the State of Idaho.

4. Valiant has a secured first priority interest in and to the Real Property by virtue of the RE Loans Mortgage. Valiant shall be entitled to credit bid the amounts secured by the RE Loans Mortgage set forth in the Judgment, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale. Post-judgment interest shall accrue in accordance with Idaho law, which is currently 5.375%.

5. Valiant has a secured second priority interest (second only to the priority of Valiant by virtue of the RE Loans Mortgage) in and to the Real Property by virtue of the Pensco Mortgage. Should any portion of the Real Property remain to be sold after Valiant credit bids the amounts secured by the RE Loans Mortgage, Valiant shall be entitled to credit bid the amounts secured by the Pensco Mortgage set forth in the Judgment, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale. Post-judgment interest shall accrue in accordance with Idaho law, which is currently 5.375%.

6. Valiant has a secured third priority interest (third only to the priorities of Valiant by virtue of the RE Loans Mortgage and the Pensco Mortgage) in and to the Real Property by virtue of the MF08 Mortgage. Should any portion of the Real Property remain to be sold after Valiant credit bids the amounts secured by the RE Loans Mortgage and the Pensco Mortgage, Valiant shall be entitled to credit bid the amounts secured by the MF08 Mortgage set forth in the Judgment, plus any additional prejudgment and/or post-judgment interest that accrues thereon until the date of the foreclosure sale. Post-judgment interest shall accrue in accordance with Idaho law, which is currently 5.375%.

7. The Real Property shall be sold in accordance with the laws of the State of Idaho and as set forth in the Order of Sale which shall be entered by this Court.

8. The Sheriff shall give notice of such sale in the manner provided by law. At the time of the sale, any party to this action may purchase the Real Property and, thereafter, the Sheriff will make, execute and deliver to the purchaser or purchasers a certificate of sale; and, following the expiration of the period of redemption, a Sheriff's Deed of the premises so sold, and setting forth the Real Property, or portion thereof, sold and the sum paid therefor.

9. Valiant shall be allowed to credit bid against the sums found owing to it as set forth hereinabove. Any other person may become a purchaser for cash upon proof of sufficient funds.

10. Out of the monies arising from the sale, after deducting the Sheriff's fees and expenses of the sale, the Sheriff shall pay to Valiant or Valiant's attorney all monies up to the sum of \$17,148,242.08, together with prejudgment and post-judgment interest thereon as set forth in the Judgment. The Sheriff shall deposit with the Clerk of the Bonner County Court any surplus money arising from the sale of the Real Property under the Judgment, subject to further order of this Court, and the Sheriff shall make a report of the sale and file the report with the Clerk of the Bonner County Court within the time required by law.


11. The Sheriff shall execute and deliver to the purchaser with the highest bid a certificate of sale for the Real Property, or portion thereof purchased.

12. After confirmation of the sale of the Real Property, the purchaser or purchasers, or their heirs or assigns, shall be let into possession of the Real Property on production of the certificate of sale or a duly authenticated copy thereof, and each and every other party to this action who may be in possession of any portion of the Real Property, and every other person who since the filing of notice of pendency of this action has come into possession thereof, or any part thereof, shall deliver to such grantee or grantees named in the certificate of sale possession of the Real Property as described under the certificate of sale.

13. Any interest held by North Idaho Resorts, LLC, JV, LLC and VP, Incorporated, and every other party to this case, is junior and subject to the interests of Valiant by virtue of the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage, or have been released of record; and any party and all persons claiming under said parties party are and shall be forever barred and foreclosed of all right, title and interest and equity of redemption to the Real Property, except the right of redemption as provided by the statutes of the State of Idaho.

14. All parties and all persons claiming under them shall be and hereby are enjoined from committing waste upon the Real Property, and from doing any other action that may impair the value of the Real Property at any time between the date of this Judgment and the date of sale unless, meanwhile, the Real Property shall have been redeemed as provided by law.

DATED this 5 day of August 2015.




Honorable Barbara A. Buchanan
Judge of the First Judicial District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of November 2015, a true and correct copy of the foregoing document was served by the **method indicated** below upon the following party(ies):

<p>Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>brucea@ejame.com</u></p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>bcf@featherstonlaw.com</u></p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>garyfinney@finneylaw.net</u></p>
<p>D. Toby McLaughlin, Esq. Berg & McLaughlin 414 Church Street, Suite 203 Sandpoint, Idaho 83864 Telephone: 208.263.4748 Facsimile: 208.263.7557 <i>Counsel For Idaho Club HOA/Panhandle Mngmnt</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>toby@sandpointlaw.com</u></p>

<p>Richard L. Stacey, Esq. Jeff R. Sykes, Esq. McConnell Wagner Sykes & Stacey PLLC 827 East Park Boulevard, Suite 201 Boise, Idaho 83712 Telephone: 208.489.0100 Facsimile: 208.489.0110 <i>Counsel For Valiant Idaho, LLC</i></p>	<p><input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail stacey@mwsslawyers.com sykes@mwsslawyers.com</p>
<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net</p>


 Clerk of the Court - Deputy Clerk

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
827 East Park Boulevard, Suite 201
Boise, Idaho 83712
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

JUDGMENT

Honorable Barbara A. Buchanan

JUDGMENT IS ENTERED AS FOLLOWS:

1. Valiant Idaho, LLC ("Valiant") has and does recover this Judgment.
2. With respect to Valiant's cause of action against Pend Oreille Bonner Development, LLC ("POBD") for POBD's breach of its loan agreement with R.E. Loans, LLC, Valiant is awarded damages in the principal amount of \$1,944,002.79. This damage amount is comprised of the unpaid principal loan amount of \$278,147.65 and the property taxes paid by Valiant in the amount of \$1,665,855.12. Valiant is also awarded prejudgment interest on these amounts. Prejudgment interest has accrued against the unpaid loan amount at the contractual interest rate totaling \$560,458.67 thru June 24, 2015. Prejudgment interest will continue to accrue thereafter at a *per diem* rate of \$336.02 until final judgment is entered in this case. Prejudgment interest has accrued against the unpaid property taxes at the statutory interest rate totaling \$209,213.76 thru July 24, 2015. Prejudgment interest will continue to accrue thereafter at a *per diem* rate of \$547.68 until final judgment is entered in this case. The damages and prejudgment interest awarded to Valiant pursuant to this cause of action are secured by a mortgage recorded on March 15, 2007 as Instrument Nos. 724829 and 724834, Records of Bonner County, Idaho ("RE Loans Mortgage").
3. With respect to Valiant's cause of action against POBD for POBD's breach of its loan agreement with Pensco Trust Co. ("Pensco"), Valiant is awarded damages in the amount of \$2,700,000.00. Valiant is also awarded prejudgment interest on this amount. Prejudgment interest has accrued against this amount at the contractual interest rate totaling \$5,758,185.80 thru July 24, 2015. Prejudgment interest will continue to accrue thereafter at a *per diem* rate of \$3,374.80 until final judgment is entered in this case. The damages and prejudgment interest awarded to

Valiant pursuant to this cause of action are secured by a mortgage recorded on August 6, 2008 as Instrument Nos. 756394, 756395 and 756396, Records of Bonner County, Idaho ("Pensco Mortgage").

4. With respect to Valiant's cause of action against POBD for POBD's breach of its loan agreement with Mortgage Fund '08 LLC ("MF08"), Valiant is awarded damages in the amount of \$2,127,409.34. Valiant is also awarded prejudgment interest on this amount. Prejudgment interest has accrued against this amount at the contractual interest rate totaling \$3,848,971.72 thru July 24, 2015. Prejudgment interest will continue to accrue thereafter at a *per diem* rate of \$2,429.91 until final judgment is entered in this case. The damages and prejudgment interest awarded to Valiant pursuant to this cause of action are secured by a mortgage recorded on August 6, 2008 as Instrument Nos. 756397, 756398 and 756399, Records of Bonner County, Idaho ("MF08 Mortgage").

5. With respect to Valiant's causes of action to judicially foreclose the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage, Valiant is awarded a decree of foreclosure that shall be separately entered by this Court, such that the real property subject to said Mortgages shall be sold by the Sheriff of Bonner County, Idaho, by levy and execution according to the law and practice of this Court, subject to the statutory right of Defendants to redeem the real property in accordance with the laws of the State of Idaho.

6. Any interest held by North Idaho Resorts, LLC, JV, LLC and VP, Incorporated, and every other party to this case, is junior and subject to the interests of Valiant by virtue of the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage, or have been released of record; and any party and all persons claiming under said parties party are and shall be forever barred and

foreclosed of all right, title and interest and equity of redemption to the real property, except the right of redemption as provided by the statutes of the State of Idaho.

DATED this 5 day of August 2015.



Honorable Barbara A. Buchanan
Judge of the First Judicial District

* * * * *

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above Judgment,

IT IS HEREBY CERTIFIED, in accordance with Rule 54(b) of the Idaho Rules of Civil Procedure, that the Court has determined there is no just reason for delay of the entry of a final judgment and that the Court has and does hereby direct that the above Judgment shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 5 day of August 2015.



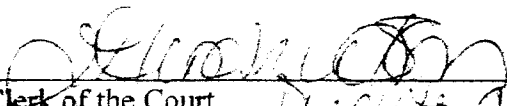
Honorable Barbara A. Buchanan
Judge of the First Judicial District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of July 2015, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

<p>Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>brucea@ejame.com</u></p>
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<p>D. Toby McLaughlin, Esq. Berg & McLaughlin 414 Church Street, Suite 203 Sandpoint, Idaho 83864 Telephone: 208.263.4748 Facsimile: 208.263.7557 <i>Counsel For Idaho Club HOA/Panhandle Mngmnt</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>toby@sandpointlaw.com</u></p>

<p>Richard L. Stacey, Esq. Jeff R. Sykes, Esq. McConnell Wagner Sykes & Stacey PLLC 827 East Park Boulevard, Suite 201 Boise, Idaho 83712 Telephone: 208.489.0100 Facsimile: 208.489.0110 <i>Counsel For Valiant Idaho, LLC</i></p>	<p><input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail stacey@mwsslawyers.com sykes@mwsslawyers.com</p>
<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net</p>


 Clerk of the Court - *Deputy Clerk*

PUCCI CONSTRUCTION INC., an Idaho corporation; ACI NORTHWEST, INC., an Idaho corporation; LUMBERMENS, INC., dba ProBuild, a Washington corporation; ROBERT PLASTER dba Cedar Etc; NORTH IDAHO RESORTS, LLC, an Idaho limited liability company; R.C. WORST & COMPANY, INC., an Idaho corporation; DOES 1 through X,

Defendants.

AND RELATED COUNTERCLAIMS, CROSS-CLAIMS, AND THIRD-PARTY COMPLAINTS

GENESIS GOLF BUIDLERS, INC., formerly known as NATIONAL GOLF BUILDERS, INC., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER DEVELOPMENT, LLC, a Nevada limited liability company; et al,

Defendants.

AND RELATED COUNTERCLAIMS, CROSS-CLAIMS, AND THIRD-PARTY COMPLAINTS

VALIANT IDAHO, LLC, an Idaho limited liability company,

Third Party

Plaintiff,

v.

PEND ORIELLE BONNER DEVELOPMENT)
HOLIDNGS, INC., a Nevada)
corporation; BAR K, INC., a)
California corporation;)
TIMBERLINE INVESTMENTS LLC, an)
Idaho limited liability company;)
AMY KORENGUT, a married woman;)
HLT REAL ESTATE, LLC, an Idaho)
limited liability company;)
INDEPENDENT MORTGAGE LTD. CO., an)
Idaho limited liability company;)
PANHANDLE MANAGEMENT)
INCORPORATED, an Idaho)
corporation; FREDERICK J. GRANT,)
an individual; CRISTINE GRANT, an)
individual; RUSS CAPITAL GROUP,)
LLC, an Arizona limited liability)
company; MOUNTAIN WEST BANK, a)
division of GLACIER BANK, a)
Montana corporation; FIRST)
AMERICAN TITLE COMPANY, a)
California corporation; NETTA)
SOURCE LLC, a Missouri limited)
liability company; MONTAHEHO)
INVESTMENTS, LLC, a Nevada)
limited liability company;)
CHARLES W. REEVES and ANN B.)
REEVES, husband and wife; and)
C.E. KRAMER CRANE & CONTRACTING,)
INC., an Idaho corporation,)

Third Party)

Defendants.)

JV L.L.C., an Idaho limited)
liability company,)

Defendant and Cross-)
Claimant against all of the)
Defendants and Third)
Party Plaintiff,)


v.)

VALIANT IDAHO, LLC, an Idaho)
limited liability company; V.P.,)

INC., an Idaho corporation;)
 RICHARD A. VILLELLI, a married)
 man; MARIE VICTORIA VILLELLI, a)
 married woman; VILLELLI)
 ENTERPRISES, INC., a California)
 corporation; RICHARD A. VILLELLI,)
 as TRUSTEE OF THE RICHARD ANTHONY)
 VILLELLI AND MARIE VICTORIA)
 VILLELLI REVOCABLE TRUST; THE)
 IDAHO CLUB HOMEOWNERS)
 ASSOCIATION, INC., an Idaho)
 corporation; the entity named in)
 Attorney Toby McLaughlin's Notice)
 of Unpaid Assessment as PANHANDLE)
 MANAGEMENT, INCORPORATED, an)
 Idaho corporation; and HOLMBERG)
 HOLDINGS, LLC, a California)
 limited liability company,)
)
)
 Third Party)
 Defendants.)
 _____)
)

COMES NOW, the Defendant, JV, L.L.C., by and through its
 attorney GARY A. FINNEY of Finney Finney & Finney, P.A., and
 submits Defendant JV, LLC's Exhibit List and Exhibits A through
 N attached hereto.

DATED this 10th day of August, 2015.



 GARY A. FINNEY
 Attorney for JV L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via US Mail, postage prepaid, this ^{11TH} day of August, 2015, and was addressed as follows: _{EF}

Richard Stacey/Jeff Sykes
MCCONNELL WAGNER SYKES & STACEY PLLC
827 East Park Boulevard, Suite 201
Boise, ID 83712
[Attorney for R.E. LOANS, LLC & VALIANT IDAHO LLC]

Susan Weeks
Steven C. Wetzel
JAMES, VERNON & WEEKS, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814
[Attorney for NORTH IDAHO RESORTS, LLC, V.P. INC, & FOR JV'S
THIRD PARTY DEFENDANTS]

By: Harry A. Finney

DEFENDANT JV, LLC'S EXHIBIT LIST

CASE NO: CV-09-1810

PLAINTIFF'S COUNSEL:

DATE: August 10, 2015

DEFENDANT JV, LLC's COUNSEL: Gary A. Finney

PLAINTIFFS: GENESIS GOLF BUILDERS, INC.

DEFENDANTS: PEND OREILLE BONNER DEVELOPMENT, LLC, et al.

S T A T E	P L A I N T I F F	D E F E N D A N T	D E S C R I P T I O N	M A R K E D	O F F E R E D	R E J E C T E D	A D M I T T E D	A D M I T T E D B Y S T I P	U N D E R A D V I S E M E N T
		A	Secured Promissory Note, October 20, 1995, original sum \$2,264,500.00 to JV, LLC from V.P., Richard Villelli, Villelli Enterprises, Villelli Trust (all as makers)						
		B	Mortgage recorded October 24, 1995, Instrument No. 474746 (V.P. Inc, Mortgagor; JV, LLC, Mortgagee)						
		C	Panhandle Escrow No. 2067429, Ledger of Payments & Unpaid Balance						
		D	Third Amended and Restated Real Property Purchase and Sale Agreement, January 6, 2005, North Idaho Resorts/MDGM						
		E	Third Amendment to Indebtedness and to Real Estate Security and Subordination Agreement as recorded June 24, 2008, Instrument No. 753907						
		F	Deposition of Chuck Reeves on _____ in BC Case No. CV-2011-0135						
		G	Findings of District Judge Griffin in BC Case No. CV-2011-0135						

	H	Seller's Closing Statement HUD-1 of 06/14/2006						
	I	Borrower's Closing Statement of 7/31/2008						
	J	Borrower's Final Settlement Statement of 08/06/2008						
	K	Notice of Redemption dated July 1, 2014, JV to BC Tax Collector						
	L	Redemption Deed, dated July 2, 2014, recorded July 7, 2014 as Instrument No. 861430 & re-recorded August 22, 2014 as Instrument No. 863295						
	M	Bonner County Treasurer's Map showing real estate redeemed JV, and remainder of land redeemed by Valiant						
	N	Redemption Deed, dated July 7, 2014, recorded July 8, 2014 as Instrument No. 861460 & re-recorded August 22, 2014 as Instrument No. 863298						
	O							
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GARY A. FINNEY
 FINNEY FINNEY & FINNEY, P.A.
 Attorneys at Law
 Old Power House Building
 120 East Lake Street, Suite 317
 Sandpoint, Idaho 83864
 Phone: (208) 263-7712
 Fax: (208) 263-8211
 ISB No. 1356

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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,)	Case No. CV-2009-1810
formerly known as National Golf)	
Builders, Inc., a Nevada)	JV L.L.C.'S MOTION TO
corporation,)	RECONSIDER, ALTER, AND AMEND
)	THE JUDGMENT (RULE 11(B) AND
Plaintiff,)	RULE 52 (b); AND REQUEST FOR
)	HEARING
v.)	
)	
PEND OREILLE BONNER DEVELOPMENT,)	
LLC, a Nevada limited liability)	
company; R.E. LOANS, LLC, a)	
California limited liability)	
company; DAN S. JACOBSON, an)	
individual, SAGE HOLDINGS LLC, an)	
Idaho limited liability company;)	
STEVEN G. LAZAR, an individual;)	
PENSCO TRUST CO. CUSTODIAN FBO)	
BARNEY NG; MORTGAGE FUND '08 LLC,)	
a Delaware limited liability)	
company; VP, INCORPORATED, an)	
Idaho corporation; JV L.L.C., an)	
Idaho limited liability company;)	
WELLS FARGO FOOTHILL, LLC, a)	
Delaware limited liability)	
company; INTERSTATE CONCRETE AND)	
ASPHALT COMPANY, an Idaho)	
corporation; T-O ENGINEERS, INC.,)	
fka Toothman-Orton Engineering)	
Company, an Idaho corporation;)	

PUCCI CONSTRUCTION INC., an Idaho corporation; ACI NORTHWEST, INC., an Idaho corporation; LUMBERMENS, INC., dba ProBuild, a Washington corporation; ROBERT PLASTER dba Cedar Etc; NORTH IDAHO RESORTS, LLC, an Idaho limited liability company; R.C. WORST & COMPANY, INC., an Idaho corporation; DOES 1 through X,

Defendants.

AND RELATED COUNTERCLAIMS, CROSS-CLAIMS, AND THIRD-PARTY COMPLAINTS

GENESIS GOLF BUIDLERS, INC., formerly known as NATIONAL GOLF BUILDERS, INC., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER DEVELOPMENT, LLC, a Nevada limited liability company; et al,

Defendants.

AND RELATED COUNTERCLAIMS, CROSS-CLAIMS, AND THIRD-PARTY COMPLAINTS

VALIANT IDAHO, LLC, an Idaho limited liability company,

Third Party Plaintiff,

v.

PEND ORIELLE BONNER DEVELOPMENT

HOLIDNGS, INC., a Nevada)
corporation; BAR K, INC., a)
California corporation;)
TIMBERLINE INVESTMENTS LLC, an)
Idaho limited liability company;)
AMY KORENGUT, a married woman;)
HLT REAL ESTATE, LLC, an Idaho)
limited liability company;)
INDEPENDENT MORTGAGE LTD. CO., an)
Idaho limited liability company;)
PANHANDLE MANAGEMENT)
INCORPORATED, an Idaho)
corporation; FREDERICK J. GRANT,)
an individual; CRISTINE GRANT, an)
individual; RUSS CAPITAL GROUP,)
LLC, an Arizona limited liability)
company; MOUNTIAN WEST BANK, a)
division of GLACIER BANK, a)
Montana corporation; FIRST)
AMERICAN TITLE COMPANY, a)
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SOURCE LLC, a Missouri limited)
liability company; MONTAHEHO)
INVESTMENTS, LLC, a Nevada)
limited liability company;)
CHARLES W. REEVES and ANN B.)
REEVES, husband and wife; and)
C.E. KRAMER CRANE & CONTRACTING,)
INC., an Idaho corporation,)
)

Third Party Defendants.)
)

JV L.L.C., an Idaho limited)
liability company,)
)

Defendant and Cross-)
Claimant against all of the)
Defendants and Third Party)
Plaintiff,)
)

v.)
)

VALIANT IDAHO, LLC, an Idaho)
limited liability company; V.P.,)
INC., an Idaho corporation;)
RICHARD A. VILLELLI, a married)
)

man; MARIE VICTORIA VILLELLI, a)
 married woman; VILLELLI)
 ENTERPRISES, INC., a California)
 corporation; RICHARD A. VILLELLI,)
 as TRUSTEE OF THE RICHARD ANTHONY)
 VILLELLI AND MARIE VICTORIA)
 VILLELLI REVOCABLE TRUST; THE)
 IDAHO CLUB HOMEOWNERS)
 ASSOCIATION, INC., an Idaho)
 corporation; the entity named in)
 Attorney Toby McLaughlin's Notice)
 of Unpaid Assessment as PANHANDLE)
 MANAGEMENT, INCORPORATED, an)
 Idaho corporation; and HOLMBERG)
 HOLDINGS, LLC, a California)
 limited liability company,)
)
)
Third Party Defendants.)

COMES NOW JV, L.L.C. ("JV") and submits its Motion to Reconsider (Rule 11(a)(2)(B) and to alter and amend (Rule 52(b)). The Court is moved to reconsider, alter, and amend all of the following:

1. Memorandum Decision & Order Granting Valiant's Motion for Summary Judgment, filed April 14, 2015
2. Memorandum Decision and Order Re: 1) JV; NIR; and VP's Motion to Reconsider filed July 21, 2015
3. Judgment filed August 5, 2015
4. Decree of Foreclosure filed August 8, 2015
5. Order of Sale, ordered by the Court in open Court, but not yet filed.

I. THE "FORM" OF JUDGMENT

1. JUDGMENT was entered by the Court on August 5, 2015.

As a party, JV has fourteen (14) days after the JUDGMENT to file

its Motions, and JV's Motions are timely.

2. First, the JUDGMENT fails to comply with Rule 10(a)(1) requiring a judgment to contain a caption setting forth the names of the parties. The Complaint must name all parties, but "subsequent pleadings" may use the name of the first party on each side. A judgment is not a pleading, and it requires the caption with all parties' names.

3. Secondly, after the Judgment the Court entered a separate Decree of Foreclosure. Rule 54(a) requires a Judgment and no further Orders or Decrees as a separate document. These matters must be in the JUDGMENT. If an appeal be taken, the Idaho Supreme Court will require only a JUDGMENT in conformity with Rule 54(a).

4. Additionally, in open Court on hearing on August 5, 2014, on Valiant's Motion For Order of Sale, the Court stated that it would sign the Judgment and then sign a separate Order For Sale would be entered by the Court. This subsequent Order For Sale has not been received by JV's counsel; however, any Order of Sale violates Rule 54(a) as it is post-judgment and is not a Judgment and therefore not appealable. Further, Idaho Code Title 6, Chapter 1 is the "one-action" rule for mortgage foreclosures. Idaho Code §6-101, second sentence states, that the Court may, by its judgment, direct a sale of the encumbered property.

5. In summary, both the Decree of Foreclosure and the Order of Sale must be in the JUDGMENT.

6. The Order of Sale to sell the encumbered property in order requested by the Creditor, Valiant, violates Idaho Code §11-301, in that there are 3 judgments i.e., RE, Penso, MF08. The real estate would have a fair market value in excess of the RE debt. The statute allows the judgment creditor to indicate the order in which the property is to be sold - there must be a levy only on such property as the judgment debtor indicates. Under §11-304 Conduct of Sale requires known lots or parcels to be sold separate.

In short, neither Idaho Code, nor the Rules contain authority for an Order of Sale. Rule 64 states that the process to enforce a judgment is a Writ of Execution.

II. SUMMARY JUDGMENT IN FAVOR OF VALIANT

7. On April 14, 2014 the Court entered a Memorandum Decision and Order Granting Valiant Idaho, LLC's Motion for Summary Judgment against JV, NIR, and VP. The actual Motion for Summary Judgment filed by Valiant was on January 20, 2015, in which Valiant stated the only issue was priority of various mortgages. Also, at the Court Hearing, March 18, 2015, Valiant's attorney (Attorney Sykes) orally stated that the only issue was priority of various mortgages. The Court's Memorandum Decision and Order went into matters other than priority and made findings

and conclusions that were not within the Motion for Summary Judgment. The Court's Memorandum Decision and Order (4-14-15) cites to a Stipulation to Entry of Judgment against Pend Oreille Bonner Development (POBD) filed on November 19, 2014. The Court used this Stipulation to enter a "STIPULATED ORDER".

On Valiant's Motion for Summary Judgment, nothing was included about the Stipulation or "Stipulated Order". The Court however used these documents in its Memorandum Decision in paragraph 7, page 4; paragraph 11, page 54; paragraph 15, page 6. JV moves the Court to strike from its Memorandum Decision, any facts taken from the "STIPULATION" and "STIPULATED ORDER" between POBD and Valiant. Such facts are not within the issues or memorandum of Valiant. The Court seemed to have gratuitously included these to benefit Valiant.

8. Valiant's request for summary judgment only sought to request that the real estate "in a portion of the Idaho Club Property described in its Redemption Deed *** is senior to any right, title, and interest of the Claimants in the property described in the Redemption Deed". (See, Declaration of Jeff K. Sykes, at Ex, 2.) The Court correctly stated this issue in its Memorandum Decision, page 2, last paragraph. If Valiant had a right to redeem by reason of Valiant's assignment, then Valiant has a senior right by payment of delinquent taxes and receiving a Redemption Deed as to the "property described in the "Redemption

Deed". The Redemption Deed only describes a portion of the Idaho Club Property and the legal description in the Redemption Deed to Valiant, the last page EXCLUDED the real estate previously redeemed by JV. See JV's Redemption Deed and Valiant's Redemption Deed (JV's Exhibits M and N), in its Memorandum in Opposition to Valiant Idaho, LLC's Motion for Summary Judgment). In paragraph 19, page 7, the Court's Memorandum Decision correctly stated that Valiant seeks to foreclose the Redemption Deed and "*** adjudication that Valiant's in the real property described therein is superior and senior to any interest of the Claimants, i.e. JV".

In paragraph E, page 15, entitled Valiant's Redemption Deed has priority over JV, NIR, and VP, the Court then "finds" Valiant is entitled to include the amount it paid to redeem the property. "As such, the amount paid by Valiant shall be deemed senior to any interest (emphasis added) of JV, NIR, and VP." The Court changed that wording in its Conclusion and Order, paragraph 2, page 17 of Memorandum Decision to say,

"Valiant's interest in the portion of the Idaho Club Property described in the Redemption Deed is senior to any right, title, and interest of JV, NIR and VP in the property described in the Redemption Deed. Valiant is entitled to include the amount paid to Bonner County to redeem the property with the amount due under the 2007 RE Loans Note and that amount is entitled to the priority date of the 2007 RE Loans Mortgage (i.e., March 15, 2007)."

In other words, the issue was only as to the portion of real estate described in Valiant's Redemption Deed, not all of the POBD real estate. The Court's final JUDGMENT, filed August 5, 2015 does NOT mention either JV's Redemption Deed or Valiant's Redemption Deed. Hence the Court does not find or adjudicate that Valiant's interest in Valiant's Redemption Deed is limited to the real property described in the Redemption Deed, keeping in mind that Valiant admits it only redeemed a portion of the real estate. Therefore, the Judgment gives Valiant priority under its Redemption Deed to all of the Idaho Club real estate, instead of just the portion of the Idaho Club described in its Redemption Deed.

If Valiant held a record interest in the portion of real estate it redeemed (i.e., its Redemption Deed) as a "party in interest" (see, Idaho Code §63-1007, first sentence), then Valiant has the benefit of being subrogated to the County's tax lien, but only to the real estate described. Before getting to that result, the Court must determine whether Valiant is a party in interest under its Assignment from RE, which was signed by Power of Attorney, without meeting the requirement of Idaho Code §45-908 that a power of attorney must be in writing and an assignment of a mortgage may be recorded in like manner as a mortgage (Idaho Code §4-909). Idaho Code §55-806 requires the Power of Attorney to be first recorded before the instrument signed by power of attorney

is entitled to be recorded. An instrument executed by an attorney in fact must not be recorded until the power of attorney authorizing execution of the instrument is filed for record in the same office.

Valiant's Exhibit 3 Assignment of Mortgage Note and Redemption Right was recorded July 7, 2014, Instrument No. 861388, but it is signed by attorney in fact, power of attorney, without the instrument creating the authority being recorded. By Idaho Code §55-806, the aforesaid Assignment to Valiant by RE Loans signed by power of attorney, was not entitled to be recorded. Therefore, Valiant is not a "party in interest" as required by Idaho Code §63-1007 to be a redemptioner. All of the Memorandum Decisions of the Court did not address JV's claim that Valiant had no statutory right of redemption.

Valiant's only communication to the Tax Collector stated "our group" as the entity seeking to redeem the property that was not redeemed previously by JV. Nothing was ever presented to the Tax Collector for any redemption by Valiant, nor was the Assignment from RE to Valiant presented to the Tax Collector.

III. JV submitted proof of the payoff of any mortgages prior to August 1, 2008.

There are 3 argument and issues about any debts/mortgages prior to the July 31, 2008 \$22,270,000.00 August 6, 2008 MF08 Mortgage from POBD, as follows:

1. It has been adjudicated that RE has been paid. Union Bank v. POBD, V.P., NIR, RE and JV, Bonner County Case No. CV-2011-135 went to trial before District Judge Michael J. Griffin; all of the Defendants were parties and were represented by counsel. RE Loans was a party defendant and was represented by Richard L. Stacey. Valiant through Attorney Stacy has filed the FINDINGS of Exhibit 14 to his Declaration in support of Valiant's Motion for Summary Judgment. These FINDINGS were used by District Judge Buchanan in the instant action to determine that V.P. Inc./N.I.R. have been paid and have had lien value as Vendor on its purchase and sale contract with POBD based on res judicata and collateral estoppel. By the same reasoning the finding/conclusion of District Court Judge Griffin would also bind RE and its assignee, Valiant Idaho in this instant action. Judge Griffin held in his FINDINGS - (page 3), 5 lines down from the top of the page that,

"POBD did pay the debt they assumed to RE." These FINDINGS were made and filed June 3, 2014, which is long after RE's 2006 or 2007 Mortgages! Also, Judge Griffin's Finding that,

"POBD has not paid the debt they assumed to JV, LLC". POBD still owes V.P./NIR on the note and mortgage assumed by POBD and payable to JV.

This FINDING also binds V.P./NIR in the instant action, and

V.P. agrees that POBD did not pay the down payment part of the purchase price as to POBD's assumption and payment of the JV Mortgage.

2. The "First Note", Loan No P0099, was paid and the "Second Note", Loan No. P0106, was also paid-off, both as part of the new loan of \$22,270,000.00 about 7/31/2008; recording August 6, 2008. These pay-offs are shown on the Borrower's Settlement Statement, JV's Exhibit B, in opposition Valiant's Motion for Summary Judgement as the lines 5 and 6, under the heading New Loans. This is further verified and repeated on the Borrower's Final Settlement Statement, JV's Defendants Exhibit H, in support of JV's Opposition to Valiant's Motion for Summary Judgment, listed in 2 places, first on lines 5 & 6 under Charge Description, New Loan(s) as Pay-off First Note, Loan No. P0099, and pay-off Second Note, Loan No. P0106. This JV's Exhibit H consists of 4 pages and is signed for POBD by: Charles W. Reeves, President. On the 3rd page are the paragraph L. Settlement Charges, and line 810 is "Payoff of First Note, Loan No. P0099" and line 811 is "Payoff of Second Note, Loan No. P0106."

3. The actual NOTE SECURED BY MORTGAGE from POBD to RE Loans, dated March 6, 2007, in the sum of \$21,200,000.00 on its face identifies it as Loan No. P0099. This is Valiant's own EXHIBIT C to the Affidavit of Charles W. Reeves, dated 12 Nov,

2014. The actual Mortgage is the next EXHIBIT D to the Affidavit of Charles W. Reeves, recorded March 15, 2007, Instrument No. 724829/724834, showing on its face as "Loan No. P0099. It is an unrefuted fact from POBD's own records, that both loans including RE's 2007 Loan No. 0099 was paid off.

This 2007 RE Mortgage is also paid-off by the terms of the 2008 Mortgage. The All-Inclusive Note Secured By Mortgage (\$21,980,000), Loan No. P0106 is Valiant's Exhibit "i" to the Affidavit of Charles Reeves. On page 2 of 7, of said Mortgage, is "First Included Note, Date of Included Note, March 6, 2007..Mortgage, RE LOANS, Instrument No. 724829 and 724834; Date of Recording March 15, 2007".

In effect Valiant itself has furnished said Exhibit "i" proving the 2008 Loan/Mortgage P0106 paid-off the prior 2007 Note/Mortgage, Loan No. P0099, as being included in the 2008 Mortgage to MF08.

In conclusion, RE Loans 2007 Note/Mortgage was paid off in the Aug 1, 2008 Loan Mortgage to MF08. Therefore,

1. There is no 2007 Loan/Mortgage to RE Loans; and
2. The Assignment of Mortgage Note and Redemption Right, Valiant's Exhibit 3, to Attorney Sykes' Declaration, purportedly assigning RE Loans March 2007 Note/Mortgage to the Assignee Valiant Idaho, LLC "Without Representation, WARRANTY OR RECOURSE" to Assignee: Valiant Idaho, LLC, was for an

indebtedness/mortgage that was already paid-off. Therefore, Valiant received no existing March 2007 Note/Mortgage "owed" from POBD to RE!

The Court's Memorandum Decision and Order, filed July 21, 2015, page 15, second paragraph states that "Borrower's Final Statement", is unsigned. This is contrary to the proof. Page 4 of that document (JV's Exhibit H) is signed by BY: Charles W. Reeves, as President for POBD.

IV. CHARLES W. REEVES' DEPOSITION SWORN TESTIMONY IS THAT POBD RECEIVED NO MONEY (FUNDS) FROM THE 2008 LOAN/MORTGAGE TO MF08.

In JV's Memorandum Opposing Valiant's Summary Judgment Motion, (filed February 27, 2015) JV furnished the Deposition of Charles W. Reeves, the president/manager of POBD, which was JV's Defendant's Exhibit E. In Charles Reeve's Deposition, he clearly testified that the Retained Closing Funds (MF08) of \$12,257,174.82, was never disbursed to POBD. The Court is requested to again read pages 16 and 17 of JV's Memorandum as to Reeve's Testimony to the effect that MF08 never funded POBD's first draw request and POBD did not make any future payments once MF08 didn't fund any additional draws.

Valiant submitted in support of its Motion For Summary Judgment, the Affidavit of Charles W. Reeves, dated 12 November 2014. In that Affidavit, Charles W. Reeves in paragraph 18, page 7, identified as Exhibit "I" (i) the All-Inclusive Note

Secured by Mortgage for \$21,980,000 to MF08, recorded August 6, 2008. This is the August 2008 loan from MF08 to POBD which retained all of the remaining loan funds (\$12,257,174.82), and is the same loan that Reeves in his Deposition testified did not owe anything to MF08 (on the 2008 Mortgage) and POBD did not make any payments. Reeve's Deposition testimony is contrary and is in opposition to his Affidavit, paragraph 19, page 7 stating,

"19. POBD borrowed \$2,127,409.34 from MF08 pursuant to the MF08 Note".

In Reeves' Affidavit, paragraph 21, he refers to Exhibit "J" as the All-Inclusive Mortgage to JF08, recorded August 6, 2008. Both the All-Inclusive Note ("I") and the All-Inclusive Mortgage ("J") on their face designate the Loan No. P0107.

With Reeves' Affidavit facts clearly disputing his Deposition facts about any indebtedness under Loan No. P0107, the 2008 All-Inclusive Note and All-Inclusive Mortgage, results in a genuine dispute of facts as to the 2008 MF08 Note/Mortgage. This should have defeated summary judgment in favor of Valiant on the MF08 indebtedness. The POBD debt to MF08 was stated by Reeves in his Deposition to "be no money disbursed" as opposed to his Affidavit, line 19, that POBD borrowed \$2,127,409.34 from the MF08 mortgage.

V. CHARLES W. REEVES' DEPOSITION TESTIMONY CONTRADICTS HIS AFFIDAVIT TESTIMONY.

When the witness testifies to facts in his Deposition and then testifies to different facts in his Affidavit, there is a genuine issue as to those facts, as a matter of law. In *Capstar Radio Operating Co. v. Lawrence*, 153 Idaho 411, 283 P.3d 728 (2012), this same issue occurred and the District Court granted summary judgment based on the Affidavit; however, the Idaho Supreme Court reversed because "***witness have made contradictory statements regarding material facts." (*Capstar*, 153 Idaho at page 418).

The Supreme Court held,

"***For instance, Funk's deposition testimony is inconsistent with his affidavit testimony regarding..."

(*Capstar*, 153 Idaho at 418)

"***The conflicting testimony presents a genuine issue of material fact regarding whether Funk's use of the easement road was apparent and continuous."

(*Capstar*, 153 Idaho at 418)

"Moreover, Rook's deposition testimony contradicts his affidavit testimony..."

(*Capstar*, Idaho 153 at 418)

"This presented the district court with another evidentiary conflict regarding material facts..."

(*Capstar*, 153 Idaho at 419)

The Idaho Supreme Court said that the lower court seems to have weighed conflicting evidence and judged the affiant's credibility in making a ruling. The Supreme Court reversed,

because,

***credibility determinations should not be made on summary judgment if credibility can be tested in court before the trier of fact."

(Capstar, 153 Idaho at 419)

In the instant action, summary judgment should not have been granted. A trial should occur.

JV'S REDEMPTION DEED

JV claims its Redemption Deed, dated July 3, 2014, recorded July 7, 2014 with a copy re-recorded August 22, 2011 subrogates JV to the Bonner County's first priority tax lien. As such JV's Redemption Deed is first priority as to the portion of the real estate redeemed by JV. Valiant did not redeem the property which had been redeemed by JV. Instead, Valiant redeemed only the remaining portion of the real estate.

The issues of JV's Redemption Deed are set forth in its Motion filed July 30, 2015, which is to be heard by the Court on September 2, 2015 at 11:00 a.m.

Idaho Code §63-1007 only permits tax redemption within fourteen (14) months of the Tax Deed of May 21/22, 2014; which time limit has expired so there is no right to redeem from JV. The 14 month time period is like a "statute of limitations", but more specifically Idaho Code §63-1007 is a "statute of repose", which is designed to bar actions after a specified period of time has run from the occurrence of some event. (Wikipedia

encyclopedia). Wikipedia explains "**** A statute of repose (sometimes called a non-claim statute) like a statute of limitation, is a statute that cuts off certain legal rights if they are not acted on by a certain deadline."

RELIEF REQUESTED

Wherefore, JV requests the Court to vacate its Memorandum Decisions on Valiant's Motion for Summary Judgment and to adjudicate JV's first lien/title in its Redemption Deed, and to vacate the Judgment and all of its post-judgment orders and decrees, and that this action proceed to a trial.

REQUEST FOR HEARING

JV requests a hearing on this motion to be set September 2, 2015 as 11:00 a.m., or at a time as the Court may designate. JV would like one (1) hour for its oral arguments.

DATED this 18TH day of August, 2015.



GARY A. FINNEY
Attorney for JV L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile or as otherwise indicated, this 18th day of August, 2015, and was addressed as follows:

Richard Stacey/Jeff Sykes
MCCONNELL WAGNER SYKES & STACEY PLLC
827 East Park Boulevard, Suite 201
Boise, ID 83712
[Attorney for R.E. LOANS, LLC & VALIANT IDAHO LLC]
Via Facsimile: (208) 489-0110

FAXED
2:02 pm

Susan Weeks
Steven C. Wetzel
JAMES, VERNON & WEEKS, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814
Via Facsimile: (208) 664-1684
[Attorney for NORTH IDAHO RESORTS, LLC, V.P. INC, & FOR JV'S
THIRD PARTY DEFENDANTS

FAXED
2:08 pm

By: 