

After Recording
Return To:

Jim Conger
Conger Management Group
4824 W. Fairview Ave.
Boise ID 83706

ADA COUNTY RECORDER Christopher D. Rich
BOISE IDAHO Pgs=9 DAWN TRIVOLIS
BOISE CITY

2016-108508
11/08/2016 02:06 PM
NO FEE



DEVELOPMENT AGREEMENT

This Agreement entered into this 31st day of October, 2016, by and between the City of Boise City, hereinafter referred to as "City," and C13 LLC, the owner of the real property described herein and the Applicant for Boise City annexation number CAR16-00002, hereafter referred to as "Developer."

RECITALS

WHEREAS, the Developer has applied to the City for an annexation and zoning to R-2/DA and R-1B/DA of the property described in Exhibit "A" to develop preliminary subdivision plat for detached single family dwellings with 24 buildable lots; and

WHEREAS, the City, pursuant to Boise City Code Section 11-08-08 and Idaho Code Section 67-6511A, has the authority to conditionally annex and zone the property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for a specific purpose or use which is appropriate in the area, but for which the requested zoning may not be consistent with the Idaho Code and the Boise City Code; and

WHEREAS, the City's Planning & Zoning Commission and City Council have held public hearings as prescribed by law with respect to the zoning and planned development of the Property and this Agreement; and

WHEREAS, it is the intent and desire of the parties hereto that development of the Property proceed as provided herein, subject to the terms and conditions of this Agreement and the amendments hereto.

Handwritten mark

NOW THEREFORE, in consideration of the above recitals and the mutual consideration as reflected in the covenants, duties and obligations herein set forth, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Description and Location of Property; Size of Property; Present Zoning: This R-2 and R-1B zone shall apply to the property owned by Developer, hereinafter referred to as “the Property” and specifically legally described in Exhibit “A”. The commonly associated address of the property is 6781, 6751, 6827 East Warm Springs Ave. The property is approximately 4.2 acres. The property was formerly zoned by Ada County as RP.
2. Use Permitted by this Agreement: The sole use allowed pursuant to this annexation and zoning as reflected in this Agreement is the development of 4.2 acres to single family residential with 24 buildable lots and 1 common lot. Developer agrees that this Agreement specifically allows only the uses described and specifically incorporated herein under the conditional R-2 and R-1B. No change in the uses specified in this Agreement shall be allowed without modification of this Agreement pursuant to the requirements of the Boise City Code. In the event the Developer changes or expands the use permitted by this Agreement without formal modification of this Agreement as allowed by the Boise City Code, the Developer shall be in default of this Agreement.
3. Construction of Use in Conditional Zone: The residential development and site work shall be constructed in accordance with Boise City Subdivision Ordinance per Exhibit “B.” Failure to construct the development consistent with this Agreement and the Boise City Zoning Ordinance or construction in variance with this Agreement, including the amendment of this Agreement, shall result in a default of this Agreement by the Developer.
4. Default: In the event the Developer, her/his heirs or assigns or subsequent owners of the property or any other person acquiring an interest in the property, fails to faithfully comply with all of the terms and conditions included in this Agreement, this Agreement may be modified or terminated by the Boise City Council upon compliance with the requirements of the Boise City Code.
 - A.) In the event the Boise City Council determines that this Agreement shall be modified, the terms of this Agreement shall be amended and the Developer

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shall comply with the amended terms. Failure to comply with the amended terms shall result in default.

B.) In the event the Boise City Council, after compliance with the requirements of the Boise City Code, determines that this Agreement shall be terminated as a result of the default, the zoning of the property shall revert to RP. All uses of the Property, which are not consistent with RP zoning or otherwise approved by the City of Boise shall cease.

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

5. Consent to Annex: Developer, Developer's heirs, successors, assigns and personal representatives, by entering into this Agreement, does hereby agree that in the event there shall be a default in the terms and conditions of this Agreement in connection with the Property, after compliance with the requirements of Boise City Code, that this Agreement shall serve as consent to a rezone of the Property to A-1 zoning, as provided in Idaho Code §67-6511A.

6. Notices: Any and all notices required to be given by either of the parties hereto, shall be in writing and be deemed delivered upon personal service, if hand-delivered, or when mailed in the United States mail, certified, return receipt requested, addressed as follows:

a.) To the City:

Director, Community Planning and Development Department
City of Boise City
P.O. Box 500
Boise, Idaho 83701-0500

b). To the Developer:

C13 LLC
4824 W. Fairview Ave.

Either party shall give notice to the other party of any change of their address for the purpose of this section by giving written notice of such change to the other in the manner herein provided. Developer expressly agrees to notify any successors and assigns of the need to provide City with a current address. In the event any successor or assign fails to provide an address, City obligations of mailing shall be deemed accomplished by use of the address on file with the County Tax Assessor.

7. Attorney Fees: Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.
8. Time Is Of The Essence: The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the party so failing to perform.
9. Binding Upon Successors: This Agreement shall be binding upon and inure to the benefit of the parties respective successors, assigns and personal representatives, including City's corporate authorities and their successors in office. This Agreement shall be binding on the owner of the property, each subsequent owner and each other person acquiring an interest in the property. This Agreement shall run with the land.
10. Requirement for Recordation: The Developer shall record this document, including all the Exhibits, prior to the formal adoption of CAR16-00003 by the Boise City Council. Failure to comply with this section shall be deemed a default of this Agreement by the Developer. If for any reason after such recordation the Boise City Council fails to adopt CAR16-00003, City shall execute and record an appropriate instrument of release of this Agreement.
11. Effective Date: This Agreement shall not be effective until CAR16-00003 has been approved and published by the City.

JZ

12. Invalid Provisions: If any provision of this Agreement is held not valid, such provision shall be deemed to be excised there from and the invalidity thereof shall not affect any of the other provisions contained herein.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

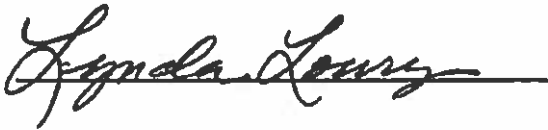
Dated this 31st day of October, 2016.

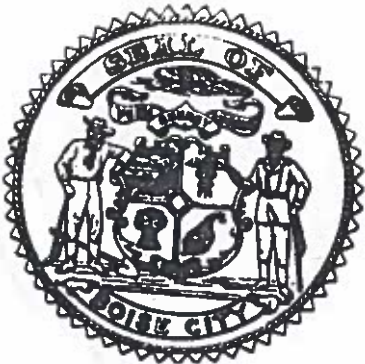
BOISE CITY

By: 

David H. Bieter, Mayor

ATTEST:





DEVELOPER

By: C13 LLC, an Idaho limited liability
company



Jim D. Conger, Member

ACKNOWLEDGMENT

STATE OF IDAHO)
) ss.
County of Ada)

On this 2nd day of November, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared **David Bieter**, known or identified to me to be the Mayor of the City of Boise City, the municipal corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

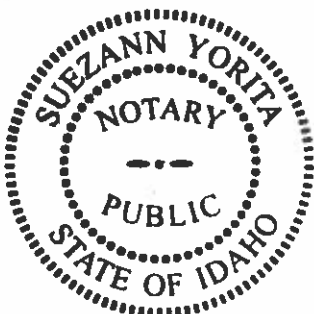
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Tracy Hall
Notary Public for Idaho
Residing at: Boise, ID
My commission expires: 12/16/20

STATE OF IDAHO)
) ss.
County of Ada)

On this 31 day of October, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Jim D. Conger, known or identified to me to be a Member of C13 LLC, an Idaho limited liability company, that executed the foregoing said instrument, and acknowledged to me that he/she executed the same.



Suezann Yorita
Notary Public for Idaho
Residing at: Boise, ID
My Commission expires: 7-13-2022



Sawtooth Land Surveying, LLC

P: (208) 398-8104 F: (208) 398-8105
2030 S. Washington Ave., Emmett, ID 83617

Exhibit A

October 12, 2016

Annexation Legal Description
for
Crows Inn

BASIS OF BEARINGS for this description is South $88^{\circ}52'08''$ East between the brass cap marking the CE1/16 corner of Section 33 and the aluminum cap marking the E1/4 corner of Section 33, both in T. 3 N., R. 3 E., B.M.

A parcel of land being a portion of the SE1/4 of the NE1/4 of Section 33, T. 3 N., R. 3 E., B.M., Ada County, Idaho, more particularly described as follows:

COMMENCING at a found brass cap marking the CE1/16 corner of Section 33;

Thence South $88^{\circ}52'08''$ East, coincident with the south line of the SE1/4 of the NE1/4 of said Section 33, a distance of 49.80 feet to the **POINT OF BEGINNING**;

Thence North $2^{\circ}07'31''$ East, parallel with the westerly right of way E. Warm Springs Road, 440.13 feet;

Thence North $88^{\circ}52'08''$ West, parallel with said south line of the SE1/4 of the NE1/4 of Section 33, a distance of 55.56 feet to the west line of said SE1/4 of the NE1/4 of Section 33;

Thence North $1^{\circ}22'29''$ East, coincident with said west line of the SE1/4 of the NE1/4 of Section 33, a distance of 883.71 feet to the northwest corner of said SE1/4 of the NE1/4 of Section 33;

Thence South $88^{\circ}42'05''$ East, coincident with the north line of said SE1/4 of the NE1/4 of Section 33, a distance of 209.58 feet to the easterly right of way of E. Warm Springs Road, and the beginning of a non-tangent curve;

Thence 330.00 feet along the arc of said curve to the right and coincident with said easterly right of way of E. Warm Springs Road, with a central angle of $16^{\circ}56'07''$, a radius of 1116.47 feet, subtended by a chord bearing South $4^{\circ}26'10''$ East, 328.80 feet;

Thence South $2^{\circ}07'31''$ West, coincident with said easterly right of way of E. Warm Springs Road, 821.74 feet;

Thence South $87^{\circ}59'56''$ East, coincident with said easterly right of way of E. Warm Springs Road, 10.00 feet;

Thence South 2°07'31" West, coincident with said easterly right of way of E. Warm Springs Road, 174.16 feet to said south line of the SE1/4 of the NE1/4 of Section 33;

Thence North 88°52'08" West, coincident with said south line of the SE1/4 of the NE1/4 of Section 33, a distance of 190.03 feet to the **POINT OF BEGINNING**.

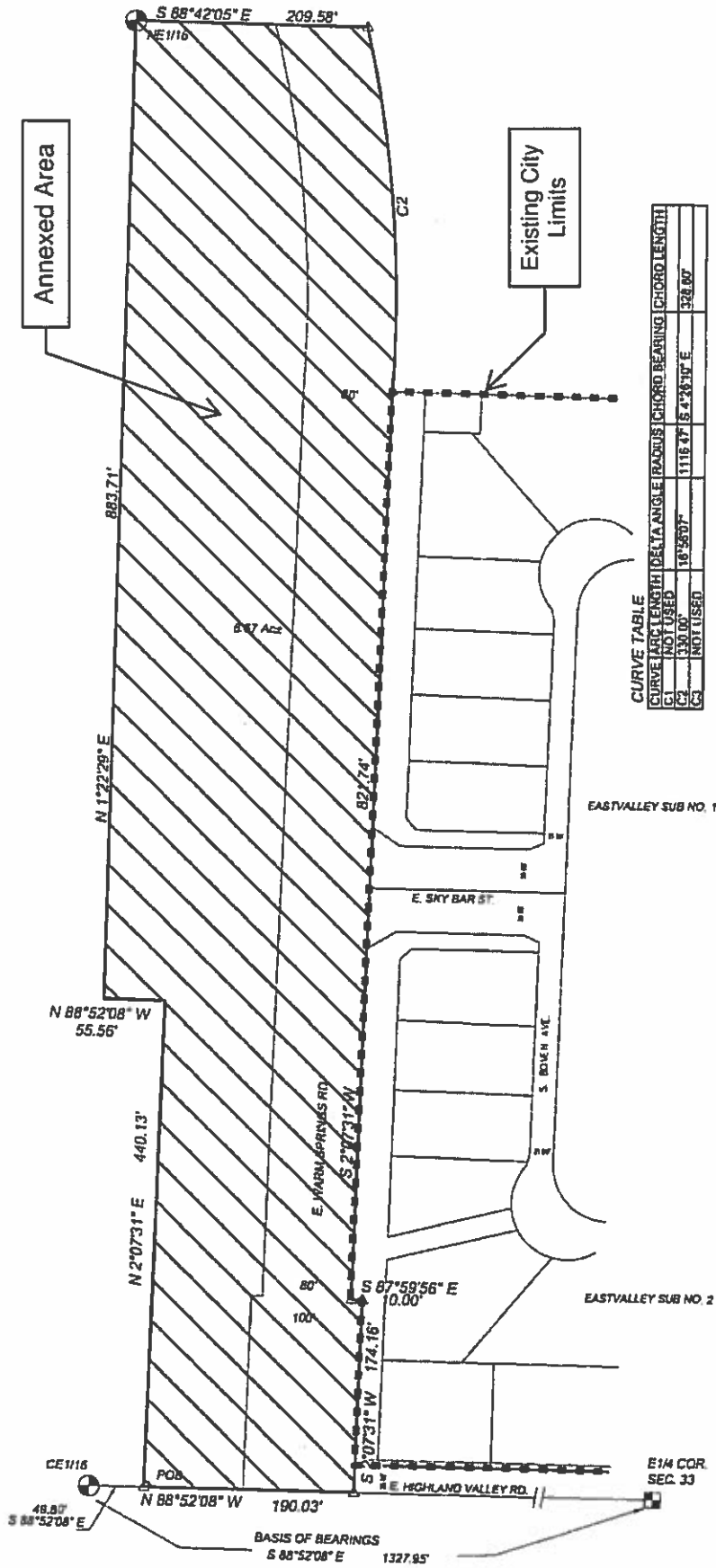
The above described parcel contains 6.67 acres more or less.

Carl Porter, PLS 14221
End Description



Date

Boise City Annexation
 CAR16-00002
 EXHIBIT B
 SECTION 33
 T. 3 N., R. 3 E., B.M.
 ADA COUNTY, IDAHO



CURVE TABLE

CURVE	ARC LENGTH	DELTA ANGLE	RADIUS	CHORD	BEARING	CHORD LENGTH
G1	NOT USED					
G2	330.00'	18°58'07"	1116.47'	54°28'10" E		328.00'
G3	NOT USED					

SCALE 1" = 150'



PROJECT: CROWS INN ANNEXATION	OWNER/DEVELOPER:	 2030 S. WASHINGTON AVE. EMMETT, ID 83617 P: (208) 398-8104 F: (208) 398-8105 WWW.SAWTOOTHLS.COM	DWG # 16011-EX
	DATE: 10/2016		PROJECT# 16011
			SHEET 1 OF 1