NOTE: Pursuant to Idaho Code 40-1415(6), the ACHD Commission has the authority to accept and approve all subdivision plats as to continuity of highway pattern, widths, drainage, right-of-way construction standards, traffic flow, traffic demand volumes within or outside the boundaries of the proposed development, and other matters associated with the function of the highway district. The ACHD Commission does not have the final authority to impose any conditions related to traffic caused by any new development applications. Pursuant to the Idaho Supreme Court decision in KMST, LLC vs. Ada County, 138 Idaho 557, 581-582, 2003, only the land use agency (City or County) has the final authority to approve or reject the proposed development, including the final authority to implement conditions related to the transportation system. ACHD is not governed by the Idaho Local Land Use Planning Act, Idaho Code 67-6501, which only authorizes land use agencies (City and/or County) to make land use decisions. i.e. development density, zoning, area of impact and comprehensive plan amendments.

Final
Amended and Restated on 7/6/2020 at 3:20 p.m.

Join Zoom Meeting

https://zoom.us/j/2440272215

Meeting ID: 244 027 2215

Dial by your location
888 475 4499 US Toll-free
877 853 5257 US Toll-free

PRE-COMMISSION AGENDA
11:45 a.m. | Will start at this time or shortly after | ACHD Auditorium

General Housekeeping Items
Discussion of Commission Meeting Agenda
Director's Administration & Operations Report - The Director's A&O Report can be heard before of after a work session or the Pre-Commission Meeting or during the Post-Commission Meeting.

The Commission welcomes public input on agenda items. If you wish to testify, please use the sign-in sheet to ensure you have a chance to speak. Individuals are asked to limit their remarks to three minutes, and more time is afforded to representatives of groups. If you want to submit written comments, please do so at least 24 hours in advance to assure that Commissioners have time to read and consider your views. Information and inquiries may be submitted through Tell US

COMMISSION MEETING AGENDA
12:00 p.m. | Michael L. Brokaw Auditorium
ADOPT AGENDA - Request for Adoption

CONSENT AGENDA - ACTION ITEMS

Items on the Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless a Commissioner or citizen so requests, in which case the item will be removed from the Consent Agenda and placed on the Regular Agenda. All Consent Agenda Items are Commission "action items" unless noted.

1. Minutes & Minute Entries
   Request for Approval
   Request to Approve Minutes and Minute Entries from the June 24, 2020 Commission Meeting.
   Commission Meeting - 24 Jun 2020 - Minutes - Pdf
   Stacey Spencer - Secretary of the Board/Executive Assistant - sspencer@achdidaho.org

REGULAR AGENDA ITEMS - ACTION ITEMS

All Regular Agenda Items are Commission "action items" unless noted.

1. City of Kuna Presentation
   Lisa Holland, Economic Development Director, City of Kuna

2. Cooperative Development Agreement for Pierce Park Lane
   Request for Approval
   Cooperative Development Agreement for the construction of a segment of Pierce Park Lane in association with the Reserve at Deer Valley Subdivision
   Staff Report - Cooperative Development Agreement for Pierce Park Lane - 03 Jun 2020 - Pdf
   William Gall - Development Review Supervisor - bgall@achdidaho.org

DISCUSSION ITEMS

Public Communications

POST-COMMISSION AGENDA
2:00 p.m. | ACHD Auditorium

Commission Administrative Discussion

WORK SESSION

1. FY21/22 Budget Review - Revenue and Operations
   Christine Tannler - ACHD Budget Coordinator - ctannler@achdidaho.org

NOTE: The Web version of the ACHD Commission agenda is provided as a service and is not the formal agenda of the Commission. The most current and legally noticed Commission agenda is the one posted at the District's headquarters, which can be obtained by calling 387-6100.

To arrange for a translator or other accommodation, contact ACHD at (208) 387-6100.
Se les recomienda a las personas que necesiten un intérprete o arreglos especiales que llamen a la coordinadora de participación pública, al (208) 387-6100.
Commission Meeting Minutes and Minute Entries
Wednesday, June 24, 2020
Michael L. Brokaw Auditorium

Minutes and Minute Entries of the Commission Meeting of the Ada County Highway District held Wednesday, June 24, 2020 in the offices of the Ada County Highway District, 3775 Adams Street, Garden City, Idaho.

PRE-COMMISSION AGENDA - 5:45 P.M.
Commission present: Arnold
Commission via teleconference: Hansen, Goldthorpe, Baker and May
Staff present: Director Wong, Price, Stanton, Du Bois, Little, Gresham, Rausch and Spencer
Staff via teleconference: Daigle, D. Wallace, Berenger, Pestka and Tannler
Public via teleconference: 4

The Commission reviewed the Agenda. No official action was taken.

COMMISSION MEETING AGENDA - 6:00 P.M.
Commission present: Rebecca Arnold
Commission via teleconference: Jim Hansen, Kent Goldthorpe, Sara Baker and May
Staff present: Director Bruce Wong, Steve Price, Michael Stanton, Nicole Du Bois, Christy Little, Maureen Gresham, Diane Rausch and Stacey Spencer
Staff via teleconference: Paul Daigle, Dave Wallace, Jennifer Berenger, Sherwin Pestka and Christine Tannler,
Public via teleconference: 8

Commissioner May called the meeting to order at 6:00 p.m. and welcomed everyone.

The Commission and Audience recited the pledge of allegiance.

Commissioner May recognized Sophia Gallardo, ACHD Intern, who graduated from BSU with honors.

ADOPT AGENDA - REQUEST FOR ADOPTION
A change to the originally published meeting agenda occurred less than forty eight (48) hours prior to the start of the meeting. The Commission is required to make a motion to approve the posted Amended Agenda. The Amended Agenda is effective upon the passage of the motion.

ACTION TAKEN: Rebecca Arnold made a motion to adopt the agenda. Kent Goldthorpe seconded.

Motion went to vote and carried unanimously.

CONSENT AGENDA - ACTION ITEMS
1. Minutes & Minute Entries

ACTION TAKEN: Sara Baker made a motion to Approve the Consent Agenda Rebecca Arnold seconded.

Motion went to vote and carried unanimously.
REGULAR AGENDA ITEMS - ACTION ITEMS

1. Resolution No. 2306 - Vacation of public right-of-way for a portion of West Belmont Street, South Vermont Avenue, South Manitou Avenue, South Grant Avenue and the alley right-of-way located in Blocks 13, 19 and 22 of South Boise First Subdivision (Boise State University/Idaho State Board of Education):
   - Presentation by Staff
   - Public Hearing

   Commissioner May disclosed for the record, 2 of her children graduated from Boise State University.

   Commissioner Hansen disclosed for the record a conversation with Drew Alexander, an employee for Boise State University.

   Commissioner Baker disclosed for the record a conversation with a resident in the neighborhood of Boise State University.

   Commissioner Arnold disclosed for the record a child graduated from Boise State University as well as she has taken some classes as well.

   Commissioner May opened the Public Hearing.

   Christy Little, ACHD Development Services Manager, presented staff report.

   Commissioner Hansen asked a question of Ms. Little. Ms. Little responded.

   Commissioner Hansen asked a question of staff. Steve Price, ACHD General Counsel, responded.

   Commissioner Hansen asked several questions of Mr. Price. Mr. Price responded.

   Commissioner Baker asked several questions of Ms. Little. Ms. Little responded.

   Mr. Price provided comment.

   Commissioner Baker asked a question of Mr. Price. Mr. Price responded.

   Commissioner Goldthorpe asked a question of Ms. Little. Ms. Little responded.

   Randi McDermott, Boise State University, 1910 University Drive, Boise, Idaho, testified as applicant.

   Commissioner Baker asked a question of Ms. McDermott. Ms. McDermott responded.

   Commissioner Baker asked a question of Ms. McDermott. Ms. McDermott responded.

   Commissioner Hansen asked a question of Ms. McDermott. Ms. McDermott responded.

   Commissioner Hansen asked a question of Ms. McDermott. Ms. McDermott responded.
Commissioner Hansen provided comment.

Ariel McLuskie, 1919 Verna Lane, Boise, Idaho, testified.

Ed McLuskie, 1919 Verna Lane, Boise, Idaho, testified.

Deanna Smith 910 Main Street, Boise, Idaho, testified.

Randi McDermott, Boise State University, 1910 University Drive, Boise, Idaho, testified in rebuttal.

Steve Price, ACHD General Counsel provided comment.

Commissioner Hansen asked a question of Ms. Little. Ms. Little responded.

Commissioner Hansen asked a question of Ms. Little. Ms. Little responded.

Commissioner May asked for any further public comments, seeing none, Commissioner May closed the Public Hearing.

**ACTION TAKEN:** Sara Baker made a motion to Deny Resolution 2306 for the Vacation of streets and alleyways to Boise State University. Kent Goldthorp seconded.

Commissioner Baker provided comment.

Commissioner Hansen provided comment.

Commissioner May provided comment.

Commissioner Arnold provided comment.

**Motion went to vote and carried 3-2.**

Ayes: Kent Goldthorp, Sara Baker, and Jim Hansen.

Nays: Mary May and Rebecca Arnold.

2. **Resolution 2318 - Declaring Surplus Property – Commuteride:**
   
   Request for Adoption            Public Hearing

   Commissioner May opened the Public Hearing.

   Maureen Gresham, ACHD Commuteride Manager, presented staff report.


   Commissioner Hansen asked a question of Ms. Gresham. Ms. Gresham responded.
Commissioner Goldthorpe asked a question of Ms. Gresham. Ms. Gresham responded.

Commissioner May asked for any public comments, seeing none, Commission May closed the Public Hearing.

**ACTION TAKEN:** Sara Baker made a motion to Adopt Resolution 2318, Declaring Surplus Property for Commuteride as recommend by staff. Rebecca Arnold seconded.

Commissioner Goldthorpe provided comment.

Motion went to vote and carried unanimously.

**DISCUSSION ITEMS**
Commissioner May asked for any Public Comments, seeing none, Commissioner May adjourned the meeting at 7:21 p.m.

____________________________________  ______________________________________
Stacey L. Spencer, Secretary               Mary May, President
STAFF REPORT

TO: ACHD Commission
FROM: William Gall - Development Review Supervisor - bgall@achdidaho.org
SUBJECT: Cooperative Development Agreement for Pierce Park Lane
MEETING: Commission Meeting - 08 Jul 2020

EXECUTIVE SUMMARY:
District staff has negotiated a Cooperative Development Agreement for the improvement of Pierce Park Lane as a 30-foot rural collector street from approximately 230-feet east of the corner that is approximately 1,090-feet north of Hill Road, continuing northeast to Sage Glenn Court, a distance of approximately 6,000-feet, in association with the Reserve at Deer Valley Subdivision. The proposed Cooperative Development Agreement provides for the construction of the project only. Staff recommends approval of the Cooperative Development Agreement.

FACTS & FINDINGS:
1. District staff has negotiated a Cooperative Development Agreement (the Agreement) with The Reserve at Deer Valley, LLC for the improvement of Pierce Park Lane as a 30-foot rural collector street from approximately 230-feet east of the corner that is approximately 1,090-feet north of Hill Road, continuing northeast to Sage Glenn Court, a distance of approximately 6,000-feet (the Project). Said road shall be designed to Rural Street Standards as required by the September 16, 2015 ACHD Commission action on the Reserve at Deer Valley Subdivision preliminary plat.

2. The Agreement is required for this Pierce Park Lane improvement project because the Project is listed in the West Foothills Overlay Assessment District and eligible for reimbursement from extraordinary impact fees.

3. An original Cooperative Development Agreement (CDA16-0004) was approved by the Commission and executed on March 15, 2017 with The Reserve at Deer Valley for the design and construction of improvements. The design effort has been completed, the plans have been accepted by ACHD and the developer has been reimbursed $116,707 for the design costs.
4. The original Cooperative Development Agreement (CDA16-0004) has expired.

5. A second Cooperative Development Agreement (CDA18-0005) was approved by the Commission and executed on October 24, 2018 with The Reserve at Deer Valley for the construction of the improvements.

6. The second Cooperative Development Agreement (CDA18-0005) has expired.

7. No construction has commenced for the Project.

8. This Agreement replaces the previous Cooperative Development Agreement and is for the construction of improvements only with a completion date of October 31, 2021 for the first phase of the Project.

9. Attached is a copy of the Agreement drafted by District staff.

10. All Project costs are reimbursable excluding: utilities and irrigation; administrative and overhead costs of Developer other than the Construction Manager’s compensation defined in Section 1.5 of the Agreement; interest on funds used for the Project; and liquidated damages.

11. The Agreement provides that after issuance of the certificate of completion, ACHD will pay Developer the Reimbursable Project costs pursuant to the terms of the Extraordinary Impact Fee Agreement dated March 15, 2017 and recorded in the Official Real Property Records of Ada County, Idaho as Instrument No. 2017-024215.

12. The Cooperative Development Agreement has been approved for form and content by the District Legal Department.

**FISCAL IMPLICATIONS:**

1. Under the terms of the proposed Cooperative Development Agreement and Extraordinary Impact Fee Agreement the costs associated with the construction of the required improvements to Pierce Park Lane will be funded by extraordinary impact fees collected in the West Foothills Overlay Assessment District. The District is not obligated to pay for any project costs from general funds or standard impact fees.

2. Approval of this Project and the Agreement should not negatively impact other District projects.

**RECOMMENDATIONS:**

Approve the Cooperative Development Agreement and authorize the President of the Commission to sign the Agreement.

**ATTACHMENT(S):**

CDA20-0003 Reserve at Deer Valley Pierce Park Lane
Commission MEMO_CDA_06-26-20
COOPERATIVE DEVELOPMENT AGREEMENT

This COOPERATIVE DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into this ______ day of ______________, 2020, by and between THE RESERVE AT DEER VALLEY, LLC, an Idaho limited liability company (the “Developer”), and the ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the state of Idaho (“ACHD”).

RECITALS

WHEREAS ACHD is a single county-wide highway district organized and existing under the laws of the State of Idaho, with the responsibility, jurisdiction, and authority to improve public roads and assess development impact fees in accordance with the Idaho Development Impact Fee Act; and

WHEREAS the parties desire to describe and provide for the construction of the Project (as defined below); and to enter into this Agreement pursuant to Section 5.2 of the Extraordinary Impact Fee Agreement (as defined below and entered into contemporaneously with this Agreement); and

WHEREAS the parties desire to provide for the allocation and payment of the Project Costs (as defined below) between the parties.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, which the parties agree is true and correct, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 The term “Development Area” shall mean the real property described on Exhibit A hereto, irrespective of its future ownership.

1.2 The term “Engineer’s Estimate” means an estimate of the Project Costs prepared by the Project engineer (or other engineer licensed under the laws of the State of Idaho).


1.4 The term “Project” refers to the reconstruction and widening of Pierce Park Lane from approximately 230-feet east of the corner that is approximately 1,090-feet north of Hill Road, continuing northeast to Sage Glenn Court, a distance of approximately
6,000-feet as described in the ACHD staff report for The Reserve at Deer Valley dated September 16, 2015 including provisions for constructing the road in phases. Said road shall be designed to Rural Street Standards.

1.5 The term “Project Construction Manager” shall mean Matt Schultz, who shall coordinate and supervise the Project. For the purpose of this Agreement, the Construction Manager’s compensation shall be three percent (3%) of the Reimbursable Project Costs.

1.6 The term “Project Costs” refers to all costs of completing the Project, including (i) all permitting, construction, testing and inspection costs, (ii) compensation for the Project Engineer and Project Construction Manager as provided herein, and (iii) all other costs related to and reasonably necessary for completion of the Project excluding the following:

a. Cost of acquiring any additional right-of-way;

b. Costs associated with any necessary development approvals;

c. All costs associated with the preparation, review and negotiation of this Agreement;

d. Costs for any new utility services installed to serve exclusively Developer’s parcels within the development area;

e. Costs for landscaping;

f. Administrative and overhead costs of Developer other than the Project Construction Manager’s compensation defined in Section 1.5;

g. Interest on funds used for the Project;

h. Liquidated damages.

1.7 The term “Project Engineer” shall mean an Idaho licensed engineer engaged by Developer to manage and coordinate the design, inspection and certification of the Project. The Project Engineer, the terms of his or her compensation including the scope of work shall be subject to approval by ACHD.

1.8 The term "Rural Street Standard" shall mean a minimum of 50’ of dedicated right-of-way, 30’ of pavement with 3’ of graveled shoulders on each side of the pavement, and otherwise constructed in accordance with published ACHD policies. (In some areas additional right-of-way may be required for slope easements and related improvements required to preserve the structural integrity of the Highway (as defined in the Extraordinary Impact Fee Agreement).

1.9 The terms “Substantial Completion” and “Substantially Complete” shall have the same meaning as in the ACHD General Conditions for a construction contract, which
SECTION 2.
DESIGN AND BIDDING OF THE PROJECT

2.1 Project Design. Developer has contracted with T-O Engineers, 332 N. Broadmore Way, Nampa ID 83687, as Project Engineer, for the design of the Project in accordance with the standards and specifications set forth in the ACHD Policy Manual. ACHD has approved the civil engineering plans by T-O Engineers dated June 18, 2018 including Sheets 1-31 with an ACHD stamped date of June 29, 2018.

2.2 Access to Public Right-of-Way. ACHD shall provide access to the public right-of-way to Developer and its agents as may be reasonably necessary in connection with the Project design and the Engineer’s Estimate.

2.3 Final Approval of Final Plans. ACHD shall approve, in its reasonable discretion, the Engineer’s Estimate and the Project plans. ACHD and Developer shall acknowledge in writing the final, approved Project plans and the Engineer’s Estimate prior to commencement of construction, and neither shall thereafter be modified in any material way unless such modifications are approved in writing signed by ACHD and Developer.

2.4 Delivery of Documents to ACHD. Following the parties’ written acknowledgment of the final Project plans and Engineer’s Estimate, Developer shall cause the Project engineer to submit the following to ACHD:

   a. three (3) sets of the Project plans; and
   b. one (1) copy of the Engineer’s Estimate; and
   c. any other related information requested by ACHD.

2.5 Access to Information by ACHD. Developer shall provide ACHD with access to all designs, plans, specifications, reports, data and other materials (both digital, electronic and hard copy) produced by Developer and its agents and contractors under this Agreement.

2.6 Ownership of Design Plans. Upon execution of this Agreement and the parties’ written acknowledgment of the final Project plans and Engineer’s Estimate, Developer shall forward to ACHD copies of all previously prepared design plans for the Project in its and/or its consultant’s possession, including but not limited to design plans, data, consultant reports prepared by third parties, soil reports, engineering reports, and right-of-way plans (collectively “design plans”). Developer shall obtain any necessary third-party consents required by ACHD for ACHD’s possession and potential use of the design plans. In the event of Developer’s default under this Agreement, all ownership
interest in the design plans shall transfer to ACHD and ACHD shall become the exclusive owner of said design plans for any use whatsoever including but not limited to completion of the Project. ACHD has reimbursed the Developer for the cost of the design plans as a part of Cooperative Development Agreement CDA16-0004 and no additional compensation will be provided should ACHD proceed to utilize the design plans to complete the project or any portion of the project. Developer hereby indemnifies and holds ACHD harmless from and against any and all loss, injury, death and damage, and attorney’s fees and cost that might be incurred by ACHD in defending any claim that may result solely from the use of the design plans by ACHD, its Commissioners, employees, contractors and/or agents.

**SECTION 3. CONSTRUCTION CONTRACT**

3.1 *Soliciting Bids.* The Developer shall solicit a minimum of three (3) bids for construction of the Project in compliance with the approved Project plans and the related requirements for public highway projects as required by Idaho law. As an alternative, Developer may hire, at Developer’s sole cost and expense, a construction project manager to solicit competitive bids from subcontractors following the requirements set forth above.

   a. ACHD shall review and approve the bid amount prior to Developer awarding contract.

3.2 *Contract Terms.* The construction contract shall include, at minimum, the following provisions:

   a. a requirement that the contractor provide payment and performance bonds required by the Public Contracts Bond Act, Chapter 19, Title 54, *Idaho Code* naming ACHD as an additional beneficiary;

   b. a requirement that the successful bidder be licensed as a public works contractor (Chapter 19, Title 54, *Idaho Code*);

   c. a requirement that the construction of the Project in accordance with the approved designs, plans and specifications be Substantially Complete within sixteen (16) weeks from the date Developer issues a notice to proceed to the contractor, or no later than October 31, 2021 (or no later than October 31st of the year in which the phase of the Project commences construction for the second or final phase of the Project) and final completion of the total contract within four (4) weeks from the date of Substantial Completion;

   d. a requirement that the contractor provide a phasing plan for the construction of the Project. The phasing plan shall provide for the existing Pierce Park Lane to remain open to the public throughout the duration of the Project with limited duration partial closures (as approved by ACHD) for pipe crossings and other related work as necessary and approved by ACHD;
e. a provision that the time for Substantial Completion and completion of the Project will only be extended by (i) acts of God, (ii) war, (iii) delays caused by ACHD, (iv) unreasonable delays caused by utilities, as reasonably determined by ACHD, or (v) any request for extensions of time approved in writing by ACHD;

f. a requirement that the contractor shall pay liquidated damages of One Thousand Dollars ($1,000) per day for each day that Substantial Completion of the construction is delayed beyond sixteen (16) weeks from the date Developer issues a notice to proceed, or no later than October 31, 2021 (or no later than October 31 \(^\text{st}\) of the year in which the phase of the Project commences construction for the second or final phase of the Project), or beyond the extended date as allowed by Section 3.2(e) above and for each day that final completion of the total contract for the Project is delayed beyond four (4) weeks from the date of Substantial Completion;

g. a requirement that the contractor maintain liability insurance insuring against bodily injury or death with limits of not less than Two Million Dollars ($2,000,000) per person and per occurrence, and property damage with a limit of One Million Dollars ($1,000,000) per occurrence, naming both Developer and ACHD as additional insureds;

h. a provision that the contractor shall indemnify ACHD and Developer from any and all claims by third persons arising out of the performance of the contract;

i. a provision that the contractor shall obtain the Environmental Protection Agency (EPA) Construction General Permit (CGP) and that the contractor shall file a Notice of Intent (NOI) and develop and implement an approved Storm Water Pollution Prevention Plan (SWPPP) prior to commencement of construction, and that the contractor shall not file a Notice of Termination (NOT) with the EPA until authorized in writing by ACHD. Authorization for the contractor to file the NOT will be granted by ACHD when the area subject to the CGP has achieved final stabilization as defined in the CGP;

j. A provision that the contractor shall provide quality control and process control testing following ACHD QC-QA Procedures attached hereto as Exhibit B;

k. at least a two (2) year warranty on the work and materials of the Project that is assignable to ACHD, said warranty period shall begin immediately upon issuance of Certificate of Completion; and

l. a provision that provides for the Contractor’s agreement to the assignment of the construction contract to ACHD in the event of a default by Developer under this Agreement.

3.3 Conditions Precedent to Execution of Construction Contract. Prior to execution of the construction contract, the following conditions shall be satisfied:
a. **Approval of Construction Contract.** Developer shall obtain the written approval of ACHD of the form and terms of the construction contract, which may be withheld for any reason, including but not limited to Developer’s failure to obtain a construction contract that contains the provisions set forth in Section 3.2 above, but which shall not otherwise be unreasonably withheld;

b. **Right-of-Way Easements.** The project may require right-of-way easements from adjacent land owners. The right-of-way easements required for the Project shall be conveyed to ACHD and recorded prior to execution of the construction contract, issuance of ACHD permits and construction of the Project.

c. **Letter of Credit or Cash Bond.** Developer shall provide ACHD with an irrevocable and unconditional letter of credit in favor of ACHD in an amount equal to one hundred and ten percent (110%) of the total of the contract price of the Project Costs for the purpose of assuring ACHD that Developer will perform its obligations hereunder. The letter of credit shall be issued by either a national bank with a branch in Ada County, Idaho or another financial institution acceptable to ACHD and include a provision that ACHD may present documents for any draws on the letter of credit at the local branch. The letter of credit shall be delivered to ACHD prior to Developer’s execution of the construction contract. In lieu of a letter of credit, the Developer may provide a cash bond (cash deposit to ACHD) in the same amount. When all Developer’s contractors for the Project have been paid and ACHD has issued its certificate of completion of the Project, such assurance shall be released to Developer. In its sole discretion, ACHD may allow the reduction of the assurance as payments of Costs of the Project are made during the course of construction.

3.4 **Copy of Contract to ACHD.** Developer shall provide ACHD with a copy of the executed construction contract.

**SECTION 4. CONSTRUCTION AND COMPLETION OF THE PROJECT**

4.1 **Permits and Fees and Notice to Proceed.** Prior to the commencement of construction, Developer shall require that the contractor (i) has obtained all applicable permits to work in the right-of-way, and (ii) has paid all applicable fees for such permits. ACHD permits shall be issued at no charge. Developer acknowledges that this Agreement will not function as an ACHD permit to work in the public right-of-way.

4.2 **Manner of Construction.** Upon ACHD’s written approval of the construction contract, Developer shall provide for construction of the Project in compliance with the construction contract and with the customary requirements of ACHD, and shall diligently and continuously prosecute such construction to completion.
4.3 Change Orders to Contract. Developer shall obtain the written approval of ACHD before approving any change order in the construction contract if (i) the cost of the change order will exceed one percent (1%) of the original contract price; and/or (ii) the cumulative total of all previously approved change orders exceeds ten percent (10%) of the original contract price.

4.4 Inspections. Inspecting and testing of that portion of the Project within ACHD right-of-way shall be provided by ACHD at no charge to Developer and accomplished as required by and in accordance with ACHD standards.

4.5 Issuance of Certificate of Completion.

a. Upon completion of the construction of the Project, Developer shall furnish to ACHD the Project Engineer’s written certification that the Project is complete in accordance with the approved plans.

b. Within fifteen (15) days after delivery of the Project Engineer’s written certificate, ACHD shall either (i) accept the same or (ii) provide a written itemization of those matters it reasonably finds to be non-conforming, in which case Developer shall promptly cause the remediation of all non-conforming matters.

c. ACHD shall acknowledge its acceptance of the Project in writing as complete and issue a certificate stating that the project is complete (a “Certificate of Completion”) within fifteen (15) days after the later of (i) delivery of the Project Engineer’s certification to ACHD, or (ii) remediation of any non-conforming matters.

d. Within thirty (30) days after the issuance of the Certificate of Completion, Developer shall deliver to ACHD drawings for the Project, as-built, in electronic files in AutoCAD format.

4.6 Warranty. Upon issuance of the Certificate of Completion, Developer shall complete all paperwork necessary to assign to ACHD the contractor’s (2) two year warranty of the work and materials on the Project.

4.7 Representations and Warranties. Developer represents and warrants that upon completion of the Project, the Project shall be free and clear of all liens and encumbrances that were not created by or with the written consent of ACHD. Developer shall provide ACHD lien waivers from all contractors prior to ACHD payment of Reimbursable Project Costs.
SECTION 5.
PAYMENT OF PROJECT COSTS:
FINAL ACCOUNTING AND SETTLEMENT

5.1 Payment of Project Costs. All Project Costs shall be paid and funded by Developer.

5.2 Accounting of Project Costs.
   a. Final Accounting. Within a reasonable period after issuance of the Certificate of Completion, Developer shall submit to ACHD a final accounting of the Reimbursable Project Costs.
   b. Agreement of Final Amount. Within fifteen (15) business days (3 weeks) after Developer’s submittal of the Project Costs, Developer and ACHD shall reach an agreement and acknowledge in writing the final amount of the Project Costs.
   c. Reimbursement of Project Costs. ACHD shall reimburse Developer the Project Costs pursuant to the Reserve at Deer Valley Extraordinary Impact Fee Agreement.
   d. No Obligation for Reimbursement. ACHD shall have no obligation under the terms and provisions of this Agreement to make any payments towards Project Costs if the Project is not completed by Developer and ACHD has not issued the Certificate of Completion.
   e. No Interest. No interest shall accrue on Reimbursable Project Costs.

SECTION 6.
REMEDIES

6.1 Default by Developer. In addition to such other remedies at law or in equity for default that ACHD may have, in the event Developer fails or neglects to perform its obligations under the terms and provisions of this Agreement in the time and manner required herein, ACHD may withhold any reimbursement due to Developer hereunder until such defaults are corrected to the satisfaction of ACHD.

6.2 Default by ACHD. In the event ACHD fails or neglects to perform its obligations under the terms and provisions of this Agreement in the time and manner required herein, Developer shall be entitled to all remedies available at law or in equity.

6.3 Mediation and Arbitration. ACHD and Developer shall attempt in good faith to settle by negotiation any controversy or claim arising out of or relating to this Agreement, or the breach thereof (the “Dispute”). If no settlement can be reached, the Dispute shall upon the request of either party be submitted for mediation administered by the American Arbitration Association (“AAA”) under its Commercial Mediation Rules. If mediation is not requested or is terminated, such Dispute shall upon the request of either party be settled by arbitration administered by the AAA under its arbitration rules most relevant to the nature of the Dispute, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
a. Any mediation and arbitration shall be administered in Boise, Idaho, or at the place of the AAA regional office nearest thereto. All costs of mediation and arbitration shall be allocated between ACHD and Developer in a manner consistent with the provisions of Section 6.4 below. The arbitrator shall issue an opinion in support of the award if requested by either party.

b. The provisions hereof shall be governed by the Federal Arbitration Act and, where applicable, the Idaho Uniform Arbitration Act. Either party may seek judicial relief if arbitration is not requested, or otherwise in a manner compatible with such arbitration.

6.4 Attorney Fees. Should either party find it necessary to employ an attorney for representation in any action seeking enforcement of any of the provisions of this Agreement, or to recover damages for the breach of this Agreement, or to resolve any disagreement in interpretation of this Agreement, or to obtain assistance in any arbitration, the unsuccessful party in any final judgment or award entered therein shall reimburse the prevailing party for all reasonable costs, charges and expenses, including attorneys’ fees expended or incurred by the prevailing party in connection therewith and in connection with any appeal, and the same may be included in such judgment or award.

SECTION 7, OTHER PROVISIONS

7.1 Notices. Any notice required to be given hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (c) four (4) days after having been sent by prepaid registered or certified mail, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be to the respective parties to this Agreement at the following addresses:

Ada County Highway District
Attn: Bill Gall, Development Review Supervisor
1301 N Orchard St., Suite 200
Boise, ID 83706
Telephone: (208) 387-6177
E-Mail: bgall@achdidaho.org

The Reserve at Deer Valley, LLC
Attn: Megan Yi
4023 Whistling Heights Way
Nampa, ID 83687
Telephone: (661) 825-6834
Email: invictusglobalgroup@gmail.com
7.2 **Choice of Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

7.3 **Exhibits.** All exhibits to this Agreement are incorporated by reference and made a part of this Agreement as if the exhibits were set forth in their entirety in this Agreement.

7.4 **Entire Agreement.** This Agreement and the exhibits hereto, together with the Extraordinary Impact Fee Agreement and the exhibits thereto, constitute the full and entire understanding and agreement between the parties with regard to the transaction contemplated herein, and no party shall be liable or bound to any other in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein.

7.5 **Acknowledgments and Modifications.** No acknowledgments required hereunder, and no modification or waiver of any provision of this Agreement or consent to departure therefrom, shall be effective unless in writing and signed by ACHD and each of the parties comprising Developer.

7.6 **Headings.** The headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.7 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns.

7.8 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

DEVELOPER:

THE RESERVE AT DEER VALLEY, LLC

By: __________________________

Its: __________________________

ACHD:

ADA COUNTY HIGHWAY DISTRICT

By: __________________________

Name: __________________________

Its: Commission President

Exhibits
Exhibit A  Development Area
Exhibit B  ACHD QC-QA Procedure
EXHIBIT A
To The Reserve at Deer Valley Cooperative Development Agreement

The Reserve at Deer Valley – Legal Description

(Attached)
EXHIBIT “A”
THE RESERVE AT DEER VALLEY
SUBDIVISION BOUNDARY

This parcel is situated in a portion of the S.E. ¾, of Section 18, the S.W. ¼ and the N.W. ¼ of Section 17, Township 4 North, Range 2 East of the Boise Meridian, Ada County, Idaho, more particularly described as follows:

COMMENCING at a brass cap monument, referenced in Corner Perpetuation and Filing Instrument No. 736267, records of Ada County and marking the southwest corner of the S.E. ¼ of said Section 18, from which the southeast corner of said S.E. ¼ bears S.89°41’34”E., 2703.95 feet; thence along the west boundary of said S.E. ¼,

A) N.00°05’00”E., 1273.05 feet (of record N.00°05’05”E., 1273.02 feet) a to a found 5/8-inch diameter iron rod marking the northwest corner of Parcel A as shown on Record of Survey No. 7062, Records of Ada County; thence along the most northern boundary of said Parcel A,

1) N.83°11’46”E., 30.22 feet to the northwest corner of Parcel B of said Record of Survey and the POINT OF BEGINNING; thence along the exterior boundary of Parcels B through Q of said Record of Survey the following courses:

B) N.83°11’40”E., 163.75 feet (of record 163.80 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

1) S.87°32’25”E., 139.85 feet (of record 139.90 feet) to a found 5/8-inch diameter iron rod; thence,

2) S.87°45’41”E., 318.98 feet (of record 318.82 feet) to a found 5/8-inch diameter iron rod; thence,

3) N.86°05’20”E., 244.70 feet (of record 244.74 feet) to a set 5/8-inch diameter iron rod; thence,
4) N.62°16'22"E., 745.76 feet (of record 745.92 feet) to a found 5/8-inch diameter iron rod; thence,

5) N.71°07'43"E., 207.70 feet (of record 207.54 feet) to a found 5/8-inch diameter iron rod; thence,

6) N.56°59'49"E., 553.21 feet (of record 553.20 feet) to a found 5/8-inch diameter iron rod; thence,

7) N.44°48'35"E., 344.53 feet (of record 344.52 feet) to a found 5/8-inch diameter iron rod; thence,

8) N.60°19'50"E., 510.16 feet (of record 510.16 feet) to a found 5/8-inch diameter iron rod; thence,

9) N.50°45'59"E., 174.37 feet (of record 174.41 feet) to a found 5/8-inch diameter iron rod; thence,

10) N.13°38'06"E., 308.61 feet (of record 308.44 feet) to a found 5/8-inch diameter iron rod; thence,

11) N.25°53'10"E., 103.79 feet (of record 103.97 feet) to a found 5/8-inch diameter iron rod; thence,

12) S.50°57'37"E., 250.26 feet (of record 250.55 feet) to a found 5/8-inch diameter iron rod; thence,

13) N.37°46'44"E., 548.12 feet (of record 548.60 feet) to a found 1-inch diameter iron rod; thence,

14) N.51°07'15"W., 134.58 feet (of record 134.78 feet) to a found 5/8-inch diameter iron rod; thence,

15) N.36°32'10"E., 90.08 feet (of record 90.06 feet) to a found 5/8-inch diameter iron rod marking the most northerly corner of said Parcel Q; thence traversing the northerly and easterly exterior boundary of said Parcel Q the following courses:

16) S.51°17'18"E., 226.70 feet (of record 226.81 feet); to a found 5/8-inch diameter iron rod thence,
17) S.37°50'35"W., 90.61 feet (of record 90.73 feet) to a found 5/8-inch diameter iron rod; thence,

18) S.88°28'43"E., 204.02 feet (of record 203.98 feet) to a found 5/8-inch diameter iron rod thence,

19) S.09°01'33"W., 62.75 feet (of record 63.18 feet) to a set 5/8-inch diameter iron rod; thence,

20) S.64°29'58"E., 327.74 feet (of record 327.34 feet) to a found 1-inch diameter iron pipe; thence,

21) N.22°24'19"E., 191.84 feet (of record 191.76 feet) to a found 1/2-inch iron rod rod, reset with a set 5/8-inch diameter iron rod; thence,

22) S.28°26'23"E., 168.85 feet (of record 168.84 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

23) S.07°51'49"E., 219.36 feet (of record 219.40 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

24) S.18°03'09"E., 235.55 feet (of record 235.53 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

25) N.88°09'50"W., 40.01 feet (of record 40.01 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

26) S.37°28'51"W., 89.61 feet (of record 89.61 feet) to a found 5/8-inch diameter iron rod; thence,

27) S.10°11'34"W., 294.40 feet (of record 294.37 feet) to a found 2-inch diameter iron pipe; thence,

28) S.20°10'34"W., 376.62 feet (of record 376.58 feet) to a found 2-inch diameter iron pipe; thence,

29) S.55°51'19"W., 343.30 feet (of record 343.37 feet) to a found 1/2-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

30) N.24°23'26"W., 192.68 feet (of record 192.78 feet) to a found 1-inch diameter iron rod; thence,
31) N.82°56'43"W., 465.55 feet (of record 465.27 feet) to a found 1-inch diameter iron rod; thence,

32) N.07°04'29"E., 221.45 feet (of record 221.29 feet) to a found 5/8-inch diameter iron rod; thence,

33) N.34°15'29"W., 177.85 feet (of record 178.09 feet) to a found 5/8-inch diameter iron rod; thence,

34) S.36°51'31"W., 127.48 feet (of record 127.77 feet) to a set 5/8-inch diameter iron rod; thence,

35) S.74°32'37"W., 195.54 feet (of record 195.34 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

36) S.51°56'18"W., 424.68 feet (of record 424.62 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

37) S.04°23'12"E., 185.77 feet (of record 186.14 feet) to a set 5/8-inch diameter iron rod; thence,

38) N.85°56'49"E., 332.67 feet (of record 332.64 feet) to a found 5/8-inch diameter iron rod; thence,

39) S.75°46'34"W., 341.87 feet (of record 341.84 feet) to a found 5/8-inch diameter iron rod; thence,

40) S.49°07'35"W., 187.97 feet (of record 188.00 feet) to a found 5/8-inch diameter iron rod; thence,

41) S.23°10'44"W., 146.65 feet (of record 146.68 feet) to a found 5/8-inch diameter iron rod; thence,

42) N.43°12'16"W., 157.72 feet (of record 157.87 feet) to a found 5/8-inch diameter iron rod; thence,

43) S.61°34'45"W., 367.21 feet (of record 367.20 feet) to a 5/8-inch diameter iron rod; thence,
44) S.60°57'09"W., 890.01 feet (of record 889.98 feet) to a found 5/8-inch diameter iron rod; thence,

45) S.86°37'51"E., 634.85 feet (of record 634.88 feet) to a found 5/8-inch diameter iron rod; thence,

46) S.49°14'01"W., 324.26 feet (of record 324.26 feet) to a found 5/8-inch diameter iron rod; thence,

47) N.80°31'21"W., 370.96 feet (of record 370.93 feet) to a found 5/8-inch diameter iron rod; thence,

48) S.18°13'50"W., 262.61 feet (of record 262.72 feet) to a set 5/8-inch diameter iron rod; thence,

49) N.59°13'53"W., 104.92 feet to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

50) S.89°48'23"W., 512.75 feet to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

51) S.40°39'56"W., 179.07 feet (of record 179.04 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod thence,

52) N.31°15'22"W., 74.78 (of record 75.00 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

53) N.52°38'26"W., 384.18 (of record 384.16 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence,

54) N.51°13'06"W., 231.15 feet (of record 230.52 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod; thence along the west boundary of said Parcel 2,

55) N.00°04'17"E., 465.27 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM the following described Parcel;

This parcel is situated in a portion of the N.W. ¼ of Section 17, Township 4 North, Range 2 East of the Boise Meridian and is shown as “NOT A PART” on Record of Survey No. 7062 and described in Instrument No. 543761, Records of Ada County, Idaho, more particularly described as follows:
COMMENCING at a brass cap monument marking the southwest corner of said N.W. ¼, from which the northwest corner of said N.W. ¼ bears S.00°40'46"E., 2617.51 feet; thence,

C) N.89°33'13"E., 1196.10 feet to the southwest corner of said Instrument No. 543761 and the POINT OF BEGINNING; thence along the west boundary of said Instrument No. 543761,

D) N.00°54'32"W., 272.54 feet (of record 272.50 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod marking the northwest corner of said Instrument No. 543761; thence along the north boundary of said Instrument No. 543761,

1) N.87°50'56"E., 157.60 feet (of record 157.43 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod marking the northeast corner of said Instrument No. 543761; thence along the east boundary of said Instrument No. 543761,

2) S.00°28'42"E., 272.83 feet (of record 273.16 feet) to a found ½-inch diameter iron rod, reset with a set 5/8-inch diameter iron rod marking the southeast corner of said Instrument No. 543761; thence along the south boundary of said Instrument No. 543761,

3) S.87°56'07"W., 155.55 feet (of record 155.90 feet) to the POINT OF BEGINNING;

CONTAINING 85.52 acres, more or less.
EXHIBIT B
To The Reserve at Deer Valley Cooperative Development Agreement
ACHD QC-QA Procedure
(Attached)
SECTION 100 – General Conditions

Add the following:

Ada County Highway District Quality Control and Quality Assurance Procedure

Definitions

Quality Assurance (QA) is defined as the process or set of processes used to measure and assure the quality of a product and/or workmanship. This encompasses ACHD’s oversight of the Developer’s/Contractor’s processes and materials. This includes review of the inspector, sampler, tester and laboratory qualifications (per ACHD Independent Assurance Program defined below); verifying the results of the quality control and process control testing; and inspecting for conformance to plans and specifications.

Quality Control (QC) is defined as the actions necessary to produce quality workmanship and materials. QC includes, but should not be limited to, inspection of the production and placement operations, quality control and process control testing and inspection of the finished product. QC is the responsibility of the Developer/Contractor. No separate payment will be made for this work. If quality control testing is not being performed at the required frequency, ACHD may stop production of work until the tests are supplied, or ACHD determines the work can proceed.

Quality Control Testing and Process Control Testing are defined as the testing and inspections conducted by the Developer/Contractor to determine if the construction materials have been produced and placed in compliance with the project specifications and applicable standards. Process control testing is conducted to demonstrate that the construction materials being produced and used continue to meet the requirements for the product.

Independent Assurance Program (IAP) is the process provided by ACHD, through trained and certified staff, to ensure that all testing is performed correctly and testing equipment is functioning and calibrated properly.

Acceptance is determined by the QA test results, in combination with the assurance that the Developer/Contractor has satisfied the specification requirements for materials quality and workmanship, with the exception of Superpave Hot Mix, as specified below. In addition to the specified testing results, visual inspection of the end product is also taken into consideration in determining acceptance. Acceptance will be determined by ACHD. All samples required for QA testing will be supplied by the Developer/Contractor to ACHD. Prior to obtaining a sample for QA testing, ACHD shall be notified of when and where the sample will be taken from. ACHD will determine if it needs to witness the obtaining of the QA sample. Superpave Hot Mix acceptance shall be based on ACHD’s supplement to the ISPWC Section 814 under Part 4.2.
Construction Testing and Inspection Responsibilities

Quality Control

A. The Developer/Contractor shall be responsible for the Quality Control of all construction processes and materials quality. The Developer/Contractor will be responsible for quality throughout the construction process. Therefore, the Developer/Contractor must ensure that the materials and workmanship provided by themselves, Subcontractors, Suppliers, and Producers meet all pertinent specifications. All tests listed under Quality Control in the Minimum Testing Frequency Table are required for quality control, however only tests listed as Acceptance shall be used in determining pay.

B. The Quality Control laboratory must be approved by the Idaho Transportation Department. All testing personnel and facilities used by the Developer/Contractor must be currently certified by the Western Alliance for Quality Transportation Construction (WAQTC) and by the ACHD Independent Assurance Program. All test results must be supplied to ACHD the next working day after the test was performed. All Quality Control tests will be supplied to ACHD directly from the lab performing the tests. Tests results shall have the ACHD project/permit number listed and be sequential.

C. Quality Control Testing must occur in a random frequency and at a minimum, at the intervals specified in the table provided in the corresponding ISPWC sections. The Developer/Contractor shall determine the random locations. Upon request, documentation must be supplied showing how the random numbers/locations were determined by the Developer/Contractor. All random sampling for ACHD will be done by the Developer/Contractor and witnessed by an ACHD representative.

D. For gradation testing by the Developer/Contractor during production, each sample size shall be taken per AASHTO T2, except the sample size shall be doubled. The sample obtained shall be split in accordance with AASHTO T248, and half of it shall be marked with an ID number and tested by the Developer/Contractor. The other half of the sample shall be sealed in a canvas sack or plastic bucket, and marked with the ID number, stored in a weather protected container, and reserved for use in retesting if needed. Material shall be retained until written notification is given by ACHD that it can be discarded.

E. Acceptance, gradation, binder content and volumetrics for plant mix pavement and/or Superpave Hot Mix asphalt shall be performed on the loose mix sampled from the roadway, haul unit, or an approved sampling method at the Hot Plant. At the start of each project the location for sampling shall be determined by ACHD and all samples for the project shall be obtained from that determined location. The hot mix sample used for asphalt binder content, gradation and volumetric testing shall be doubled in size. The sample shall be split in accordance with AASHTO R47 and half of the sample shall be used for the appropriate testing. The other half of the sample shall
be sealed in a box, marked with the sample ID number, stored in a weather
protected enclosure, and reserved for use in retesting if needed. Material shall be
retained until written notification is given by ACHD that it can be discarded.

Quality Assurance

A. ACHD shall oversee the Developer’s/Contractor’s fulfillment of the QC requirements,
and independently verify that the QC test results being submitted by the
Developer/Contractor are representative of the workmanship and product quality.
ACHD will also be responsible for determining general project acceptance based on
conformance to the approved plan and specifications.

B. ACHD will perform random Quality Assurance testing at the intervals specified in
Minimum Testing Frequency table.

C. Acceptance of material will be based on the Quality Assurance test performed by
ACHD. If no QA test is performed, acceptance will be based on the QC tests results
and inspections as determined by ACHD.

D. ACHD will perform random inspections of material storage and handling practices.

Dispute Resolution

A. The dispute resolution process is to resolve differences between the
Developer/Contractor and ACHD when a disagreement regarding the test results
occurs.

B. When a failing QA test occurs, production may be suspended until the differences
are resolved and ACHD is satisfied.

C. ACHD may run one or more tests of the split material from the QC process to help
resolve differences.

D. When ACHD and the Developer/Contractor are unable to resolve the differences, a
Third Party prequalified independent lab shall be brought in to verify testing.

E. ACHD will hire the Third Party independent lab. If ACHD tests are found to coincide
with the independent lab, ACHD will not grant additional contract time due to any
delays in production and the Developer/Contractor shall bear the costs associated
with the Third Party resolution. Likewise, if the Developers/Contractors tests are
found to coincide with the independent lab, ACHD will bear the costs associated with
Third Party resolution and will grant additional time for any delay caused by this
additional testing.

F. For hot mix density dispute testing, cores shall be obtained by the Third Party from
the same locations as the nuclear gauge tests.
Independent Assurance Program

A. ACHD practices the standards of the Western Alliance for Quality Transportation Construction (WAQTC).

B. ACHD Independent Assurance personnel may observe testers and verify that the equipment and techniques used for the required testing are calibrated and performing accurately, per WAQTC. During construction, it may be necessary for an IAP representative to verify the reliability of the tester by witnessing sampling and testing, and by splitting samples and comparing results.

C. All independent testing laboratories to be used shall be pre-qualified by ACHD prior to construction. To request an inspection and certification, contact the ACHD Lab Coordinator at 387-6310 to schedule. Laboratories that are currently certified by the Idaho Transportation Department (ITD) can provide ACHD with their current certification as confirmation of qualification. In the event that the lab is ITD certified; a facility inspection by ACHD IAP personnel may still be required.

Price Adjustment for Non-Compliant Materials or Products

A. When material fails to meet the required specifications, they will be subject to a price adjustment or rejection. ACHD may also request a lengthened warranty period.

B. ACHD will, in its sole, discretion determine the price adjustment or rejection.

C. The determined price adjustment or rejection of material shall be applied to the quantity of material that is represented by the non-compliant test results, as outlined in the Minimum Testing Frequency table.

Minimum Testing Requirements

A. The requirements outlined herein are the established minimum acceptance requirements for materials used in standard applications and paid for under standard bid items. For special provision items, material used in non-standard, non-roadway, temporary applications, or small quantities of materials, alternative materials acceptance requirements will be determined as discussed herein or as specified in the contract documents, or as otherwise approved by ACHD. Material placed without appropriate testing shall be subject to a price deduction or rejected as determined by ACHD.

B. Minimum testing frequencies are included in the Minimum Testing Frequency table. The Developer/Contractor frequencies may only be altered by Change Order approved by ACHD. ACHD may elect to increase its own testing frequency at any time. Testing frequency should be increased when accepting material from newly developed sources or those with varying results.
C. Material source approval requirements are not listed in this document. All fill and aggregate material imported to the project must be obtained from ACHD or ITD approved materials sources.

D. Based on inspection and without regard for testing frequency, ACHD may isolate and reject obviously defective material.

E. When the material is not listed in the Minimum Testing Frequency table and not identified in the ISPWC, acceptance shall be determined by ACHD.

F. When the material is required by the Contract to meet a given specification, such as ASTM or AASHTO, acceptance of material will, at a minimum, require a manufacturer’s certification. A partial list of such material is outlined in the List of Miscellaneous Material Accepted on the Basis of Manufacturer’s Fabricator’s Certification.

Small Quantities

A. ACHD may accept small quantities of certain materials without sampling and testing. The determination to accept materials using this provision rest solely with ACHD.

B. The following are not eligible for small quantity acceptance:
   i. Concrete with a specified strength of greater than 3000 psi.
   ii. Paving on the roadway with quantities above 100 ton.

C. Materials may be accepted as a small quantity if the estimated quantity is less than the minimum QC testing frequency. The small quantity exception may be used on pavement items such as; small patches, utility repairs, pavement placed outside the traveled way (driveways, approaches, mailbox turnouts, asphalt sidewalk and curb), and temporary pavement.

D. The minimum requirements that must be met for small quantities includes; approved sources, mix design, material certifications, inspection, and a core for density acceptance of mainline and intersection paving less than 100 tons.
<table>
<thead>
<tr>
<th>Column</th>
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<th>Acceptance By/Test Required</th>
<th>Quality Control Contractor</th>
<th>Quality Assurance ACHD</th>
<th>Test Method</th>
<th>Requirement</th>
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<td>Observation</td>
<td>AASHTO T 310 Method B</td>
<td>Per 202.3.8.C.2</td>
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<tr>
<td>B</td>
<td>202</td>
<td>Embankment</td>
<td>QA / Density (1)*</td>
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<td>Minimum 1 test per 1000 SY per lift</td>
<td>AASHTO T 310 Method B</td>
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<td>C</td>
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</tr>
<tr>
<td>D</td>
<td>204/306</td>
<td>Trenches</td>
<td>QA / Density (1)*</td>
<td>Minimum 1 per 300 feet for each lift. Minimum 1 per lift for transverse trenches</td>
<td>Minimum 1 per 1000 feet. Minimum 1 for every 3 transverse trenches.</td>
<td>AASHTO T 310 Method B</td>
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</tr>
<tr>
<td>E</td>
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<td>Bedding Type I,II,III</td>
<td>QA / Gradation Density</td>
<td>Minimum 1 per 3000 ton</td>
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<td>Concrete (Fine Aggregates)</td>
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<td>Each 1000 CY of concrete placed</td>
<td>Each 3000 CY of concrete placed</td>
<td>AASHTO T 11 AASHTO T 27</td>
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<td>G</td>
<td>703</td>
<td>Concrete (Coarse aggregates)</td>
<td>QA / Gradation</td>
<td>Each 1000 CY of concrete placed</td>
<td>Each 3000 CY of concrete placed</td>
<td>AASHTO T 27</td>
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<tr>
<td>H</td>
<td>703</td>
<td>Concrete (specified strength of 3500 psi or greater)</td>
<td>QA / Slump Air Content</td>
<td>Test for slump &amp; air on first truck then for every 100 CY of each class of concrete placed</td>
<td>Minimum 1 per 300 CY of each class of concrete placed</td>
<td>AASHTO T 119 AASHTO T 152</td>
<td>Per Section 703</td>
</tr>
<tr>
<td>I</td>
<td>703</td>
<td>Concrete (specified strength of 3500 psi or greater)</td>
<td>QA / Compressive Strength</td>
<td>Minimum one (1) set per 100 CY of each class of concrete placed; or one (1) per day, whichever frequency is greater</td>
<td>Minimum one (1) set per 300 CY of each class of concrete placed; or one (1) per day, whichever frequency is greater.</td>
<td>AASHTO T 22 AASHTO T 23</td>
<td>Each set consists of (2) 28-day and (1) 7-day cylinders. Make the cylinders from loads that are tested for slump, air, etc.</td>
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<tr>
<td>J</td>
<td>703</td>
<td>Concrete (specified strength of 3000 psi or less)</td>
<td>QA / (if applicable) Slump Air Content</td>
<td>Test for slump &amp; air on first truck then for every 100 CY of each class of concrete placed</td>
<td>Minimum 1 per 300 CY of each class of concrete placed</td>
<td>AASHTO T 119 AASHTO T 152</td>
<td>Per Section 703</td>
</tr>
<tr>
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<td>ISPWC</td>
<td>Material</td>
<td>Acceptance By/Test Required</td>
<td>Quality Control Contractor</td>
<td>Quality Assurance ACHD</td>
<td>Test Method</td>
<td>Requirement</td>
</tr>
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</tr>
<tr>
<td>K</td>
<td>801</td>
<td>Uncrushed Aggregates</td>
<td>QA / Gradation (2)* SE</td>
<td>Minimum 1 per project</td>
<td>Minimum 1 per project</td>
<td>AASHTO T 11 AASHTO T 27 AASHTO T 176 (Method 2)</td>
<td>Per 801.2.2</td>
</tr>
<tr>
<td>L</td>
<td>801</td>
<td>Uncrushed Aggregates</td>
<td>QA / Density (1)*</td>
<td>1 test per 500 linear feet of roadway for each lift, based on two travel lanes</td>
<td>1 test per 1000 linear feet of roadway for each lift</td>
<td>AASHTO T 310 Method B</td>
<td>Per 202.3.8</td>
</tr>
<tr>
<td>M</td>
<td>802</td>
<td>Crushed Aggregates</td>
<td>QA / Gradation SE Fractured Face (5)*</td>
<td>Minimum 1 per 3000 ton or 1 per project, whichever frequency is greater</td>
<td>Minimum 1 per 5000 ton</td>
<td>AASHTO T11 AASHTO T 27 AASHTO T 176 (Method 2) TP 61</td>
<td>Per 802.2.2</td>
</tr>
<tr>
<td>N</td>
<td>802</td>
<td>Crushed Aggregates</td>
<td>QA / Density</td>
<td>1 test per 500 linear feet of roadway based on two travel lanes. 1 test per 500 linear feet for curb/gutter/sidewalk</td>
<td>1 test per 1000 linear feet of roadway</td>
<td>AASHTO T 310 Method B</td>
<td>Per 202.3.8</td>
</tr>
<tr>
<td>O</td>
<td>803</td>
<td>Plant Mix/ Superpave Aggregates (Cold Feed) (5)*</td>
<td>QC / Gradation SE Fractured Face</td>
<td>One (1) sample at start of project, then 1 test per each 3000 tons.</td>
<td>1 test per project</td>
<td>AASHTO T 11 AASHTO T 27 AASHTO T 176 (Method 2) TP 61</td>
<td>Per 803.2.2</td>
</tr>
<tr>
<td>P</td>
<td>805</td>
<td>Plant Mix / Superpave performance grade binder</td>
<td>QA / Sampling Presence of Anti-Strip</td>
<td>One sample for each shift that hot mix is produced and supplied to ACHD for testing</td>
<td>Additional samples taken at ACHD discretion.</td>
<td>AASHTO T 40 Idaho IT 99 (color only)</td>
<td>One sample consists of three (3) one-quart metal cans.</td>
</tr>
<tr>
<td>Q</td>
<td>810</td>
<td>Plant Mix Pavement / Superpave HMA SP-1 and SP-2</td>
<td>QA / Sampling Asphalt Content Gradation</td>
<td>One (1) sample per 750 tons or one (1) sample per day, whichever frequency is greater</td>
<td>Each 1500 Tons</td>
<td>AASHTO T 168 AASHTO T 308 AASHTO T 30</td>
<td>Per Section 810.3.13.B</td>
</tr>
<tr>
<td>R</td>
<td>810</td>
<td>Plant Mix / Superpave Recycled Asphalt Pavement (RAP)</td>
<td>QC / Sampling Asphalt Content Gradation</td>
<td>Based on category type. See Section 810.2.5.D</td>
<td>Additional samples taken at ACHD discretion.</td>
<td>AASHTO T 168 AASHTO T 308 AASHTO T 30</td>
<td>Per 810.2.5.D</td>
</tr>
<tr>
<td>Column</td>
<td>ISPWC</td>
<td>Material</td>
<td>Acceptance By/Test Required</td>
<td>Quality Control Contractor</td>
<td>Quality Assurance ACHD</td>
<td>Test Method</td>
<td>Requirement</td>
</tr>
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</tr>
<tr>
<td>S</td>
<td>810/814</td>
<td>Plant Mix Pavement / Superpave Hot Mix Asphalt</td>
<td>QC / Correlating density gauge (Cores)</td>
<td>Densometers must be correlated to cores on first day of paving, design change or change in underlying material. Minimum 3 cores for quantities up to 750 tons, minimum 5 cores over 750 tons that day. (3)<em>(4)</em>(6)*</td>
<td>Densometers must be correlated to cores on first day of paving, design change or change in underlying material. Minimum 3 cores for quantities up to 750 tons, minimum 5 cores over 750 tons that day. (3)<em>(4)</em>(6)*</td>
<td>AASHTO T 166 Method C</td>
<td>Compare core density results with the corresponding gauge reading to attain a correlation.</td>
</tr>
<tr>
<td>T</td>
<td>810/814</td>
<td>Plant Mix Pavement / Superpave Hot Mix Asphalt</td>
<td>QA / Asphalt depth (Cores)</td>
<td>One (1) core every 750 tons or two (2) cores per road section, whichever is greater. Maximum 4 inch diameter (4)*</td>
<td>Additional samples taken at ACHD discretion.</td>
<td>NA</td>
<td>Per 814.6.1</td>
</tr>
<tr>
<td>U</td>
<td>810/814</td>
<td>Plant Mix Pavement / Superpave Hot Mix Asphalt</td>
<td>QC / Density using correlated nuclear gauge</td>
<td>One (1) test every 100 ton of HMA paved</td>
<td>One (1) test every 300 ton of HMA paved</td>
<td>WAQTC TM-8</td>
<td>No greater than 96% and no less than 92% of the Max. Theo. Density from JMF</td>
</tr>
<tr>
<td>V</td>
<td>814</td>
<td>Superpave Hot Mix Asphalt SP-3 through SP-6</td>
<td>CONTROL Gradation VFA DP QC ACCEPTANCE / VA VMA</td>
<td>One (1) sample per 750 tons or one (1) sample per day, whichever frequency is greater</td>
<td>One (1) sample per 1500 tons</td>
<td>AASHTO T 168 AASHTO T 308 AASHTO T 30 AASHTO T 312 AASHTO T 209 AASHTO T 166</td>
<td>Each sample must be at least 80 lbs - Results must meet Section 814.2.2</td>
</tr>
</tbody>
</table>

(1)* When material is too granular to test, the compaction effort must be documented for acceptance, including equipment and roller passes. See 202.3.8.2.2
(2)* The test sample mass for sieve analysis will be determined using the nominal maximum size of the tested material according to AASHTO T 27, except the maximum test sample mass, after reduction, will not be greater than 65 lbs.
(3)* Both parties will correlate from same core locations. QC core results will be used for density acceptance on first day of production and correlation of all gauges. QA results will be for verification only (± 0.012).
(4)* Contractor will provide ACHD with cores and fill all locations with a quick setting grout.
(5)* If RAP is allowed, must meet gradation requirements after addition of RAP.
(6)* Mat thickness less than 2.5 inches will require separate gauge correlations for top and bottom lifts.

QC/QA TESTING FREQUENCY TABLE - March, 2016 update
List of Miscellaneous Material Accepted on the Basis of Manufacturer’s or Fabricator’s Certification

<table>
<thead>
<tr>
<th>Material</th>
<th>Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bearing Pads and Plates</td>
<td>H-Beam Piles</td>
</tr>
<tr>
<td>Brick and Blocks, Masonry</td>
<td>Illumination Poles and Bases</td>
</tr>
<tr>
<td>Bridge Rail, Metal</td>
<td>Joint Sealants and Sealers</td>
</tr>
<tr>
<td>Cement</td>
<td>Liquid or Emulsified Asphalt</td>
</tr>
<tr>
<td>Concrete Admixtures</td>
<td>Metal Reinforcement</td>
</tr>
<tr>
<td>Concrete, Rapid Set</td>
<td>Paint (only small quantities less than 25 gallons (100L))</td>
</tr>
<tr>
<td>Delineators and Mileposts</td>
<td>Performance Graded Asphalt Binder</td>
</tr>
<tr>
<td>Dowel Bars and Tie Bars for Concrete Pavement</td>
<td>Pipe</td>
</tr>
<tr>
<td>Dust Oil</td>
<td>Sewer (storm and sanitary) Manholes</td>
</tr>
<tr>
<td>Electrical</td>
<td>Signs and Posts</td>
</tr>
<tr>
<td>Epoxies</td>
<td>Steel Shell Piling</td>
</tr>
<tr>
<td>Epoxy Patch</td>
<td>Steel</td>
</tr>
<tr>
<td>Fiber</td>
<td>Structural Bolts</td>
</tr>
<tr>
<td>Flyash</td>
<td>Timber (structural)</td>
</tr>
<tr>
<td>Geotextiles</td>
<td>Traffic Signal Poles and Mast Arms</td>
</tr>
<tr>
<td>Guard Rail and Posts</td>
<td></td>
</tr>
</tbody>
</table>
Executive Summary

District staff has negotiated a Cooperative Development Agreement for the improvement of Pierce Park Lane as a 30-foot rural collector street from approximately 230-feet east of the corner that is approximately 1,090-feet north of Hill Road, continuing northeast to Sage Glenn Court, a distance of approximately 6,000-feet, in association with the Reserve at Deer Valley Subdivision. The proposed Cooperative Development Agreement provides for the construction of the project only. Staff recommends approval of the Cooperative Development Agreement.

Findings:

1. District staff has negotiated a Cooperative Development Agreement (the Agreement) with The Reserve at Deer Valley, LLC for the improvement of Pierce Park Lane as a 30-foot rural collector street from approximately 230-feet east of the corner that is approximately 1,090-feet north of Hill Road, continuing northeast to Sage Glenn Court, a distance of approximately 6,000-feet (the Project). Said road shall be designed to Rural Street Standards as required by the September 16, 2015 ACHD Commission action on the Reserve at Deer Valley Subdivision preliminary plat.

2. The Agreement is required for this Pierce Park Lane improvement project because the Project is listed in the West Foothills Overlay Assessment District and eligible for reimbursement from extraordinary impact fees.

3. An original Cooperative Development Agreement (CDA16-0004) was approved by the Commission and executed on March 15, 2017 with The Reserve at Deer Valley for the design and construction of improvements. The design effort has been completed, the plans have been accepted by ACHD and the developer has been reimbursed $116,707 for the design costs.

4. The original Cooperative Development Agreement (CDA16-0004) has expired.

5. A second Cooperative Development Agreement (CDA18-0005) was approved by the Commission and executed on October 24, 2018 with The Reserve at Deer Valley for the construction of the improvements.

6. The second Cooperative Development Agreement (CDA18-0005) has expired.
7. No construction has commenced for the Project.

8. This Agreement replaces the previous Cooperative Development Agreement and is for the construction of improvements only with a completion date of October 31, 2021 for the first phase of the Project.

9. Attached is a copy of the Agreement drafted by District staff.

10. All Project costs are reimbursable excluding: utilities and irrigation; administrative and overhead costs of Developer other than the Construction Manager's compensation defined in Section 1.5 of the Agreement; interest on funds used for the Project; and liquidated damages.

11. The Agreement provides that after issuance of the certificate of completion, ACHD will pay Developer the Reimbursable Project costs pursuant to the terms of the Extraordinary Impact Fee Agreement dated March 15, 2017 and recorded in the Official Real Property Records of Ada County, Idaho as Instrument No. 2017-024215.

12. The Cooperative Development Agreement has been approved for form and content by the District Legal Department.

**FISCAL IMPLICATIONS:**

1. Under the terms of the proposed Cooperative Development Agreement and Extraordinary Impact Fee Agreement the costs associated with the construction of the required improvements to Pierce Park Lane will be funded by extraordinary impact fees collected in the West Foothills Overlay Assessment District. The District is not obligated to pay for any project costs from general funds or standard impact fees.

2. Approval of this Project and the Agreement should not negatively impact other District projects.

**RECOMMENDATION:**

1. Approve the Cooperative Development Agreement and authorize the President of the Commission to sign the Agreement.

Attachment:
Cooperative Development Agreement