

IN THE MATTER OF THE MEDIATION REGARDING  
DOVER BAY PLANNED UNIT DEVELOPMENT

Between:

Dover Bay Development, Inc.

and

City of Dover

MEDIATED SETTLEMENT AGREEMENT

**RECITALS**

1. The undersigned parties entered into mediation on the 1<sup>st</sup> day of November, 2011, and continued mediation on the 10<sup>th</sup> and the 14<sup>th</sup> day of November, 2011, the 5<sup>th</sup> day of December, 2011 and the 14<sup>th</sup> day of December, 2012 with CHARLES B. LEMPESIS acting as mediator.
2. The Developer, Dover Bay Development, Inc. was personally present through RALPH SLETAGER and represented by its attorney, JOHN FINNEY.
3. The City, City of Dover was personally present through the Mayor, City Council, and staff, and represented by its attorneys, SUSAN WEEKS and STEPHEN SNEDDEN (on December 14, 2012).
4. The parties have reached an accord and settlement to resolve certain Dover Bay and City of Dover issues including disputes currently existing about interpretation of provisions of the Development Agreement and other matters between the parties.

**AGREEMENT**

**A. Water and Sewer hookups, ERUs, and Billings.**

1. **Purchased Hookups:** The City and the Developer agree that as of January 1, 2013, the Developer has purchased and paid in full for 174 water hook-ups and 174 sewer hook-ups from the City of Dover for service by the municipal water system and the municipal sewer system. This resolves any dispute as to the amount and lawfulness of the City's fees for the purchased hookups.

- a. **Allocation of Purchased Hookups:** The City and the Developer, agree that the allocation of purchased hookups for parcels in the PUD is as set forth on the attached **Exhibit A**.
2. **Grandfathered Hookups:** In addition to the purchased hookups, the City and the Developer agree that the Developer (and the real property comprising the PUD) has 12 pre-existing or grandfathered water hook-ups and 12 pre-existing or grandfathered sewer hook-ups for use. These are the only grandfathered hookups associated with the property in the PUD and the Developer, whether as a result of condemnation proceedings, Bonner County Case No. CV-96-00943, historic uses, oral promises, contracts, development agreements or otherwise.
    - a. **Allocation of Grandfathered Hookups:** All of the 12 grandfathered hookups are in use in Area/Block 11 of the PUD. The City and the Developer agree to adjust and fix as of January 1, 2013, the ERUs as follows:
 

i.	19 Bungalows	6 ERUs;
ii.	Cafe/Market/Dock and Pump Out	4 ERUs; and
iii.	Fitness Center/Pool	2 ERUs

This allocation shall not create a formula or determine allocations for future development in Block 11 or other areas. In the event of (a) expansion of any existing facilities, or (b) a substantial change of use in an existing facility, additional hookups and ERUs may be required.
  3. **Future Hookups.** The purchase price of future hookups shall be the City's capitalization fee(s) lawfully in effect at the time of purchase.
  4. **Assignment of Hookups:** A water hookup and a sewer hookup for each unit shall be assigned from Developer's purchased hookups at the time the Developer obtains a building permit.
  5. **Utility Billing:** Utility billing will commence at the earliest time when a) the Developer assigns a hookup to a third party purchaser of a lot or parcel, or b) the Developer obtains a building permit and installs a water meter. In either event, the Developer shall provide notice in writing to the City within 10 days of the event.
  6. **Final Settlement:** This is a complete and final resolution as to the issues stated in this section A.

**B. Sanitary Restriction & Will Serve.**

1. **DEQ:** As of May 1, 2013 the Idaho Department of Environmental Quality (DEQ) has approved the City's capacities to serve the Dover Bay Planned Unit Development for 600 wastewater ERUs and 482 drinking water ERUs. Submittal

has been made to lift the sanitary restriction upon the PUD to the Panhandle Health District. Nothing herein shall modify or change the City's existing will serve commitments to the PUD and Developer for wastewater and drinking water.

2. **Infrastructure:** The City agrees that the Developer is currently in compliance with paragraph 9 of the Development Agreement for the PUD as it relates to wastewater and drinking water services and that the infrastructure meets the standards for the City of Dover.
3. **Final Settlement:** This is a complete and final resolution as to the issues stated in this section B.

C. **Parks and Recreation.**

1. **Signs:** The Developer has installed interpretive signs to the satisfaction of all parties. The City has installed non-motorized waterway signage to the satisfaction of all parties. No further signage is required by the Developer.
2. **Vista Park:** The parties agree that the Developer is not required to build or construct the Vista Park gazebo or fence. No further improvements are required by the Developer.
3. **City Beach Park:**
  - a. **Playground Equipment:** The Developer agrees to contribute a \$15,000 grant toward the purchase and installation of park and playground equipment for the City Beach Park. The parties must mutually agree on the playground equipment to be purchased and the location to be installed.
  - b. **Beach Sand and Buoys:** The City agrees to complete the applicable permitting for the installation of sand below the artificial high water mark and swim buoys at the City Beach Park.
  - c. **Acknowledgment:** The City acknowledges that it accepted the dedication of the City Beach and Improvements by those certain Instruments recorded December 14, 2006 as Instrument Nos. 719101 and 719102 and recorded December 29, 2006 as Instrument Nos. 720142, and 720143, records of Bonner County, Idaho and that all punch list items applicable to the City Beach and Improvements have been completed. No further improvements are required of the Developer for the City Beach Park.
4. **Boat Launch:** The Developer agrees to provide a minimum discounted fee of 25% to City of Dover residents, as determined by the Developer, for use of the Boat Launch at the Dover Bay Marina. The Developer reserves the right to

charge parking fees and/or refuse service to anyone based upon management considerations.

5. **Final Settlement:** This is a complete and final resolution as to the issues stated in this section C.

D. **Ordinances.** The City agrees to review and consider ordinances for (1) use of the City's parks, (2) special events and (3) signs. The parties agree that copies of each proposed ordinance shall be provided in advance of the hearing to the Developer. The Developer agrees to submit comments and proposed revisions to each of the ordinances in writing and in advance of the hearing, if it so desires.

E. **City Hall Building.**

1. **Acknowledgment:** The City acknowledges that it accepted the dedication of the City Hall by those certain Instruments recorded December 14, 2006 as Instrument Nos. 719101 and 719102 and recorded December 29, 2006 as Instrument Nos. 720142, and 720143, records of Bonner County, Idaho and that all punch list items applicable to the City Hall have been completed. No further improvements to City Hall are required of the Developer.
2. **Storage Area.** The Developer has designs for an additional storage area to the City Hall. During the City's fiscal year 2013-2014, the Developer agrees to review the plans and to contribute \$15,000 in funding or in-kind towards construction of a 120 square foot storage improvement. The parties agree that the design and installation of the improvement shall be mutually agreed upon, and shall not exceed \$15,000.00 total.
3. **Final Settlement:** This is a complete and final resolution as to the issues stated this section E.

F. **City Hall/Beach Public Toilets.**

1. **No Vault Toilet.** The City agrees not to install any vault toilet within the PUD.
2. **Maintenance.** The City shall lease to the Developer the public restroom facility at the City Beach for a one year term for the sum of \$1.00. The Developer shall provide maintenance and repairs for the facility, including payment of the operating expenses for electricity. The Developer shall provide the City the name and schedule of the maintenance operator. There shall be a posted record at the facility of each cleaning by the operator with the time and date. The City shall only contact the maintenance operator to report an emergency. After the one year lease term, the lease may be cancelled at any time by either party after 30 days written notice.
3. **Future.** The Developer agrees to consider installation of additional public restroom facilities in Block 11 of the PUD.

4. **Final Settlement:** This is a complete and final resolution as to the issues stated in this section F.
- G. **Administrative Stipend.** Regarding the voluntary stipend previously funded by the Developer to assist the City's processing of applications, permits, reviews, etc. within the PUD, the Developer agrees to contribute final sums as follows:
1. **First Stipend:** Developer agrees to contribute \$15,000.00 within 30 days of the execution of this Agreement; and
  2. **Second Stipend:** Developer agrees to contribute \$15,000.00 upon permitting and installation of (1) sand below the artificial high water mark and (2) swim buoys at the City Beach Park.
  3. **Final Settlement:** This is a complete and final resolution as to the issues stated in this Section G.
- H. **Fees and Grants.**
1. **Impact Fees.** The City agrees to continue to fund an impact fee budget item to be used for a future impact fee study. The City shall have no obligation to conduct an impact fee study if impact fees are not permitted in Idaho. The Developer agrees to continue the voluntary impact fee payments.
  2. **Grants.** The parties will continue to work together to explore grant opportunities.
  3. **Final Settlement:** This is a complete and final resolution as to the issues stated in this section H.
- I. **General Items.**
1. The City and the Developer agree that this mediated settlement contains agreement upon certain issues and matters, but is not a complete and final resolution of all issues or matters. Except as set forth above for items completely and finally resolved, each party reserves all rights and claims or defenses in regards remaining issues and matters.
  2. The City and the Developer shall split the costs of mediations and bear their own costs and attorney fees.
  3. The City and the Developer, respectively, shall execute such documents or other writings necessary to effectuate the terms of this agreement.
  4. In any action to enforce the terms of this agreement, the prevailing party shall be entitled to recovery its costs and attorneys' fees incurred therein.

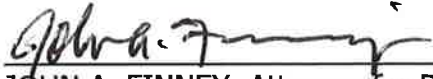
DOVER BAY DEVELOPMENT, INC



By: RALPH M. SLETAGER, JR

Its: President

Date: 9/12/2013



JOHN A. FINNEY, Attorney for Dover Bay Development, Inc.

Date: 9/12/2013

CITY OF DOVER



By: RANDY CURLESS

Its: Mayor

Date: 9/12/13



STEPHEN T. SNEDDEN, Attorney for Dover

Date: 9/12/13

EXHIBIT A  
Hookups Assigned Reconciliation Dover Bay PUD  
Dover Bay Development, Inc. & the City of Dover

Assigned From Purchased Hookups

No.	Date	LOT	BLK				
1	7/29/2005	1	9	52	8/21/2006	18	5-A
2	8/2/2005	3	8	53	8/22/2006	19	5-A
3	8/4/2005	5	2E	54	8/18/2006	89	9
4	8/10/2005	3	7	55	9/5/2006	12	7
5	8/11/2005	5	8	56	11/9/2006	901	10
6	8/12/2005	2	2E	57	11/10/2006	902	10
7	8/18/2005	3	2E	58	11/11/2006	903	10
8	8/18/2005	5	9	59	11/12/2006	904	10
9	8/18/2005	2	7	60	11/13/2006	905	10
10	8/19/2005	6	9	61	11/14/2006	906	10
11	8/19/2005	8	7	62	11/15/2006	801	10
12	8/22/2005	4	9	63	11/16/2006	802	10
13	8/24/2005	4	2E	64	11/17/2006	803	10
14	8/31/2005	7	9	65	11/18/2006	804	10
15	8/31/2005	1	7	66	11/19/2006	805	10
16	8/31/2005	1	6B-1	67	11/20/2006	11	6A
17	9/1/2005	10	5-A	68	11/21/2006	12	6A
18	9/1/2005	11	5-A	69	11/22/2006	13	6A
19	9/1/2005	12	5-A	70	11/23/2006	14	6A
20	9/9/2005	5	7	71	11/24/2006	21	6A
21	9/15/2005	6	2-E	72	11/25/2006	22	6A
22	9/15/2005	2	8	73	11/26/2006	23	6A
23	9/20/2005	7	7	74	11/27/2006	24	6A
24	9/30/2005	9	7	75	11/28/2006	121	6A
25	10/3/2005	1	8	76	11/29/2006	122	6A
26	10/17/2005	4	7	77	11/30/2006	123	6A
27	11/30/2005	8	6 B1	78	12/1/2006	124	6A
28	12/12/2005	7	5A	79	12/2/2006	131	6A
29	12/12/2005	14	5A	80	12/3/2006	132	6A
30	12/22/2005	5	2D	81	12/4/2006	133	6A
31	3/29/2006	6	7	82	12/5/2006	134	6A
32	4/20/2006	2	6-B1	83	10/5/2006	2	2D
33	5/17/2006	11	7	84	11/1/2006	3	2D
34	5/18/2006	9	2E	85	12/11/2006	13	7
35	6/2/2006	6	6B-1	86	1/31/2007	1	2-E
36	6/9/2006	3	6B-1	87	2/21/2007	5	5C
37	6/9/2006	4	6B-1	88	3/16/2007	4	2D
38	6/9/2006	5	6B-1	89	4/27/2007	5	2C
39	6/30/2006	7	6-B1	90	4/30/2007	6	8
40	7/11/2006	10	7	91	5/22/2007	13	5A
41	8/10/2006	1	5-A	92	6/20/2007	4	5C
42	8/11/2006	2	5-A	93	7/11/2007	9	2D
43	8/12/2006	3	5-A	94	8/14/2007	4	2C
44	8/13/2006	4	5-A	95	8/14/2007	2	9
45	8/14/2006	5	5-A	96	8/14/2007	3	9
46	8/15/2006	6	5-A	97	8/14/2007	1	6B-2
47	8/16/2006	8	5-A	98	8/14/2007	7	6B-2
48	8/17/2006	9	5-A	99	8/14/2007	8	6B-2
49	8/18/2006	15	5-A	100	8/22/2007	1	3C
50	8/19/2006	16	5-A	101	8/23/2007	6	1A
51	8/20/2006	17	5-A	102	9/17/2007	3	3C
				103	9/17/2007	5	3C

104	9/19/2007	8	5B
105	10/12/2007	6	3C
106	10/12/2007	31	6A
107	10/12/2007	32	6A
108	10/12/2007	33	6A
109	10/12/2007	34	6A
110	11/13/2007	4	6B3
111	12/3/2007	4	3C
112	3/27/2008	9	5B
113	4/11/2008	4	8
114	4/30/2008	8	2E
115	6/3/2008	7	2E
116	9/23/2008	2	6B3
117	10/21/2008	101	10
118	10/21/2008	103	10
119	10/21/2008	104	10
120	12/17/2008	7&8	8
121	1/15/2009	2	3C
122	5/15/2009	11	4B-1
123	2009	12	4B-1
124	2009	13	4B-1
125	8/14/2009	41	6A
126	8/14/2009	42	6A
127	8/14/2009	43	6A
128	8/14/2009	44	6A
129	9/17/2009	13	3D
130	9/23/2009	21	3D
131	10/16/2009	10	3D
132	11/23/2009	1	4B-1
133	2/8/2010	10	4B-1
134	3/16/2010	7	3C
135	5/13/2010	111	6A
136	5/13/2010	112	6A
137	5/13/2010	113	6A
138	5/13/2010	114	6A
139	7/1/2010	14	3D
140	6/1/2010	2	4B-1
141	7/ /2010	9	1A
142	8/1/2011	5	3D
143	8/25/2011	7	1A
144	10/4/2011	10	1A
145	10/28/2011	8	1A
146	1/17/2012	9	3D
147	4/2/2012	3	5C
148	5/15/2012	7	5B
149	9/11/2012	14	1A
150	9/11/2012	15	1A
151	10/11/2012	8	3D
152	02/19/2013	4	4B-1
153	02/21/2013	19	4B-1
154	04/30/2013	8	4B-1
155	05/31/2013	3	4B-1
156	06/05/2013	3	2C
157	Spec	7	4B1
158	Spec	9	4B-1
159	Spec	26	4B-1

160	Spec	701	10
161	Spec	702	10
162	Bldg Permit	61	6A
163	Bldg Permit	62	6A
164	Bldg Permit	18	4B-1
165	Bldg Permit	20	4B-1
166	Bldg Permit	21	4B-1
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<u>Existing Hookups</u>	
<u>Area 11 (12 "Grandfathered")</u>	
19 Bungalows	6 ERUs
-Cafe/Market/PO	4 ERUs
Fitness/Pool	<u>2 ERUs</u>
Total	12 ERUs