

ORDINANCE NO. 374-2022
(BARON PROPERTIES REZONE)

AN ORDINANCE REZONING CERTAIN REAL PROPERTY LOCATED IN THE CITY OF STAR, ADA COUNTY, IDAHO; MORE SPECIFICALLY LOCATED AT 342 S. CALHOUN PLACE, IN STAR, IDAHO (ADA COUNTY PARCELS S0416120900); THE PROPERTY IS OWNED BY BPS CALHOUN COMM LLC; ESTABLISHING THE ZONING CLASSIFICATION OF THE REZONED PROPERTY AS COMMERCIAL WITH A DEVELOPMENT AGREEMENT (C-2-DA) OF APPROXIMATELY 11.38 ACRES; DIRECTING THAT CERTIFIED COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, pursuant to Section 67-6524, Idaho Code, the City of Star has adopted the Unified Development Code Ordinance, the same being Ordinance No. 3070-2022, adopted on July 19, 2022 and subsequently amended; and

WHEREAS, the owner(s) of the real property situated in the City of Star, Ada County and particularly described in Section 2 of this Ordinance have requested, in writing, rezone of said real property to the City of Star with a zoning classification of Commercial with a Development Agreement (C-2-DA); and

WHEREAS, the real property described in Section 2 of this Ordinance is classified as Commercial (C-1) under the Unified Development Code of the City, and the owner has requested that the zoning classification be changed to a Commercial District with a Development Agreement (C-2-DA); and

WHEREAS, the Mayor and Council, held a public hearing on September 20, 2022 on the proposed rezone of the property described in Section 2 below, as required by Section 67-6525, Idaho Code, and determined that the requested rezoned property should be zoned Commercial with a Development Agreement (C-2-DA) pursuant to the Unified Development Code of the City of Star.

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

Section 1: The Mayor and Council of the City of Star, Idaho, hereby find and declare that the real property described in Section 2 of this Ordinance is contiguous to the City, that said property can be reasonably assumed to be used for orderly development of the City, that the owner(s) of said property have requested, in writing, rezone of said property by the City, and that

the requirements of Section 50-222, Idaho Code, for rezone of said property, have been satisfied, with the zoning classification for the real property described in Section 2, situated in the City of Star, Ada County, Idaho is hereby changed from Commercial (C-1) to Commercial (C-2-DA) with a Development Agreement, as provided by the Unified Development Code Ordinance of the City. Both are described in attachment "Exhibit A".

Section 2: The zoning land use classification of the land described in Section 2 above, is hereby established as Commercial with a Development Agreement (C-2-DA), as provided by the Unified Development Code of the City of Star. The Zoning Map of the City is hereby amended to include the real property described in Section 2 above in the Commercial with a Development Agreement (C-2-DA) land use classification.

Section 3: The City Clerk is hereby directed to file, within ten (10) days of passage and approval of this Ordinance, a certified copy of this Ordinance with the offices of the Auditor, Treasurer, and Assessor of Ada County, Idaho, and with the State Tax Commission, Boise, Idaho, as required by Section 50-223, Idaho Code, and to comply with the provisions of Section 63-215, Idaho Code, with regard to the preparation and filing of a map and legal description of the real property annexed by this Ordinance.

Section 4: This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire Ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code maybe be published.

DATED this ____ day of _____, 2022.

CITY OF STAR
Ada and Canyon County, Idaho

ATTEST:

Jacob M. Qualls, City Clerk

BY: _____
Trevor A. Chadwick, Mayor



EXHIBIT A



J-U-B FAMILY OF COMPANIES

Legal Description for Zoning

A parcel of land located in the Northwest Quarter of the Northeast Quarter of Section 16, Township 4 North, Range 1 West, Boise Meridian, City of Star, County of Ada, State of Idaho, and being more particularly described as follows;

COMMENCING at the north quarter corner of said Section, from which the south quarter corner of said Section bears South 00°46'55" West – 5263.37 feet:

THENCE South 00°46'55" West along a line coincident with the west boundary of said northwest quarter of the northeast quarter for a distance of 190.59 feet to a point on the Right-of-Way of State Highway 16 and being the POINT OF BEGINNING;

THENCE along a line coincident with said Right-of-Way the following three (3) courses;

South 79°57'23" East for a distance of 187.15 feet;

South 46°03'40" East for a distance of 363.59 feet;

South 01°20'36" East for a distance of 926.84 feet to the southerly boundary of subject parcel;

THENCE North 89°13'05" West along a line coincident with said southerly boundary for a distance of 421.33 feet to a point on the easterly Right-of-Way of South Calhoun Place;

THENCE continuing North 89°13'05" West for a distance of 62.98 feet to the centerline of South Calhoun Place and a point on the westerly boundary of said northwest quarter of the northeast quarter;

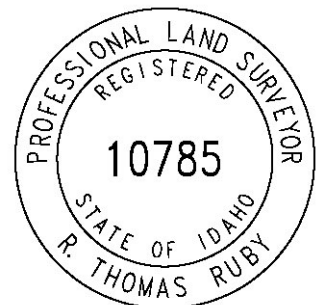
THENCE North 00°46'55" East along a line coincident with said centerline and said westerly boundary for a distance of 672.00 feet to a point on the northerly Right-of-Way of West Wildbranch Drive;

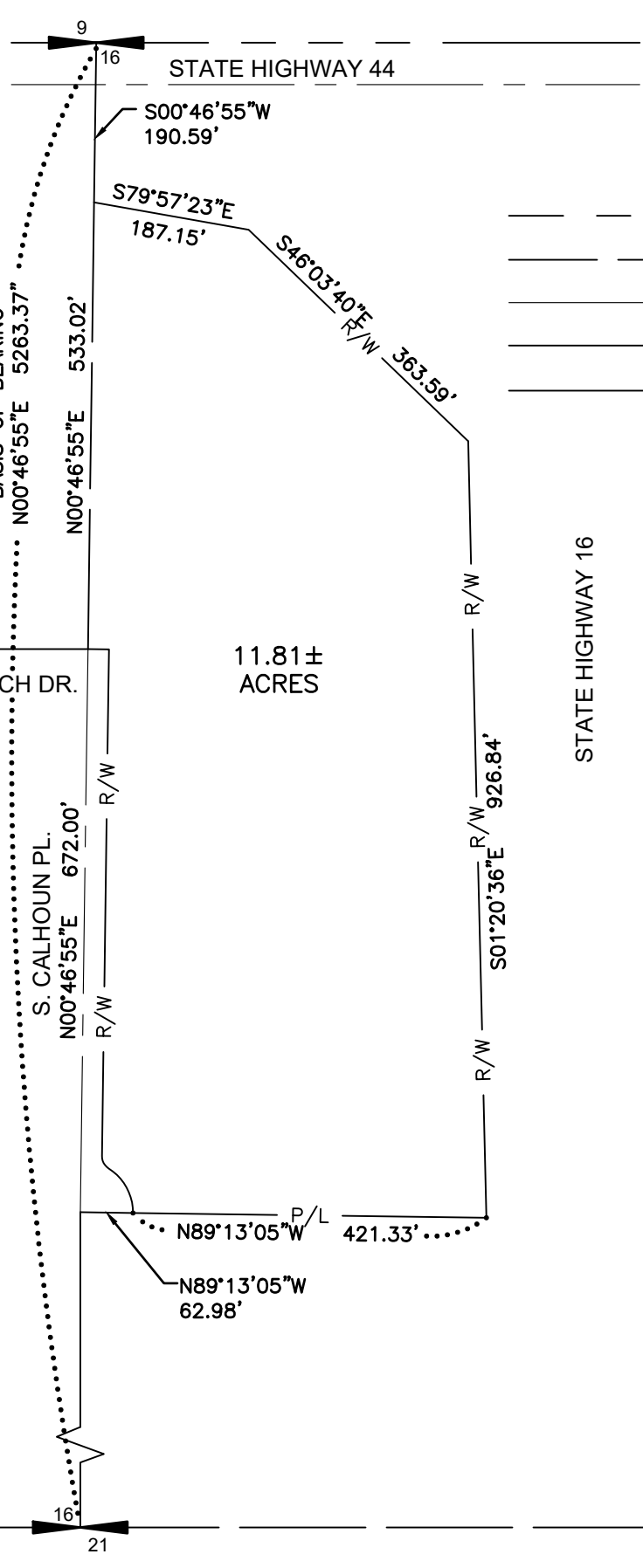
THENCE continuing North 00°46'55" East along a line coincident with said westerly boundary for a distance of 533.02 feet to the POINT OF BEGINNING.

The above described parcel contains 11.81 acres, more or less, and is subject to easements, covenants and restrictions of record.







This description was prepared from Ada County Record of Survey Instrument Number 2017-007907, and does not represent the results of a land boundary survey conducted by J-U-B ENGINEERS, Inc.

This description was prepared by me or under my immediate supervision. If any portion of this description is modified or removed without the written consent of R. Thomas Ruby, PLS, all professional liability associated with this document is hereby declared null and void.





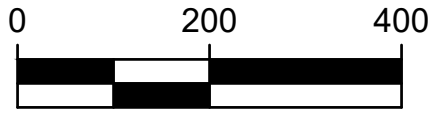
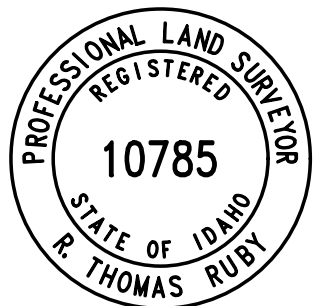
LEGEND

-  SECTION LINE
-  QUARTER LINE
-  CENTER LINE
-  RIGHT OF WAY
-  PROPERTY LINE
-  QUARTER CORNER

R/W
W. WILDBRANCH DR.
11.81±
ACRES

STATE HIGHWAY 16

PREPARED FROM ADA COUNTY
RECORD OF SURVEY
INSTRUMENT #2017-007907



SCALE IN FEET

Plot Date: 8/18/2022 11:32 AM Plotted By: George Kinslow II
Date Created: 8/18/2022 JUB.COM\CENTRAL\CLIENTS\BARONPROPERTIES\PROJECTS\10-21-080_CRYSTALSFCOMM\CONCEPTS\SURVEY\DWG\10-21-080-007_EX.DWG

REVISION DESCRIPTION			BY	APR	DATE
NO					

FILE: 10-21-080-007_EX
JUB PROJ. #: 10-21-080
DRAWN BY: GCK
DESIGN BY:
CHECKED BY: RTR
LAST UPDATED: 8/18/2022



**BARON PROPERTIES
ZONING CHANGE EXHIBIT**

LOCATED IN THE NW 1/4 OF THE NE 1/4 OF SECTION 16, T. 4 N,
R. 1 W, B.M., CITY OF STAR, COUNTY OF ADA, STATE OF IDAHO

SHEET
1

AMENDED AND RESTATED COMMERCIAL DEVELOPMENT AGREEMENT
BARON PROPERTIES REZONE

This Amended and Restated Commercial Development Agreement ("Agreement") is entered into by and between the City of Star, a municipal corporation in the State of Idaho, hereinafter referred to as "City", and BPS Calhoun Comm, LLC, an Idaho limited liability company, hereinafter referred to as "Owner".

WHEREAS, pursuant to approvals identified in City File No. RZ-16-02, US19, LLC, Thomas J. Angstman (collectively, "Angstman"), and the City previously entered into a development agreement dated September 22, 2017 (the "Angstman Agreement") and recorded on October 2, 2017 in the records of Ada County as Instrument No. 2017-093313 under Ordinance 258 (the "Original Agreement");

WHEREAS, the real property identified in the Original Agreement was rezoned C-1 pursuant to Ordinance 258, dated October 2, 2017 and recorded with the Original Agreement;

WHEREAS, BPS Calhoun Comm, LLC are the current fee title owners of a parcel of land of approximately 11.38 acres in size, currently located within the City of Star, zone C-1 under Star Zoning Ordinance and more particularly described in **Exhibit A** which is attached hereto and incorporated by reference herein (the "Property");

WHEREAS, Owner has requested that the Property be rezoned and developed in accordance with the applicable ordinances and regulations of the City and this Agreement;

WHEREAS, the City, pursuant to Section 67-6511A, Idaho Code, and Star City Code at Title 8, Chapter 10, has the authority to enter into and amend 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 all allowed uses for the requested zoning may not be appropriate;

WHEREAS, the City has authority to enter into development agreements to condition re-zones;

WHEREAS, Owner desires to be assured that it may proceed with allowing its Property to be re-zoned in accordance with this Agreement;

WHEREAS, the parties agree to the zoning designations for the Property as set forth in **Exhibit B**, which is attached hereto and incorporated herein by this reference.

WHEREAS, Owner filed with the City of Star Planning and Zoning Department, a Request for Zoning, as File No. RZ-22-02, so that the City can review all of the applications affecting the use and development of the Property in an integrated manner consistent with the City's Comprehensive Plan and land use ordinances;

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

THEREFORE, the City and Owner, for and in consideration of the mutual covenants, duties and obligations herein set forth, hereby agree as follows:

Section 1. Legal Authority. This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Star City Code, Title 8, Chapter 10.

Section 2. Development and Uses.

2.1 Development Acreage. As to the Parcel shown on **Exhibit A** (the "Commercial Parcel"), Owner is allowed to develop 11.38 acres as follows:

- Zoning: The Commercial Parcel shall be re-zoned ~~C-1~~ C-2, but agricultural uses may continue until it is fully developed.
- ~~Regional Traffic Plan: The City may develop a consortium of property owners to study regional traffic issues during 2017. Owner agrees to participate financially in this planning effort with each participant paying a pro-rata share of the regional traffic plan costs based upon the gross acreage of each parcel in the planning area.~~
- Use Specific Traffic Study: Owner shall submit a traffic study as if required to the Idaho Transportation Department (ITD) and Ada County Highway District (ACHD) prior to the issuance of any building permit. No occupancy permit shall be issued until Owner has complied with the ITD and ACHD requirements.
- The applicant agrees to work in good faith with the City staff to dedicate a monument location to the City of Star.

2.2 Permitted Uses. The City allows those uses designated as "P" in the applicable zone as described in the Star City Code Zoning Ordinance in effect on the date the City approves this application File No. RZ-22-02 and these and other uses as listed below. The City acknowledges that this Agreement specifically allows reasonable rights of property ownership for agricultural and recreational privileges on the subject property subject to all applicable laws. All uses are subject to future Zoning Certificate and Design Review approval.

- **Specifically Permitted Uses:** Alley; Animal care facility; Artist studio; Arts, entertainment, recreation facility; Automated teller machine; Automotive mechanical/electrical repair and maintenance; Bakery; Bar/tavern/lounge/drinking establishment; Barbershop/styling salon; Bed and breakfast; Brewpub/Wine Tasting; Building material, garden equipment and supplies; ~~Church or place of religious worship~~; Child Care Family (6 or fewer); Civic; social or fraternal organizations; Conference/convention center; Convenience store; ~~Daycare family (6 or fewer)~~; ~~Daycare~~

~~group (up to 50); Drive-through establishment/drive-up service window; Drugstore; Equipment rental, sales, and services; Farmers' or Saturday market; Financial institution; Fireworks Stands; Flex Space; Gasoline Fueling & Charging Station with or without convenience store; station; Gasoline station with convenience store; Government office; Greenhouse, commercial; Healthcare and social services; Hospital; (For profit only) Hospital; Hotel/motel; Institution; Laboratory; Laboratory, medical; Laundromat; Laundry and dry cleaning; Library; Medical clinic; Mortuary; Museum; Nursery; garden center and farm supply; Nursing or residential care facility; Off-Premise Signage as depicted on the Sign Exhibit; Office security facility; Parking lot/parking garage; Parks, public and private; Pawnshop; Personal and professional services; Pharmacy; Photographic studio; Portable classroom/modular building (for private & public Educational Institutions); Professional offices; Public or quasi-public use; Public utility, minor; Recreational vehicle dump station; Research activities; Restaurant; Retail store/retail services; Service building; Shopping center; Swimming pool, commercial/public; Television station; Temporary use; Vehicle emission testing; Vehicle repair, major; Vehicle repair, minor; Vehicle sales or rental and service; Veterinarian office; and Wholesale sales; and Woodworking shop.~~

2.3 Conditional Uses. Upon receipt and approval of an application for a Conditional Use Permit the City may conditionally allow those uses designated as "C" in the applicable zone as described in the Star Unified Development Code City Code Zoning Ordinance in effect on the date the City approves this application File No. RZ-22-02 as listed below:

- **Specifically Conditional Uses.** ~~Accessory structure; Arts, entertainment, recreation facility; Campground/RV park; Condominium; Child Care center (more than 12); Child Care group (7-12); Daycare center (more than 12); Educational institution, private; Educational institution, public; Event Center, public or private (indoor/outdoor); Fireworks stand; Farmers' or Saturday market; Food products processing; Food stand; Industry, information; Institution; Laboratory; Parking lot/parking garage (commercial); Portable classroom/modular building; Public infrastructure; Recycling center; Shooting Range, indoor; Storage facility, outdoor; Television station; Tower; Vehicle repair, major; Vehicle repair, minor; Vehicle sales or rental; Vehicle washing facility; and Wireless communication facility.~~

2.4 Prohibited Uses. Unless otherwise provided herein, the City prohibits those uses described as "N" in the applicable zone as described in the Star Unified Development Code City Code Zoning Ordinance in effect on the date the City approves this application File No. RZ-22-02 and as listed below:

- **Specifically Prohibited Uses.** Adult business/adult entertainment; Agriculture, forestry, fishing; Airport; Asphalt plant; Auction facility; Automotive hobby; beverage bottling plant; Boarding house; Brewery/Distillery; Cement or clay products manufacturing; Cemetery; Chemical manufacturing plant; Church or place of religious worship; Concrete batch plant; Contractor's yard; Dairy farm; Dwelling, multi-family; Dwelling, secondary; Dwelling, single-family attached; Dwelling,

single-family detached; ~~Dwelling, townhouse~~; Dwelling, two-family duplex; ~~Dwelling Live/Work Multi-Use~~; Fabrication shop; Farm; Feedlot; Flammable substance storage; Golf course; Greenhouse, ~~private~~; Guesthouse/granny flat; Heliport; Home occupation; Ice manufacturing plant; Junkyard; Kennel; Laboratory, medical; Lagoon; Manufactured home; Manufactured home park; Manufacturing plant; Meatpacking plant; Mining, ~~Pit or Quarry (except excluding~~ accessory pit); Power plant; Processing plant; ~~Public infrastructure~~; Public utility, major; Public utility yard; Retirement home; ~~Riding Arena or Stable, Private/Commercial~~; Salvage yard; Sand and gravel yard; Shooting range ~~outdoor~~; ~~Short Term Rentals~~; Solid waste transfer station; Stable; ~~Storage facility, outdoor (commercial)~~; Storage facility, self-service (~~commercial~~); Swimming pool, private; Temporary living quarters; Terminal, freight or truck; Truck stop; Turf farm; Vehicle impound yard; Vehicle wrecking yard; Vineyard; Warehouse and storage; Winery; and Yard sale.

2.5 Gravel Extraction. Gravel may be extracted for creation of water features of no more than 2 acres in size but also requires Applicant to obtain a ~~Zoning Compliance Certificate Certificate of Zoning Compliance~~. All other gravel extraction ~~is prohibited shall require a Conditional Use Permit~~.

2.6 Additional Conditions: ~~Prior to the City of Star's approval on any future development applications for the commercial site, the applicant must provide written documentation that ITD has issued a permit for the proposed right-in/right-out driveway onto SH-44 located east of Moyle Avenue. The right-in/right-out driveway should be constructed consistent with ITD standards and approval.~~

2.7 Changes and Modifications. No change in the use or restrictions specified in this Agreement shall be allowed or changed without modification of this Agreement pursuant to the requirements of the Star City Ordinances. In the event Owner changes or expands the use permitted by this Agreement or fail to comply with the restrictions without formal modification of this Agreement as allowed by the Star City Ordinances, Owner shall be in default of this Agreement.

2.8 Conditions, Bonding for Completion. All of the conditions set forth herein shall be complied with or shall be bonded for completion by Owner before an Occupancy permit will be granted. Failure to comply with the Star City Ordinances or the terms of this Agreement shall result in a default of this Agreement by Owner. Owner may be allowed to bond for certain conditions at one hundred and twenty percent (120%) of the estimated cost of completion pursuant to Star City Ordinances.

Section 3. Affidavit of Property Owner. Owner shall provide an affidavit agreeing to submit the Property to this Development Agreement and to the provisions set forth in Idaho Code section 67-6511A and Star Zoning Ordinance and such affidavit is incorporated herein by reference.

Section 4. Default. The failure of Owner, its heirs or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, to faithfully comply

with any of the terms and conditions of this Agreement shall be deemed a default herein. This Agreement may be modified or terminated by the Star City Council as set forth in the Star City Ordinances. In the event this Agreement is modified, Owner shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Star City Ordinances, determines that this Agreement shall be terminated, the zoning of the Property or portion thereof that has not been developed in accordance with this Agreement shall revert to its prior zoning designation. All uses of such property, which are not consistent with the prior zoning designation, shall cease unless such uses were consistent with this Agreement when commenced. A waiver by the City of Star for any default by Owner 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. Owner, by entering into this Agreement, do hereby consent to a reversion of the subject property to its prior zoning designation the event there is a default in the terms and/or conditions of this Agreement.

Section 5. Unenforceable Provisions. If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of the instrument shall remain in full force and effect.

Section 6. Assignment and Transfer. After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Applicant. Each commitment and restriction on the development subject to this Agreement, shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property and shall run with the land. This Agreement shall be binding on the City and Owner, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns: provided, however, that if all or any portion of the Property is divided, each owner of a legal lot shall only be responsible for duties and obligations associated with an owner's parcel and shall not be responsible for duties and obligations or defaults as to other parcels of lots within the Property. The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

Section 7. General Matters.

7.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with the notice and hearing provisions of Idaho Code Section 67- 6509, as required by Star City Ordinances, Title 8, Chapter 10, as agreed to by the property owner and the City of Star.

7.2 Paragraph Headings. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

7.3 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Ada County, Idaho.

7.4 Notices. Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.

Star: City of Star
Attn: City Clerk
P.O. Box 130
Star, ID 83669

Owner: BPS Calhoun Comm, LLC
Attn: JRMR Baron Manager, LLC; Manager
1401 17th Street Suite 700
Denver, CO 80202

7.5 Effective Date. This Agreement shall be effective after delivery to each of the parties hereto of a fully executed copy of this Agreement.

7.6 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 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.

7.7 Traffic Impact Study. As part of the specific land use application and building permit issuance process, Owner ~~shall~~ may be required by the Idaho Transportation Department (ITD) and/or the Ada County Highway District (ACHD) to submit a Traffic Impact Study (TIS) for the specific future use. to the Idaho Department of Transportation (ITD) and the Ada County Highway District (ACHD) as required by ITD.

- **Mitigation.** Prior to issuance of a building permit, Owner shall comply with ~~the any~~ requirements of ITD and/or ACHD to mitigate project generated traffic impacts at the intersection of Moyle Ave. and State Highway 44 ~~and with the requirements of ACHD~~ to ~~eliminate or~~ minimize cut-through traffic into the Heron River subdivision by ~~terminating access via Wildbranch St. or~~ other mitigation measures approved by ACHD.

~~**7.8 Regional Traffic Study.** In the event the City of Star conducts a regional TIS covering the Property and other properties in the vicinity of the State Highway 44 and State~~

~~Highway 16 intersection, Owner agrees to contribute a prorata amount toward the cost of such study as determined by the City of Star. This provision shall remain in effect for five (5) years from the effective date hereof.~~

~~• **Moyle Ave. and State Highway 44 Signalization.** In the event the regional TIS indicates a requirement for the signalization of Moyle Ave. and State Highway 44 based on current and anticipated uses in the area studied, Owner agrees to contribute its prorata portion of the cost of such signalization and related costs when the signal is warranted. It is agreed that the prorata portion shall be no more than 35% for both this Development Agreement and RZ-16-1, combined. The City will create a latecomers' agreement that will be in effect for ten years following construction of the signal.~~

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year set forth below.

Dated this _____ day _____, 2022.

CITY OF STAR

By: _____
Trevor A. Chadwick, Mayor

ATTEST:

Jacob M. Qualls, City Clerk

[signatures continued on following page]

