AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Addendum to the Development Improvements Agreement

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC and Verzuh Ranch, Inc.

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Attached please find the Addendum and Exhibit to the DIA for Shady Island Subdivision. The Developer has requested an extension of the work completion date to May 3, 2019. Resolution 2014-13 had provided an extension of the final plan application to May 3, 2017. Approval is contingent

Fiscal Impact:

Submitted by: Office of the County Attorney **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 4/24/2017 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 4/24/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5 minutes

Agenda Date: 5/2/2017

Revised April 2015

ADDENDUM TO THE

DEVELOPMENT IMPROVEMENTS AGREEMENT

FOR SHADY ISLAND SUBDIVISION

THIS ADDENDUM TO THE DEVELOPMENT IMPROVEMENTS AGREEMENT FOR SHADY ISLAND SUBDIVISION ("Addendum") modifies that certain Development Improvements Agreement by and between the Board of County Commissioners of the County of Gunnison, Colorado and Verzuh Ranch, Inc., a Colorado corporation, which was recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on May 6, 2011, bearing Reception No: 605475.

The Development Improvements Agreement was entered into pursuant to the approval of Land Use Change Permit No: 2005-73 regarding the subdivision of a 10.36 acre parcel into sixteen single family residential lots and a 4.74 acre common open space area known as Shady Island Subdivision which is located within SW1/4NE1/4 and the NW1/4NE1/4, Section 24, Township 50 North, Range 1 West, N.M.P.M.

The Development Improvements Agreement is hereby modified as follows:

A. Work Completion Date. Relevant to paragraphs 3 and 6 of the Development Improvements Agreement, the current work completion date and certification of completion for the construction of Improvements identified in paragraph 7 of the Development Improvements Agreement was May 3, 2016. The work completion and certificate of completion dates are hereby extended to May 3, 2019.

B. Revised Cost Estimate. The previous cost estimate identified in paragraph 7.3 of the Development Improvements Agreement and attached as Exhibit "B" is hereby replaced with the cost estimate prepared by SGM titled: *Shady Island Opinion of Probable Construction Cost Development Improvement Agreement Revised March 15, 2017*, attached hereto and incorporated herein by reference as Exhibit "A".

The current security retained pursuant to the Development Improvements Agreement is Tract 1, Block 70 and Tract 2, Block 70, Verzuh Ranch Annexation as identified in the Second Modification to Real Estate Mortgage which was recorded in the records of the Office of the Clerk and Recorder for Gunnison County, Colorado on June 21, 2016, bearing Reception No: 640065.

This Addendum shall have no effect unless and until the plat titled: *Final Plat Shady Island NE ¼, Section 24, T 50 N, R 1 W of the NMPM Gunnison County, Colorado,* created by Schmueser Gordon Meyer, dated March 25, 2008, is recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado by no later than May 3, 2017.

Further, this Addendum shall not be effective until it is recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado.

Except as modified herein, the terms and conditions of the Development Improvements Agreement are hereby reaffirmed and ratified.

APPROVED this 2nd day of May, 2017.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Phil Chamberland, Chairperson

ATTEST:

_____
Deputy County Clerk

VERZUH RANCH, INC.
a Colorado coporation

By:_____
Billy Joe Lacy, President

STATE OF COLORADO)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this ___ day of_____, 2017, by Billy Joe Lacy, President of Verzuh Ranch, Inc., a Colorado corporation.

Witness my hand and seal.
My commission expires: _____

_____
Notary Public
Address:

SGM

Rachel Magruder
Gunnison County Attorneys' Office
200 East Virginia
Gunnison, CO 81320

March 15, 2017

RE: Shady Island Subdivision, Development Improvement Agreement
Land Use Change Permit No: 2005-73

Dear Rachel,

Included with this letter you will find an engineer's opinion of probable cost for the Shady Island development project located just north of Gunnison off Highway 135. The opinion of cost we provided covers the same scope of work as described in the Development Improvements Agreement between Verzuh Ranch, Inc. and Gunnison County, recorded at reception number 605475. Our opinion of cost only includes construction costs and does not include engineering or project management related costs.

This estimate was prepared at the request of Mr. Bill Lacy, President of Verzuh Ranch, Inc. On behalf of Mr. Lacy, we would also like to request an extension to complete the improvements until November 01, 2019.

Respectfully submitted,

Gerald E. Burgess, P.E.
SGM Inc.

cc: Bill Lacy

COLORADO LICENSED
GERALD EDWARD BURGESS
38250
PROFESSIONAL ENGINEER

3/15/17

Attachments:
Opinion of Cost 3/15/17

103 West Tomichi Avenue, Suite A | Gunnison, CO 81230 | 970.641.5355

EXHIBIT A

Shady Island

Opinion of probable construction cost
Development Improvement Agreement
Revised March 15, 2017

Item #	Estimated Quantity	Unit	Description	Unit Price	Total Price
1	522	CY	FILL MATERIAL	$8.00	**$4,176.00**
2	2,318	SY	3' ASPHALT	$13.50	**$31,293.00**
3	2,318	SY	6" BASE MATERIAL	$6.35	**$14,719.30**
4	89	LF	19"X30" HERCP, IN PLACE	$30.00	**$2,670.00**
5	176	LF	18" ADS, IN PLACE	$27.00	**$4,752.00**
6	300	LF	12" RCP, IN PLACE	$24.25	**$7,275.00**
7	2	EA	STREET NAME SIGNS	$250.00	**$500.00**
8	2	EA	STOP SIGNS	$250.00	**$500.00**
9	1	LS	BRIDGE (40' SPAC TRUSS)	$90,000.00	**$90,000.00**
10	1	LS	ABUTMENTS, WINWALLS, & FOOTINGS	$56,000.00	**$56,000.00**
11	1,273	LF	8" PVC SEWER MAIN, IN PLACE	$30.00	**$38,190.00**
12	16	EA	4" PVC SEWER SERVICE, IN PLACE	$900.00	**$14,400.00**
13	6	EA	MANHOLES, 4' DIA 8' IN AVE. DEPTH	$2,200.00	**$13,200.00**
14	2	EA	WELL PUMP ASSEMBLY	$2,000.00	**$4,000.00**
15	440	LF	RAW WATER SUPPLY PIPING	$15.00	**$6,600.00**
16	192	SF	WATER TREATMENT PLANT BUILDING	$150.00	**$28,800.00**
17	1	LS	WATER TREATMENT PLANT TREATMENT PROCESS	$165,000.00	**$165,000.00**
18	1	LS	WATER TREATMENT PLANT BAG FILTRATION	$15,000.00	**$15,000.00**
19	1	LS	WATER TREATMENT PLANT HYDRANT AND CISTERN	$12,000.00	**$12,000.00**
20	1,187	LF	WATER MAIN 4" HDPE	$26.00	**$30,862.00**
21	16	EA	WATER SERVICE 1" HDPE	$550.00	**$8,800.00**
22	2	EA	YARD HYDRANT	$1,500.00	**$3,000.00**
23	3,058	LF	SILT FENCE	$1.15	**$3,516.70**
24	614	SY	EROSION CONTROL BLANKET	$4.50	**$2,763.00**
25	125	SY	VEHICLE TRACKING PAD	$8.25	**$1,031.25**
26	1	LS	INSTALL GAS MAIN SYSTEM (ATMOS ENERGY)	$18,500.00	**$18,500.00**
27	1	LS	GUNNISON COUNTY REA - Electric Service	$17,250.00	**$17,250.00**
28	2	LS	ENTRY FEATURE	$6,000.00	**$12,000.00**
29	766	LF	PEDESTRIAN TRAIL - 6' WIDE CRUSHER FINES	$15.00	**$11,490.00**

ENGINEERS OPINION OF COST (continued)

30	586	LF	WORM FENCE 5'	$12.00	$7,032.00
31	28	EA	DECIDUOUS TREE, 2.5" CAL	$500.00	$14,000.00
32	8	EA	ORNAMENTAL TREE	$400.00	$3,200.00
33	8	EA	EVERGREEN TREE 6'	$500.00	$4,000.00
34	62	EA	SHRUB - 5 GAL CONTAINER	$40.00	$2,480.00
35	26	EA	BOULDERS - 5'X3'X18"	$250.00	$6,500.00
36	1.2	AC	SEEDING & MULCHING OF DISTURBED AREAS	$3,500.00	$4,200.00
37	1	LS	TELEPHONE - MATERIALS AND INSTALLATION	$3,500.00	$3,500.00

Total Opinion of Cost ***$663,200.25***

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 15, SERIES 2014

A RESOLUTION APPROVING ONE THREE YEAR EXTENSION OF THE FINAL PLAN OF LAND USE CHANGE APPLICATION NO. 2005-73 A LAND USE CHANGE PERMIT FOR VERZUH RANCH INC. FOR THE SHADY ISLAND SUBDIVISION

WHEREAS, Verzuh Ranch, Inc. has applied for a Gunnison County Land Use Change Permit to subdivide a 11.74-acre parcel into sixteen single-family residential lots and common open space area of 4.74 acres on a parcel legally described as the NE ¼, Section 24, Township 50 North, Range 1 West, N.M.P.M.; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, on April 4, 2008 forward to the Board of County Commissioners a Recommendation of approval of the Preliminary Plan application with certain Findings and Conditions and whereas on April 15, 2008 the Board of County Commissioners did approve with certain Findings and Conditions the Shady Island Preliminary Plan;

WHEREAS, the Board approved the Final Plan of Land Use Change application No. 2005-73 on May 20, 2008, which was recorded in the office of the Gunnison County Clerk and Recorder on May 21, 2008 at Reception No. 584019; and

WHEREAS, the Board and Verzuh Ranch, Inc. entered into that certain Settlement Agreement on May 3, 2011 which satisfies certain conditions of the aforementioned approval and contemplates the re-approval of said land use change; and

WHEREAS, the Board reapproved the Final Plan of Land Use Change Application No. 2005-73 on May 3, 2011 which was recorded in the Office of the Gunnison County Clerk and Recorder on May 6, 2011 at Reception No. 605473; and

WHEREAS, Section 1-104: G.3. *Extension of a Land Use Change Permit for a Major Impact Project at Least Three Months Before End of Permit Term* identifies specific criteria for which the Board shall determine compliance by the applicant;

FINDINGS:

1. The applicant requested an extension of the Land Use Change permit for a Major Impact project on January 31, 2014 in compliance with Section 1-104: G.3 at least three, but no more than six months before the permit expires. The current permit expires May 3, 2011.
2. The Board conducted a public hearing on April 1, 2014. One letter was received from Gary Suva stating his opposition to the extension request. No additional public comments were received orally or in writing.
3. Verzuh Ranch, Inc. has demonstrated compliance with Section 1-104: G.3
   a. *A public benefit will be obtained or no public detriment will occur.* As part of the settlement agreement in 2011, Verzuh Ranch, Inc. granted a sewer easement to the County to connect the Cline's Homesites to central sewer service. Multiple individual sewage disposal systems were eliminated as a result of the easement and sewer connection. No public detriment or harm will result from the proposed three-year

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On Document When Received

extension. The subject parcel is currently vacant and the plat has not been recorded; no lots have been sold and therefore no residents are relying on infrastructure or improvements from the developer.

b. *Size of project and economic conditions.* The applicant has indicated that the slow rate of economic recovery is essential to the request for an extension. There will be approximately sixteen single-family residential lots for sale, each approximately one-quarter acre in size. Current market conditions (home sales and prices in the area) indicate that the applicant would not be able to recover his costs or break even at this time, thus necessitating an extension of the permit approval. Given the current economic conditions, the project is not economically viable at this time.

c. *Compliance to date with conditions of original permit.* The applicant has complied with all conditions of the initial approval and re-approval that required performance before the extension was requested.

d. *Progress in pursuing completion of development.* The applicant has made progress in pursuing the development to date, including obtaining other necessary permits and the applicant has expended time and financial resources in pursuit of the completion of the development. The applicant has entered into agreement with the County for the sewer easement which will serve the Shady Island Subdivision along with the Cline's Homesites. The applicant has incurred the costs associated with applying for an extension of the permit approval. The applicant has also secured the necessary water rights to supply water to the subdivision. The applicant has also demonstrated extenuating economic circumstances that have impacted the complete progress of the development.

e. *Benefits received by County.* As part of the settlement agreement in 2011 the applicant agreed to grant a sewer easement to Gunnison County so that Cline's Homesites may be served by central sewer service. The County also holds security relative to the Development Improvements Agreement.

f. *Needs of applicant and County.* The needs of the applicant, relative to current market and economic conditions will be served by granting the extension. This will allow the applicant to have additional time for economic and market conditions to improve before developing and selling the parcels. The needs of the County will not be harmed by extension of the permit approval.

g. *No conflict between development and Regulations.* There is no conflict between the development as originally approved and the *Land Use Resolution* or other applicable regulations.

h. *Changes in circumstances.* There have been no substantial changes to the neighborhood land uses that have or would create a substantial conflict. The character of the neighborhood is unchanged from 2008.

i. *Proposed changes in development.* There are no proposed changes in the development of Shady Island Subdivision.

j. *Taxes to be paid.* The taxes for 2013 have been paid by the applicant.

4. The findings and conditions set forth in "*Resolution Reapproving the Final Plan of Land Use Change Application No. 2005-73, A Land Use Change Permit for Verzuh Ranch, Inc. For the Shady Island Subdivision,*" except as modified or otherwise set forth in that certain Settlement Agreement between the Board and Verzuh Ranch, Inc. dated May 3, 2011 are incorporated herein.

CONDITIONS:

1. As per Section 1-104: G.5., no more than one three-year extension of any Land Use Change

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permit shall be granted. The Board issued a re-approval of the Shady Island Subdivision in May 2011 which allows the applicant to apply for this one extension. No additional extensions shall be granted.

2. This extension shall grant a vested right associated with the proposed development for an additional three years.
3. The findings and conditions set forth in "*Resolution Reapproving the Final Plan of Land Use Change Application No. 2005-73, A Land Use Change Permit for Verzuh Ranch, Inc. For the Shady Island Subdivision,*" except as modified or otherwise set forth in that certain Settlement Agreement between the Board and Verzuh Ranch, Inc. dated May 3, 2011 are incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Final Plan for Land Use Change application No. 2005-73 is hereby approved and extended through May 3, 2017; and

WHEREAS, THIS APPROVAL is affected noting that decision documentation includes, but is not limited to the application and the entire Community Development Department Land Use Change permit application file (LUC-05-00073) relative to this application. This extension is founded on each individual finding and requirement except as modified or otherwise set forth in that certain Settlement Agreement between the Board and Verzuh Ranch, Inc. dated May 3, 2011. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner Chamberland, seconded by Commissioner Houck, and passed on this 15th day of April, 2014.

BOARD OF COUNTY COMMISSIONERS

Paula Swenson, Chairperson	Phil Chamberland, Commissioner	Jonathan Houck, Commissioner

ATTEST:

Gunnison County Clerk and Recorder

Deputy

GUNNISON COUNTY SEAL COLORADO

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