

# CITY OF POCATELLO REGULAR CITY COUNCIL MEETING

October 17, 2019 · 6:00 PM  
Council Chambers | 911 North 7th Avenue

Any citizen who wishes to address the Council shall first be recognized by the Mayor, and shall then give his/her name and address for the record. If a citizen wishes to read documentation of any sort to the Council, he/she shall first seek permission from the Mayor. A three (3) minute time limitation is requested for Council presentations.

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City Hall is accessible to persons with disabilities. Program access accommodations can be provided with three (3) days' advance notice by contacting Skyler Beebe at [sbeebe@pocatello.us](mailto:sbeebe@pocatello.us); 208.234.6248 or 5815 South 5th Avenue, Pocatello, Idaho.

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The purpose of the agenda is to assist the Council and interested citizens in the conduct of this public meeting. **Citizens should examine the agenda for the item of their interest. However, citizens are advised that only Public Hearings allow for public comment during the discussion/consideration process.**

*Citizens have an opportunity to be heard by the Council if the item meets the criteria as described in the agenda item called "DISCUSSION ITEMS." You must sign in at the start of the meeting to be recognized.*

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RECESS: In the event the meeting is still in progress at 7:30 p.m., the Mayor may call a ten-minute recess to allow Council members and participants a brief rest period.

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## 1. ROLL CALL AND PLEDGE OF ALLEGIANCE

## 2. INVOCATION

The invocation will be offered by Tamilyn Carson, Buddhist representative.

### **3. CONSENT AGENDA**

The following business items may be approved by one motion and a vote. If any one member of the Council so desires, any matter listed can be moved to a separate agenda item. **(ACTION ITEM)**

(a) **TREASURER'S REPORT:** Council may wish to consider the Treasurer's Report for September showing cash and investments as of September 30, 2019.

(b) **GOLF ADVISORY COMMITTEE REAPPOINTMENT:** Council may wish to confirm the Mayor's reappointment of Ginger Smith to continue her service as a member of the Golf Advisory Committee, representing the High River Women's Golf Association. Ms. Smith's term will begin November 4, 2019 and will expire November 4, 2022.

(c) **HUMAN RELATIONS ADVISORY COMMITTEE APPOINTMENT:** Council may wish to confirm the Mayor's appointment of Malliga Och to serve as a member of the Human Relations Advisory Committee, replacing Jamar Brown whose term expired. Ms. Och's term will begin October 22, 2019 and will expire October 22, 2023.

(d) **RESOLUTION – REVISED PUBLIC TRANSIT DEPARTMENT DRUG/ALCOHOL TESTING POLICY:** Council may wish to adopt a resolution revising the Drug/Alcohol Testing Policy for Transit Department "safety-sensitive" employees, which replaces the policy previously adopted in December 2017. The revisions are based on recommendations from the Federal Transportation Administration's triennial review of the City's policies and procedures.

(e) **COUNCIL DECISION – THE CROSSINGS DIVISION 1 FINAL PLAT (SECOND AMENDMENT):** Council may wish to adopt its decision amending the amended final plat for The Crossings Division 1, subdividing approximately 37.31 acres of land into seventy-one (71) lots, subject to conditions.

Documents:

[\*\*AGENDA-ITEM-3.PDF\*\*](#)

### **4. COMMUNICATIONS AND PROCLAMATIONS**

### **5. CALENDAR REVIEW**

Council may wish to take this opportunity to inform other Council members of upcoming meetings and events that should be called to their attention.

### **6. RATIFICATION OF IDAHO COMMUNITY FOUNDATION GRANT APPLICATION – POCATELLO MUNICIPAL BAND**

Council may wish to consider an Idaho Community Foundation (ICF) grant application for the following requests:

a) Ratify an ICF grant that Parks and Recreation Department staff submitted jointly with the Pocatello Municipal Band in the amount of \$4,725.00 and if awarded;

b) authorize acceptance of the grant and the Mayor's signature on documents related to the grant, subject to Legal Department review.  
**(ACTION ITEM)**

The grant will be used to purchase the following: a bass clarinet instrument; replacement sound system; needed music stand and chairs; and musical scores for use by the Band during yearly Summer Concerts. There is no City match requirement for the grant.

## 7. DISCUSSION ITEMS

This time has been set aside to hear discussion items not listed on the agenda. Items which appeared somewhere else on the agenda will not be discussed at this time. The Council is not allowed to take any official action at this meeting on matters brought forward under this agenda item. Items will either be referred to the appropriate staff or scheduled on a subsequent agenda. You must sign in at the start of the meeting in order to be recognized. **(Note: Total time allotted for this item is fifteen (15) minutes, with a maximum of three (3) minutes per speaker.)**

## 8. ADJOURN

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### PUBLIC HEARING PROCEDURE

1. Explanation of hearing procedures by Mayor or staff.
  - Ten (10) minute time limit on applicant presentation.
  - Three (3) minute time limit on public testimony.
  - Names and addresses are required from those presenting/testifying.
  - Questions/comments should be addressed to the Mayor and Council.
  - Council members must make their decision regarding the application on facts already in the record and information presented at the public hearing. Conflicts of interest, site visits and ex-parte contacts by Council members will be acknowledged.
  - Protocol requires that Council and audience be recognized by the Mayor prior to speaking.
2. Mayor opens hearing.
3. Presentation by applicant.

Note: Remember, applicant bears the responsibility for making his/her case.

This is also the time for Council members to ask their questions of the applicant.

4. Presentation by staff.
5. Written correspondence submitted for the record.
6. Testimony by those supporting the application.
7. Testimony by those uncommitted on the application.
8. Testimony by opponents to the application.
9. Rebuttal by the applicant.
10. Mayor closes the hearing and initiates motion/deliberations.

**Note: The Mayor may choose to require a motion prior to the discussion in order to focus deliberations, or, the Mayor may choose to allow deliberations prior to the motion in order to facilitate wording of the motion.**

11. Develop a written and reasoned statement supporting the decision.

3(d)

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, ADOPTING A POLICY STATEMENT OF THE CITY OF POCATELLO PUBLIC TRANSIT DEPARTMENT DRUG/ALCOHOL TESTING POLICY, WHICH REPLACES A PRIOR POLICY ADOPTED BY CITY COUNCIL ON DECEMBER 21, 2017, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pocatello previously adopted a City of Pocatello Public Transit Department Drug/Alcohol Testing Policy at its regularly scheduled meeting on December 21, 2017; and

WHEREAS, the Federal Transportation Administration recently conducted a triennial review of the City's policies and procedures; and

WHEREAS, based on the review findings, the City's Human Resources Department revised the policy to include a statement notifying employees they must abide by the policy as a condition of their employment and also providing contact information for the Designated Employee Representative (DER); and

WHEREAS the Human Resources Safety and Wellness Coordinator and Risk Manager have recommend adoption of said Policy effective November 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POCATELLO that the City of Pocatello hereby adopts the City of Pocatello Public Transit Department Drug/Alcohol Testing Policy as revised effective November 1, 2019, attached as Exhibit "A", hereto, and incorporated herein by reference.

BE IT FURTHER RESOLVED that said policy shall become effective on November 1, 2019.

RESOLVED this \_\_\_\_\_ day of October, 2019.

CITY OF POCA TELLO, a municipal  
corporation of Idaho

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk

**THE CITY OF POCATELLO  
PUBLIC TRANSIT DEPARTMENT  
DRUG / ALCOHOL TESTING POLICY**

**POLICY STATEMENT**

In recognition of the harmful effects that the use of illegal drugs and the misuse of alcohol can have on employees engaged in the transportation industry, **Pocatello Regional Transit** (hereafter referred to as "the City") has a responsibility to its drivers, and the public at large, to see that its transit employees in safety sensitive positions are both drug and alcohol free while on duty. This responsibility comes in light of the fact that employees who are under the influence of drugs or alcohol while on duty are more likely to cause accidents and injuries, both to themselves and co-workers, as well as the public at large.

Therefore, the City is implementing this Drug and Alcohol Free Workplace Policy that includes within its provisions those regulations contained within the Department of Transportation (DOT) Controlled Substances and Alcohol Use and Testing, Procedures for Transportation Workplace Drug and Alcohol Testing, and Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, as contained in 49 CFR Parts 40, as amended, and 655 respectively. Employees must abide by the terms of the policy as a condition of employment.

**Implementation Schedule**

This policy is effective November 1, 2019 for City of Pocatello, Pocatello Regional Transit employees.

**Covered Individuals**

For purposes of this policy, covered individuals are those employees of the City of Pocatello, Public Transit Department who work in a position designated as "safety sensitive". A list of these positions by department and title is contained in Appendix A.

Safety sensitive positions are positions which:

- (1) Operate a revenue service vehicle, including when not in revenue service;
- (2) Operate a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (3) Control dispatch or movement of a revenue service vehicle;
- (4) Maintain (including repair, overhaul, and rebuild) a revenue service vehicle or equipment used in revenue service.
- (5) Carry a firearm for security purposes.

**Questions Regarding this Policy**

The City hereby designates representatives from Human Resources (hereafter referred to as the City's contact person or Designated Employee Representative (DER)) as the person responsible for implementing and administering the City's Drug/Alcohol Testing Policy and for answering covered individuals' questions relating

to the provisions of this policy. The DER may be contacted in Human Resources at 208-234-6170 or [humanresources@pocatello.us](mailto:humanresources@pocatello.us).

### **Covered Individuals' Use of Alcohol**

The City is committed to ensuring that all covered individuals do not operate maintain, or repair a revenue service vehicle while under the influence of alcohol. Therefore, covered individuals of the City are not to consume alcohol within four (4) hours of reporting to work. Covered individuals are not to report to work or remain at work while having an alcohol concentration of .02 or greater. Covered individuals are prohibited from using or possessing alcohol while they are on duty.

### **Covered Individuals' Use of Illegal Drugs**

The City has an absolute prohibition against an employee's use of illegal drugs, or the illegal use or misuse of prescription medication. Evidence that an employee has tested positive for the presence of illegal drugs or illegal use or misuse of prescription medication pursuant to a test given under the terms of this policy will be proof sufficient to establish the employee's violation of this provision.

Drugs tested for by the City are alcohol, marijuana, cocaine, amphetamines and methamphetamines, opioids, and phencyclidine (PCP).

## **DRUG AND ALCOHOL TESTING OF PROSPECTIVE AND CURRENT COVERED INDIVIDUALS**

All covered individuals are required as a condition of employment to submit to drug and alcohol testing in accordance with federal statute 49 CFR Parts 40, as amended, and 655. A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during or after the performance of a safety-sensitive function.

### **Pre-Employment Testing**

All applicants that are offered a safety-sensitive position with the City of Pocatello, Public Transit Department shall undergo urine pre-employment drug testing.

(1) All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be hired into a covered position unless the applicant takes a drug test with a verified negative drug test result. If an applicant fails to appear for a pre-employment test in a timely fashion, it is not considered a refusal.

(2) A non-covered employee shall not be placed, transferred or promoted into a covered position that requires the performance of a safety-sensitive function until the employee takes a pre-employment drug test with a verified negative result.

(3) Covered employees, including applicants, may not perform a safety-sensitive function for the first time, until a pre-employment drug test has been administered with a verified negative drug test result.



(4) If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test will disqualify an applicant for consideration of employment in a safety-sensitive position for a period of at least two years. The City shall advise the applicant of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

(5) When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under 49 CFR Part 655, the employee must provide the City of Pocatello, Public Transit Department proof of having successfully completed a referral, evaluation and treatment plan in accordance with 49 CFR Part 655.62, subpart G. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with 49 CFR part 40, as amended, and a negative pre-employment drug test will be required prior to further consideration for employment. The cost for the assessment follow-up testing and any subsequent treatment will be the sole responsibility of the applicant.

(6) When a pre-employment test for an employee being placed, transferred, or promoted from a non-covered position to a covered position results in a verified positive result, the employee shall be subject to disciplinary action.

(7) If a pre-employment drug test is canceled, or the employee in cases of transfers, an applicant shall be required to take another pre-employment drug test with a verified negative result.

(8) An applicant or employee with a dilute negative pre-employment test result will be required to retest.

(9) When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employee shall be required to take a pre-employment drug test with a verified negative result.

As an employer, the City shall request applicants or any employee transferring into a safety-sensitive position to sign a written consent for the City to obtain specific information from any DOT regulated employer of the applicant, or employee, during any period within the two years prior to the date of the employee's application or transfer. Any applicant or employee that refuses to provide this written consent shall not be permitted to perform safety-sensitive functions. Information requested shall consist of the following:

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including adulterated or substituted drug test results);
- (4) Other violations of DOT agency drug and alcohol testing regulations; and
- (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

Information concerning an applicant who has tested positive on a pre-employment test will be requested of the applicant directly if unavailable from the employer. The applicant or employee will be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. Any applicant or employee acknowledging that he or she had a positive test or refused to test shall not be allowed to perform a safety-sensitive function for The

City of Pocatello, Public Transit Department until and unless the applicant or employee documents successful completion of the return-to-duty process.

As an employer from whom information is requested under the U.S. DOT rules, the City will maintain a written record of any information released, including the date, the party to whom it was released, and a summary of the information provided. Any information received from previous DOT regulated employers or the employee shall be kept confidential, as well as the good faith efforts made to obtain this information. This information shall be retained for three years from the date of the employee's first performance of safety-sensitive duties for the City of Pocatello, Public Transit Department.

### **Reasonable Suspicion**

The City will require a covered individual to be tested for the use of alcohol, illegal drugs, or the use of prescription medication if an employee's physical appearance or pattern of behavior gives City officials reason to believe the employee is impaired because of substance abuse that would endanger their well-being, as well as the safety of fellow employees, or the general public. The basis of suspicion of drug and alcohol abuse must be specific, contemporaneous and articulable observations. When an employee is suspected of being under the influence of drugs or alcohol, the employee may be escorted to the collection site to avoid exposure to liability and prevent the opportunity to purchase or ingest anything that could affect the test result.

Supervisors will have completed and/or other company officers authorized by the City to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. A trained supervisor who has a reasonable suspicion that a covered individual is under the influence of alcohol or drugs must contact the Human Resources Department prior to making a test request and discuss the necessary procedures to follow for immediate testing and may request another trained supervisor to observe the employee. The supervisor must complete a form documenting the basis for the test performed within twenty-four (24) hours of making the test request (See Appendix B).

Examples which may trigger an interview for a "Reasonable Suspicion" test include, but are not limited to, the following:

- (1) Physical signs and symptoms consistent with substance use, or misuse of alcohol, e.g. odor of alcohol or marijuana or attempts to mask such odors, slurred speech, lack of motor skills, coordination, etc.
- (2) Evidence of the manufacture, distribution, dispensation, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances such as drug paraphernalia, syringes, or empty cans or bottles, etc.

### **Random Testing**

All covered employees will be subject to random, unannounced and unpredictable testing. The selection of employees shall be made by a scientifically valid method of randomly selecting employees from the appropriate pool of safety-sensitive employees.

(1) Employees are required to proceed immediately to the collection site upon notification of their random selection. If the covered employee is performing a safety-sensitive function at the time of the notification, they shall cease to continue performing the safety-sensitive function and proceed to the testing site immediately.

(2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year and conducted at all times of day when safety-sensitive functions are performed.

(3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. Each year, the Administrator will publish in the Federal Register the minimum annual percentage rates for random drug and alcohol testing of covered employees. The new rates will be applicable starting January 1 of the calendar year following publication.

(4) Random drug tests can be conducted at any time a covered employee is on duty. Random alcohol tests shall only be performed just before, during, or just after the performance of a safety sensitive duty.

(5) Each covered employee shall be in the pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested.

### **Post-Accident**

A covered individual operating a revenue service vehicle for the City that is involved in a reportable accident will be tested for both illegal drugs and alcohol as soon as practical. For terms of this policy a reportable accident means an occurrence involving a commercial motor vehicle operating on a public road which results in: (1) a fatality; (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more of the motor vehicles incurs disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. In the case of a fatality, the covered individual will be tested regardless of fault. In the case of non-fatal accidents, the transit operator will be drug and alcohol tested unless the City determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. The city will also drug test any other covered employee whose performance could have contributed to the accident as determined using the best information available at the time of the decision. Alcohol testing must be administered within two (2) hours of the accident and if not within two (2) hours, then within eight (8) hours. Drug testing must be administered within thirty-two (32) hours of the accident. Drug and alcohol testing is stayed to allow a covered employee to receive necessary medical attention following an accident and to assist in the resolution of the accident even if this requires the covered individual to leave the scene of the accident.

Any covered individual required to be tested under this section must remain readily available for such testing and such a covered individual may not consume alcohol within eight (8) hours of the accident. A covered individual who is involved in an accident requiring a drug and alcohol test must notify his/her supervisor who will then notify the risk manager of the accident. The covered individual involved in the accident must comply with those instructions given him/her relative to his/her taking a drug and alcohol test.

## **Specimen Collection Procedures and Test Result Notification**

### **Adulteration or Submission of a Concealed Specimen**

If, during the collection procedure, it is found that an effort is made by a covered individual to adulterate or substitute a specimen, a second specimen will be immediately requested and must be collected under direct observation. If a second specimen is provided, that specimen will be tested. If the request for a second specimen is refused, the collection monitor will inform the City contact of the covered individual's refusal to submit a true specimen. Such conduct by the covered individual will be considered as a refusal to provide a true specimen for testing.

In the event that a prospective or current employee submits a specimen that the laboratory later identifies as a diluted specimen, the City will advise the employee of that result and request that employee submit a second specimen. Such donors will be advised by the City not to drink any fluids prior to the test.

### **Drug / Alcohol Specimen Collection Procedures**

All testing for illegal drugs will be done by the testing of a covered individual's urine specimen. All such testing will utilize the split specimen collection procedure. Under that procedure, each covered individual will have his/her urine specimen sealed in two separate containers and both sent to a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory for testing. If a covered individual's first specimen tests positive, that covered individual may request, within three (3) days of the positive notification, that the other specimen be tested at another SAMHSA laboratory. This second test will be done at the covered individual's expense unless the second test comes back negative. During the time the second specimen is being tested, that covered individual will be suspended with pay. All specimen collections will be conducted by personnel that have been instructed and trained in collection procedures set by the DOT. All testing for alcohol will be done by the use of a DOT approved breath testing device, operated by a trained and qualified breath alcohol technician (BAT).

### **Confidentiality and Reporting of Test Results**

Drug and alcohol test results are confidential and the associated records are maintained within the Human Resources Department. The City's contact person and/or his designee are custodians of these records and maintain control of them. Only positive test results are communicated to other City officials and then only to the Department Head of the covered individual's department, the employee's direct supervisor, the Human Resources Director, the Mayor, and a member of the City's Legal Department, who are responsible for directing the employee's work assignments, administering City policy, and implementing disciplinary procedures. Test results, both positive and negative, may be communicated to other parties only with the written consent of the covered individual.

### **Notification of Test Results**

The City will be notified of alcohol test results immediately after testing is complete from the collection site by the breath alcohol technician (BAT) directly. The City has arranged that all drug test results will be forwarded to the City through a third part administrator (TPA) as the representative of the City, and the Medical Review

Officer (MRO). Prior to the City being informed that a prospective or current covered individual has tested positive for illegal drugs, the covered individual will be offered an opportunity to follow up on such information as is appropriate. Any covered individual who is taking a prescription drug that may have been the cause of a positive test result will be asked to provide the name of the medication and the identity of the prescribing physician for verification. If this is verified, the covered individual's test result will be reported as negative. If, after consideration of the matter, the MRO finds no reason to doubt the validity of the positive test, that result will be conveyed to the City's contact person, as well as the identity of the drug.

If the covered individual cannot be located, the MRO, or his representative, may request that the City's contact person arrange for the covered individual to contact the MRO as soon as possible to discuss the results of the positive test. The MRO will communicate a positive result to the City without discussing the result with the covered individual if the covered individual expressly declines the opportunity to discuss the results of the test, or the covered individual is instructed by the City to contact the MRO but fails to do so within 72 hours.

### **Refusal to Submit to a Drug or Alcohol Test**

A covered individual performing safety-sensitive duties for the City may not refuse to take a drug or alcohol test when requested to do so, consistent with the terms of this policy. Such a refusal will be considered equivalent to testing positive for illegal drugs or alcohol and is a violation of City policy.

All covered employees will be subject to urine drug testing as a condition of ongoing employment with the City of Pocatello, Public Transit Department in accordance with 49 CFR Part 655. Any safety-sensitive employee who refuses to comply with a request for testing shall be immediately removed from duty, referred to a substance abuse professional for evaluation, and subject to discipline. As a covered employee, you have refused to take a drug or alcohol test if you:

- (1) Fail to appear for a drug or alcohol test, with the exception of a pre-employment test, within the specified time frame as determined by the City, after being directed to do so;
- (2) Fail to remain at the testing site until the testing process is complete;
- (3) Fail to attempt to provide a urine specimen for any drug test, or fail to attempt to provide a saliva or breath specimen, as applicable; required by 49 CFR Parts 40, as amended, 655 or DOT agency regulations;
- (4) Fail to provide a sufficient amount of urine when directed, or fail to provide a sufficient breath specimen, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;
- (5) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;
- (6) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test;
- (7) Possessing or wearing a prosthetic or other device used to tamper with the testing process;
- (8) Admitting to the adulteration or substitution of a specimen to the collector or MRO;
- (9) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER as part of the "shy bladder" or insufficient breath procedures;
- (10) Fail or decline to take a second test the employer, DER, or collector has directed you to take;
- (11) Fail to cooperate with any part of the testing process (e.g. refusing to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process);

- (12) Fail to sign the certification at Step 2 of the Alcohol Testing Form (ATF) for alcohol testing; or
- (13) Provide a urine specimen that produces a verified adulterated or substituted test result verified by an MRO.

Note: As an employee, when you refuse to take a non-DOT test or to sign a non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test for drugs or alcohol.

Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an additional collection. Verification of the above listed actions will be considered a test refusal and will result in the employee's removal from duty and discipline. Refusal can also include a verbal or written declaration. Such refusals constitute a violation of the City's drug and alcohol program policy.

As an employee, you have refused to take a drug test if you fail to appear for any test (except a pre-employment test or employees being transferred into safety-sensitive positions) within a reasonable time, as determined by the employer. Consistent with applicable DOT agency regulations, after being directed to do so by the employer failure to complete the testing process once testing commences is considered a refusal to submit in pre-employment instances.

#### **Effect of Testing Positive For Drugs Or Alcohol**

For purposes of this policy, an employee tests positive for alcohol when that employee's blood alcohol concentration (BAC) is .04 or above. If a covered individual/current employee tests between .02 and .039 BAC, that employee will not be allowed to perform work for the City for at least 8 hours or until their next regularly scheduled shift, whichever is longer. Any employee who twice tests between .02 and .039 BAC in a year's time will be treated as the equivalent of testing positive for alcohol.

Any prospective employee who tests positive for the presence of illegal drugs or alcohol or who tested positive for drugs or alcohol within the past two (2) years while employed by another employer will not be hired.

Any covered individual who tests positive for illegal drugs or alcohol will immediately be removed from his or her safety sensitive function and be referred to a substance abuse professional for evaluation. Said covered individual will additionally be terminated from employment with the City regardless of whether the employee wishes to contact the referred substance abuse professional and complete the treatment program and follow up testing at their own expense.

Any current employee who tests positive for the presence of illegal drugs or alcohol will be terminated from employment with the City.

#### **City of Pocatello Additional Drug and Alcohol Testing Policies**

The policies under this section are adopted by the City of Pocatello. The provisions of this section are included as a matter of City policy and are more stringent than those required by the federal implementing regulations. None of the policies in this section are to be construed as to be required by the Department of Transportation.

Other employees of the City of Pocatello in positions requiring a Commercial Drivers License are tested under 49 CFR Part 382 Regulations. In all cases, including drivers also covered under 49 CFR Part 655, the covered individual will be tested if he/she receives a traffic citation in connection with an accident which otherwise meets the criteria for requiring drug/alcohol testing.

\_\_\_\_\_  
Brian C. Blad, Mayor

\_\_\_\_\_  
Date

**APPROVED BY LEGAL**

Date 9/25/19 Atty Bybee

Comments \_\_\_\_\_

\_\_\_\_\_

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## Appendix A

### Positions subject to Drug and Alcohol Testing under 49 CFR Part 655 Regulations (Safety Sensitive Positions)

#### Pocatello Regional Transit

Lead Mechanic  
Mechanic  
Part-Time Bus Washer/Fueler - Lead  
Part-Time Driver  
Part-Time Fueler/Checker  
Transit Director/ADA Coordinator  
Transit Driver  
Transit Lead Dispatcher  
Transit Medicaid Specialist/Driver  
Transit Operations Shift Supervisor  
Transit Operations Manager



Appendix B-1  
City of Pocatello, Public Transit Department

REASONABLE SUSPICION INDICATORS

**Manager/Supervisor:** This form is to be used to substantiate and document the objective facts and circumstances leading to a reasonable suspicion determination. After careful observation of the employee's behavior, please check **all** of the short-term indicators that denote a possible link to the employee's use of prohibited alcohol or drugs.

Employee Name \_\_\_\_\_ Job Title \_\_\_\_\_

Supervisor Name \_\_\_\_\_

Second Supervisor \_\_\_\_\_ (if applicable)

**A. Incident/Cause for Suspicion**

- Apparent drug or alcohol intoxication
- Abnormal or erratic behavior
- Observed/reported possession, dispensation, or use of prohibited substance
- Arrest or conviction for drug-related offense(s)

**B. Body Behavior**

- Nausea or vomiting
- Extreme fatigue/sleeping on job
- Dizziness or fainting
- Highly excited or nervous
- Odor of alcohol

**C. Body Appearance**

- Either very flushed or very pale
- Excessive sweating or skin clamminess
- Dry mouth, frequent swallowing, wetting lips frequently
- Disheveled appearance/out of uniform

**D. Body Movements**

- Unsteady walk, poor coordination
- Shaking hands/body, tremors, twitches
- Breathing irregularly, or with difficulty
- Loss of physical control

**E. Eyes**

- Bloodshot
- Dilated or constricted pupils

**F. Speech**

- Slurred or incoherent speech
- Repetitious, rambles

**G. Behavioral Indicators Noted**

- Verbal Abusiveness
- Physical abusiveness
- Extreme aggressiveness or unresponsiveness
- Inappropriate response to questioning or instructions
- Erratic/inappropriate behavior, hallucinations, disorientation, confusion, talkativeness, euphoric – (Circle all that apply)

Written summary including any pertinent information not noted above

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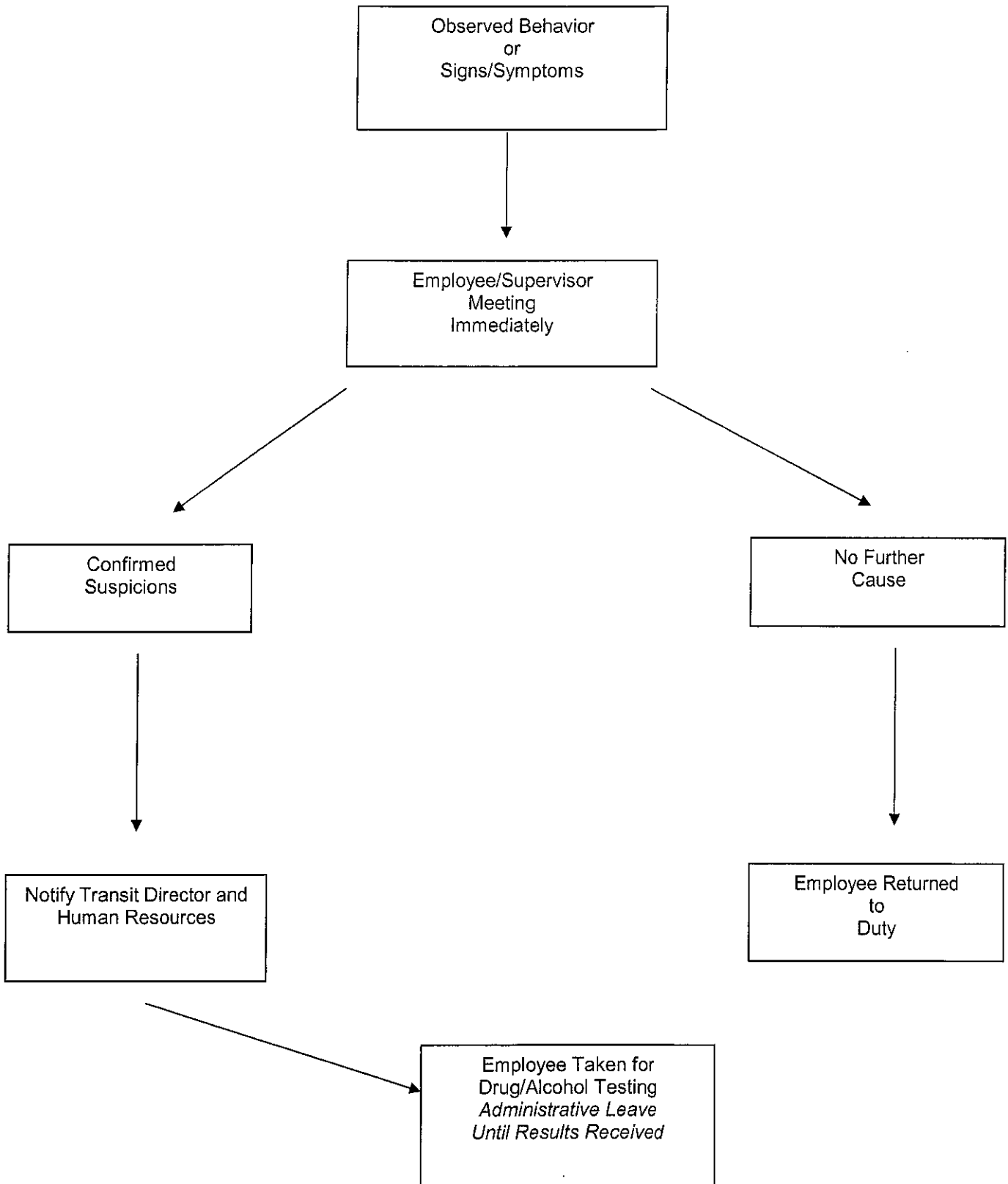
Reasonable Suspicion Test Performed Yes  No  Date \_\_\_/\_\_\_/\_\_\_ Time \_\_\_\_\_

Reasonable Suspicion Test Refused Yes  No  Date \_\_\_/\_\_\_/\_\_\_ Time \_\_\_\_\_

Signature of Supervisor \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_ Time \_\_\_\_\_

Appendix B-2  
City of Pocatello, Public Transit Department

REASONABLE SUSPICION PROCESS



3(e)

**SECOND AMENDED CITY COUNCIL DECISION  
FINAL PLAT APPROVAL  
The Crossings Division 1**

At its April 19, 2018 meeting, the City Council approved a request by Portneuf Development, LLC and Idaho Central Credit Union, as the vested Owners and Developers, and represented by SE Science, for a final plat of The Crossings Division 1, a tract of land located in Section 1, Township 6 South, Range 34 EBM, Bannock County. The Council additionally approved the request to subdivide the approximate 37.31 acres of land into ninety-seven (97) lots, seven (7) of those lots being unbuildable. A City Council Decision dated May 3, 2018, memorializing the plat approval and providing conditions thereto was recorded in Bannock County, Idaho as Instrument No. 21806659.

Pursuant to application from Portneuf Development, LLC and Idaho Central Credit Union, the vested Owners and Developers, represented by Creek Hollow & Associates, Inc., the City Council, at its November 15, 2018 meeting, approved to amend the final amended plat of The Crossings Division 1 to seventy-four (74) lots, two (2) of which were to be unbuildable. A City Council Decision dated December 6, 2018, memorializing the amend plat approval and providing conditions thereto was recorded in Bannock County, Idaho as Instrument No. 21818275.

The now current Owners and Developers, Portneuf Development, LLC, Idaho Central Credit Union, and West Mark Credit Union, represented by Creek Hollow & Associates, Inc., request to amend the amended final plat approved by the December 8, 2018 City Council Decision to seventy-one (71) lots, eliminating Lot 1, Block 3, originally a common lot, and adding that land to Lots 1 through 11, Block 3.

This matter came before City Council at its regularly scheduled meeting on October 3, 2019, wherein the City Council approved the request to amend the May 3, 2018 and December 6, 2018 City Council Decisions, subject to conditions set forth in Exhibit "1" attached and incorporated herein.

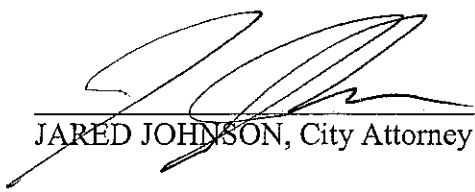
All other terms of the May 3, 2018 and December 6, 2018 City Council Decisions not specifically revised with this Amendment shall remain in full force and effect.

**Notice is hereby given that applicant has the right to challenge this Decision and request a regulatory taking analysis pursuant to Idaho Code Section 67-8003 within 28 days after this Decision.**

DATED this \_\_\_\_ day of October, 2019.

APPROVED AS TO FORM AND CONTENT

CITY OF POCATELLO, a municipal corporation of Idaho

  
\_\_\_\_\_  
JARED JOHNSON, City Attorney

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk

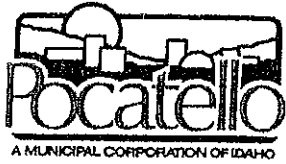
STATE OF IDAHO    )  
                          ss:  
County of Bannock    )

On this \_\_\_\_\_ day of October, 2019, before me, the undersigned, a Notary Public for the State, personally appeared Brian C. Blad and Ruth Newsom, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, and acknowledged to me that they executed the foregoing instrument for and on behalf of said municipal corporation and that said municipal corporation executed the same.

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

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing in: \_\_\_\_\_  
My commission expires: \_\_\_\_\_



# Planning & Development Services

♦ ECONOMIC DEVELOPMENT  
♦ PLANNING & ZONING

♦ NEIGHBORHOOD & COMMUNITY SERVICES  
♦ POCATELLO REGIONAL AIRPORT

911 NORTH 7<sup>TH</sup> AVENUE | P.O. BOX 4169

POCATELLO, IDAHO 83205-4169

WEB: [pocatello.us](http://pocatello.us)

## FINAL PLAT SUBDIVISION APPLICATION MEETING OCTOBER 3, 2019 STAFF REPORT

FILE # 19-2571

**SUBDIVISION:** The Crossings Division 1 "Amended Plat"  
**APPLICANT/OWNER:** Portneuf Development, LLC – Contact: Ken Pape  
Idaho Central Credit Union- Contact: Brenda Worrell  
West Mark Credit Union – Contact: [gbirdsong@westmark.org](mailto:gbirdsong@westmark.org)  
**SURVEYOR/ENGINEER:** Creek Hollow – Contact: Chris Adams, PLS  
**TITLE REPORT:** Title report was submitted and reviewed by the City Surveyor  
**LOCATION:** Northwest of the intersection of Chubbuck Rd. and the future extension of Olympus Dr.  
**LOTS/UNITS:** Seventy-one (71) lots. See breakdown detail in staff report.  
**PUBLIC ACCESS:** Provided from Chubbuck Rd. and the future extension of Olympus Drive  
**STAFF:** Matthew Lewis, Senior Planner

### RECOMMENDATION & CONDITIONS:

Staff finds that the proposed "amended" final plat is compliant with all applicable standards of City Code 16.24. assuming the following conditions are met:

1. All other standards or conditions of Municipal Code not herein stated but applicable to residential development shall apply.
2. A building permit may not be issued unless all applicable standards of City Code Section 16.24.100 are adhered to, or a subdivision surety bond and warranty bond is obtained as outlined in City Code 16.24.110, prior to recording.
3. Recorded Owner's Covenants, Conditions, and Restrictions for the subdivision, if any, must be provided after recording of the plat.

### GENERAL BACKGROUND

**REQUEST:** The request is for final plat approval of The Crossings Division 1 Subdivision Amended Plat. The plat covering 37.31 acres (more or less) and consisting of 72 lots was recorded at the County on June 11, 2019. Amendment, to the plat include eliminating Lot 1 Block 3, originally a common lot, and adding this land into lots 1-11 Block 3 (compare the current recorded plat outlined in yellow with the proposed amended plat). Municipal Code does not have an open space requirement for a subdivision. No other changes are being proposed. Because no changes impacting substantial conformity pursuant to Code Section 16.24.060A. are proposed the amended plat does not require review by the Planning and Zoning Commission.

**DENSITY & LOT DESIGN:** The proposed subdivision encompasses 37.31 acres (more or less) and is zoned Residential Medium Density Single-Family (RMS) and Residential Commercial Professional (RCP).

**UTILITY PROVIDER & CITY DEPARTMENT NOTICE:** Utility providers and affected City Departments were provided notice on 09/06/19. No comments were received from utility providers.

### ATTACHMENTS:

- A. The Crossings Division No. 1 Current recorded plat
- B. The Crossings Division No. 1 "Amended Plat"

Economic  
Development

Phone: 208-234-6184  
Fax: 208-234-6586

Neighborhood &  
Community Services

Phone: 208-234-6185  
Fax: 208-234-6586

Planning &  
Zoning

Phone: 208-234-6184  
Fax: 208-234-6586

Pocatello  
Regional Airport

Phone: 208-234-6154  
Fax: 208-233-8418  
<http://flypocatello.com/>



**THE CROSSINGS DIVISION NO. 1**

A SUBDIVISION IN THE SW 1/4 SECTION 1  
TOWNSHIP 6 SOUTH, RANGE 34 EAST, B. M., BANNOCK COUNTY, IDAHO

**LOT 1 Block 3 is Being  
Eliminated - See Amended  
Plat**

RECORD OF SURVEY  
INSTR. NO. 211427

*Current Record  
Plat*

**BASIS OF BEARING**  
THE SOUTH LINE OF SECTION 1 BETWEEN FOUND MONUMENTS  
SHOWN BASED ON THE CENTRAL MERIDIAN OF THE EAST  
ZONES OF THE IDAHO STATE PLANE COORDINATE SYSTEM

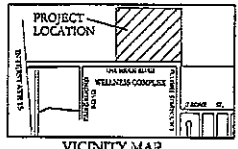
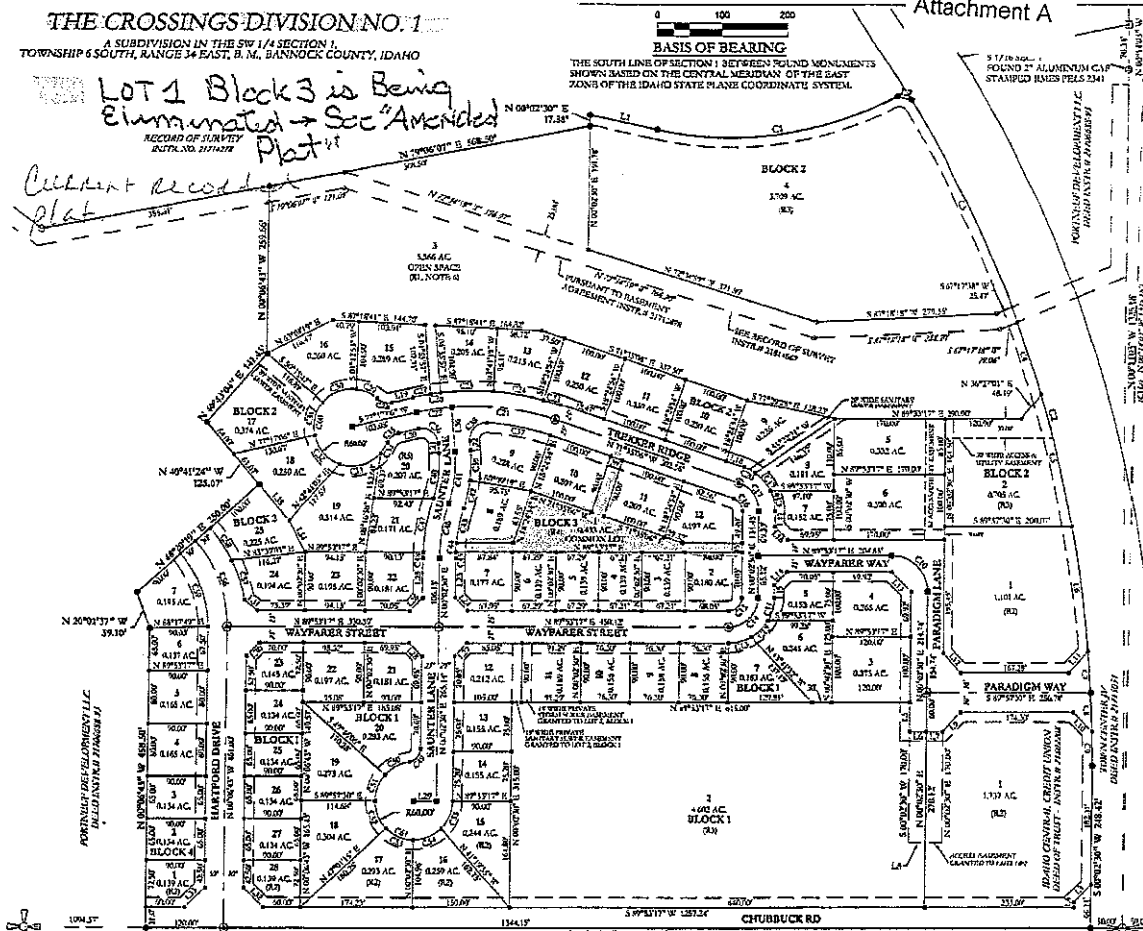
Attachment A

**LEGEND**

- SUBDIVISION BOUNDARY LINE
- SECTION LINE
- FRIEST CENTERLINE
- PUBLIC UTILITY EASEMENT LINE
- CROSS ACCESS EASEMENT LINE
- IRRIGATION EASEMENT AS NOTED
- FOUND 1/2" REBAR WITH CAP STAMPED ASMS PLS 2541
- SET 3/8" REBAR WITH 2" ALUMINUM CAP STAMPED CHA - PLS 12457
- SET 1/2" REBAR WITH YELLOW CAP STAMPED CHA - PLS 12457
- INTERIOR 2" ALUMINUM CAP IN VAULT STAMPED CUBIC FOLLOW PLS 12457 SET AT A FUTURE DATE AS SHOWN ON INTERIOR MONUMENT CERTIFICATE
- FOUND 1/2" REBAR WITH YELLOW CAP STAMPED CHA - PLS 12457
- INTERIOR 1/2" REBAR WITH YELLOW CAP STAMPED CHA-PLS 12457 SET AT A FUTURE DATE AS SHOWN ON INTERIOR MONUMENT CERTIFICATE
- INTERIOR 5/8" REBAR WITH 2" ALUMINUM CAP STAMPED CHA-PLS 12457 SET AT A FUTURE DATE AS SHOWN ON INTERIOR MONUMENT CERTIFICATE

**NOTES**

1. EASEMENTS ARE 15 FEET WIDE AND ARE FOR PUBLIC UTILITIES UNLESS OTHERWISE NOTED.
2. (R) INDICATES A RESTRICTION ON LOT 2 BLOCK 2 A NON-BUILDABLE LOT AND IS HEREBY RESERVED FOR LANDSCAPE, PARK, STORM WATER DETENTION/RETENTION, AND PUBLIC ACCESS. LOT 1 BLOCK 2 IS HEREBY DEDICATED TO THE CITY OF POCATELLO. THE LANDSCAPE OF THIS LOT IS TO REMAIN IN ITS NATURAL STATE OTHER THAN PARK PATHWAYS AND STORM WATER DETENTION/RETENTION PONDS INSTALLED BY DEVELOPER. NO OTHER ALTERATION MAY BE MADE TO SAID LOT AFTER FINAL GRADING HAS BEEN COMPLETED BY THE DEVELOPER UNLESS APPROVED BY THE CITY.
3. (R) INDICATES NO STREET ACCESS IS PERMITTED ALONG CHUBBUCK ROAD AND OLYMPIUS DRIVE.
4. (R) INDICATES RESTRICTED ACCESS TO LOT 2 BLOCK 1 WILL BE PERMITTED ONE ACCESS TO CHUBBUCK ROAD, LOT 4 BLOCK 2 WILL BE PERMITTED ONE ACCESS TO OLYMPIUS DRIVE AND LOT 2 BLOCK 2 ONE ACCESS TO OLYMPIUS DRIVE AT THE 3/4 CROSS ACCESS EASEMENT LOCATION SHOWN HEREON, WHICH WILL BE RIGHT-IN AND RIGHT-OUT ACCESS ONLY.
5. (R) COMMON LOT 1, BLOCK 3 SHALL BE CONVEYED TO THE OVERLOOK HOMEOWNERS ASSOCIATION, INC. AN ESTABLISHED HOME OWNERS ASSOCIATION (HOA) AND MAINTAINED BY SAID HOA PURSUANT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R). EACH OWNER OF LOTS 1-22 BLOCK 1, LOTS 2-2 BLOCK 2, LOTS 2-12 BLOCK 3 IN THIS SUBDIVISION SHALL HAVE AN EQUAL MEMBER INTEREST IN THE HOA. UNDER NO CIRCUMSTANCES SHALL SAID COMMON LOT, LOT 1 BLOCK 3, BE THE RESPONSIBILITY OF THE CITY OF POCATELLO.
6. (R) INDICATES LOT 3, BLOCK 2 WILL BE ADDRESSSED ALONG SAUNTER LANE.
7. LOT 3, BLOCK 2 WILL BE USED AS THE AREA TO PROVIDE A LOCATION FOR THE CONSTRUCTION, MAINTENANCE, AND REPAIR OF AN IRRIGATION LINE AS AGREED BY EASEMENT AGREEMENT, INSTRUMENT NO. 211788. ALL SURFACE REPAIRS AND EXPENSE WILL BE SOLELY BY THE EASEMENT HOLDER.
8. ALL LOTS IN THIS SUBDIVISION ARE SUBJECT TO A DRAINAGE BASEMENT EQUAL TO THE PRIMARY STREET CHUBBUCK LINE ALONG ALL LOT LINES. LOTS MUST BE GRADED AND MAINTAINED SO AS TO MINIMIZE DRAINAGE TO ADJOINING PROPERTIES.
9. 1/4 COR. SEC. 1 FOUND 3" BRASS CAP IN SURVEY VAULT RESET 2014, PLS 12457 C24C INSTR. # 20150664, 202414



**RECORD REFERENCES**

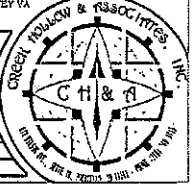
- KA - KELLER AND ASSOCIATES RECORD OF SURVEY, INSTR. NO. 31617876
- CHA - CREEK HOLLOW & ASSOC., INC. RECORD OF SURVEY, INSTR. NO. 2114278
- RMS - ROCKY MOUNTAIN SURVEY & ENG. RECORD OF SURVEY, INSTR. NO. 21107717

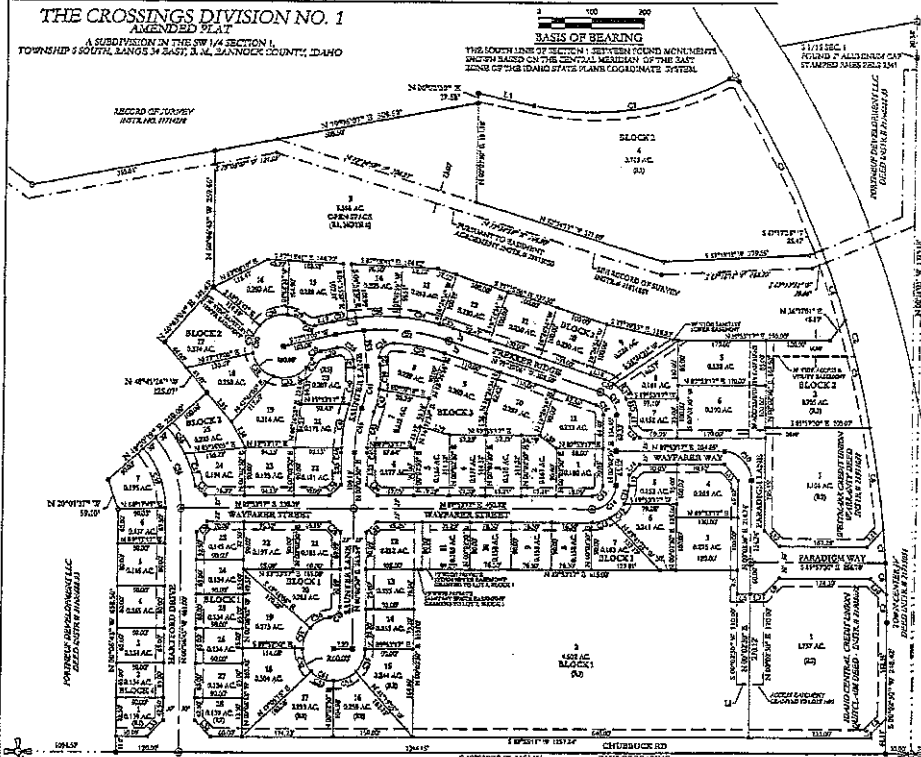
**THE CROSSINGS DIV. NO. 1**

SW 1/4 SECTION 1, TOWNSHIP 6 SOUTH, RANGE 34 EAST, B.M. BANNOCK COUNTY, IDAHO

JOB NO.	REVISIONS
19333024	
06/19	

SCALE 1" = 100'  
SHEET 1 OF 2





- LEGEND**
- SECTION BOUNDARY LINE
  - SECTION LINE
  - STREET CENTERLINE
  - UTILITY LOCATIONS
  - PUBLIC UTILITY BOUNDARY LINE
  - CLASS ACCESS EASEMENT LINE
  - EASEMENT EASEMENTS ASSIGNED
  - FOUND 1/2\"/>

- NOTES**
1. EASEMENTS ARE 15 FEET WIDE AND ARE FOR PUBLIC UTILITIES UNLESS OTHERWISE NOTED.
  2. AS INDICATED A RESTRICTION ON LOT 3, BLOCK 1, NON-TRANSFERABLE LOT IS HEREBY RESERVED FOR LANDSCAPE, PARKS, STREAM WATER DISTRIBUTION, AND PUBLIC ACCESS. LOT 3, BLOCK 1 IS HEREBY DEDICATED TO THE CITY OF BOCA RATON. THE LANDSCAPE OF THIS LOT IS TO REMAIN IN NATURAL STATE OTHER THAN PARK PATHWAYS AND STREAM WATER DISTRIBUTION/RETENTION POWER UTILITIES BY THE OWNER. NO OTHER ALTERATION MAY BE MADE TO SAID LOT AFTER FINAL GRADING HAS BEEN COMPLETED BY THE DEVELOPER UNLESS APPROVED BY THE CITY.
  3. (2) INDICATES NO PRESENT ACCESS IS PERMITTED ALONG CHUBBUCK ROAD AND CALIPSO DRIVE.
  4. (2) INDICATES RESTRICTED ACCESS TO LOT 3, BLOCK 1 WILL BE PERMITTED ONE ACCESS TO CHUBBUCK ROAD. LOT 3, BLOCK 1 WILL BE PERMITTED ONE ACCESS TO CALIPSO DRIVE AND LOT 3, BLOCK 1 ONE ACCESS TO CHUBBUCK DRIVE AT THE 1/2\"/>

**RECORD REFERENCES**

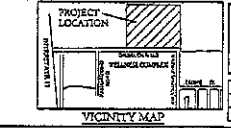
SA - KELER AND ASSOCIATES  
 RECORD OF SURVEY, INSTR. NO. 211776  
 CHA - CHECKMOUNTAIN ASSOC., INC.  
 RECORD OF SURVEY, INSTR. NO. 211778  
 BANS - BOCA RATON MOUNTAIN DEVELOPERS, INC.  
 RECORD OF SURVEY, INSTR. NO. 211771

SW COR. SEC. 1  
 FOUND 1/2\"/>

**SURVEY NARRATIVE**

THE PURPOSE OF THIS SUBDIVISION IS TO:

1. AMEND THE CROSSINGS DIVISION NO. 1, INSTRUMENT NO. 211768.
2. AMEND ONLY THE INTERIOR LOT LINES OF BLOCK 1 AS SHOWN.
3. AMEND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.
4. CORRECT EASEMENT AGREEMENT, INSTRUMENT NO. 211778 TO EASEMENT AGREEMENT, INSTRUMENT NO. 211760 AS SHOWN.



**THE CROSSINGS DIV. NO. 1  
 AMENDED PLAT**

SW 1/4 SECTION 1, TOWNSHIP 3 SOUTH, RANGE 34 EAST, 3 N.M.  
 BANNOCK COUNTY, IDAHO

JOB NO. 17011 P04	DATE
DRAWN BY: CHA	8/29/10
NO. 1	1
SHEET 1 OF 1	



