



# TOWN OF JACKSON PLANNING & BUILDING DEPARTMENT

## TRANSMITTAL MEMO

### Town of Jackson

- ☒ Public Works/Engineering
- ☒ Building
- ☐ Title Company
- ☒ Town Attorney
- ☒ Police

### Joint Town/County

- ☐ Parks and Recreation
- ☒ Pathways
- ☒ Joint Housing Dept

### Teton County

- ☐ Planning Division

- ☐ Engineer
- ☐ Surveyor- *Nelson*
- ☐ Assessor
- ☐ Clerk and Recorder
- ☐ Road and Levee

### State of Wyoming

- ☐ Teton Conservation
- ☐ WYDOT
- ☐ TC School District #1
- ☐ Game and Fish
- ☐ DEQ

### Federal Agencies

- ☐ Army Corp of Engineers

### Utility Providers

- ☐ Qwest
- ☐ Lower Valley Energy
- ☐ Bresnan Communications

### Special Districts

- ☒ START
- ☒ Jackson Hole Fire/EMS
- ☐ Irrigation Company

Date: October 23, 2023	<b>REQUESTS:</b>  The applicant is submitting a request for a Minor Deviation to the Westview Townhomes Development Plan and Hillside CUP at 1251-1257 W. Highway 22 & 315-327 Batch Plant Road. Specifically, this request seeks to modify the original public access stairs into a trail that connects the upper and lower units.  For questions, please call Tyler Valentine at 733-0440, x1305 or email to the address shown below. Thank you.
Item #: P23-182	
Planner: Tyler Valentine  Phone: 733-0440 ext. 1305  Email: tvalentine@jacksonwy.gov	
<b>Owner</b> Batch Plant Partners, LLC PO Box 689 Wilson, WY 83014  <b>Applicant</b> Nicole G. Krieger Hess D'Amours & Krieger, LLC PO Box 449 Jackson, WY 83001	
<b>Please respond by: November 13, 2023 (with Comments)</b>	

**RESPONSE:** For Departments not using Smart Gov, please send responses via email to:  
[planning@jacksonwy.gov](mailto:planning@jacksonwy.gov)



Town of Jackson  
150 E Pearl Avenue  
PO Box 1687, Jackson, WY 83001  
P: (307)733-3932 F: (307)739-0919  
www.jacksonwy.gov

Date: 10

# LETTER OF AUTHORIZATION NAMING APPLICANT AS OWNER'S AGENT

PRINT full name of property owner as listed on the deed when it is an individual OR print full name and title of President or Principal Officer when the owner listed on the deed is a corporation or an entity other than an individual: Frank Forelle Title: Member/Manager

Being duly sworn, deposes and says that Batch Plant Partners, LLC is the owner in fee of the premises located at: \_\_\_\_\_  
Name of legal property owner as listed on deed

Address of Premises: 1255 West Highway 22, Jackson WY 83001

Legal Description: Lots 1-5 of Batch Plant Addition to the Town of Jackson

Please attach additional sheet for additional addresses and legal descriptions

And, that the person named as follows: Name of Applicant/agent: Nicole G. Krieger, Hess D'Amours & Krieger, LLC

Mailing address of Applicant/agent: PO Box 449, Jackson WY 83001

Email address of Applicant/agent: nicole@hdkattorneys.com

Phone Number of Applicant/agent: 307-733-7881

Is authorized to act as property owner's agent and be the applicant for the application(s) checked below for a permit to perform the work specified is this(these) application(s) at the premises listed above:

- ☐ Development/Subdivision Plat Permit Application ☐ Building Permit Application  
☐ Public Right of Way Permit ☐ Grading and Erosion Control Permit ☐ Business License Application  
☐ Demolition Permit ☐ Home Occupation ☒ Other (describe) Minor Deviation

Under penalty of perjury, the undersigned swears that the foregoing is true and, if signing on behalf of a corporation, partnership, limited liability company or other entity, the undersigned swears that this authorization is given with the appropriate approval of such entity, if required.

Property Owner Signature

Title if signed by officer, partner or member of corporation, LLC (secretary or corporate owner) partnership or other non-individual Owner

STATE OF Wyoming )  
 ) SS.  
COUNTY OF Teton )

The foregoing instrument was acknowledged before me by Frank Forelle this 5 day of October, 2023. WITNESS my hand and official seal.

Notary Public

My commission expires:

12/29/27

MARGARET SCHWARTZ  
Notary Public - State of Wyoming  
Commission ID # 166454  
My Commission Expires  
December 29, 2027



**PLANNING PERMIT APPLICATION**  
**Planning & Building Department**

150 E Pearl Ave. | ph: (307) 733-0440  
P.O. Box 1687 | [www.townofjackson.com](http://www.townofjackson.com)  
Jackson, WY 83001

**For Office Use Only**

Fees Paid \_\_\_\_\_

Date & Time Received \_\_\_\_\_

Application #s \_\_\_\_\_

*Please note: Applications received after 3 PM will be processed the next business day.*

**PROJECT.**

Name/Description: Minor Deviation to Development Plan (P16-085) and Hillside CUP (P16-001)

Physical Address: 1255 West. Highway 22

Lot, Subdivision: Lots 1-5 of Batch Plant Townhome Addition to the Town of Jackson

PIDN: \_\_\_\_\_

**PROPERTY OWNER.**

Name: Batch Plant Partners, LLC

Phone: \_\_\_\_\_

Mailing Address: PO Box 689, Wilson WY

ZIP: 83014

E-mail: frank.forelle@sfajh.com

**APPLICANT/AGENT.**

Name: Nicole G. Krieger, Hess D'Amours & Krieger, LLC

Phone: 307-733-7881

Mailing Address: PO Box 449 Jackson WY

ZIP: 83001

E-mail: nicole@hdkattorneys.com

**DESIGNATED PRIMARY CONTACT.**

Property Owner ☒ Applicant/Agent

**TYPE OF APPLICATION.** Please check all that apply; review the type of application at [www.townofjackson/200/Planning](http://www.townofjackson/200/Planning)

**Use Permit**

☐ Basic Use

☐ Conditional Use

☐ Special Use

**Relief from the LDRs**

☐ Administrative Adjustment

☐ Variance

☐ Beneficial Use Determination

☐ Appeal of an Admin. Decision

**Physical Development**

☐ Sketch Plan

☐ Development Plan

☐ Design Review

**Subdivision/Development Option**

☐ Subdivision Plat

☐ Boundary Adjustment (replat)

☐ Boundary Adjustment (no plat)

☐ Development Option Plan

**Interpretations**

☐ Formal Interpretation

☐ Zoning Compliance Verification

**Amendments to the LDRs**

☐ LDR Text Amendment

☐ Map Amendment

**Miscellaneous**

☒ Other: Minor Deviation

☐ Environmental Analysis



**PRE-SUBMITTAL STEPS.** To see if pre-submittal steps apply to you, go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for requirements. Please submit all required pre-submittal steps with application.

Pre-application Conference #: \_\_\_\_\_ Environmental Analysis #: \_\_\_\_\_  
Original Permit #: \_\_\_\_\_ Date of Neighborhood Meeting: \_\_\_\_\_

**SUBMITTAL REQUIREMENTS.** Please ensure all submittal requirements are included. The Planning Department will not hold or process incomplete applications. Partial or incomplete applications will be returned to the applicant. Go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for submittal requirements.

Have you attached the following?

- ☒ **Application Fee.** Fees are cumulative. Go to [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) and select the relevant application type for the fees.
- ☒ **Notarized Letter of Authorization.** A notarized letter of consent from the landowner is required if the applicant is not the owner, or if an agent is applying on behalf of the landowner. Please see the Letter of Authorization template at <http://www.townofjackson.com/DocumentCenter/View/845/LetterOfAuthorization-PDF>.
- ☒ **Response to Submittal Requirements.** The submittal requirements can be found on the TOJ website for the specific application. If a pre-application conference is required, the submittal requirements will be provided to applicant at the conference. The submittal requirements are at [www.townofjackson.com/200/Planning](http://www.townofjackson.com/200/Planning) under the relevant application type.

**Note:** Information provided by the applicant or other review agencies during the planning process may identify other requirements that were not evident at the time of application submittal or a Pre-Application Conference, if held. Staff may request additional materials during review as needed to determine compliance with the LDRs.

Under penalty of perjury, I hereby certify that I have read this application and associated checklists and state that, to the best of my knowledge, all information submitted in this request is true and correct. I agree to comply with all county and state laws relating to the subject matter of this application, and hereby authorize representatives of Teton County to enter upon the above-mentioned property during normal business hours, after making a reasonable effort to contact the owner/applicant prior to entering.

Nicole G. Krieger  
Signature of Property Owner or Authorized Applicant/Agent  
Nicole G. Krieger, Hess D'Amours & Krieger, LLC  
Name Printed

10/5/2023  
Date  
Authorized Agent  
Title

Paul E. D'Amours\*\*  
Nicole G. Krieger\*  
Margaret A. R. Schwartz\*  
\* Admitted in Wyoming  
\*\* Admitted in Wyoming, Idaho,  
and Colorado

**HESS D'AMOURS & KRIEGER, LLC**  
**ATTORNEYS AT LAW**  
30 East Simpson Street  
P.O. Box 449  
Jackson, Wyoming 83001

(307) 733-7881 Phone  
(307) 733-7882 Facsimile  
nicole@hdkattorneys.com  
Caroline Haines  
Legal Assistant

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**Minor Deviation to Development Plan**  
**1255 West. Highway 22, Jackson, WY 83001**  
**Narrative Statement in Support of Application**

This Minor Deviation to Development plan application is submitted on behalf of Batch Plant Partners, LLC, Owner of Lots 1 through 5 of the Batch Plant Townhome Addition to the Town of Jackson, per Plat No. 1447 as recorded in the Office of the Teton County, Wyoming Clerk.

In 2016, the Town of Jackson approved the Development Plan and Hillside Conditional Use Permit for the Westview PUD (Items P16-001 & P16-085), which approval was followed by Amendments P17-090, P18-095, P18-135, and P18-136 (collectively, the "Westview PUD").

In 2020, the Developer obtained approval from the Town of Jackson to separate the Upper Lot and the Lower Lot, at which time a Declaration of Covenants, Conditions and Restrictions for Westview PUD (the "Westview CCRs") was recorded as Document No. 0988615. The Westview CCRs allocated various obligations and costs for maintenance and repair of certain utility infrastructure between the Upper Lot and the Lower Lot, and provided rights and remedies to the Upper Lot and the Lower Lot in the event either failed to comply with the Westview PUD infrastructure or operational obligations.

As part of the Development Plan approval, the Town Council required that there be pedestrian access between the Upper and Lower Lot, to be achieved through use of an existing or new staircase. In accordance with this requirement, two easements for pedestrian access were recorded in the Office of the Teton County, Wyoming Clerk as Documents No. 0989528 and 0989529 (the "Pedestrian Easements").

Since recordation of the Pedestrian Easements, the Lower and Upper Lots have been fully developed and it has become clear that the costs and logistical realities of the sites have made construction of a new staircase impractical. Instead, Batch Plant Partners and the Westview Condominium Owners Association (the "Westview HOA") are in agreement that access between the Upper and Lower Lots is better achieved by construction of a pedestrian trail, as further detailed on the attached drawing. Batch Plant Partners has agreed to pay all cost associated with trail construction, and both Batch Plant Partners and the Westview HOA have agreed to execute new easements to relocate the area for pedestrian access. A bond for this project has been submitted, and drafts of the easement documents have been provided with this application. The draft easements have been provided to the Westview HOA Board, and are subject to their approval.

Construction of the trail instead of the originally approved staircase complies with all standards of the Town of Jackson LDRs, does not reduce the amount of open space set aside or required for resource protection, and does not increase the amount of building floor area on site.

Batch Plant Partners and the Board of Directors of the Westview HOA have worked collaboratively with the Town to pursue this alternative approach and this application for a minor deviation from the approved plan has been discussed and approved at two meetings with the Town of Jackson Planning Director and Town Attorney.

Thank you for your consideration of this request and please do not hesitate to contact me if you have any questions or to discuss further.

Sincerely,

/s/ Nicole G. Krieger  
Attorney for Batch Plant Partners



## FIRST AMENDED AND RESTATED UTILITY & PEDESTRIAN EASEMENT

THIS FIRST AMENDED AND RESTATED UTILITY & PEDESTRIAN EASEMENT (this "Amended Agreement") is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the Westview Condominium Owners Association, a Wyoming nonprofit corporation (as successor to Westview Partners LLC, a Wyoming limited liability company), ("Grantor"), whose address is PO Box 2228, Jackson, WY 83001, and Batch Plant Partners, LLC, a Wyoming limited liability company (as successor in interest to FSD Investments, LLC) ("Grantee"), whose address is PO Box 689, Wilson, WY 83014, (each individually a "Party" and, collectively, the "Parties").

### RECITALS

WHEREAS Grantor is the owner of the property legally described as Lot 2 of the Westview Addition to the Town of Jackson, according to that plat recorded in the Office of the Teton County, Wyoming Clerk on April 21, 2021 as Plat No. 1424, (the "Westview Lower Units" or the "Grantor's Property");

WHEREAS Grantee is the owner of the property legally described as Lots 1 through 5 of the Batch Plant Addition to the Town of Jackson, according to that plat recorded in the Office of the Teton County, Wyoming Clerk on March 8, 2023 as Plat No. 1447 (the "Batch Plant Upper Units");

WHEREAS on or about October 21, 2019 Grantor and Grantee entered into that Utility & Pedestrian Easement (the "Original Easement") for the purpose of providing five (5)-foot wide pedestrian access and underground utility easement to the Batch Plant Upper Units, which document was recorded in the Office of the Teton County Clerk on May 4, 2020 as Document No. 0989529;

WHEREAS the Original Easement specified that access to the Batch Plant Upper Units would be along the eastern boundary line of the Grantor's Property, and references the access as a "stair case" (the "Staircase");

WHEREAS at the request of the Parties, the Town of Jackson Planning Director has approved Minor Deviation Permit No. \_\_\_\_\_, which allows the Staircase to be replaced with a pedestrian trail over the Westview Lower Units to the Batch Plant Upper Units;

WHEREAS the Parties desire to enter into this Amended Agreement to amend the location of the pedestrian access under the Original Easement; with the location of the Utility Easement remaining unchanged;

WHEREAS Section 8 of the Original Easement provides that "any modifications, amendments or changes to any provisions of this Agreement shall be effective only if in writing and executed by all parties to this Agreement."



## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby covenant and agree as follows:

1. Grant of Pedestrian Easement. The location of the pedestrian easement as shown in the Original Easement is hereby vacated, and Grantor, as owner of the Westview Lower Units, grants and conveys to Grantee, as owner of the Batch Plant Upper Units, a non-exclusive easement over and upon that portion of Grantor's Property as depicted and shown on Exhibits A-1 and A-2 of this Amended Agreement, which are attached to and incorporated herein by this reference, for the purpose of providing pedestrian access to the Batch Plant Upper Units (the "Pedestrian Easement Area"). This grant of easement includes the right to layout, construct, install, and maintain an approximately \_\_\_\_\_ foot wide pedestrian trail on Lot 2 of the Westview Lower Units, as well as a blanket easement over and across the Westview parking area to allow pedestrians from the Batch Plant Upper Units to access the public sidewalk along Wyoming Highway 22, all as shown on the attached Exhibit A-2.

2. Utility Easement Remains Unchanged. The utility easement as detailed in the Original Easement, and as shown on the attached Exhibit B for convenience (the "Utility Easement Area") remains unchanged. The rights associated with this utility easement remain in full force and effect, including the right to layout, excavate, install, maintain, and repair utilities within the Easement, provided that Grantee shall restore the Utility Easement Area to reasonably the same condition that it was in prior to the commencement of such work, reasonable wear and tear excepted.

3. Maintenance and Repair. Grantee shall have the right to maintain and repair the underground utilities within the Utility Easement Area subject to the restoration obligations contained in Paragraph 2 herein and shall likewise have the right to maintain and repair the trail within the Pedestrian Easement Area. Any maintenance or repair to the trail shall be mutually agreed upon by the parties, with the intent of said work being to address wear and tear to the trail and to ensure it remains usable for pedestrians during months where snow and mud do not prohibit use. Costs for repair of any portion of the trail, including portions on Grantor's and Grantee's Properties, shall be shared equally by the Parties.

4. Trail Closure. The trail may be closed by Grantor or Grantee based on weather or ground surface conditions (ie: snow, ice, or mud) by placing a trail closure sign at the bottom and top of the trail.

5. Reserved Rights. Grantor reserves for itself and its successors and assigns the right to grant additional easements over and under the property covered by the Pedestrian or Utility Easement Areas for any purpose it deems reasonably necessary, so long as such additional grants do not unreasonably interfere with Grantee's use of the easements granted herein.

6. No Public Dedication. Nothing herein shall be deemed a gift or dedication of any portion of the Easement for the general public.

7. Mechanics Liens. Grantee shall not allow, permit, or take any action which may give rise to a lien on Grantor's Property without the consent of Grantor, provided, however, that inchoate liens for work not yet due and payable shall not be deemed to be a violation of this Section.

8. Indemnification. Grantor and Grantee shall indemnify and hold each other harmless from any loss, claim, or liability arising out of, or attributable to, the other's use of the Pedestrian or Utility Easements, or that of their respective agents, licensees, or invitees.

9. Enforcement and Remedies. Grantor and Grantee shall be entitled to enforce this Amended Agreement by specific performance, injunction, or by bringing an action for damages. The prevailing Party in an action brought under this Amended Agreement shall be entitled to recover from the other Party or Parties, as the case may be, reasonable attorneys' fees and costs, in addition to all other relief provided by law or in equity.

10. Notices. All notices or other communications to be given to the parties to this Amended Agreement shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, to the address of record with the Teton County Assessor for the respective properties; or at such other address as one party notifies the other in writing pursuant to this Section. Notice shall be effective immediately when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail.

11. Amendments. Any modifications, amendments, or changes to any of the provisions of this Amended Agreement shall be effective only if in writing and executed by all Parties to this Amended Agreement.

12. Binding Effect. The Easement shall be appurtenant to and benefit the Batch Plant Upper Units and shall be perpetual, shall run with the land, shall burden the Westview Lower Units, and be binding upon and inure to the benefit of the Grantor and Grantee and their heirs, successors, and assigns.

13. Governing Law. This Amended Agreement shall be construed, performed, and enforced in accordance with, and governed by, the laws of the State of Wyoming. Venue for any lawsuit brought under this Amended Agreement shall lie exclusively in the 9th Judicial District, Teton County, Wyoming. The descriptive headings of the Sections contained in this Amended Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

14. Recordation. This Amended Agreement shall be recorded in the land records of the Office of the Teton County Clerk.

15. Severability. If any provision of this Amended Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other provisions of this Amended Agreement.

16. Counterparts. This Amended Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such

counterparts together shall constitute but one document.

17. Entire Agreement. This Amended Agreement including all Exhibits, which are attached hereto and incorporated herein by this reference, contains the entire agreement of the Parties on the subject matters dealt with herein and supersedes all prior and contemporaneous contracts and understandings of the parties in connection herewith.

IN WITNESS WHEREOF, this Amended Agreement has been duly executed by the parties hereto as of the day and year indicated above.

**GRANTOR:**

Westview Owners Association, a Wyoming non-profit corporation

By: \_\_\_\_\_  
Its: President

STATE OF WYOMING     )  
                                      )  
COUNTY OF TETON     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_ as President of Westview Owners Association, a Wyoming non-profit corporation

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**GRANTEE:**

Batch Plant Partners, LLC, a Wyoming limited liability company

By: \_\_\_\_\_  
Its: Member/Manager

STATE OF WYOMING     )  
                                      )  
COUNTY OF TETON     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023 by Frank Forelle as Member/Manager of Batch Plant Partners, LLC, a Wyoming limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



## FIRST AMENDED AND RESTATED PEDESTRIAN EASEMENT

THIS FIRST AMENDED AND RESTATED PEDESTRIAN EASEMENT (this "Amended Agreement") is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between Batch Plant Partners, LLC, a Wyoming limited liability company (as successor in interest to FSD Investments, LLC) ("Grantor"), whose address is PO Box 689, Wilson, WY 83014; and the Westview Condominium Owners Association, a Wyoming nonprofit corporation (as successor to Westview Partners LLC, a Wyoming limited liability company), ("Grantee"), whose address is PO Box 2228, Jackson, WY 83001, (each individually a "Party" and, collectively, the "Parties").

### RECITALS

WHEREAS Grantor is the owner of the property legally described as Lots 1 through 5 of the Batch Plant Addition to the Town of Jackson, according to that plat recorded in the Office of the Teton County, Wyoming Clerk on March 8, 2023 as Plat No. 1447 (the "Batch Plant Upper Units" or the "Grantor's Property");

WHEREAS Grantee is the owner of the property legally described as Lot 2 of the Westview Addition to the Town of Jackson, according to that plat recorded in the Office of the Teton County, Wyoming Clerk on April 21, 2021 as Plat No. 1424, (the "Westview Lower Units" or the "Grantee's Property");

WHEREAS on or about October 21, 2019 Grantor and Grantee entered into that Pedestrian Easement (the "Original Easement") for the purpose of providing five (5)-foot wide pedestrian access easement to the Westview Lower Units, which document was recorded in the Office of the Teton County Clerk on May 4, 2020 as Document No. 0989528;

WHEREAS the Original Easement was recorded to satisfy the requirement set forth in the Development Plan for the Westview PUD, which govern both the Grantor's and Grantee's Property, that there be pedestrian access between the Batch Plant Upper Units and Westview Lower Units, to be achieved through use of an existing or new staircase (the "Staircase");

WHEREAS at the request of the Parties, the Town of Jackson Planning Director has approved Minor Deviation Permit No. \_\_\_\_\_, which allows the Staircase to be replaced with a pedestrian trail over the Batch Plant Upper Units to the Westview Lower Units;

WHEREAS the Parties desire to enter into this Amended Agreement to amend the location of the pedestrian access under the Original Easement;

WHEREAS Section 9 of the Original Easement provides that "any modifications, amendments or changes to any provisions of this Agreement shall be effective only if in writing and executed by all parties to this Agreement."

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby covenant and agree as follows:

1. Vacation of Existing Pedestrian Easement; Grant of Relocated Pedestrian Easement: The location of the pedestrian easement as shown in the Original Easement is hereby vacated, and Grantor, as owner of the Batch Plant Upper Units, grants and conveys to Grantee, as owner of the Westview Lower Units, a non-exclusive easement over and upon that portion of Grantor's Property as depicted and shown on Exhibits A-1 and A-2 of this Amended Agreement, which are attached to and incorporated herein by this reference, for the purpose of providing pedestrian access to the Westview Lower Units (the "Pedestrian Easement Area"). This grant of easement includes the right to layout, construct, install, and maintain an approximately \_\_\_\_\_ foot wide pedestrian trail on Lot 5 of the Batch Plant Upper Units, as shown on the attached Exhibit A-2.

2. Maintenance and Repair. Grantor shall have the right to maintain and repair the trail within the Pedestrian Easement Area. Any maintenance or repair to the trail shall be mutually agreed upon by the parties, with the intent of said work being to address wear and tear to the trail and to ensure it remains usable for pedestrians during months where snow and mud do not prohibit use. Costs for repair of any portion of the trail, including portions on Grantor's and Grantee's Properties, shall be shared equally by the Parties.

3. Trail Closure. The trail may be closed by Grantor or Grantee based on weather or ground surface conditions (ie: snow, ice, or mud) by placing a trail closure sign at the bottom and top of the trail.

4. Reserved Rights. Grantor reserves for itself and its successors and assigns the right to grant additional easements over and under the property covered by the Pedestrian Easement Areas for any purpose it deems reasonably necessary, so long as such additional grants do not unreasonably interfere with Grantee's use of the easement granted herein.

5. No Public Dedication. Nothing herein shall be deemed a gift or dedication of any portion of the Easement for the general public.

6. Mechanics Liens. Grantee shall not allow, permit, or take any action which may give rise to a lien on Grantor's Property without the consent of Grantor, provided, however, that inchoate liens for work not yet due and payable shall not be deemed to be a violation of this Section.

7. Indemnification. Grantor and Grantee shall indemnify and hold each other harmless from any loss, claim, or liability arising out of, or attributable to, the other's use of the Pedestrian Easement, or that of their respective agents, licensees, or invitees.

8. Enforcement and Remedies. Grantor and Grantee shall be entitled to enforce this Amended Agreement by specific performance, injunction, or by bringing an action for damages. The prevailing Party in an action brought under this Amended Agreement shall be entitled to

recover from the other Party or Parties, as the case may be, reasonable attorneys' fees and costs, in addition to all other relief provided by law or in equity.

9. Notices. All notices or other communications to be given to the parties to this Amended Agreement shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, to the address of record with the Teton County Assessor for the respective properties; or at such other address as one party notifies the other in writing pursuant to this Section. Notice shall be effective immediately when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail.

10. Amendments. Any modifications, amendments, or changes to any of the provisions of this Amended Agreement shall be effective only if in writing and executed by all Parties to this Amended Agreement.

11. Binding Effect. The Easement shall be appurtenant to and benefit Westview Lower Units and shall be perpetual, shall run with the land, shall burden the Batch Plant Upper Units, and be binding upon and inure to the benefit of the Grantor and Grantee and their heirs, successors, and assigns.

12. Governing Law. This Amended Agreement shall be construed, performed, and enforced in accordance with, and governed by, the laws of the State of Wyoming. Venue for any lawsuit brought under this Amended Agreement shall lie exclusively in the 9th Judicial District, Teton County, Wyoming. The descriptive headings of the Sections contained in this Amended Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

13. Recordation. This Amended Agreement shall be recorded in the land records of the Office of the Teton County Clerk.

14. Severability. If any provision of this Amended Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other provisions of this Amended Agreement.

15. Counterparts. This Amended Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one document.

16. Entire Agreement. This Amended Agreement including all Exhibits, which are attached hereto and incorporated herein by this reference, contains the entire agreement of the Parties on the subject matters dealt with herein and supersedes all prior and contemporaneous contracts and understandings of the parties in connection herewith.

IN WITNESS WHEREOF, this Amended Agreement has been duly executed by the parties hereto as of the day and year indicated above.

**GRANTOR:**

Batch Plant Partners, LLC, a Wyoming limited liability company

By: \_\_\_\_\_  
Its: Member/Manager

STATE OF WYOMING     )  
  )  
COUNTY OF TETON     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023 by Frank Forelle as Member/Manager of Batch Plant Partners, LLC, a Wyoming limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**GRANTEE:**

Westview Owners Association, a Wyoming non-profit corporation

By: \_\_\_\_\_  
Its: President

STATE OF WYOMING     )  
  )  
COUNTY OF TETON     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_ as President of Westview Owners Association, a Wyoming non-profit corporation

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: