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**DISTRICT COURT SEVENTH JUDICIAL DISTRICT
TETON COUNTY IDAHO**

CITY OF VICTOR, a political subdivision
of the State of Idaho,

Plaintiff,

vs.

CITY OF DRIGGS, a political subdivision
of the State of Idaho,

Defendant.

Case No.: CV41-26-0062

MEMORANDUM IN SUPPORT OF
MOTION FOR CHANGE OF VENUE

The Plaintiff City of Victor (“Victor”), by and through counsel of record Beard St. Clair Gaffney PA, respectfully submits the following Memorandum in Support of its Motion for Change of Venue.

INTRODUCTION

Victor is requesting a change of venue from Teton County to Bonneville County to minimize the risk of juror bias and impartiality in deciding this lawsuit. The dispute involves Victor seeking to recover substantial sums of money from the City of Driggs (“Driggs”) for

various breaches of contract as set out in the Complaint. The Victor and Driggs dominate Teton County and picking an impartial jury will be extremely difficult if not impossible. The jury pool will likely be tainted by the personal monetary stake in the outcome of the lawsuit, preventing a fair trial in Teton County. These concerns were exacerbated due to Driggs materially breaching the mediation agreement and disclosing confidential information to the public as alleged in the Complaint and reflected in media articles attached to the declaration of Jeremy Besbris.

LEGAL STANDARD

A motion for change of venue is made under Idaho Rules of Civil Procedure, Rule 40.1. Under this rule, a party may request a mandatory or discretionary change of venue. IDAHO R. CIV. P. 40.1(a) (2025). In order to grant a discretionary change of venue, the Court must find that (1) an impartial trial cannot be held in the county in which the action is filed, or (2) the convenience of witnesses and the ends of justice would be promoted by the change. *Id.*

ARGUMENT

There is an inherent risk of impartial juror bias if this dispute is venued in Teton County due to the outcome having a direct impact on personal utility rate obligations. This is a dispute between neighboring cities in Teton County over the division of expenses associated with a wastewater treatment plant and trunkline erected in the City of Driggs.

Rule 40.1 of the Idaho Rules of Civil Procedure governs a motion for change of venue, and provides that a judge may grant a change of venue when it appears by affidavit or other satisfactory proof that: (A) “there is reason to believe that an impartial trial cannot be had in the county in which the action is filed”; or (B) “the convenience of witnesses and the ends of justice would be promoted by the change.” IDAHO R. CIV. P. 40.1(a)(1). Under either of the Rule

40.1(a)(1) prongs, the Court should exercise its discretion to remove venue from Teton County to Bonneville County to protect the integrity of the judicial process.

A. There is a likelihood that the pre-litigation media coverage and financial incentives will prevent an impartial jury pool from being impaneled in Teton County.

All jurors come to jury selection with prior beliefs. The issue is whether that belief amounts to bias or exposes a hostility. A juror must be excluded for cause when the “juror’s views would prevent or *substantially impair* the performance of his duties as a juror in accordance with his instructions and his oath.” *State v. Abdullah*, 158 Idaho 386, 422, 348 P.3d 1, 37 (2015) (quoting *Wainwright v. Witt*, 469 U.S. 412, 424 (2014)). One circumstance where a prospective juror may be disqualified for cause occurs when it “has a monetary interest in the outcome of the action or in a main question involved in the action”. IDAHO R. CIV. P. 47(h)(2)(E).

Actual bias or “bias in fact” means a “state of mind showing hostility or bias to or against a party.” IDAHO R. CIV. P. 47(h)(2)(G); *United States v. Torres*, 128 F.3d 38, 43 (2d. Cir. 1997) (actual bias is “the existence of a state of mind that leads to an inference that the person will not act with entire impartiality.”) Actual bias can be shown by questioning the juror about his or her impartiality. *State v. Johnson*, 163 Idaho 412, 418, 414 P.3d 234, 240 (2017).

Jurors can at times admit bias, but rarely do so. *See U.S. v. Gonzalez*, 214 F.3d 1109, 1111-12 (9th Cir. 2000). Instead, “the reality of their biased attitudes” must be shown by circumstantial evidence such as their demeanor and credibility. *Id.*; *see also Wainwright v. Witt*, 469 U.S. 412, 429-30 (1985) (“The trial court has a serious duty to determine the question of actual bias, and a broad discretion in its rulings on challenges...”).

This Court has an essential gatekeeping role to safeguard the constitutional right to a fair jury trial before even reaching voir dire. The juror pool will consist predominantly of citizens residing in either the City of Driggs or the City of Victor. According to the United States Census Bureau, the population estimate for Teton County as a whole is 12,932. <https://www.census.gov/quickfacts/fact/table/tetoncountyidaho/PST045224> (accessed March 4, 2026.) The City of Victor had an estimated population of 3,024 as of 2023. <https://datausa.io/profile/geo/victor-id> (accessed March 4, 2026.) The City of Driggs had an estimated population of 2,655 as of 2023. <https://datausa.io/profile/geo/driggs-id> (accessed March 4, 2026.) Evaluating these figures together, at least half of the jury pool will consist of individuals with a financial stake in the outcome of the lawsuit, requiring “for cause” disqualification under IDAHO R. CIV. P. 47(h)(2)(E). Beyond that, since Teton Valley is a small community, individuals residing outside of Victor or Driggs city limits are likely to have personal or familial relationships with Victor and Driggs residents, coloring their perception of the issues.

1. Prelitigation Media Coverage

Part of the pre-trial analysis on juror bias and the risk of impartiality is the quantity and quality of media coverage on the disputed issues. “The court must determine whether a reasonable likelihood exists that pretrial publicity has affected the impartiality of prospective jurors.” *State v. Brennan*, 117 Idaho 123, 125, 785 P.2d 687, 689 (Ct. App. 1990). “The court must consider *the possible adverse effect on jury impartiality of both the quality and the quantity of pretrial media coverage.*” *Id.* (emphasis added).

There has already been extensive pretrial press coverage that negatively portrays the City of Victor. The Jackson Hole News & Guide has published a series of articles about the

wastewater dispute between Victor and Driggs, and Victor’s plan to build a standalone wastewater treatment plant, negatively portraying Victor in the following ways:

1. Selective framing that casts Victor as opaque, hasty, or uncooperative—while minimizing Driggs’ role in creating current circumstances (including operational failures and billing errors) and omitting Victor’s multi-year efforts to renegotiate fairly;
2. Omitting key context about standard municipal procedures (e.g., judicial confirmation for infrastructure financing, regulatory sequencing that requires a site and engineering services before environmental review);
3. Amplifying minority viewpoints as if they reflect community consensus, while downplaying the majority of council decisions and broader resident sentiment; and
4. Blurring the confidentiality boundary around mediation by treating leaked materials as neutral “light-shedding” rather than acknowledging the breach’s implications for trust and process integrity.

In summary, the Jackson Hole News & Guide’s patterns of reporting have distorted public understanding, inflamed community tensions, and tainted the local jury pool by embedding misleading assumptions into the public narrative. The articles include: (1) “Mediation documents peel back wastewater divide between Driggs and Victor” (Feb. 25, 2026; updated Feb. 27, 2026); (2) “Council approves \$15,000 communications contract amid debate over public trust” (Feb. 19, 2026); and (3) “As critics lawyer up, Victor, Idaho, seeks approval to borrow \$35 million for wastewater plant” (Nov. 11, 2025). (3/4/2026 Besbris Declaration, Exs. A – C.). The three articles reflect a biased presentation of the facts with material misstatements and omissions. These articles influence how readers interpret the issues, polarize community opinion, and risk undermining jury impartiality. Review of the articles establishes that Driggs provided

confidential mediation information to the public thereby tainting the potential jury pool in its favor. This conduct is a basis for liability in the litigation as referenced in the Complaint. Driggs should not be allowed to poison the well and then benefit from their wrongful conduct.

2. Financial Stakeholders

The practicalities of this lawsuit present a high likelihood of juror bias based on financial considerations that personally impact the general populace. Wastewater rates for City of Victor residents have recently increased approximately \$30 per month from the City of Driggs' refusal to honor previous wastewater contracts between the two cities. (3/4/2026 Besbris Decl., ¶ 3.) The rates are expected to rise even more to cover debt for capital costs, and Victor residents now face \$10,000,000 in debt service over the next decade from Driggs' refusal to uphold its obligations. (*Id.* at ¶ 4.)

Every utility ratepayer in Driggs and Victor is a stakeholder in the litigation. A Driggs resident sitting on the jury has a vested financial interest in having Victor pay as much as possible to offset the EPA upgrades, totaling millions of dollars. (3/4/2026 Compl., ¶¶ 102 & 103.) Amounts that Victor does not pay are absorbed by Driggs residents. Conversely, a Victor resident has a vested interest in minimizing payments to Driggs so they can afford their own \$35,000,000 independent wastewater plant. (*Id.* at ¶ 151.)

The majority of the jury pool will have a monetary interest in the outcome of this lawsuit simply by residing within the boundaries of Driggs or Victor, providing grounds to disqualify for cause under I.R.C.P. 47. As such, there is a substantial risk that an impartial trial cannot be had in Teton County under I.R.C.P. 40.1(a)(1)(A).

- B. The ends of justice would be promoted by a change of venue to Bonneville County pursuant to I.R.C.P. 40.1(a)(1)(B), where the jury pool is much less likely to have a personal interest in the lawsuit.**

The City of Victor is seeking to recover damages associated with several distinct but interconnected issues, including, but not limited to, the following general claims: (1) Driggs' failure to provide a wastewater treatment plant capable of treating the wastewater to Legal Standards; (2) Failure to comply with audit requirements to evaluate the fees and costs Driggs passes through to Victor; and (3) Driggs overbilling Victor for its share of associated costs and receiving overpayment. (3/4/2026 Compl.)

As Bonneville County is in the same judicial district as Teton County and anticipated counsel for both parties have offices in Bonneville County, changing venue to Bonneville County would serve the principles of judicial economy and efficiency. On the contrary, denying the present motion and waiting until jury selection to make the determination that a fair and impartial jury cannot be impaneled would waste significant resources. The media coverage and financial interest concerns with the prospective Teton County jury pool would be mitigated by transferring venue to Bonneville County, where the personal stake in the outcome of the lawsuit is not an issue. Having an untainted jury pool will serve the ends of justice.

The Court should find that any inconvenience of the witnesses by holding the trial in Bonneville County is outweighed by the concerns over impartiality, fairness, and judicial economy. The facts and circumstances support transferring venue to Bonneville County under IRCP 40(a)(1)(B) in addition to IRCP 40(a)(1)(A).

CONCLUSION

As a result of the foregoing, the motion to change venue should be granted.

DATED: March 5, 2026.

/s/ Jeffrey D. Brunson
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Of Beard St. Clair Gaffney
Attorney for Plaintiff