

DEVELOPMENT AGREEMENT

This Development Agreement (this “**Agreement**”) is made effective as of the _____ day of _____, 2023, by and between the City of Driggs, Idaho, an Idaho municipal corporation (the “**City**”) and Bidache, LLC, an Idaho limited liability company (the “**Owner**”). City and Owner may be referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**” as warranted under the circumstances.

RECITALS

A. WHEREAS, Owner owns the real property that is legally described on Exhibit A, attached hereto and incorporated herein, (the “**Property**”);

B. WHEREAS, Owner applied to the City on January 13, 2023 (the “**Application Date**”) to rezone the Property to the Commercial Corridor (CC) zoning district;

C. WHEREAS, City, pursuant to Driggs City Code Section 14.9.5 and Idaho Code Section 67-6511A, has authority to conditionally rezone the Property and to enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for a specific purpose or use which is appropriate in the area, but for which the requested zoning may not be consistent with Idaho Code and Driggs City Code;

D. WHEREAS, City has held the public hearings required by law for the zoning and of the Property and for this Agreement;

E. WHEREAS, the City has authority to approve amendments to the City Zone Map; and

F. WHEREAS, the Parties desire to enter into this Agreement to allow the Property to be developed as provided in this Agreement, subject to the terms and conditions hereof.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, the covenants and promises set forth herein, and for the good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Permitted Uses.** The sole uses of the Property that are allowed on the Property pursuant to this Agreement are (collectively, the “**Permitted Uses**”): (i) those uses that are identified as allowed or conditionally allowed in the CC zoning district; (ii) permissible accessory uses; and (iii) current lawful uses of the Property as interim uses until development of the Property.

2. **Development of the Property.** Owner shall develop the Property subject to the conditions and imitations set forth in this Agreement. Development of the Property

shall comply with the Driggs City Code as it existed on the Application Date, except as specifically modified by this Agreement. The following conditions of development shall be adhered, satisfied, and complied with:

- a. Road Easement: Owner shall grant a road easement along a portion of the southern boundary of the Property to create a four way intersection at S Bates Rd. and State Highway 33 (the “**Easement**”). Such easement shall be 30’ wide and shall be between 150’ and 200’ in length measured from State Highway 33, to accommodate a future road design approved by the City Engineer and the Idaho Transportation Department. The Easement is depicted on Exhibit B, a rezone site plan (the “**Rezone Site Plan**”).
- b. Design Review: The Design Review Overlay shall be applied to all development on the Property.
- c. Fencing: Wildlife friendly fencing to be used anywhere fencing is proposed.
- d. Retention of Trees: The east side of the Property includes an area of mature trees as shown on the Rezone Site Plan. Until the Property is developed in accordance with the CC zoning, all existing mature trees on the Property shall be retained, subject to normal and routine maintenance to clear underbrush and dead, diseased, or damaged trees. At the time the Property is developed in accordance with the CC zoning, trees on the Property may be removed except those in the Buffer Area and the Treed Area as described below.
- e. Mature Tree Buffer: A thirty-five (35’) buffer consisting of existing mature trees shall be maintained along the eastern boundary of the Property (the “**Buffer Area**”). Upon development of the Property, the Buffer Area shall be protected. Pedestrian pathways and sidewalks may be permitted by the City to facilitate pedestrian connectivity and enjoyment of the Buffer Area.
- f. Mature Tree Area: Owner shall retain, and not develop, a 0.4 acre portion of the Property where existing mature trees shall be retained and maintained (the “**Treed Area**”). The Treed area shall be contiguous to the Buffer Area, thereby preserving approximately 0.7 acres of contiguous mature trees on the Property. Pedestrian pathways and sidewalks may be permitted by the City to facilitate pedestrian connectivity and enjoyment of Treed Area. The Parties agree the mature trees on site constitute a site characteristic on the Property that could support a future variance.

3. **Default.** If the Owner defaults in or fails to completely perform any of its obligations in accordance with this agreement, or fails or refuses to correct any defaults or deficiency in the improvements required by this Agreement and default continues for a period of thirty days after written notice specifying the default is deposited in the United States mail addressed to the Owner, without being completely remedied, satisfied and discharged, the City shall have, in addition to all other rights afforded to the City in this

Agreement and by law, the right to rezone the Property back to its prior zoning designation. The City may enforce any other remedy provided by law. These remedies are cumulative in nature.

IN WITNESS WHEREOF, the Parties to this Agreement have caused it to be executed.

City:

By: _____

Mayor
City of Driggs
P.O. Box 48
Driggs, Idaho 83422

Attest:

By: _____

City Clerk

Owner:

By: _____

Exhibit A - Property Legal Description

Beginning at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 35, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence East 40 rods, thence North 25 rods, thence West 40 rods, thence South 25 rods to the point of beginning.

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Exhibit B – Rezone Site Plan

