

**DEVELOPMENT AGREEMENT  
FOR  
FLATS AT TETON PEAKS**

This DEVELOPMENT AGREEMENT FOR FLATS AT TETON PEAKS SUBDIVISION (the “Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2023 by and between the **City of Driggs, Idaho**, a municipal corporation (hereinafter referred to as “City”) and **TETON FLATS LLC, an Idaho registered corporation**, (hereinafter referred to as the “Developer”).

**WITNESSETH:**

WHEREAS, Developer owns property described and shown on Exhibit “A” attached hereto and incorporated herein;

WHEREAS, the Flats at Teton Peaks Subdivision and subsequent condominium development within the Flats at Teton Peaks Subdivision is subject to an approved Master Plan, attached as Exhibit “B”;

WHEREAS, Developer intends to construct roads, sidewalks, water and sewer utilities, stormwater facilities, parks, common areas, and other improvements within the Property pursuant to the Site and Improvement Plans, attached as Exhibit “C”;

WHEREAS, Developer and City have agreed to the connection of the City’s water and sanitary sewer facilities, subject to the terms of this Agreement;

WHEREAS, the City has authority to approve subdivision plats and the construction of improvements proposed for the Property;

WHEREAS, the City has approved the Flats at Teton Peaks preliminary plat and Improvement Plans subject to this 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 other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Developer without right of contributions or reimbursement from the City shall pay all development costs unless otherwise set forth in this Agreement.
2. Development of the Property shall at all times conform to all applicable provisions of the City’s adopted code and ordinances and other applicable laws, rules and regulations of any governmental entity having jurisdiction or control over any part or stage of the development. In particular, the Developer must abide by the City’s most current edition of the Public Works Standards and Technical Specifications for its construction and building of any roads, water

system, sewer system or fire protection system. The Developer must comply in full with this Development Agreement, approved Improvement Plans and any approved Construction Management Plan.

3. Improvement Plans: Prior to recording of the Final Plat for any development phase of Flats at Teton Peaks Subdivision, Developer shall complete construction of all public improvements required to serve such phase of the development as shown on the attached Master Plan (Exhibit “B”) and approved Site Development and Improvement Plans (Exhibit “C”, the “Improvement Plans”). The Improvement Plans show, for all development phases, the streets, pathways, open space improvements, sewer lines, water lines, storm water systems, street signs, lighting, traffic control devices, and other improvements proposed by the Developer or required by the City in accordance with adopted standards or as a condition of preliminary plat approval. The Improvement Plans also show the proposed location of other utilities (telephone, electricity) and any irrigation facilities affected by construction of the Development.
4. Timeline to Install Improvements: All Improvements shown on the Improvement Plans shall be installed for each phase of development within two (2) years from the date of the site development approval letter being issued for the associated development phase.
5. Sewer Service: The Developer shall install central sewer lines, manholes, and other appurtenances as per the Improvement Plans provided by Connect Engineering and approved by the City. Sewer collection system improvements shall be dedicated to and accepted by the City, subject to the terms of this agreement
6. Water Service: The Developer will install central water lines and appurtenances as per the Improvement Plans provided by Connect Engineering and approved by the City. Water facility improvements will be dedicated to and accepted by the City, subject to the terms of this agreement and the following conditions:
  - a. Prior to recording of the final plat for each phase of the Development, Developer shall complete a transfer of water rights to the City of Driggs to fully offset the water demand for that phase of the Development, using the ratio of 0.32 gallons per minute of water demand per residential unit.
7. Roads: The Developer will install roads and other improvements in the public right-of-way and private road easements as per the Improvement Plans provided by Connect Engineering and approved by the City, and may be constructed in phases, with each phase meeting requirements for fire protection access as determined by the Teton County Fire Protection District. Road improvements within the public right of way platted by the Development will be publicly owned and maintained upon acceptance by the City.
8. Park Improvements: Designated park areas and constructed park improvements will be privately owned and maintained by the Developer or Home Owners Association, as provided for in the submitted Condominium Declaration. The Development’s park system impact mitigation requirement will be fully satisfied

by payment of park & recreation impact fees at the time of building permit issuance.

9. Unit Sales: No sale of units shall occur until all public improvements required for the associated phase of development have been installed and accepted by the City, and the Final Plat for the associated phase of development has been recorded.
10. Unit Occupancy Restrictions: Developer agrees to record the Qualified Local Household restricted deed attached as Exhibit “C” on twenty-four units in the Development, with an average of at least four such units being restricted in each phase of the Development at the time of Final Plat recording for that phase. Developer also agrees to include a restriction on the deeds of twenty-eight additional units in the Development prohibiting rental terms of less than thirty days (short-term rentals).
11. Specifications: All improvements shall be constructed to City standards unless otherwise declared on the Improvement Plans approved by the City.
12. Construction Performance Security: To ensure the Developer completes construction of all Improvements required pursuant to and in accordance with this agreement, the Developer shall, prior to installing the Improvements for each phase of the Development, issue the City an irrevocable letter of credit or cash bond or other adequate security for the amount of 125% of the projected development costs as determined by the Developer and as approved by the City for all improvements shown in the Improvement Plans for that phase.
13. Corrected Improvement Plans: Prior to acceptance of any public improvements located within the Subdivision, Developer will file “As Constructed” Improvement Plans (hereafter referred to as the “Corrected Improvement Plans”) with the City Engineer. Such Corrected Improvement Plans shall be prepared by the Project Engineer and submitted in both paper and digital formats, and shall show the actual constructed location of all public improvements within the Subdivision including the horizontal and vertical location of all water, sewer and storm drain lines, individual building service lines, curb and gutter alignment and street grades. Such Corrected Improvement Plans shall also specifically show all changes between the original Improvement Plans and the public improvements as actually constructed. The Project Engineer shall also certify upon the Corrected Improvement Plans that such Plans correctly show all public improvements as actually constructed and that such public improvements have been constructed in accordance with the Improvement Plans. The Project Engineer shall also deliver to the City Engineer all compaction reports, daily construction logs, reports, written tests, analysis and other data as may be necessary to verify or support the certification of the Project Engineer.
14. Inspection: Developer will retain a professional engineer (hereafter referred to as the “Project Engineer”) licensed within the State of Idaho to supervise, inspect and test the construction of all public improvements and the existing water and sewer infrastructure within the Subdivision in order to ensure such improvements are constructed in

accordance with this Agreement and the Improvement Plans. Developer will not materially deviate from the Improvement Plans without the express written approval of the City Engineer, which approval shall not be unreasonably withheld.

15. Acceptance of Public Improvements: Upon completion of the public improvements and Developer's delivery of the Corrected Improvement Plans, the City will accept the public improvements constructed for the Development. Such acceptance shall not be valid unless expressly acknowledged in writing by the City Engineer. Upon such acceptance of the public improvements constructed for the Development, the City shall assume ownership, control and maintenance responsibility of the public improvements. Acceptance of such public improvements shall not be deemed as a waiver of Developer's failure to fully and completely perform the terms and conditions hereof.
16. Warranty Against Defects or Deficiencies: Developer agrees to promptly and satisfactorily correct all defects or deficiencies in the Improvements that occur or become evident during the two-year period following the date of final acceptance of the Improvements. If a defect or deficiency occurs or becomes evident, Developer shall commence correction of the defect or deficiency within ten (10) days after written notice from the City. Developer shall proceed with reasonable diligence to correct the defect or deficiency. The warranty shall be extended one full year from the date of repair or replacement of any Improvement made pursuant to this paragraph.
17. Warranty Financial Guaranty: As a guaranty to the City for the correction of any defect or deficiency, the Developer shall issue the City an irrevocable letter of credit or cash bond or other adequate security for the amount of 5% of the estimated value of the warranted improvements as determined by the Developer and as approved by the City.
18. Utilities: Electrical and telephone utilities will be installed for each phase of the Development prior to recording the final plat for that phase.
19. Irrigation Facilities: Developer shall relocate or reconstruct all ditches, headgate structures, culverts, siphons, drywells or other similar appurtenant structures that will be impaired or otherwise disturbed by the construction of this development. Developer will also indemnify and hold the City harmless from any action, claim, demand or cost of any kind, including attorney's fees and court costs, arising from the relocation or reconstruction of such facilities or Developer's failure to properly relocate or reconstruct such facilities.
20. Weed Control: The Developer must comply with City and County Ordinances for weed control.
21. Construction Management Plan and Impacts Mitigation: The Developer will submit a Construction Management Plan to the City for approval prior to commencement of excavation or grading for any improvements approved within the Development. The Construction Management Plan shall include and conform to the following items:

- a. Public Communications Strategy, which shall include a pre-construction meeting, noticed to all property owners within 300 feet, and a construction sign with contractor name, address, phone number and emergency contact information
- b. Hours of Operation
- c. Construction access point(s) and any traffic safety mitigations
- d. Parking, Stockpiling & Staging locations, and mitigations on any impacted public parking spaces
- e. Storm Water Pollution Prevention Plan, as required by the EPA
- f. Trash Management and Recycling, which shall show adequate storage and program for trash removal
- g. Control of Dust and Mud, which shall include measures preventing the tracking of mud and dirt onto streets
- h. Temporary Lighting, if used
- i. Construction timeline, which shall include any planned right-of-way encroachments.

22. Miscellaneous Provisions:

- a. This agreement and Attachments A-C which include the approved preliminary plat, improvement drawings, and Master Plan submitted by the Developer contain the entire agreement of the parties.
- b. The parties agree that the relationship created by the agreement is solely that of a private Developer and the City. Nothing in this agreement shall create the Developer or City as an agent, employer, employee, legal representative, partner or subsidiary of the other.
- c. This agreement may only be modified in writing.
- d. The failure of any party to insist upon strict performance of any term of this agreement shall not be considered a waiver of any term of this agreement. All terms of this agreement shall remain in full force and effect.
- e. All notice must be in writing, mailed in the U.S. Mail via certified mail to the addresses indicated on this agreement.
- f. This agreement shall be construed and enforced pursuant to the laws of the State of Idaho.
- g. If any party shall bring suit against the other party to enforce this agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.
- h. If any term of this agreement is declared invalid, illegal or unenforceable, the remainder of this agreement shall remain operative and binding.
- i. The Developer hereby guarantees the prompt and satisfactory correction of all defects or deficiencies in the improvements that occur or become evident during the one-year period following final construction of the improvements. If the defect or deficiency occurs or becomes evident, then the Developer shall commence correction of the defect or deficiency within ten days after written notice from the City. The Developer shall proceed with reasonable diligence to correct the defect or deficiency. The guaranty shall be extended one full year from the date of repair or replacement of any improvement made pursuant to this paragraph.

- j. This agreement shall be signed in duplicate originals. Each party shall receive one original of this agreement.
- k. The City shall have this agreement recorded in the office of the Teton County Clerk.

23. Default: If the Developer 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 Developer, without being completely remedied, satisfied and discharged, the City shall have, and the Developer shall grant to the City, in addition to all other rights afforded to the City in this agreement and by law, the right, at the City’s option, to complete the construction of the improvements or to correct such defect or deficiency, using either its own forces or contractors hired for that purpose. The City shall have the right to draw from the financial security guarantee of this agreement, as well as the right to demand payment directly from the Developer, based either on costs actually incurred or on the City’s reasonable estimates of the costs to be incurred, an amount of money sufficient to defray the entire costs of the work, including legal fees and administrative expenses. The City may enforce any other remedy provided by law. These remedies are cumulative in nature.

AGREED:

By: \_\_\_\_\_ / \_\_\_\_\_ / 2023  
 Mayor August Christensen  
 City of Driggs  
 P.O. Box 48  
 Driggs, Idaho 83422

Attest: \_\_\_\_\_  
 Kreslyn Schuehler, City Clerk

By: \_\_\_\_\_ / \_\_\_\_\_ / 2023  
 Developer: Kurt Webb  
 Teton Flats, LLC  
 155 W 2nd S  
 Rexburg, Idaho 83440-2697

**Attachments:**

- Exhibit A - Preliminary Plat
- Exhibit B - Site and Improvement Plans with Approved Phasing
- Exhibit C –Deed Restriction Template – Qualified Local Households