

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT dated this _____ day of _____, 20__ by and between _____, hereinafter collectively referred to as “Subdivider”, and the TOWN OF JACKSON, a municipal corporation of the State of Wyoming, hereinafter referred to as the “Town”, provides as follows:

WHEREAS, Subdivider submitted a Final Development Plan for _____, which was approved by Town Council on _____, 20__ subject to execution of this agreement and submission of a Final Plat after completion of construction; and

WHEREAS, The Subdivider is required to construct certain public improvements (the “Improvements”) as a condition of the approval of the final plat and associated Development Plan; and

WHEREAS, the Town of Jackson Land Development Regulations require that a subdivision agreement for public and private improvements be executed by the Subdivider and the Town and recorded in the Office of the Teton County Clerk and Recorder; and

WHEREAS, the Town Council approves of the terms and conditions of this agreement for this Final Development Plan designated as _____ Addition to the Town of Jackson.

NOW, THEREFORE, IT IS HEREBY AGREED that for and in consideration of the aforesaid premises and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, paid by each of the said parties to the other, Subdivider on its own behalf or any successor in interest or assign, and the Town do mutually covenant and agree as follows:

1. SUBDIVIDER TO COMPLY

Subdivider shall comply with all improvement requirements contained in Section 6140 A. of the Town of Jackson Land Development Regulations, the Development Plan approved by Town Council on _____ 20__ and subdivision improvement plans and specifications retained on file in the office of the Town Engineer the Planning Director, and the requirements of the Town Planning and Zoning Commission and Town Council for this subdivision. Improvements shall be engineered, designed, constructed, and installed solely at Subdivider’s own cost and expense except as noted below in Section 15 regarding over-sizing of utilities.

2. DEVELOPMENT PLAN AND FINAL PLAT REQUIREMENTS
INCORPORATED

The requirements of the Town Council, as set forth in its approval of any required Final Development Plan, Conditional Use Permit, and Final Plat are hereby incorporated herein by reference as though fully set forth. Development and use of all land within the subdivision is limited to that conveyed by the Final Plat and the Land Development Regulations of the Town of Jackson, as they may be amended from time to time.

3. APPROVED SUBDIVISION INFRASTRUCTURE IMPROVEMENT
PLANS AND SPECIFICATIONS

The subdivision infrastructure improvement plans and specifications filed by Subdivider or its agents, as approved by the Town Engineer and maintained on file in the office of the Town Engineer, and any revision of said improvement plans and specifications approved by said Town Engineer are hereby incorporated herein by reference as though fully set forth. All public improvement work required by Subdivider under this agreement shall be in accordance with said improvement plans and specifications. No construction of required public or private improvements shall commence until after approval of a Final Development Plan and approval of all design and construction drawings by appropriate agencies.

The Subdivider, its contractors and subcontractors, shall follow all instructions received from the Town's inspectors. Prior to construction, the Subdivider or his engineer shall schedule a preconstruction meeting with Town Engineering at a mutually agreeable time and location with all parties concerned, including the Town staff, to review the program for the construction work.

4. ESTIMATED COST OF SUBDIVISION INFRASTRUCTURE
IMPROVEMENTS AND SECURITY THEREFORE

The list of improvements and the total cost of improvements required by this agreement as estimated by a professional engineer licensed in the State of Wyoming on behalf of the Subdivider, and as approved by the Town Engineer, is attached hereto as Exhibit "A" and by this reference made a part hereof. Subdivider shall deposit with the Town, prior to filing of the Final Plat, an irrevocable letter of credit, or performance and payment bond, or funds in escrow, or other equivalent security or commitment approved by the Town Council. Such security shall be in the amount of 125% of the estimate approved by the Town Engineer and Planning Director.

5. ESTIMATED COST OF OTHER SUBDIVISION IMPROVEMENTS AND
SECURITY THEREFORE

Affordable Housing Obligation. Subdivider shall construct _____ housing units that comply with current Teton County Housing Authority Guidelines in order to

fulfill Subdivider's obligation that Subdivider provide affordable housing for _____ persons. The Subdivider shall obtain a certificate of occupancy for said affordable housing units within two years of recordation of the plat or by the time the certificate of occupancy issues for the third market unit, whichever first occurs. In order to secure performance of Subdivider's affordable housing obligation, Subdivider shall provide to the Town a letter of credit in favor of the Town in the amount of \$_____ (125% of the estimated construction cost of the affordable housing units). If Subdivider does not construct the affordable housing units within two years of recordation of the plat or by the time the certificate of occupancy issues for the third market unit, whichever first occurs, Town shall construct the affordable housing unit using proceeds from the letter of credit.

6. UNDERGROUND ELECTRICAL POWER, TELEPHONE, TELEGRAPH, CABLE TELEVISION, AND GAS FACILITIES

All electrical power, telephone and telegraph communication, cable television, and gas facilities within the subdivision shall be installed underground, except that above-ground facilities necessary to serve underground facilities, other installation of peripheral overhead electrical transmission and distribution feeder lines, or other installation of either temporary or peripheral overhead communications, distance, trunk, or feeder lines may be allowed. Subdivider understands and agrees that any and all said facilities that are to be constructed within or under any street improvements shall be in place prior to the construction of the surface street improvements. Subdivider affirms that the public utility companies, including the cable television company enfranchised by the Town, providing the said services and facilities to and within the subdivision have been directly consulted by Subdivider through its officers, agents, or employees and that Subdivider is informed as to the approximate cost to Subdivider of the provision and installation of said facilities and services underground and that the requirements for said facilities have been considered in the preparation of the subdivision improvement plans.

7. EXACTIONS:

Subdivider shall pay exactions for the following purposes and in the following amounts to the Town prior to the filing of the Final Plat:

Parks Exactions:	\$ _____
School Exaction:	\$ _____
Affordable/Employee:	\$ _____

8. TIME FOR COMPLETION:

Subdivider agrees to install all improvements as required and further agrees that all such work of improvements shall be fully completed within one year following the recordation of the Final Plat, unless said time upon written request of Subdivider made to the Town

Engineer of the Town is extended by the Town, which extension shall not be unreasonably withheld.

9. WARRANTY:

All work and improvements required pursuant to this agreement and the ordinances of the Town shall be subject to and shall carry a guarantee and warranty for all work and materials for a period of one (1) year from the date of acceptance, which shall be for the benefit of the Town and this obligation shall survive any release of security by the Town. The Subdivider shall post maintenance bonds or appropriate letters of credit to secure the warranties equal to 20% of the total estimated cost of construction.

10. LIABILITY:

Subdivider agrees to carry a comprehensive general liability policy with minimum limits of \$500,000 for each occurrence and \$1,000,000 annual aggregate for bodily injury and \$500,000 for each occurrence and \$1,000,000 annual aggregate for property damage or a combined single limit policy with minimum limits of \$1,000,000 for each occurrence and \$2,000,000 annual aggregate which includes coverage for manufacturer and contractors, independent contractors, products, completed operations, and personal injury. Subdivider also agrees to name the Town as an additional named insured as respects the contract, and a certificate of insurance covering these items shall be filed with the Town Engineer prior to the filing of the Final Plat.

11. PERFORMANCE TESTING AND INSPECTION:

Subdivider shall be required to obtain a Town approved State of Wyoming licensed engineer to perform and/or monitor all testing required per the Town standards.

Subdivider shall be responsible for obtaining all required Town permitting and abiding by the conditions set forth within same. Subdivider shall be required to complete all construction work and necessary performance tests on installed infrastructure per the existing Town standards. Subdivider shall be responsible for the preparation of daily inspection reports and tests results. This information shall be submitted to the Town Engineer. The Town shall have the right, but not the obligation, to be present at any and all such performance tests and to perform periodic observation of any and all phases of construction. Subdivider shall notify the Public Works Department prior to the commencement of any performance test or any placement of asphalt pavement or concrete curb and gutter and shall provide placement for a representative of the Town to be present at the test or placement.

12. RELEASE OF SECURITY:

A. Release. As improvements are completed, the Subdivider may submit a written request to the Town Engineer for a release of part or all of the guarantee. Upon inspection and approval, the Town Engineer shall release the requested amount of the guarantee. If the Town Engineer determines that any of the improvements are

not constructed in substantial compliance with approved plans and specifications and/or requirements, the Town Engineer shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure compliance. If the Town Engineer determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications and/or requirements, the Town Engineer shall draw and expend from the bond, letter of credit, deposit of collateral or other form of financial assurance, such funds as may be necessary to construct the improvements.

No implied certification of compliance. Release of the improvements guarantee does not constitute certification of compliance with the standards of these Land Development Regulations or any applicable code or other requirement or a release of the responsibility of the subdivider.

B. Acceptance by the Town

1. Prior to acceptance. The Town shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvement has been formally accepted by the Town.
2. Request for acceptance. Upon completion of the improvements, the subdivider may request, in writing, their acceptance by the Town. This request shall be accompanied by proof that there are no outstanding judgments or liens against the land upon which the public improvements are located.
3. Final inspection. Upon receipt of a written request for acceptance from the subdivider, the Town Engineer will conduct a final inspection of the public improvements and will furnish a written list of any deficiencies noted. The Town Engineer will base the inspection on compliance with the approved construction plans, profiles and specifications, as required by the Land Development Regulations. Upon satisfactory completion of all construction in accordance with the approved plans, profiles, and specifications, as certified by a registered engineer in the State of Wyoming, and receipt of reproducible record drawings and satisfactory test results, the Town Engineer will notify the Subdivider in writing of the Town's approval of the public improvements and schedule the request for acceptance for review by the Town Council.
4. Record drawings. Prior to the acceptance of any completed improvements, record drawings and specifications for streets, water, sewer, drainage and other facilities must be submitted to the Town Engineer. The plans shall be submitted on twenty-four (24) inches by thirty-six (36) inches mylar and shall be accompanied by two (2) sets of prints and computerized electronic media format deemed suitable by the Town Engineer. The plans shall show the detailed location of all utilities including service lines to lots. A permanent benchmark shall be described on each sheet.
5. Certification. The following certification by the project engineer shall appear on the face of the record drawings:

Records Plans Certificate

These record plans were prepared under my direct supervision and control and are an accurate representation of the public improvements shown hereon as they were constructed. The improvements as installed conform to the requirements of the Wyoming Department of Environmental Quality, the Wyoming Department of Transportation, the Town of Jackson, and other applicable agencies. Where the improvements were constructed in a different manner, form, type, alignment, location, or material than as originally approved, they have been so noted.

(Engineer's Signature)

(Engineer's Name, Printed) Date

Wyoming P.E. No.

6. Notification of acceptance. Upon action of the Town Council to accept the improvements, the Town Engineer shall notify the subdivider in writing of the Town's acceptance.
7. Responsibility to maintain. Upon acceptance by the Town, all responsibility for the improvements shall be assumed by the Town, except that the Subdivider shall be subject to a one (1) year warranty on the construction of the improvements from the time of acceptance by the Town.

13. DEVELOPMENT COORDINATION

Unless specifically provided in this Agreement to the contrary, the contact person representing the Town shall be the Town Engineer who shall have general responsibility for coordinating development of the improvements required herein. Subdivider shall notify the Town Engineer when improvements shall be installed. The Planning Director shall coordinate development exactions related to parks fees, school fees and affordable housing or construction of affordable housing.

14. ACCEPTANCE:

The Town agrees to accept the improvements only upon proper completion of the public and private infrastructure improvements as set forth in article 3 of this agreement, and the satisfactory testing and inspection and acceptance of said improvements as set forth in articles 11 and 12 of this agreement. The Town shall not be responsible for any improvements, maintenance, or care until the same shall be accepted, nor shall the Town exercise any control over the improvements until accepted.

15. REIMBURSEMENT FOR INFRASTRUCTURE OVER-SIZING:

The Town agrees to reimburse Subdivider for infrastructure over-sizing generally described as follows:

N/A.

The reimbursement shall be effected only after such time as the Town accepts the subdivision improvements, a written request for reimbursement is submitted to the Town

by Subdivider, and the Town Council, acting on the advice and recommendation of the Town Engineer, authorizes the reimbursement.

16. NOTICES

Any notice or communication required or permitted herein shall be given in writing and shall be personally delivered or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

Town: Town of Jackson
 Attention: Town Engineer
 PO Box 1687
 Jackson, WY 83001

Subdivider: _____

Either party upon written notification sent via United States Mail, return receipt requested, may change mailing addresses and contact information.

17. BINDING EFFECT OF AGREEMENT AND MODIFICATIONS

This agreement shall run with the land included within the subdivision and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. No modification of the terms of this agreement shall be valid unless in writing and executed with the same formality as this agreement, and no waiver of the breach of the provisions of any section of this agreement shall be construed as a waiver of any subsequent breach of the same section or any other sections which are contained herein.

18. TITLE AND AUTHORITY

Subdivider warrants to the Town that it is the record owner of the Subject Property upon which the development shall be constructed or is acting in accordance with the authority of the owner. The undersigned further warrants having full power and authority to enter into this Agreement.

19. SEVERABILITY

This agreement is to be governed and construed according to the laws of the State of Wyoming. In the event that any provision of this Agreement is held to be in violation of Town, State or Federal laws and hereby rendered invalid or unenforceable as to any party or circumstance, such finding shall not render that provision invalid or unenforceable as

to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

**TOWN OF JACKSON,
a municipal corporation
of the State of Wyoming**

APPROVED AS TO FORM:

Mark Barron, Mayor

Town Attorney

CONTENTS:

Roxanne DeVries Robinson, Town Clerk

Town Engineer

Planning Director

SUBDIVIDER:

By: _____

Name: _____

Title: _____

STATE OF WYOMING

)ss.

COUNTY OF TETON

The foregoing instrument was acknowledged before me by _____,
of _____ as its _____, this ____ day of _____, 20__.

Witness my hand and official seal.

Notary Public

My commission Expires: