



Memo

To: Mayor Davis and Members of the City Council

From: Donna Phillips, Community Development Director

Date: October 22, 2025

Agenda Item: PZE-J2025-0330 Woodman Subdivision Master Development Agreement (MDA)

Agenda Item Location

Consent

Recommended Action or Motion

The City Council should approve the MDA in accordance with the Hayden City Code 12-1-8: "It shall be a requirement of compliance with this title that a development agreement and a construction improvement agreement be entered into and approved by the City prior to initiating physical construction of subdivision improvements or recordation of a subdivision plat and that a warranty agreement be entered into prior to acceptance of the improvements by the City." for the above-mentioned project. The Written Decision was approved by City Council on September 9, 2025.

Functional Impact of Authorizing

Should the City Council approve the MDA, then the applicant may submit construction plans in accordance with the decision to move the project toward construction and final plat.

Functional Impact of Not Authorizing

Should the City Council not approve the MDA, then the Council shall direct staff accordingly as to the revisions requested to memorialize the Written Decision of the Council approving the request.

Fiscal Impact

Not Applicable

Budget Funding Source / Transfer Request

Not Applicable

Attachment

Woodman Subdivision Master Development Agreement

After recording return document to:
Attn: City Clerk
City of Hayden
8930 N Government Way
Hayden, Idaho 83835

MASTER DEVELOPMENT AGREEMENT FOR WOODMAN SUBDIVISION

THE CITY OF HAYDEN, hereinafter the "City", a municipal corporation of the state of Idaho, 8930 N. Government Way, Hayden, Idaho 83835-9214, and The Ian M and Rebekah L Woodman Revocable Trust, 12398 N Mimosa Lane, Hayden, Idaho 83835, hereinafter "Developer", enter into this Master Development Agreement, hereinafter the "Agreement."

WHEREAS, Developer owns approximately 9.89 acres of real property in fee simple title located within the City of Hayden which Developer has entered into a binding purchase and sale contract to sell to Aspen Homes and Development, LLC ("Aspen") and, upon transfer of title to Aspen, Aspen plans to develop. Said acreage is planned for a major subdivision of 23 lots, which requires major investment in public facilities and front-end on-site and off-site improvements. The proposed development of said acreage has been commonly identified as the Woodman Subdivision (hereinafter the "Project"). The Project is more specifically identified and described in Exhibit "A" and the General Site Plan, Exhibit "B", which are attached hereto and incorporated, as if fully set forth herein.

WHEREAS, in order to enhance and strengthen the public planning process it is the desire of the City and the Developer to establish conditions of approval and terms of mitigation, to describe the scope of construction improvements, to foster an understanding between the Developer and the City with regards to the development of the property described in Exhibit "A" and to assure the maximum effective utilization of the City's resources with the least economic cost to its residents.

WHEREAS, the City has complied with the notice and public hearing requirements for the subdivision approval, and approved the Woodman Subdivision with the conditions which are attached hereto and incorporated herein as Exhibit "C", on the 9th

day of September 2025; and

WHEREAS, the City has determined the Project is appropriate for a development agreement pursuant to Hayden Municipal Code Title 12, Chapter 7;

NOW THEREFORE,

IT IS HEREBY AGREED that subject to the review process for each phase of development, maintenance of continuing progress in development of the Project in compliance with the provisions of this Agreement, and the availability of utility capacity, Developer shall be allowed to develop the Woodman Subdivision as set forth.

1. Property and Term.

1.1 Property Subject to this Agreement. All of the real property defined herein as the Project shall be subject to this Agreement.

1.2 Term. The term of this Agreement shall commence upon the execution of this Agreement by all parties hereto and shall continue for the term of two years, or until all land in the Project is subdivided and/or otherwise developed in accordance with the terms of this Agreement, whichever comes first, unless earlier terminated as provided herein, or the time for filing an application for final plat approval has been extended as provided Municipal Code Section 12-3-4. Nothing in this section is intended or shall be construed to supersede the City Code relating to the time for final plat application from the date of the subdivision's approval.

2. Project Regulations and Policies.

2.1 Project Development. Developer shall have the right to develop the Project in accordance with the terms and conditions of this Agreement and City shall have the right to control development of the Project as set forth in this Agreement and consistent with applicable local and state laws. Except as otherwise specified in this Agreement, the approvals memorialized hereby shall control the overall design, development and construction of the Project, and all on-and off-site improvements and appurtenant improvements in connection therewith, in the manner specified in this

Agreement. Nothing in this Agreement shall contravene any applicable provision of law, which is not subject to modification by the City.

2.1.1 Existing Approvals. Development of the Property shall be subject to all of the conditions and standards as set forth in Exhibit “C”. The development of the Property shall be consistent with adopted rules, regulations and ordinances of the City except where such rules, regulations, and ordinances are expressly modified by the approvals accorded with the project.

2.1.2 Future Application. Sections 2.1 and 2.1.1 herein shall not preclude changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations which may be otherwise applicable to the Project. In the event State or Federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than the City prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, this Agreement shall be modified, extended or suspended as may be necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdictions. Any such future changes shall be applied in a manner which most closely approximates the approach envisioned by this Agreement and the terms of the approvals memorialized hereby.

2.1.3 Fees. All applications for City approvals, permits and entitlements shall be subject to the City’s development and processing fees and charges at the time of consideration of the final plat map, development approval request, or building permit except as expressly superseded by Section 2.1.1 herein.

2.2 Final Plat Approval. During the course of development of the Project, the

Developer will make application to City for approval of final plat maps for the Project in accordance with Hayden Municipal Code Title 12, Chapter 4. During the City's review process of final plat maps, the approvals memorialized hereby shall control conditions imposed by the City for the Project and future final plat maps. Application for final plat shall be made within two years of preliminary approval by the City Council, September 9th, 2027, unless an extension has been requested and granted by the City Council. All public and private infrastructures must be completed prior to final plat approval, except as otherwise provided herein. If approved by the City, the Developer may provide surety in accordance with Hayden City Code and section 2.02 of Exhibit "D" Construction Improvement Agreement for the completion of landscaping of non-stormwater treatment areas due to inclement winter weather conditions in lieu of completion of those improvements prior to the final plat approval.

- 2.3 Hold Harmless. Developer hereby agree to and shall hold City harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from the Developer's development of the Project, excepting claims and causes of actions brought by the Developer for default of this Agreement or those arising from the negligence or willful misconduct of the City or the City's agents and employees.

3. City's Good Faith In Processing.

- 3.1 Processing. City agrees that it will accept, process and review, in good faith, in accordance with the terms of this Agreement all applications for final plat map processing and approval, building permits or other authorizations needed for development of the Project.
- 3.2 Permits. City agrees that this Agreement shall permit Developer to develop the Project according to the terms and conditions agreed to herein and the official actions approving the Project, and that City agrees to issue such

permits and approvals in a reasonable and timely manner to allow the Developer to develop the Project, subject to demonstrated compliance with all provisions of applicable law and this Agreement.

4. Construction of Improvements.

- 4.1 Improvements to be Constructed. Developer shall construct the on-site and off-site improvements specified in Exhibit “C”, and any other improvements required by the Hayden City Code.
- 4.2 Construction Improvement Agreement. Developer shall, at an appropriate time prior to commencement of construction of improvements on the Property, enter into a Construction Improvement Agreement in the form substantially similar to that attached hereto and incorporated as Exhibit “D” and shall comply with the terms of that Agreement once executed.
- 4.3 Public Street Closures When working within the public right-of-way the Developer shall keep at least one travel lane open at all times and provide the appropriate traffic control, at no cost to the City, to allow for vehicle travel in a safe manner through the construction area. Street closures will only be allowed with prior approval by the City and only upon a showing by the Developer that the construction cannot be accomplished without a street closure. Approval for a street closure shall be for a limited duration set by the City, which shall be strictly adhered to by the Developer.
- 4.4 Prior to performing any work in the public right of way the Developer will obtain the required encroachment permit(s) and comply with the insurance and surety requirements associated with the permit. Permits shall be required from the City of Hayden.
- 4.5 Developer shall not proceed with construction of the subdivision until construction plans have been approved, Construction Improvement Agreement has been executed, and a pre-construction conference has been completed between the Developer, Engineer of Record, General Contractor, and the City. No burning shall be allowed on the site. All trees and/or shrubbery shall be chipped or removed from the site.

- 4.6 Prior to the City accepting the public improvements, Developer or Developer's construction contractor shall warrant the improvements for a period of 18 months and provide to the City surety in the amount of the warranty.
- 4.8 All construction improvements, including those for which surety has been provided, must be completed and accepted by the City prior to the issuance of any certificate of occupancy for building(s) constructed within the subdivision.
- 4.9 Landscaping of swales adjacent to (front, side, rear) individual building lots shall be a condition of any building permits issued for lots within the subdivision. Prior to the issuance of a certificate of occupancy the landscaping must be completed and constructed consistent with the landscaping plan and swale design approved by the City Engineer and the swale must have passed a perk test. This condition shall survive the term of the agreement contained in Section 1.2 and shall be in effect until such time as a certificate of occupancy has been issued for each of the building lots within the subdivision
- 4.10 Work within the right of way that is part of the road infrastructure but is deferred until individual lot construction, in this case, final swale landscaping and drainage infrastructure, approaches, street trees, and irrigation systems; shall be guaranteed in accordance with Hayden City Code 7-2-19 and shall be the responsibility of the right-of-way encroachment permittee as delineated therein.
- 5. Consistency with Comprehensive Plan. The parties agree that the terms of this Agreement are consistent with the City's Comprehensive Plan, and its implementation is in the best interests of the City and the health, safety and welfare of its residents.
- 6. Notices. Formal written notices or demands by the parties pursuant to this Agreement shall be sufficiently given if dispatched by certified mail, postage prepaid, return receipt requested, to the offices of the City and Developer indicated below. Such written notices, demands, correspondence and communications may

be sent in the same manner to such other persons and addresses as either party may from time-to-time designate by mail as provided in this section. Notices may also be delivered by personal delivery to an officer of the Developer or the Community Development Director of the City.

DEVELOPER

The Ian M and Rebekah L Woodman Revocable Trust
12398 N Mimosa Lane
Hayden, Idaho 83835

CITY

Alan Davis, Mayor
City of Hayden
8930 N. Government Way
Hayden, ID 83835

ASPEN

Aspen Homes and Development, LLC
1831 N. Lakewood Dr
Coeur d'Alene, ID

With a copy to:

Ramsden, Marfice, Ealy & De Smet, LLP
Attn: Marcus E. Johnson
mjohnson@rmedlaw.com

7. Default, Remedies, Termination, and Review.

7.1 General Provisions. Subject to extensions of time by mutual consent in writing, or as otherwise provided herein, failure by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. In the event of default under this Agreement or any of its terms or conditions, the party alleging such default or breach shall give the alleged breaching party not less than 30 days' notice in writing, measured from the date of certified mailing, specifying the nature of the alleged default and, when appropriate, the manner by which said default may be satisfactorily cured. During any such 30-day period of curing, the party charged shall not be considered in default for purposes of termination or institution of legal proceeding. The parties agree to meet face-to-face in the event of any such notice of default. After proper notice, meeting and expiration of said 30 day cure period without cure, or if such cure cannot be accomplished within such 30 day period, or if the cure has not been commenced within such period and diligent effort has not been made to effect cure thereafter, the party to this Agreement alleging the default, at its option, may institute

legal proceedings to enforce this Agreement by specific performance or give notice of termination of this Agreement. Failure or delay in giving notice of default pursuant to the Notice provision of this Agreement shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. City is allowed to withhold approval of subsequent phases of the Project or issuance of building or construction permits when a material condition of default exists.

- 7.2 Applicable Law/Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Idaho. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the action shall be brought in Kootenai County, Idaho and the prevailing party shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be found by the Court.
- 7.3 Termination for Unforeseen Circumstances. If the City determines that the health, safety and general welfare of the City or its residents requires the modification, suspension or termination of this Agreement as a result of facts either unknown or unforeseeable at the time this Agreement was executed, the City may modify, suspend or terminate this Agreement following compliance with the following procedures.
- 7.3.1 City shall notify Developer in writing of the City's determination that such circumstances exist, the reasons for the City's determination and all facts upon which such reasons are based.
- 7.3.2 City shall hold a hearing on the City's determination that this Agreement should be modified, suspended or terminated and provide notice of the time and place of the hearing to the Developer

and copies of all documents relating to such determination no less than 14 days prior to such hearing.

- 7.3.3 City shall have the obligation, based upon clear and convincing evidence, of establishing that (1) the circumstances were unknown, unforeseeable and could not have been known; (2) the health, safety and general welfare of the community require the suspension, modification or termination of the Agreement as opposed to any other alternative; and (3) the City, to the extent feasible, has provided Developer with an equitable program to reimburse to Developer unused fees, and provided equitable reimbursement for dedications or improvements not required by the extent of development as of the date of such suspension, modification or termination. Developer shall have the right to offer evidence to the contrary.
- 7.3.4 In the event the City Council should fail to make such findings, then this Agreement shall not be so terminated, modified or suspended.
- 7.3.5 If such threat is immediate and substantial, the city may suspend project development immediately in order to protect the public interest.
- 7.3.6 These procedures shall not apply when the unforeseen circumstance is a change in laws or regulations imposed by any political entity other than the City.

- 7.4 Governmental Authority. Nothing in this Agreement shall be deemed to compromise the governmental authority of the Mayor and City Council of the City of Hayden, present or future.

8. Subsequent Laws as Superseding Terms.

- 8.1 Supersedure by Subsequent Laws. If any agency other than City imposes any law or regulation ("Law") after the date of this Agreement, which prevents or precludes compliance with one or more provisions of this

Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Developer shall have the right to challenge the new Law preventing compliance with the terms of this Agreement, and, in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

9. Mortgagee Protection; Certain Rights of Cure.

9.1 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

9.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.1 above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any

improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

- 9.3 Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed an event of default. If City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Developer. Each Mortgagee shall have the rights during the same period available to Developer to cure or remedy the event of default claimed or the areas of noncompliance set forth in the City's notice. Developer is obliged hereby to notify the City of any Mortgagee with an interest in the Project.
10. Transfers and Assignments.
- 10.1 Right to Assign. Developer shall have the right to sell, assign or transfer, any or all of its rights, duties and obligations under this Agreement, to any person or entity during the Term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of that party's interest in the Property, or portion thereof transferred. This right to assign or transfer shall not compromise the rights of the City to require surety to assure completion of the Developer's obligations established hereby or by law so long as Developer owns the Property.
- 10.2 Release Upon Transfer. Upon the sale, transfer or assignment of Developer's rights and interests under this Agreement under Section 10.1 above, Developer shall be released from its obligations under this Agreement with respect to their interest in the Property, or portion thereof,

so transferred arising subsequent to the effective date of such transfer if (1) that party is not then in default under this Agreement; (2) that party has provided to City notice of such transfer, (3) the transferee executes and delivers to City a written agreement in which (a) the name and address of the transferee is set forth; and (b) the transferee expressly and unconditionally, upon provision of sufficient surety or other assurance of performance, assumes all of the obligations of the transferor under this Agreement with respect to the Property, or portion thereof transferred; and (4) City approves the transferee, which approval City will not unreasonably withhold if such transferee is financially capable of performing the obligations of transferor pursuant to this Agreement or if surety is provided to guarantee performance. Notwithstanding, the City hereby approves Developer's assignment of its rights and interest in this Agreement, and the release of Developer from further obligations under this Agreement, upon Developer's conveyance of the Property to Aspen Homes and Development, LLC. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 11 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement.

11. Covenants Run with the Land.

11.1 All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring the Project real property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of

this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws.

12. General Provisions.

12.1 No Joint Venture or Partnership. City and Developer agree that nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making City and Developer a joint venture or partners. It is specifically understood and agreed by the parties that the Project contemplated by this Agreement is a private development; that the City has no interest in or responsibility for or duty to third persons concerning any of said improvements; that Developer shall have full power over and exclusive control of the Project herein described subject only to the limitations and obligations of the Developer under this Agreement and applicable provisions of law. The only relationship between City and Developer is that of a governmental entity regulating the development of private property pursuant to the laws of the City and the State of Idaho.

12.2 Severability. City and Developer agree that if any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

12.3. Entire Agreement. This Agreement consists of 46 pages, including the Recitals and four Exhibits, which constitute the entire understanding and agreement of the parties. A list of exhibits to this Agreement is as follows:

Exhibit A:	Legal Description of property affected
Exhibit B:	General Site Plan
Exhibit C:	Approved Conditions of Approval
Exhibit D:	Sample Construction Improvement Agreement

12.4 Minor Changes to Agreement. Minor changes in the manner of implementation of the approval memorialized hereby can be made by

mutual agreement of the Developer and the City's administrative staff.

- 12.5 Completion of Performance. Upon completion of performance by the parties or revocation of this Agreement, a written statement acknowledging such completion or revocation, signed by the appropriate agents of the City and Developer shall be recorded in the Official Records of Kootenai County, Idaho. Any such release shall not signal completion or release of any provision which confers a public benefit, and which is intended to run with the land unless expressly approved by the governing board of the City.
- 12.6 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than three years.
- 12.7 Estoppel Certificate. The Developer may, at any time, and from time to time, deliver written notice to the City requesting such party to certify in writing that, to the knowledge of the certifying party (1) this Agreement is in full force and effect and a binding obligation of the parties; (2) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; and (3) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of such defaults. A party receiving a request hereunder shall execute and return such a certificate or give a written detailed response explaining why

it will not do so within 30 days following the receipt thereof. The City's Mayor or City Administrator shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

12.8 Duty to Record. This Agreement or a Memorandum referencing the existence of this Agreement shall be recorded by City.

Executed this ____ day of October 2025.

CITY OF HAYDEN

DEVELOPER

The Ian M and Rebekah L Woodman Revocable Trust

Alan Davis, Mayor

By: _____

It's: _____

ATTEST:

Aspen Homes and Development, LLC

Abbi Sanchez, City Clerk

Tong Stam

By: *Tong Stam*

Its: *Owner*

STATE OF IDAHO)
 :SS
County of Kootenai)

On this __ day of October 2025, before me, a Notary for the state of Idaho personally appeared Alan Davis and Abbi Sanchez, known , or identified to me to be the Mayor and City Clerk, of the city of Hayden, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Hayden executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the state of Idaho
Residing at:
Commission Expires:

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of October, 2025, before me, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of The Ian M and Rebekah L Woodman Revocable Trust, and acknowledged to me that _____ executed the same as such Trustee.

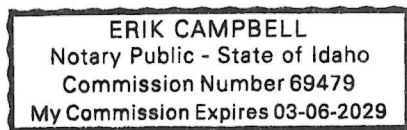
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

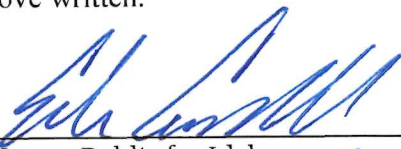
Notary Public for Idaho
Residing at _____
My commission expires _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 22 day of October, 2025, before me, a Notary Public in and for said State, personally appeared Todd Stum, known or identified to me to be the manager or a member of Aspen Homes and Development, LLC, or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at Kootenai County
My commission expires March 10, 2029

it will not do so within 30 days following the receipt thereof. The City's Mayor or City Administrator shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

12.8 Duty to Record. This Agreement or a Memorandum referencing the existence of this Agreement shall be recorded by City.

Executed this ____ day of October 2025.

CITY OF HAYDEN

DEVELOPER

The Ian M and Rebekah L Woodman Revocable Trust

Alan Davis, Mayor

By: *Rebekah L Woodman*
It's: _____

ATTEST:

Aspen Homes and Development, LLC

Abbi Sanchez, City Clerk

By: _____
Its: _____

STATE OF IDAHO)
 :ss
County of Kootenai)

On this ____ day of October 2025, before me, a Notary for the state of Idaho personally appeared Alan Davis and Abbi Sanchez, known , or identified to me to be the Mayor and City Clerk, of the city of Hayden, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Hayden executed the same.

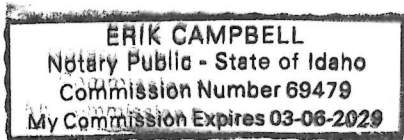
IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the state of Idaho
Residing at:
Commission Expires:

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 22 day of October, 2025, before me, a Notary Public in and for said State, personally appeared Ian + Rebekah Woodman, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of The Ian M and Rebekah L Woodman Revocable Trust, and acknowledged to me that _____ executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public for Idaho
Residing at Kootenai County
My commission expires March 16, 2029

STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of October, 2025, before me, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the manager or a member of Aspen Homes and Development, LLC, or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My commission expires _____

EXHIBIT A

Legal Description

A portion of the Northeast Quarter of the Northwest Quarter of Section 12, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho as follows:

Beginning at the Southwest corner of the Northeast Quarter of the Northwest Quarter, said point also being the Northeast corner of First Addition to Pineview Estates, Kootenai County, State of Idaho, according to the plat recorded in Book D of Plats at Page 188; thence along West line of said Northeast Quarter of the Northwest Quarter, North $0^{\circ}37'$ West, 879.41 feet to a point; thence North $89^{\circ}57'30''$ East, 490 feet; thence parallel to the West line of the Northeast Quarter of the Northwest Quarter South $0^{\circ}37'$ East, 879.41 feet to the South line of the Northeast Quarter of the Northwest Quarter; thence along said South line South $89^{\circ}57'30''$ West, 490 feet to the True Point of Beginning.

Exhibit B – Proposed Plat

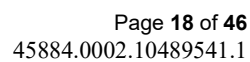


EXHIBIT C
APPROVED CONDITIONS OF APPROVAL
WOODMAN SUBDIVISION

General Conditions of Approval:

1. The conditions provided here are in addition to those requirements of the Annexation Agreement as approved by the City Council. Any Development must meet these requirements as well as the subdivision requirements of Hayden City Codes, policies, plans, etc.
2. The Developer shall be required to reflect all necessary permanent dedications and/or easements (to include but not be limited to avigation, odor, sewer, stormwater, water, utilities, etc.) on the face of the final plat of the subdivision and to record as a separate document all necessary temporary easements and to identify to whom the dedication and/or easement is to be granted and for what purpose.
3. All permits from outside agencies (ie. CDA Airport, AID, IDEQ, NLFDP, PHD, etc.) shall be obtained prior to construction of any future development or building permit issuance.
4. This approval shall run with the land for the term approved herein regardless of whether the property ownership, applicant and/or design professionals noted herein remain the same, whether collectively or individually.

Access Conditions of Approval:

5. All lots shall be accessed from the internal roads of the subdivision. No lot shall have any form (primary, secondary, for accessory buildings, etc.) of direct individual access onto Mimosa Lane or Lancaster Road. The final location of all driveway locations shall be subject to the review and approval of the City. Particular attention will be paid to location of utility pedestals in relation to driveway and snow storage needs and to those lots at intersections to avoid conflict with the required traffic flow.

Construction Plan Requirements:

6. The construction plan submittal shall include those requirements as identified in Hayden City Code §12-6 and more specifically as follows:
 - a. The Developer shall be required to construct the internal streets to a local street section per ST-III and ST-III.A. As proposed the Internal road typical section shall be 36 feet face of curb to face of curb to allow for parking on both sides of the road, 10' swales to include Type IV landscaping, 5' sidewalks for a right-of-way width of 68 feet.
 - b. The site topography is relatively flat; however, erosion control measures shall be identified.
 - c. The Developer shall use the City of Hayden Sanitary Sewer system to serve future development in accordance with the adopted Sewer Master Plan. No cross country sewer alignments are allowed.

- d. A letter (e-mail) from the US Postal Service with respect to mailbox locations shall be provided, with the intent to place the mailboxes within the subdivision on the internal street and not on the the collectors or arterials.
- 7. Landscape Plans: Detailed landscaping plans conforming to the requirements of City Code, shall be submitted for the entire development with construction plans for required subdivision improvements for review and approval by the. All disturbed areas shall be stabilized with dryland grass or other approved BMP.
 - a. Individual Lots: The landscape plans shall include a dryland grass mix and shall be applied until individual lots are constructed and the hydro-seeding, installation of the irrigation system and required landscaping are completed.
 - b. Street Frontage: Along all street frontages shall be included within the landscaping plan submittal, with actual street tree placement to be completed at the time of building permit for all lots.

Requirements of the Final Plat:

- 8. All public road right-of-way shall either be dedicated on the plat or by separate document at the time of the final plat.
- 9. All utility easements required and/or as identified on the typical section shall be granted on the plat or by separate document at the time of final plat.

Requirements requested by other Agencies:

- 10. The Developer shall comply with the requirements from the Northern Lakes Fire Protection District agency comments.
- 11. The avigation easement requested by the Coeur d'Alene Airport shall be recorded and shall be referenced on all final plats of the subdivision.
- 12. The Developer shall provide a plan to preserve the tree wildlife habitat per the response from Idaho Fish and Game as a part of the construction plan submittal.

EXHIBIT D

After recording return document to:

Attn: City Clerk
City of Hayden
8930 N Government Way
Hayden, Idaho 83835

CONSTRUCTION IMPROVEMENT AGREEMENT

THE CITY OF HAYDEN (hereinafter the “City”), 8930 N. Government Way, Hayden Idaho, and {Name of Developer/Owner}, (hereinafter the “Developer”), enter into this Agreement effective the ____ day of _____ 202__, respecting the development of {Name} Subdivision, the Project, affecting the public rights of way or other public systems, equipment or property within the City of Hayden. This Agreement provides for construction of subdivision improvements intended for maintenance by the City of Hayden or for sale after development in accordance with the subdivision ordinance of the City of Hayden.

I/We, {Name of Developer/Owner}, execute this Agreement as the Developer with full responsibility for the proper development of the Project in accordance with provisions of the law and the specific terms and conditions made applicable to the Project in the course of Project review by the City of Hayden, as applicable. It is understood that the person(s) who execute this Agreement on behalf of the Developer does so in the capacity of Owner, and that they represent that they have full legal authority to do so. The parties to this Agreement shall accept notices at the following respective addresses and telephone numbers:

DEVELOPER

{Name of Developer/Owner}
{Name of Project}
{Street Address}
{City, State Zip}

CITY

Alan Davis
City of Hayden
8930 N. Government Way
Hayden, Idaho 83835

WHEREAS, no construction of public improvements be allowed until plans are approved by the City Council and City Engineer, as appropriate, until engineering fees for subdivisions are pre-paid in full, until this Construction Improvement Agreement has been approved by City Council or Mayor, as appropriate, and until this Agreement has been signed, and necessary proof of insurance or surety has been provided; and

WHEREAS, Title 12, Subdivisions, of the Hayden City Code requires certain common improvements to be provided by the owner prior to occupancy of structures built within a development project or acceptance of public improvements for maintenance; and

WHEREAS, subdivision lots must be provided with survey monuments, street surfacing, curbs and gutters, drainage systems, sidewalks, street name signs, street lighting, public water supply, fire hydrants and sanitary sewer system, among others; and

WHEREAS, no building permit may be issued for construction or repair of a dwelling unit in a subdivision for which a plat has not been approved and recorded; and no Certificates of Occupancy will be issued until all improvements necessary for public health and safety are constructed and substantially complete; and

WHEREAS, the Owner is deemed to have satisfied the requirements for the plat to be recorded when all improvements required have been constructed pursuant to an approved Construction Improvement Agreement, or a bond furnished in an amount equaling 150% of the cost of constructing such improvements pursuant to an approved Construction Improvement Agreement; and

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, and upon representations made in application documents and presentations before the City's deliberative bodies, the parties agree as follows:

The real property which is the subject of this Agreement (hereinafter the "Property") is located in the City of Hayden and is described as set forth on Attachment A which is incorporated herein by reference: (Legal Description of External Boundaries of Lands Subject to Development Agreement).

The Developer seeks the City's agreement to enter into a Contract to construct and install the improvements listed in Attachment B in accordance with all terms, covenants and conditions of this Agreement and the Developer's approved construction plans and specifications which are incorporated herein by reference. Any unique terms or conditions of improvement status, including any accelerated or delayed improvement obligations shall be set forth in the Attachments.

The estimated total costs of the improvements to be owned, operated and maintained by the City of Hayden: utilities to be owned, operated and maintained by a utility other than the City of Hayden; and other improvements for which surety is required as submitted by the Developer and approved by the City Engineer are depicted on Attachment C for purposes of calculation of surety requirements which accord with the requirements of ordinances of the City of Hayden.

ARTICLE I

GENERAL PROVISIONS

1.01 APPLICATION OF ARTICLE

Unless this Agreement expressly provides otherwise, all provisions of this Article applies to every part of this Agreement.

1.02 PERMITS, LAWS, AND FEES

The Developer shall acquire and maintain in good standing all permits, licenses, platting approvals and other requirements necessary to its performance under this Agreement. All actions taken by the Developer under this Agreement shall comply with all applicable statutes, ordinances, rules, and regulations. The Developer shall pay all fees pertaining to its performance under this Agreement in accordance with this Agreement or with laws applicable to actions contemplated. Applicable fees shall be required by Hayden Municipal Code and resolutions adopted by the City Council implementing Code requirements.

1.03 RELATIONSHIP OF PARTIES

Neither entering into this Agreement, nor doing any act hereunder, may deem the Developer, or any contractor or subcontractor of the Developer, an agent, employee, or partner of the City, nor otherwise associated with the City other than, in the case of Developer, as an independent contractor. The Developer and its contractors and subcontractors shall not represent themselves to be agents, employees or partners of the City, or otherwise associated with the City other than, in the case of the Developer, as an independent contractor. The Developer shall notify all its contractors and subcontractors of the provision of this section.

1.04 ENGINEER'S RELATION TO THE CITY

Notwithstanding any other agreement, an engineer retained by the Developer to perform work under this Agreement shall not be deemed an agent, employee, partner, or contractor of the City, or otherwise associated with the City. The parties agree that the engineer retained by the Developer to supervise the construction and inspection of the Project is doing so for the benefit of the Developer and City. Engineer's duties include fair, honest, and competent inspection of the work undertaken pursuant to this Agreement in accordance with standards of practice in the engineering profession.

1.05 DEVELOPER'S RESPONSIBILITY

The Developer shall be ultimately responsible for the faithful performance of all terms, covenants and conditions of this Agreement, notwithstanding the Developer's delegation to another of the actual performance of any term, covenant or conditions hereof.

1.06 ALLOCATION OF LIABILITY

The Developer shall indemnify and hold the City harmless from any claim, action, or demand arising from any act or omission related to Developer's performance of duties pursuant to this Agreement. The liability assumed by the Developer pursuant to this section includes, but is not limited to, claims for labor and materials furnished for the construction of the improvements. The Developer acknowledges that the work on the Project will take place on lands, which may be

owned or otherwise subject to control by the City. Developer shall provide insurance in amounts sufficient to satisfy the obligations of the City pursuant to the Idaho Tort Claims Act, but in no case less than \$1,000,000 per occurrence. The City shall be named as an additional insured respecting the premises and conduct of the work on the project including coverage for comprehensive general liability, premises liability and automobile liability. The City shall indemnify and hold the Developer harmless from any claim, action or demand arising from negligent or wrongful conduct of officials, employees, agents and contractors on the site during construction, subject to consideration and set-off of negligent or wrongful conduct on the part of the Developer or its contractors.

1.07 DISCLAIMER OF WARRANTY

Notwithstanding this Agreement or any action taken by any person hereunder, neither the City nor any City officer, agent or employee warrants or represents the fitness, suitability or merchantability of a property, plan, design, material, workmanship or structure for any purpose.

1.08 NON-DISCRIMINATION

- A. In performing its obligations under this Agreement, the Developer shall not discriminate against any person on the basis of race, creed, color, national origin, sex, marital status, or age.
- B. In selling property or improvements in the subdivision, the Developer shall not discriminate against any person on the basis of race, creed, color, national origin, sex, marital status, or age.

1.09 COST OF DOCUMENTS

All plans, reports, drawings, or other documents that this Agreement requires to be provided to the City by the Developer shall be furnished at the Developer's expense.

1.10 PUBLIC UTILITIES

- A. Any public utility service contemplated by this Agreement need be provided only to areas where the service is allowed by applicable law. All utility service shall conform to the rules, regulations, and tariffs of the State of Idaho to the extent they may apply.
- B. If the State of Idaho or other agency having authority disallows any utility service to be provided by the City or any utility following execution of this Agreement, the requirements of this Agreement relating to the disallowed service shall be deleted from the requirements of the Developer under this Agreement. The disallowance shall not be grounds for any claim, action, or demand against the City.

- C. The developer shall bear all cost associated with the installation of all Public Utilities, including streetlights. These installation costs shall not be passed on to the City unless provided for otherwise within an appendix to this agreement.
- D. The developer shall be responsible to either pay the sewer and water cap fees and hookup fees or confirm that those fees have been paid by any property owner, which the developer connects to the City sewer or water system as part of the installation of the public improvement.
- E. The developer shall be responsible to pay the cost of the operation of the streetlights within the development for a period of eighteen months. The developer shall pay to the City prior to the acceptance of the public improvements by the City the anticipated cost of the operation of the streetlights within the development for one year, as determined by the Public Works Department.

1.11 TIME IS OF THE ESSENCE

Unless otherwise expressly provided herein, time is of the essence of each and every term, covenant, and condition of this Agreement.

1.12 ASSIGNMENTS

- A. Except insofar as Subsection B of this section specifically permits assignments, any assignment by the Developer of its interest in any part of this Agreement or any delegation of duties under this Agreement shall be void and any attempt by the Developer to assign any part of its interest or delegate any duty under this Agreement shall constitute a default entitling the City to invoke any remedy available to it under Section 1.13.
- B. The Developer may assign its interest or delegate its duties under this Agreement:
 - 1. To the extent that applicable codes require that assignments of contract rights be allowed;
 - 2. To contractors and subcontractors, or to partnerships, limited liability companies or corporations in which the Developer may have a substantial interest, subject to Section 1.05, provided that performance guaranties can be provided or maintained;
 - 3. As expressly permitted in writing by the City. The City will not unreasonably deny assignment if security of performance is maintained on a comparable basis.

1.13 DEFAULT – CITY’S REMEDIES

- A. The City may declare the Developer to be in default:
 - 1. If the Developer is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed on account of insolvency, takes advantage of any law for the benefit of insolvent debtors; or
 - 2. If the Developer has failed in any measurable way to perform its obligations under this Agreement, except if delayed by an act or omission of the City, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials, sabotage or freight embargoes, provided the City gives the Developer notice of the failure to perform and the Developer fails to correct the failure within 28 days of receiving the notice; or if the failure requires more than 28 days to cure, the Developer fails within 28 days of receiving the notice to commence and proceed with diligence to prosecute the cure. All such notices to the Developer shall be in writing by certified mail, return receipt requested.
- B. Upon a declaration of default, and failure to cure under Section 1.13.A.2, the City may do any one or more of the following:
 - 1. Perform any act required of the Developer under this Agreement, including constructing all or any part of the improvements after giving seven days’ notice in writing to the Developer. The Developer shall be liable to the City for any costs thus incurred. The City may deduct any costs incurred from any payments then or thereafter due the Developer from the City whether under this Agreement or otherwise.
 - 2. Exercise its rights under any provision of this Agreement, or any performance or warranty guaranty securing the Developer’s obligations under this Agreement.
 - 3. Pursue any appropriate judicial remedy including, but not limited to, an action for specific performance, injunction, and civil penalties. City shall be entitled to its attorney’s fees in any enforcement action necessary to enforce the terms of this Agreement.

1.14 NON-WAIVER

The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of

this Agreement or any part hereof, or the right of the City thereafter to enforce each and every provision hereof.

1.15 INTERPRETATION

- A. Each document incorporated by reference herein is an essential part of this Agreement, and any requirement, duty or obligation stated in one document is as binding as if stated in all. All documents shall be construed to operate in a complementary manner and to provide for a complete project. Unless stated otherwise in express terms, the duties to complete the Project in compliance with the approved plans, such that part or all of it can be accepted for public maintenance, is the sole responsibility of the Developer.
- B. If the terms of any of the documents and amendments thereto comprising this Agreement conflict, the conflict shall be resolved by giving the conflicting documents and amendments thereto the following order of preference:
 - 1. Documents, appendixes, or sections titled “Special Provisions”.
 - 2. Article II of this Agreement, titled “IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURES” and Article III of this Agreement titled “FINAL ACCEPTANCE OF IMPROVEMENTS”.
 - 3. Article I of this Agreement titled “GENERAL PROVISIONS”.
 - 4. Any other documents incorporated by reference herein.

1.16 EFFECT OF STANDARD SPECIFICATIONS

The Design Standards of the City of Hayden, Standards for Public Works Construction and any standards required by Federal or State regulatory agencies are incorporated by reference herein as minimum construction standards for performance under this Agreement, except where this Agreement specifically provides otherwise.

1.17 AMENDMENT

The parties may amend this Agreement only by written agreement, which shall be attached as an appendix hereto.

1.18 JURISDICTION – CHOICE OF LAW

Any civil action arising from this Agreement shall be brought in the District Court of the First Judicial District; venue shall be in Kootenai County. The law of the

State of Idaho shall govern the rights and duties of the parties under this Agreement.

1.19 SEVERABILITY

Any provision of this Agreement that may be declared invalid or otherwise unenforceable by a Court of competent jurisdiction shall not affect the validity or enforceability of any other part of this Agreement, so long as the remainder of the Agreement is reasonably capable of completion.

1.20 INTEGRATION

This instrument, including Appendixes and any writings incorporated by reference herein, embody the entire Agreement of the parties. This Agreement shall supersede all previous communications, representations or agreements, whether written or oral, between the parties hereto.

1.21 DEFINITIONS

Unless this Agreement expressly provides otherwise, the following definitions shall apply herein:

- A. "Improvements" mean all work, which the Developer is required to perform by this Agreement.
- B. "City Improvements" means improvements which are to be dedicated to the City, or which are to be operated and controlled by a City-owned utility.
- C. "Private Utility Improvement" means improvements owned, maintained, and operated by a private utility or by a private owner or homeowner's association.
- D. "City", for the purpose of administering this Agreement, means the City of Hayden, or its chief executive or his/her administrative designee.
- E. "Substantially Complete" shall be defined herein as the time at which the infrastructure has been completed to the point where in the opinion of the City, the infrastructure is sufficiently complete in accordance with this Agreement, as depicted in the construction drawings submitted by the Developer for the purposes for which it is intended. The improvements constructed meet City Standards, and the Engineer's Certification packet and record drawings have been received and approved by the City. The terms "substantially complete" and substantially completed" as applied to all or part of the infrastructure refer to Substantial Completion thereof.

- F. “Acceptance”, by the City means a determination that an improvement meets City construction standards and does not refer to the City accepting a dedication of the improvement by the Developer.
- G. “Final Acceptance” by the City means that the City is satisfied that ALL improvements required by this Agreement and Titles 12 of the Hayden Municipal Code, or as a result of the procedures required thereby, have been constructed in a satisfactory manner to comply with the specifications.

1.22 APPROVALS AND CONSENTS

Wherever in the Agreement consents or approvals of either party are required, they shall not be unreasonably withheld. Nothing in this provision shall compromise the general police power authority in the City in matters governmental in nature.

1.23 ATTORNEY FEES – MEET AND CONFER

Should either party need to resort to Court proceedings to interpret or enforce provisions of this Agreement, the prevailing party in any such action shall be entitled to recovery of its reasonable attorney fees. No legal action shall begin, nor shall any attorney fees be recoverable, unless the parties have first met and conferred regarding the contested issues. Any party, which refuses to meet and confer in good faith, shall not be entitled to recovery of its attorney fees.

ARTICLE II

IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURES

2.01 RECORDING OF FINAL PLAT

Developer shall be solely responsible for all platting of the property.

2.02 PERFORMANCE GUARANTY

- A. If allowed by the City, the Developer shall guarantee, for the sole benefit of the City that the Developer shall perform all of its obligations not yet completed under this Agreement. The guaranty shall be in a form approved in Sections 2.03, 2.04, and 2.05. During the term of this Agreement, the Developer may, with the written consent of the City; substitute for a performance guaranty submitted under this section another guaranty in the required amount and in one of the forms specified herein.
- B. Amount of Guaranty: The guaranty shall be in an amount equal to 150% (one hundred fifty percent) of the estimated cost of all improvements, not including those to be constructed by private utilities. The estimated cost shall be determined as follows. The Developer shall submit for the City

Engineer's approval a cost estimate for each improvement required by this Agreement. Before submitting the cost estimates, the Developer's engineer shall have prepared, documented and certified each cost estimate. The estimated cost of all improvements shall be the sum of the estimated cost as approved by the City Engineer.

C. As soon as one of the following occurs, the City shall release any performance guaranty which has not been used or encumbered under Section 1.13 as long as the warranty guaranty provides sufficient coverage as required by this Agreement or by law:

1. The final acceptance of all improvements and the posting of warranty guaranty as provided in Section 3.09.
2. The expiration of the warranty period as provided in Section 3.08.

2.03 PERFORMANCE BOND

The Developer may provide a performance bond from a company qualified by law to act as a surety in the State of Idaho. The bond shall be in a form approved by the City Attorney. The bond shall name the City as the sole obligee and the Developer as the principal.

2.04 ESCROW

The Developer may deposit funds in an escrow account with a bank or financial institution qualified by law to do business in the State of Idaho. The disbursement of the escrowed funds shall be governed by an escrow agreement in a form approved by the City Attorney.

2.05 LETTER OF CREDIT

The Developer may cause a bank or financial institution qualified by law to do business in the State of Idaho to issue an irrevocable letter of credit in a form approved by the City.

2.06 PREREQUISITES TO CONSTRUCTION

The Developer shall not obtain permits for the construction of improvements or commence the construction of improvements until this Agreement has been completed and signed by the Developer and the City and all applicable fees have been paid as required by City ordinance or resolution.

2.07 ENGINEER

A. The Developer shall retain an Engineer of Record, registered as a professional engineer under the laws of the State of Idaho, to design and administer the construction of the improvements, including preparing

plans and specifications, inspecting and controlling the quality of work and preparing the as-built data. The Engineer shall perform the work described herein in accordance with the City's required procedures for consulting engineers.

- B. The Developer shall inform the City of the name and mailing address of the Engineer of Record it has retained to perform the duties described in Subsection A of this section. Developer agrees that notice to the Developer and engineer at the addresses so specified regarding the performance of such duties shall constitute notice to the Developer. The Developer shall promptly inform the City of any change in the information required under this subsection.

2.08 PLANS AND SPECIFICATIONS

- A. The Developer shall submit to the City, in such form as the City may specify all plans and specifications pertaining to the construction of the improvements.
- B. If the City requires soil tests, traffic studies or other tests and studies pertaining to the design of improvements, the Developer shall submit reports of the test results with the plans and specifications.
- C. The City may approve the plans and specifications as submitted or indicate to the Developer deficiencies to be corrected to secure approval, within a reasonable time from the submission of all plans and specifications for the improvements. The City's approval of the plans and specifications is for general conformance with City Standards. Ultimate design and function remains the responsibility of the Developer. It shall be the responsibility of the Developer to correct errors and omissions found prior to final acceptance as provided in Section 3.01 of this Agreement.

2.09 QUALITY CONTROL PROGRAM

- A. The Developer shall adhere to the City's Engineering Project Certification and Quality Control Standards for the construction of the improvements shown in Attachment "D".

2.10 MATERIALS

- A. Upon the City's Request, the Developer shall submit, in such form as the City may specify, detailed information concerning all materials and equipment it proposes to incorporate into an improvement. All materials shall comply with the standards adopted by the City of Hayden.
- B. Upon the City's request, the Developer shall submit samples of materials or equipment it proposes to incorporate into an improvement.

- C. The City may approve the materials and equipment or indicate to the Developer unacceptable material and equipment within a reasonable time after submittal. The City's approval of material and equipment is for general conformance with City standards, alternate design and function remain the responsibility of the Developer. It shall be the responsibility of the Developer to correct errors and omissions found subsequent to City approval. Substitutions may be considered subject to review and approval of the City Engineer.

2.11 GENERAL STANDARDS OF WORKMANSHIP

- A. The Developer shall construct all improvements in accordance with plans and specifications approved by the City, and with the terms, covenants, and conditions of this Agreement. The Developer shall not incorporate any material or equipment into an improvement unless the City has approved its use. Unless the City Engineer specifically agrees otherwise in writing, all materials, supplies, and equipment incorporated into an improvement shall be new.
- B. If, in the course of construction, conditions appear, which, in the exercise of reasonable engineering judgment, require a modification of, or substitution for, approved materials, equipment, plans, specifications or contracts to meet an acceptable standard of performance, the Developer shall propose such modification or substitution. The City shall review the proposal and either approve the request or provide a reason for denial.
- C. The Developer shall construct all facilities in the subdivision not otherwise subject to this Agreement in accordance with applicable statutes, ordinances and specifications.
- D. Unless allowed by the City, on-site borrow areas shall not be allowed within proposed buildable lots. In all areas within the subdivision where the Developer adds fill materials or otherwise replaces existing soils that have been excavated for borrow materials with fill, said fill areas shall be compacted to meet 95% of standard proctor. The Developer shall provide the City a copy of the compaction tests, and all such fill areas shall be shown on the final record drawings. Fill materials shall be free of cinders, ashes, refuse, organic and frozen materials, asbestos, or other unsuitable materials.

2.12 PLACEMENT OF UTILITIES

The Developer shall place all utilities underground, except where this requirement is specifically waived under this Agreement. The City Engineer shall approve of the alignment of the City and private utilities.

2.13 WORK IN RIGHTS-OF-WAY

The Developer shall comply with all ordinances and secure all necessary permits and authorizations pertaining to work in public rights-of-way and provide the required surety and insurance associated with such permit. The Developer shall coordinate and supervise the installation and construction of all utility improvements, including those not otherwise covered by this Agreement, in a manner that will prevent delays in City construction or other damage to the City and that will permit the City to properly schedule work that it will perform. While working within the public right-of-way the Developer shall keep at least one travel lane open at all times and provide the appropriate traffic control, at no cost to the City, to allow for vehicle travel in a safe manner through the construction area. Street closures will only be allowed with prior approval by the City and only upon a showing by the Developer that the construction cannot be accomplished without a street closure. Approval for a street closure shall be for a limited duration set by the City, which shall be strictly adhered to by the Developer.

2.14 SURVEYOR

A person registered as a professional land surveyor under the laws of the State of Idaho shall make all land surveys required for the completion of improvements under this Agreement.

2.15 REQUIRED REPORTING

- A. Quality Control
The Developer shall submit to the City regularly and promptly written reports certified by the Engineer describing the results of all tests and inspections required by the quality control program and all other test and inspection which the Developer may make.
- B. Surveys
The Developer shall furnish promptly to the City copies of all final surveys required for the completion of the improvements.
- C. Test Hole Logs
The Developer shall furnish the City copies of all test hole logs required for any purpose during the Project.
- D. Express or implied approval by the City of any report or inspection shall not authorize any deviation from approved plans and specifications or from the terms of this Agreement unless such express approval notes such deviation.
- E. At the completion of construction prior to acceptance by the City, the Engineer of Record shall submit to the City a report certifying that the improvements were constructed in accordance with plans and specifications and that they meet standards established by the City. This

certification shall include a cover letter with the engineer's professional stamp, followed by copies of all inspection records, test results, and construction quality control data.

2.16 PROGRESS PAYMENTS

The Developer shall hold the City harmless against any claims made by Developer's contractors.

2.17 SURVEILLANCE

- A. The City may monitor the progress of the work and the Developer's compliance with this Agreement and perform any inspection or test, which it deems necessary to determine whether the work conforms to this Agreement. Such inspections or tests do not relieve the Developer from performing tests and inspections required by 2.09.
- B. If the Developer fails to notify the City of inspections, tests and construction progress as required by Section 2.09, the City may require, at the Developer's expense, retesting, exposure of previous stages of construction, or any other steps which the City deems necessary to determine whether the work conforms to this Agreement.
- C. Any monitoring, tests or inspections that the City orders or performs pursuant to this section are solely for the benefit of the City. The City does not undertake to test or inspect the work for the benefit of the Developer or any other person.

2.18 STOP WORK ORDERS

- A. If the City determines there is a substantial likelihood, based upon reasonable and substantial information, that the Developer will fail to comply, or if the Developer does fail to comply with this Agreement or the Developer and/or his contractors fail to comply with provisions of occupational health and safety standards promulgated by the State and Federal agencies or his actions present a threat to the public health and safety, the City may stop all further construction of improvements by posting a stop work order at the site of the nonconforming construction and notifying the Developer and its engineer of the order.
- B. A stop work order shall remain in effect until the City approves:
 - 1. Arrangements made by the Developer to remedy the nonconformity; and
 - 2. Assurances by the Developer that future nonconformities will not occur.

- C. The issuance of a stop work order under this section is solely for the benefit of the City. The City does not undertake to supervise the work for the benefit of the Developer or any other person. No suspension of work under this section shall be grounds for any action or claim against the City or for an extension of time to perform the work.
- D. The Developer shall include in all contracts for work to be performed, or materials to be used under this Agreement, the following provision:

The City of Hayden, pursuant to a Construction Improvement Agreement on file with the City Clerk and incorporated by reference herein, has the authority to inspect all work or materials under this contract and to stop work in the event that the work performed under this Agreement fails to comply with any provision of the Construction Improvement Agreement. In the event that the City issues a stop work order, the contractor shall immediately cease all work and await further instructions from the Developer and City.

2.19 ACCESS

The City shall have access to all parts of the subdivision necessary or convenient for monitoring the Developer's performance, inspecting, surveying, testing or performing any other work.

2.20 MAINTENANCE

- A. Until the City accepts the improvements, the Developer shall maintain at his expense all road improvements within the Project that are necessary for access or service to property not owned by the Developer. For the purposes of this subsection, existing roads are roads that physically exist, as distinguished from mere rights-of-way dedicated for road purposes. The maintenance required by this subsection includes cleaning, effective dust control measures, snow removal and similar activities, but does not include repair, replacement or reconstruction, except if the need to repair, replace or reconstruct is caused by the Developer's activities or is required as a condition of this Agreement.
- B. The Developer shall repair or pay the cost of repairing damage to any improvement that occurs prior to the City's acceptance of the improvements, except for damage caused solely by the City, its agents, employees, or contractors. The Developer shall give reasonable notice to the City before undertaking the repair of any damaged improvement.

2.22 OPERATION OF IMPROVEMENTS PRIOR TO FINAL ACCEPTANCE

- A. Before final acceptance, the City may enter upon, inspect, control, and operate any improvement if the City determines that such action is necessary to protect the public's health, safety, and welfare.
- B. The action described in subsection A of this section shall not constitute the final acceptance of any improvement by the City, nor shall the action affect in any way the Developer's warranty under this Agreement.
- C. The Developer or his agents may not connect to or operate any City utilities without written consent from the City. No structure shall be occupied, nor shall any land use be established which requires a building or construction permit, until the improvements required by this Agreement or by applicable provisions of law have been accepted by the City or other responsible public agency or have been completed as required by this Agreement.
- D. Developer shall adhere to City imposed "load limits" within subdivision roads planned for dedication to City. Failure to do so is reason to deny Acceptance of Infrastructure.

2.23 TIME

The Developer shall start work and complete construction of improvements required under this Agreement in accordance with the term of the subdivision as identified in Section 1.2 of the Master Development Agreement recorded as instrument # _____ on _____.

ARTICLE III

FINAL ACCEPTANCE OF IMPROVEMENTS

3.01 PREREQUISITES TO ACCEPTANCE

The City shall not accept the improvements until all the requirements of Section 3.02 through 3.05 have been met.

3.02 SURVEY MONUMENTS AND AS-BUILT DRAWINGS

- A. Upon completing the improvements, the Developer shall replace lost lot corners and survey monuments per Idaho Code.
- B. No later than 30 days after the final inspection and prior to final acceptance and certification under Section 3.06F, the Developer shall provide the City with one paper copy of record drawings for each improvement and one electronic copy in pdf format. The as-built drawings shall be certified by a

professional engineer registered under the laws of the State of Idaho to represent accurately the improvements as actually constructed.

3.03 CERTIFICATE OF COMPLIANCE

The Developer shall furnish the City with a certificate of compliance for the work performed under this Agreement, in the form prescribed in Paragraph 2.09. The Developer shall also certify that all private utility installation has been completed according to plan.

3.04 CONVEYANCE OF EASEMENTS AND RIGHTS-OF-WAY TO CITY

The Developer shall convey to the City any easement, rights-of-way, or other property interest necessary to allow access to the City improvements to operate, maintain, or repair the City improvements. The Developer may condition the conveyance upon the City's acceptance of the improvements.

3.05 INSPECTION

- A. Upon receiving notice that the Developer has completed the improvements, the City shall schedule inspections of the improvements. The City may inspect all improvements and any other work in dedicated easements or rights-of-way.
- B. A privately owned utility may inspect any phase of work on an improvement of which it is to assume control.
- C. The City or appropriate privately owned utility shall inform the Developer in writing of any deficiencies in the work found in the course of the inspection.
- D. The Developer shall, at its own expense, correct all deficiencies found by inspections under Subsection A or B of this section. Upon receiving notice that the deficiencies have been corrected, the City, or appropriate privately owned utility shall re-inspect the improvements.
- E. The City or appropriate privately owned utility may continue to re-inspect an improvement until the Developer has corrected all deficiencies in the improvement.
- F. After the final inspection has revealed that all improvements and other work in dedicated easements and rights-of-way meet City standards and the Developer has furnished the as-built drawings required in Section 3.02B, and project certification required by Section 3.03, and upon written request by the Developer, the City Engineer shall submit to the Hayden City Council a recommendation for final acceptance of the improvements.

3.06 CONSEQUENCES OF ACCEPTANCE OF IMPROVEMENTS

- A. The City's final acceptance of the City improvements constitutes a grant to the City of all the Developer's right, title, and interest in and to the City improvements.
- B. Upon final acceptance of the improvements, the City will maintain said improvements, except regarding the Developer's obligations covered by warranty in Section 3.08.

3.07 DEVELOPER'S WARRANTY

- A. The Developer shall warrant the design, construction materials and workmanship of the improvements against any failure or defect in design, construction, material or workmanship which is discovered for 18 months after acceptance by the City. This warranty shall cover all direct or indirect costs of repair or replacement, and damage to the property, improvements or facilities of the City or any other person, caused by such failure or defect or in the course of repairs thereof, and any increase in cost to the City of operating and maintaining a City improvement resulting from such failures, defects or damages.
- B. The Developer's warranty shall not extend to any failure or defect caused solely by changes in design, construction or materials required by the City.
- C. Except as provided in Subsection B of this section, the fact that the City takes any action, or omits to take any action authorized in this Agreement including, but not limited to, operation or routine maintenance of the improvements prior to acceptance or surveillance, inspections, review or approval of plans, tests or reports shall in no way limit the scope of the Developer's warranty.

3.08 WARRANTY GUARANTY

To secure the Developer's performance of the warranty under Section 3.08, the performance guaranty provided by the Developer under Section 2.02 shall remain in effect until the end of the warranty period, or the Developer shall provide a warranty guaranty by one or more of the methods described in Sections 2.03 through 2.05.

3.09 CITY'S REMEDIES UNDER WARRANTY

- A. The City shall notify the Developer in writing upon its discovery of any failure or defect covered by the warranty in Section 3.08. The City shall notify the Developer before conducting any test or inspections to determine the cause of failure or defect to the extent the circumstances will allow and shall notify the Developer of the results of all such tests and inspection.

- B. The Developer shall correct or make a diligent effort to correct any failure or defect covered by the warranty within 30 days of receiving notice of the failure or defect from the City. The Developer shall correct the failure or defect at its own expense and to the satisfaction of the City.
- C. If the Developer fails to correct the failure or defects within the time allowed by Subsection B of this section, the City may correct the failure or defect at the Developer's expense. If the Developer fails to pay the City for the corrective work within 30 days of receiving the City's bill, the City may pursue any remedy provided by law or this Agreement to recover the cost of the corrective work, including calling upon the Developer's security. The City's attorney's fees in pursuit of such a remedy shall be an allowed cost.
- D. In case of an emergency affecting public health and safety, the City may make immediate required repairs and shall notify the Developer and contractor as quickly as possible.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date first set forth above.

CITY OF HAYDEN

DEVELOPER

Alan Davis, Mayor

{Name}

ATTEST:

Abbi Sanchez, City Clerk

STATE OF IDAHO)
 :SS
County of Kootenai)

On this ___ day of _____, 202___, before me, a Notary for the state of Idaho, personally appeared Alan Davis and Abbi Sanchez known , or identified to me to be the Mayor and City Clerk, of the City of Hayden, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such City of Hayden executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the state of Idaho
Residing at:
Commission Expires:

STATE OF IDAHO)
 :SS
County of Kootenai)

On this ___ day of _____, 202___, before me, a Notary for the state of Idaho, personally appeared _____, known, or identified to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the date and year in this certificate first above written.

Notary Public for the state of Idaho
Residing at:
Commission Expires:

ATTACHMENT "A"
PROPERTY DESCRIPTION
FOR
{NAME OF PROJECT} SUBDIVISION

{Insert Legal Description Here}

ATTACHMENT "B"
DESCRIPTION OF IMPROVEMENTS
TO BE CONSTRUCTED AND INSTALLED BY
{NAME OF DEVELOPER/OWNER}
FOR
{NAME OF PROJECT} SUBDIVISION

- _____ Street surfacing or infill paving
- _____ Monumentation
- _____ Electric
- _____ Curbs and gutters
- _____ Street lighting
- _____ Gas
- _____ Sidewalks
- _____ Telephone
- _____ Drainage
- _____ Street signs
- _____ Cable TV
- _____ Water
- _____ Landscaping and/or Swales
- _____ Sanitary Sewer
- _____ Temporary Sewer Infrastructure
- _____ Additional Sewer Stubs
- _____ Mail Receptacle Installation
- _____ Improvements shown on construction plans attached as Appendix I to this Agreement
- _____ Other: Lift Station

ATTACHMENT "C"
COST ESTIMATES
FOR
{NAME OF PROJECT} SUBDIVISION

The estimated total cost of the improvements submitted by the Developer and approved by the City Engineer are as follows:

1. Public improvements to be owned operated and maintained by the City of Hayden:
\$
2. Public utilities to be owned, operated and maintained by a utility other than the City of Hayden: \$
3. Other improvements for which bonding is required: \$
4. Total cost of improvements: \$

ATTACHMENT “C-1”
DETAILED COST ESTIMATES
FOR
{NAME OF PROJECT} SUBDIVISION

Developer to submit detailed cost estimates.

ATTACHMENT "D"
TO THE CONSTRUCTION IMPROVEMENT AGREEMENT
BETWEEN THE CITY OF HAYDEN AND
{NAME OF DEVELOPER/OWNER}
FOR
{NAME OF PROJECT} SUBDIVISION

CONSTRUCTION DRAWINGS

Plans Titled:

Dated:

By:

Sheets 1 through ____

ATTACHMENT “E”
EVIDENCE OF INSURANCE