

Recording Requested By and  
When Recorded Return To:

Planning Administrator  
Teton County Planning Department  
150 Courthouse Drive, Ste. 107  
Driggs, Idaho 83422

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For Recording Purposes Do  
Not Write Above This Line

**DEVELOPMENT AGREEMENT  
FOR  
MOOSE HOLLOW ESTATES SUBDIVISION**

THIS AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **KELLY LARK** and/or assigns (hereafter “Developer”) and Teton County Idaho, a political subdivision of the State of Idaho (hereafter “County”).

WHEREAS, the Subdivision was approved under the \_\_\_\_\_, 20\_\_\_\_ Teton County Code.

WHEREAS, it is the intent and purpose of the Developer to meet the conditions of approval for the final plat allowing the creation of **MOOSE HOLLOW ESTATES SUBDIVISION**, as approved by the Board of County Commissioners of Teton County on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WHEREAS, the Developer is the sole owner, in law or equity, of certain Property located in the County, which Property is hereinafter referred to as the “Development”.

WHEREAS, it is the intent and purpose of the Developer and the County to enter into this Agreement that will guarantee the full and satisfactory completion of the required Improvements on the Property described in this Agreement and it is the intent of this Agreement and the parties to satisfy the Improvement guarantee requirements for the final plat recordation of the subdivision.

WHEREAS, the County has the authority to enter into a development Agreement for the construction of required Improvements associated with the Development.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

## **Section 1. Definitions.**

- 1.1 **DEVELOPMENT:** The subject of this Agreement, which is designated and identified as **MOOSE HOLLOW ESTATES SUBDIVISION**, located on the Property described in Exhibit A in the jurisdiction of Teton County, Idaho. This definition shall include any and all future names or titles for **MOOSE HOLLOW ESTATES SUBDIVISION**.
- 1.2 **IMPROVEMENT:** Any alteration to the land or other physical construction located on or off the Property that is associated with this subdivision/PUD and building site developments.
- 1.3 **OWNER/DEVELOPER:** means and refers to **KELLY LARK** whose address is 7856 Hidden Valley Road, Marsing, ID. 83639, the party that owns and is developing said Property and shall include any subsequent owner(s) or developer(s) of the Property.
- 1.4 **PROPERTY:** means and refers to the certain parcel(s) of Property located in the County of Teton, as described in Exhibit A.
- 1.5 **UNAVOIDABLE DELAY:** When construction is impeded as a result of strikes, lockouts, acts of God or other factors beyond the control, and ability to remedy, of the Developer.

**Section 2. Planned Improvements.** The Developer shall, at its sole cost and expense, complete the road construction, install the entrance and street signs install electrical and telephone service, install approved entrance landscaping, stabilizing and re-seeding areas of the Property disturbed by installation of Improvements, and complete all other required infrastructure for **THE MOOSE HOLLOW ESTATES SUBDIVISION** as detailed in the MOOSE HOLLOW ESTATES Improvement plans dated \_\_\_\_\_, 20\_\_ recorded in the Teton County Clerk's office on \_\_\_\_\_, 202\_\_\_. Developer agrees that such Improvements shall be installed in compliance with Teton County's Title 9 and any design and engineering standards separately adopted by the County or other agencies responsible for providing services to the Development. The estimated engineer's cost to complete all Improvements is included as Exhibit B to this Development Agreement. The Developer shall obtain an updated cost of estimate within ninety (90) days prior to starting construction of any Improvements, set forth in Section 8 hereof.

**Section 3. Signs.** The Developer understands and agrees to install a subdivision entrance sign and street sign prior to the County being able to issue a building permit for a dwelling within the Development. Such signs shall be non-reflective and built in accordance with Teton County requirements, and in a size and shape appropriate to meet ASHTO standards.

**Section 4. Public Improvements.** The Developer shall WISDOM WAY as a private road for public use. There are no public improvements for MOOSE HOLLOW ESTATES Subdivision.

**Section 5. Off-Site Improvements.** The Owner/Developer is voluntarily adding additional plantings along the South boundary of Moose Hollow Estates in response to the request of the City of Victor, Idaho.

**Section 6. Building Permits.** No lots or units may be offered for sale or sold (warranty deeds transferred) prior to recordation of the final plat. This shall include the Teton County Certificate of Subdivision Completion signed and dated by all required parties. Furthermore, no certificate of occupancy for residential units shall be given until all Improvements have been completed and accepted in writing by the County.

**Section 7. Schedule for Commencement and Completion of the Improvements.**

The Developer shall commence construction of the Improvements for the MOOSE HOLLOW ESTATES Subdivision prior to the expiration date of the MOOSE HOLLOW ESTATES Subdivision application. The Developer may be allowed extensions beyond the commencement or completed date for unavoidable delays caused by strikes, lockouts, acts of God, or other factors beyond the control, and ability to remedy, of the Developer upon application and granting of such request by the Board of County Commissioners. If the Developer does not complete construction of the improvements by November 30, 2025, the Developer will lose its approvals and entitlements and will have to reapply for approval under the then current County subdivision ordinance. The County may choose to use the posted surety to complete the Improvements if the developer has not done so and there is a public benefit to having the Improvements complete.

**Section 8. Future Phases.** N/A There are no future phases for the MOOSE HOLLOW ESTATES Subdivision.

**Section 9. Request for Additional Phases.** Any request to the County for additional phase(s) shall be made at the same time the application is made for the final plat.

**Section 10. Extensions of Time.** The Developer may be allowed extensions of time for commencement of construction, or for beyond the completion date, for unavoidable delays such as those caused by strikes, lockouts, acts of God, or factors beyond the control of the Developer. Application for extension shall be made on the Teton County “Development Agreement Extension Application” and shall address the criteria presented on that form and in Exhibit C, Extension Criteria. The Developer shall pay the fee associated with the request. Developer acknowledges and agrees that the Board of County Commissioners has the sole discretion to grant or deny a request for extension. The application for a development agreement extension must be submitted to the Planning Department before the expiration of the original development agreement.

**Section 11. Construction Dates.** Construction dates will be determined following preliminary plat approval by the Board of County Commissioners. These dates will be inserted in the Development Agreement submitted with the MOOSE HOLLOW ESTATES final plat application.

**Section 12. Control of Trash, Weeds, Dust, Erosion, and Sedimentation.** The Developer shall be fully responsible for all dust abatement, erosion, sedimentation, weed and trash control on the Property. Developer shall use best management practices and industry standards for control. Trash shall be contained at all times. Dumpsters and sanitary facilities are required on site during every phase of construction. Final bond installment shall not be released until all onsite trash is removed, construction rubble is leveled, lost soils are replaced and disturbed areas are re-seeded with native vegetation or planned landscaping. The responsibilities in this Section shall run with the land and they shall therefore apply before, during and until completion of Improvements. This means that trash, weeds, dust, erosion and sedimentation control on the Property will be fully the responsibility of the current owner of the Property.

**Section 13. Open Space Management Plan. MOOSE HOLLOW ESTATES SUBDIVISION** has no open space requiring an open space management plan.

**Section 14. Permits.** The Developer is responsible for obtaining all right-of-way, access, excavation, and other permits and approvals required by local, State, and Federal regulations.

**Section 15. Inspection.** Prior to construction of the Improvements, Developer shall have a pre-construction meeting with Teton County Planning and Engineering representatives and the Developer's engineer and contractor. The Developer's engineer shall make regular inspections and maintain control of the Development while it is under construction. Representatives of the County shall have the right to enter upon the Property at any reasonable time to inspect and to determine whether the Developer is in compliance with this Agreement. The Developer shall permit the County and its representatives to enter upon and inspect the Property at reasonable times. The Developer will not materially deviate from the Improvement Plans without the prior written approval of the County Engineer, which approval will not be unreasonably held.

**Section 16. Inspection Fees.** (may or may not apply)

**Section 17. Final Inspection and Approval of Improvements.**

If, upon inspection, the county notes deficiencies, it shall give a timely written checklist of the same, with noted deficiencies specific as to location and shall specify, in detail, the necessary corrective action to be taken by the developer. Upon approval of the final inspection, final approval will occur by the signing of the Teton County Certificate of Completion by the Developer, the Developer's engineer, the Teton County Engineer and the Teton County Planning & Zoning Administrator. After the Completed Certificate of Completion is received the final plat shall be recorded and Developer will be able to sell lots in the development.

**Section 18. As Constructed Plans.** The Developer's licensed engineer shall file "As Constructed" Improvement Plans with the County Engineer.

**Section 19. Warranty of the Improvements.** The Developer warrants the prompt and satisfactory correction of all defects and deficiencies, for both materials and workmanship, in the Improvements that occur or become evident within two years for all landscaping Improvements and one year for all other Improvements after acceptance of the Improvements by the County. If such defect or deficiency occurs or becomes evident during such period, then the Developer shall, within thirty (30) days after written demand by the County to do so, correct it or cause it to be corrected. If the defect or deficiency cannot be reasonably corrected within thirty (30) days after written demand from the County, the Developer shall commence the correction of the deficiency within the thirty (30) day period and proceed with reasonable diligence to correct the same or cause it to be corrected. The warranty provided by this Section shall be extended for a full year from the date of repair or replacement of any Improvements repaired or replaced pursuant to such demand.

**Section 20. Financial Security Guarantee.** A financial security guarantee was submitted to Teton County with the preliminary plat application submittal

**Section 21. Remedies.** In the event the Developer fails to perform any of the terms, conditions or obligations in this Agreement or has not resolved a defect or deficiency under this Agreement, the County, at its option, may exercise any rights and remedies it may have under the law. Furthermore, the County reserves the right, in its absolute discretion, to revoke the Developer's entitlements for the MOOSE HOLLOW ESTATES Subdivision and after such revocation, if Developer chooses to move forward, Developer will have to reapply for approval under the then current ordinances. Teton County may impose penalties on the Developer in the form of monetary fines, not to exceed the outstanding balance of work not performed or carried out at the scheduled completion date or not to exceed the work to correct the defect or deficiency. The County may withhold the issuance of any building permit or certificate of occupancy for any structure located in the Development, refuse to accept ownership and maintenance of any County Improvements and record a notice of such action in the Teton County Clerk and Recorder's Office, or issue a "stop work" or "cease and desist" order for any building or Improvement under construction in the Development. All of the above remedies are cumulative and to the extent not wholly inconsistent with each other, may be enforced simultaneously or separately, at the sole discretion of the County.

**Section 22. Voided Agreement.** The County, at its option, may void this Agreement and any vested right should the Developer's failure to perform in compliance with this Agreement results in the County seizing the escrow to complete the Infrastructure or correct the defect or deficiency.

**Section 23. Default.** If the Developer defaults or fails to fully perform any of its obligations in accordance with this Agreement or fails or refuses to correct any defect or deficiency in the Improvements required by this Agreement, Teton County shall inform the Developer in writing of the specific default or failing. If the default or failing continues for thirty (30) days after such written notice and the Developer makes no attempt to remedy the default, Teton County shall have, in addition to all of its other rights under the law, the right to complete the construction of the Improvement(s) or to correct the defect or deficiency, using either its own forces or contractors hired for that purpose. The County shall have the right to draw from either/or the financial security guarantee or credit line provided, those sums not to exceed 125% of the engineer's estimate for individual Improvements installed. Included in the costs of the work, the County is entitled reasonable legal fees and reasonable administrative expenses.

**Section 24. Transfer of Lots or Units.** Non applicable since lots can't be sold prior to recording of the final plat of the **MOOSE HOLLOW ESTATES SUBDIVISION** according to Section 32 of this Document.

**Section 25. Time of the Essence.** Time is of the essence in the performance of all terms and provisions of this Agreement.

**Section 26. Binding Upon Successors.** This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including County's corporate authorities and their successors in office. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed.

**Section 27. Notices.** All notices in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee when delivered in person on a business day at the address set forth below or on the third day after being deposited in the United States mail, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, to the address set forth below.

Notices to the County shall be addressed to, or delivered at, the following address:

Teton County Board of County Commissioners  
ATTN: Planning Administrator  
150 Courthouse Drive, Rm. 107  
Driggs, Idaho 83422

Notices to the Developer shall be addressed to, or delivered at, the following address:

A-W Engineering  
P.O. Bx. 139  
Victor, ID 83455

By notice complying with the requirements of this Section, each party shall have the right to change the address for all future notices, but no notice of a change of address shall be effective until received as provided above.

**Section 28. Enforcement.** The parties may, in law or in equity, by suit, action, mandamus, or any other proceeding, without limitation enforce or compel the performance of this Agreement.

**Section 29. Indemnification.**

A. No Liability for County Approval. The Developer acknowledges and agrees (1) that the County is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the County's issuance of any approvals or acceptances of the Improvements or use of any portion of the Improvements, and (2) that the County's issuance of any approvals or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, or licensees or any third party, against damage or injury of any kind at any time.

B. Indemnification. Except as provided below, the Developer agrees to, and does hereby, indemnify the County, and all of its elected and appointed officials, officers, employees, agents and representatives from any and all claims, costs and liability of every kind and nature that may be asserted at any time against any such parties for injury or damage received or sustained by any person or entity in connection with (1) the County's review and approval of any plans for the Improvements, (2) the issuance of any approval or acceptance of Improvements, (3) the development, construction, maintenance or use of any portion of the Improvements and (4) the performance by the Developer of its obligations under this Agreement and all related Agreements. The Developer further agrees to aid and defend the County in the event that the County is named as a defendant in an action concerning the Improvements provided by this Agreement only as to Improvements that are not in conformance with the approved and recorded Master Plan of **MOOSE HOLLOW ESTATES SUBDIVISION** in compliance with each phase, except where such suit is brought by the Developer. The Developer is not an agent or employee of the County.

**Section 30. Amendments or Alterations.** All changes, amendments, omissions, or additions to this Agreement shall be in writing and shall be signed by both parties.

**Section 31. Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

**Section 32. Filing.** The Developer shall have this Agreement recorded in the office of the Teton County Clerk and Recorder at the same time as the final plat is recorded. The Developer shall be responsible for all recording fees associated with this Development.

**Section 33. No Conflicts.** The County and the Developer hereby acknowledge and agree that all required notices, meetings and hearings have been properly given and held by the County with respect to the approval of this Agreement. The County and the Developer also acknowledge and agree that this Agreement is supported by Title 9 of Teton County Code. The County and the Developer agree not to challenge this Agreement or any of the obligations created by it on the grounds of any procedural infirmity or any denial of any procedural right.

**Section 34. Authority to Execute.** The County hereby warrants and represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Board of County Commissioners. The Developer hereby warrants and represents to the County (1) that it is the record owner of fee simple title to the subdivision, (2) that it has the right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth herein and to bind the subdivision as set forth herein, (3) that all legal action needed to authorize the execution, delivery, and performance of this Agreement have been taken, and (4) that neither the execution of this Agreement nor the performance of the obligations assumed by the Developer hereunder will (i) result in a breach or default under any Agreement to which the Developer is a party or to which it or the subdivision is bound or (ii) violate any statute, law restriction, court order, or Agreement to which the Developer or the subdivision is subject.

**Section 35. Codes.** The Developer agrees to abide by all ordinances, regulations, and codes of Teton County and those of the special purpose districts providing service to the Development.

**Section 36. Governing Law.** This Agreement shall be construed and governed according to the laws of the State of Idaho. The venue for any action arising out of this Agreement shall be exclusively in the District Court of the Seventh Judicial District of the State of Idaho, Teton County, or in the United States District Court for the District of Idaho.

**Section 37. Attorney's Fees.** Should any litigation be commenced between the parties concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a court of competent jurisdiction.



**Section 38. Final Agreement.** This Agreement sets forth all promises, inducements, agreements, condition and understandings between Owner/Developer and County relative to the subject matter hereof, and there are no promises, agreements, conditions or understanding, either oral or written, express or implied, between Owner/Developer and County, other than as are stated herein. All Exhibits referenced herein are incorporated in this Agreement as if set forth in full including all text information in the Exhibits. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to County, to a duly adopted ordinance or resolution of County.

**Section 39. No Waiver of County Rights.** No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision nor will it be deemed to constitute a continuity waiver unless expressly provided for; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to exercise any obligation under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any Improvement. Developer acknowledges that Teton County reserves the right to revoke all approvals for (name of subdivision/PUD) upon failure to comply with the conditions of approval of Final Plat, upon any of the violations of Teton County Title 9, or for misrepresentations or material omissions made to the Teton County Planning Commission or Board of County Commissioners.

**Section 40. Mitigation of Teton County for Road Improvements.** Upon the issuance of a Certificate of Completion of **MOOSE HOLLOW ESTATES SUBDIVISION** by Teton County and the issuance of the first building permit for such subdivision, the Developer may make a donation to Teton County in the amount of \$\_\_0.00\_ to be designated for road Improvements to \_\_\_\_\_ n/a \_\_\_\_\_.

**Section 41. Community Enhancements.** The Developer may pledge \$\_0.00\_ from the proceeds of each lot closing in **MOOSE HOLLOW ESTATES SUBDIVISION**. The Developer desires \$ 0.00 to go to n/a, \$ 0/00 to go to \_\_\_\_\_ n/a, and \$\_0.00 to go to \_\_\_ n/a. These contributions are being given on a voluntary basis and will be donated as follows: Funds will be collected at the closing of the initial sale of each lot sold by the Developer; The Developer will record an Agreement placing a lien on the lots such that the collection of these funds will be facilitated by the title company handling the closing of such lots.

**Section 42. Sharing Development Costs.** Teton County Subdivision Regulations, Title 9, provides the Developer a mechanism to recoup a portion of certain costs associated with Improvements made by the Developer. All shared development rights afforded the Developer under Title 9 and this Agreement, in particular Section 7, are hereby retained; any other Agreement, document, or statement by the Developer shall not be deemed to waive any rights afforded the Developer under Teton County Title 9.

**Section 43. Effective Date.** This Agreement shall become valid and binding only upon its approval by the Teton County Board of County Commissioners and its recording in the Teton County Clerk and Recorders Office; and it shall be effective on the date first written above.

**\*\*The rest of this page is intentionally left blank\*\***

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date first above written.

Agreed:

BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, IDAHO

\_\_\_\_\_  
Chairperson, Teton County Board of  
County Commissioners

STATE OF IDAHO            )  
  ) ss:  
COUNTY OF TETON        )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, before me, a Notary Public for the State of Idaho, personally appeared \_\_\_\_\_, Chairperson, known to me to be the person(s) whose name(s) is executed above, and acknowledged that she/he executed the same.

\_\_\_\_\_  
Notary Public

Residing \_\_\_\_\_

Commission expires \_\_\_\_\_

\_\_\_\_\_  
KELLY LARK

STATE OF IDAHO            )  
  ) ss:  
COUNTY OF                )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public for the State of Idaho, personally appeared KELLY LARK, known to me to be the person whose name is executed above, and acknowledged that he executed the same.

\_\_\_\_\_  
Notary Public

Residing \_\_\_\_\_

Commission expires \_\_\_\_\_

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

Part of the East quarter of the Northwest quarter of Section 15, Township 3 North, Range 45 E., B.M., Teton County, Idaho, being further described as:

From the West quarter corner of said Section 15, S 89°40'38"E, 1907.22 feet to the point of beginning;  
Thence N 00°00'16"E, 1485.14 feet to a point;  
Thence N 89°28'19"E, 1259.86 feet to a point;  
Thence S 32°23'03"E, 63.44 feet to a point;  
Thence S 00°49'24"E, 318.88 feet to a point;  
Thence S 89°30'07"W, 1293.99 feet to the point of beginning.

Contains 11.04 acres.

**EXHIBIT B**  
**ENGINEER'S COST ESTIMATE**