

Community Housing Development Agreement

SAMPLE

COMMUNITY HOUSING DEVELOPMENT AGREEMENT

This Community Housing Development Agreement (“Development Agreement”) is made and is effective as of the date hereof (“Effective Date”) by and between _____ (“Developer”) and the Blaine County Housing Authority, an Idaho independent public body corporate and politic (“BCHA”).

RECITALS

A. Developer is the owner of the certain real property commonly known as _____ subdivision (the “Development”). Developer intends to develop the Subdivision as a single-family/multi-family/mixed use (correct designation to be inserted) development. To satisfy a condition of approval for the Development, Developer has agreed to enter into this Development Agreement with BCHA and to develop a portion of the Development for Community Housing pursuant to the Community Housing Plan attached hereto as Exhibit A.

B. In order to assure compliance by Developer with the provisions of the Community Housing Plan and assure the marketability of the Community Housing, the Developer and BCHA intend that BCHA shall have the right to approve any changes in the preliminary plat that relates to the Community Housing, to approve any changes in the plans and specifications for the Community Housing dated _____ and more particularly identified in Exhibit B (the “Plans and Specifications”), to approve any covenants, conditions and restrictions applicable to the Development and to inspect the Community Housing for compliance with the Community Housing Plan and the Plans and Specifications.

NOW, THEREFORE, for consideration, the adequacy and sufficiency of which is hereby acknowledged, Developer and BCHA agree as follows:

1. Incorporation of Recitals.

The Recitals are incorporated herein as part of this Development Agreement.

2. Community Housing Plan; Plans and Specifications.

The Community Housing Plan sets forth the Developer’s obligations with respect to the creation of Community Housing within the Development. The Community Housing shall be built in accordance with the Plans and Specifications. Any modifications to the Community Housing Plan and/or the Plans and Specifications (including, but not limited to, interior fixtures and finishes) or the Development that relates to or may affect the Community Housing are subject to the approval of the BCHA, which approval shall not be delayed or withheld unreasonably.

3. Building Permit.

The BCHA shall have the right to review the building permit application and all applications for amendment to the building permit for compliance with this Development Agreement.

4. Right of Inspection; Compliance.

A. The BCHA shall have the right to inspect the Community Housing on a monthly basis during construction:

B. In the event that BCHA determines that any one or more of the Community Homes is not being built as required by the Community Housing Plan, BCHA shall promptly notify the Developer and the approving jurisdiction. Promptly upon receipt of notice from BCHA, Developer shall take such actions as may be necessary to put the Community Home(s) back into compliance or seek waiver from BCHA for the nonconforming elements. If the noncompliance is not corrected or approved within thirty (30) days after the BCHA notice to Developer, then BCHA may request that the approving jurisdiction withhold issuance of any certificates of occupancy on any portion of the Development, including, but not limited to, the market rate homes until the non-compliance is corrected. In addition, BCHA shall have no obligation to qualify and select potential purchasers for any Community Housing that is not in compliance with the Community Housing Plan and the approved plans and specifications. If the noncompliance cannot be corrected within the thirty (30) day period, Developer shall not be in default hereunder provided that Developer commences remediation promptly and proceeds diligently to completion.

5. Covenants, Conditions and Restrictions.

BCHA shall have the right to review and approve any Covenants, Conditions and Restrictions (“CCRs”) applicable to the Development that affect the Community Housing. In particular, the CCRs shall include, but not be limited to, the following provisions that benefit the Community Housing that (i) acknowledge the interest of BCHA in the Community Housing, (ii) limit the percentage or amount by which regular assessments may be increased, (iii) allow the owners of Community Housing to amortize any special and/or capital assessments over a period of time, and (iv) require the approval of BCHA to any modifications of the foregoing provisions.

6. Completion; Certificate of Occupancy.

Developer agrees that written evidence of BCHA’s final approval of all of the foregoing elements of the Community Housing Plan must be provided as a condition to receipt of a certificate of occupancy for the Community Homes from the issuing jurisdiction.

7. Marketing and Sale of the Community Housing Units.

Developer and BCHA shall work together to bring the Community Housing to market as soon as possible. To further this goal, BCHA shall have the right to show the Community Housing to prospective buyers upon receipt by BCHA of an executed Notice of Intent to Sell. and to have Developer and prospective purchasers enter into Reservation Agreements in the form provided by BCHA.

8. Default and Dispute Resolution.

A. In the event any party bound or affected by this Development Agreement initiates or defends any legal action or proceeding in any way connected with this Development Agreement, the prevailing

party in any such action or proceeding, including any appeal, (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

B. Prior to the commencement of any legal action, the dissatisfied party shall first seek to resolve the dispute by negotiation. If negotiation is unsuccessful, the parties shall seek to mediate the dispute by using the services of a professional mediator with subject matter expertise and mutually acceptable to the parties. Costs of mediation shall be shared equally by the parties unless otherwise determined during the mediation. To the extent mediation is unsuccessful in resolving the dispute, at the request of either party, any unresolved issues may be submitted to arbitration using a single arbitrator with subject matter expertise and mutually acceptable to the parties. The parties shall not unreasonably delay or refuse to approve any mediator or arbitrator. The cost of the arbitration may be awarded by the arbitrator. The decision of the arbitrator may be appealed to a court with subject matter jurisdiction.

9. Notices.

All notices given pursuant to this Development Agreement shall be in writing and shall be given by personal service, by United States certified mail or by United States express mail or other established commercial express delivery service with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Developer by personal service or by United States express mail or other established express delivery service such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Developer, such notice shall be sent to the person and address shown on the then current real property tax rolls of Blaine County, Idaho. All notices given to the appropriate party shall be sent to the address set forth below:

To Developer: _____

To BCHA: Executive Director
BLAINE COUNTY HOUSING AUTHORITY
P.O. Box 4045
Ketchum, ID 83340

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Deed Restriction shall be deemed given upon receipt. For the purposes of this Section 10, the term "**receipt**" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document if hand delivered to the address specified pursuant to Section 10.1 as shown on the delivery document, (ii) three (3) days following deposit with the United States mail, or (iii) one (1) day following deposit with an established commercial express delivery service (such as FedEx).

10. General Provisions.

A. Whenever possible, each provision of this Development Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Development Agreement or related document.

B. The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Development Agreement, including all tort claims.

C. This Development Agreement may only be amended by a written agreement that identifies itself as an amendment to this Development Agreement, is approved by and is signed by the Developer and BCHA.

D. Paragraph or section headings within this Development Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

E. The parties to this Development Agreement agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Development Agreement or any agreement or document relating hereto or entered into in connection herewith. Such further documents include, but are not limited to, affidavits and certifications required by BCHA to establish Developer's ongoing compliance with this Development Agreement..

F. The failure of BCHA to insist upon strict performance of any terms, covenants or conditions of this Development Agreement shall not be deemed a waiver of any rights or remedies BCHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Development Agreement by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

G. The following Exhibits are attached hereto and/or incorporated herein by reference:

- 1) Community Housing Plan
- 2) Plans and Specifications entitled _____
and dated _____.
- 3) Form of Notice of Intent to Sell

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of _____, 20 ____, (the "Effective Date").

THE BLAINE COUNTY HOUSING
AUTHORITY:

DEVELOPER:

By: _____
Executive Director

Name: _____
Title: _____

SAMPLE