

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
6697 FOOTHILL ROAD ANNEXATION (FORMERLY GARNET SUBDIVISION)**

This Amended and Restated Development Agreement ("Agreement") is entered into by and between the City of Star, a municipal corporation in the State of Idaho, hereinafter referred to as "City", and [REDACTED], hereinafter referred to as "Owner" and "New Owner".

WHEREAS, New owner owns a parcel of land of approximately 5.23 acres in size, currently located within the City of Star, zoned R-1-DA and more particularly described in **Exhibit A** of Ordinance 386-2023, which is attached hereto and incorporated by reference herein (the "Property");

WHEREAS, New owner has recently purchased the Property and is now the applicant in connection with City of Star File Number AZ-23-01/DA-23-01/PP-23-01, seeking a development agreement modification approval for the Property.

WHEREAS, on May 2, 2023, the Property was annexed and zoned R-1-DA and made subject to that certain Development Agreement, dated July 19, 2023 between City and Opus Development, LLC, recorded on August 16, 2023 as Instrument No. 2023-026368 in the office of the Canyon County Recorder ("**Original Development Agreement**");

WHEREAS, the City, pursuant to Section 67-6511A, Idaho Code, and Star City Code at Title 8, Chapter 1, has the authority to enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for a specific purpose or use which is appropriate in the area, and for a specific purpose or use and with specific approved design and dimensional standards;

WHEREAS, the City has authority to enter into development agreements, including modifications, to condition annexations and re-zones;

WHEREAS, it is the intent and desire of the parties hereto to proceed with development of the Property in accordance with this Agreement, which the parties agree will fully amend and replace the Original Development Agreement;

WHEREAS, the intent of this Agreement is to protect the rights of Owner's and Developer's use and enjoyment of the Property while at the same time mitigating any adverse impacts of the development upon neighboring properties and the existing community and ensuring the Property is developed in a manner consistent with City Ordinances;

THEREFORE, for and in consideration of the mutual covenants, duties and obligations herein set forth, the parties hereby agree as follows:

**Section 1. Legal Authority.** This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Star City Code, Title 8, Chapter 1.

**Section 2. Development/Uses/Standards.**

**2.1 Development Acreage and Uses Permitted.** As to the Property described on Exhibit A, Owner is allowed to develop the 5.23 acres as follows:

- Zoning Classification: The zoning classification of the Property shall be a R-1-DA.
- The Owner shall comply with all city ordinances relating to the Property except as otherwise provided herein.

**2.2 Site Design.** ~~The Property shall be developed in substantial conformance with the approved preliminary plat, dated 5/2/23, a copy of which is attached hereto and incorporated by reference herein as Exhibit B. The property is eligible for a one-time parcel division. The owner shall submit all necessary applications for review and approval of a parcel division prior to issuance of a building permit for a second, primary residence on the property.~~

**2.3 Uses.** The Property is hereby approved for ~~a maximum of 5 residential lots~~ all land uses and operations allowed within the City of Star, subject to compliance with the requirements of the current City of Star Municipal Code.

**2.4 Setbacks.** The development shall comply with the standard setbacks for the R-1 zone as follows:

Single-family Detached Setbacks:

Max. Height	Min. Front Yard Setback	Min. Rear Yard Setback	Min. Interior Side Setback	Min. Street Side Setback
35'	30'	30'	10'	20'

**2.5 Additional Requirements:**

- ~~The applicant shall extend the bus stop turnout located to the east into the frontage of the new subdivision.~~
- All homes shall be required to provide fire sprinklers and emergency access in compliance with the Star Fire District.
- ~~The Council approves the revised preliminary plat showing a reversed lot layout as discussed in the public hearing (two lots adjacent to east property line).~~
- ~~The applicant shall provide a streetlight at the entrance to the subdivision.~~
- ~~The Council hereby approves the reduced private street width to a minimum of 24' with no parking or 26' with parking on one side as~~

~~determined by the Fire District. The Council waives the requirement for sidewalks within the subdivision.~~

- ~~Applicant Owner~~ agrees to pay all City Emergency Services Mitigation Fees in effect at the time of building permit for each primary single-family dwelling.
- ~~Applicant shall meet all specific conditions of approval for Preliminary Plat PP-23-01.~~
- The owner shall be required to annex into the Star Sewer & Water District, and meet all District requirements if three (3) or more single-family dwelling lots are developed on the 5-acre parcel.
- The property associated with this annexation shall be satisfactorily weed abated at all times, preventing a public nuisance, per Star City Code Chapter 3, Section 3-1-1 through 3-1-7, and shall be properly maintained at all times, including throughout the construction process to include trash picked up and trash receptacles emptied with regular frequency, streets swept and cleaned weekly, including any streets used to access the property and all debris shall be prevented from accumulating on any adjacent property or public right of way and shall remove all debris from public way at least daily. This shall also include, but is not limited to any trash, junk or disabled vehicles during any portion of the development process. The site shall be properly mitigated from fugitive dust at all times during construction, as determined by the Zoning Administrator. Failure to comply with any of the above may result in a stop work order being issued on any active building permit until the violations are remedied, and/or fines issued by the City.

**2.6 Proportionate Share Agreement for ITD Improvements.** Developer has agreed to participate in the costs of construction or improvements to the portions of the State Highway System within the City of Star and/or City of Star Area of City Impact. The Developer will pay the ~~\$5,000.00~~ traffic mitigation fee determined, or revised, by the Idaho Transportation Department as follows: the Developer ~~will~~ shall pay the City \$1,000.00 per buildable lot ~~within each phase prior to signature on the final plat for the applicable phase~~ at the time of building permit. The City will allocate the funds to roadway improvements in the vicinity of the project. The Developer shall pay this amount (unless otherwise revised by ITD) directly to the City of Star. The City will maintain this contribution in a specific Development Contributions account, to be distributed to ITD when requested for use with a specific Idaho Transportation Improvement Plan (ITIP) project within the City of Star Area of City Impact or City Limits in accordance with the terms of the Intergovernmental Agreement between the Idaho Transportation Department and the City of Star dated April 22, 2020.

**2.7 Changes and Modifications.** No change in the use or restrictions specified in this Agreement shall be allowed or changed without modification of this Agreement pursuant to the requirements of the Star City Ordinances. In the event Owner changes or expands the uses permitted by this Agreement or fails to comply with the restrictions without formal modification

of this Agreement as allowed by the Star City Ordinances, Owner shall be in default of this Agreement.

**Section 3. Default.** The failure of Owner, its heirs or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, to faithfully comply with any of the terms and conditions of this Agreement shall be deemed a default herein. This Agreement may be modified or terminated by the Star City Council as set forth in the Star City Ordinances. In the event this Agreement is modified, Owner shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Star City Ordinances, determines that this Agreement shall be terminated, the zoning of the Property or portion thereof that has not been developed in accordance with this Agreement shall revert its prior zoning designation. All uses of such property, which are not consistent with the prior zoning designation, shall cease. A waiver by the City of Star for any default by Owner of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions. Owner, by entering into this Agreement, do hereby consent to a reversion of the subject property to its prior zoning designation in the event there is a default in the terms and/or conditions of this Agreement.

**Section 4. Unenforceable Provisions.** If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of the instrument shall remain in full force and effect.

**Section 5. Assignment and Transfer.** After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Applicant. Each commitment and restriction on the development subject to this Agreement, shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property and shall run with the land. This Agreement shall be binding on the City and Owner, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns: provided, however, that if all or any portion of the Property is divided, each owner of a legal lot shall only be responsible for duties and obligations associated with an owner's parcel and shall not be responsible for duties and obligations or defaults as to other parcels of lots within the Property. The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

## **Section 6. General Matters.**

**7.1 Amendments.** Any alteration or change to this Agreement shall be made only after complying with the notice and hearing provisions of Idaho Code Section 67- 6509, as required by Star City Code.

**7.2 Paragraph Headings.** This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neutral gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

**7.3 Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Ada County, Idaho.

**7.4 Notices.** Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.

Star: City of Star  
Attn: City Clerk  
P.O. Box 130  
Star, ID 83669

Owner/Developer: 10206 West State Street LLC  
Evan McLaughlin  
2001 N. 20<sup>th</sup> Street  
Boise, Idaho 83702

**7.5 Effective Date.** This Agreement shall be effective after delivery to each of the parties hereto of a fully executed copy of this Agreement.

**7.6 Attorney Fees.** Should any litigation be commenced between the parties hereto 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 fees as determined by a court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.

*[end of text; signatures and exhibits follow]*

**IN WITNESS WHEREOF**, the parties have hereunto caused this Agreement to be executed on the day and year set forth below.

