

AVIGATION EASEMENT AGREEMENT – J&G PEACOCK SUBDIVISION

THIS AVIGATION EASEMENT AGREEMENT (this "Agreement") is made as of the _____ day of _____ 2023, by and between Jerry Peacock Family Trust ("Grantor"), with address of 26 N 5th W #26, Rexburg, ID, and the City of Driggs, a municipal corporation of the state of Idaho ("Grantee"), the address of which is 60 S Main St, Driggs, ID, 83422.

RECITALS

- A. Grantor owns certain real property, in Teton County, Idaho ("Grantor's Property"), legally described in that quit claim deed recorded as instrument number 264723 in the office of the Teton County, Idaho, Recorder.
- B. Grantor's Property lies wholly within the Traffic Pattern Area of the Driggs-Reed Memorial Airport, as defined by the adopted Driggs Airport Zoning Overlays.
- C. The Driggs Airport Master Plan recommends acquisition of avigation easements as a condition of approval on residential properties within the airport traffic pattern area.
- D. Grantor is willing to grant Grantee an avigation easement over Grantor's Property in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Avigation Easement. Subject to the provisions of this Agreement, Grantor hereby grants to Grantee a non-exclusive, easement and right of way, appurtenant to the property on which Driggs-Reed Memorial Airport is located (the "Airport Property"), for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this Agreement as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) in the air space above Grantor's Property to an infinite height (the "Avigation Easement").
2. Scope of Easement. The Avigation Easement shall apply only to those portions of the airspace above the land surface of the Grantor's Property which are above the "imaginary surfaces" defined in the Federal Regulations and depicted on the active Driggs-Reed Memorial Airport Layout Plan (the "Airspace"), as the same may apply to Grantor's Property as of the date hereof. The Airspace shall not be invaded or used by Grantor, nor shall Grantor authorize the use of the Airspace by others, without Grantee's prior written approval; provided however that this restriction shall apply only to physical obstructions and not to telecommunication, electrical or similar waves or transmissions to and from areas below the Airspace. Grantor will not construct, install, erect, or grow upon the applicable portions of Grantor's Property any structure, building, tree, or other object which extends into the Airspace, without the prior written approval of Grantee, which approval shall not be unreasonably withheld. Grantee shall have a continuing right to keep clear from the Airspace buildings, structures, or improvements of any kind, trees, or other objects, including the right to remove or demolish any

Driggs, ID 83422

Any communications so mailed shall be deemed delivered three (3) business days after mailing or when personally delivered.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

9. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

10. Recordation. This agreement may be recorded in the real property records of the clerk and recorder of the County of Teton, State of Idaho.

11. No Oral Amendments or Modifications. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing and executed by the party to be bound thereby.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF DRIGGS, IDAHO

ATTEST:

By: Mayor
City of Driggs
PO Box 48
Driggs, ID 83422

By: City Clerk

JERRY PEACOCK FAMILY TRUST

Manager: Marilyn Gay Peacock Skinner
26N 5 W #26
Rexburg, ID 83440

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was subscribed, sworn and acknowledged before me by _____,
on this _____ day of _____, 20____.

WITNESS my hand and official seal.

Notary Public
My commission expires: