

RETURN TO:
BUSCHER CONSTRUCTION AND DEVELOPMENT, INC.
3671 SPALDING AVENUE
BILLINGS, MONTANA 59106

PERPETUAL RIGHT-OF-WAY EASEMENT FOR STORM DRAIN

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, this ___ day of August 2008,

Buscher Construction and Development, Inc., ("Grantor"), a Montana corporation, whose address is 3671 Spalding Avenue, Billings, Montana 59106, hereby grants and conveys unto:

THE CITY OF BILLINGS ("Grantee"), a Montana municipal corporation and political subdivision of the State of Montana, whose address is City Hall, Billings, Montana 59101,

a perpetual easement and right-of-way over, across, under, and through the following-described tracts of real property in Yellowstone County, Montana, to-wit:

The east 133.60 feet of the south 26.00 feet of Lot 10, Block 1, Augusta Ranch Estates Subdivision, situated at 6078 Masters Boulevard, Billings, Montana 59106.

This perpetual easement to Grantee is for the purpose of maintaining, repairing, or rebuilding a storm drainage detention system servicing portions of Augusta Ranch Estates Subdivision, including but not limited to the construction, reconstruction, maintenance, operation, service, repair, and replacement of pipelines, inlets, subsurface gravel detention basins, and associated facilities over, across, under, and through the said real property, together with the right of free ingress and egress at all times for the purpose of performing such operations and activities, subject to the following conditions:

1. Grantees acknowledge that any above-ground structural improvements constructed, reconstructed, repaired, or replaced in conjunction with the existing storm drainage system facilities must be built, maintained, replaced,

repaired, and/or landscaped in conformance with the Covenants, Conditions and Restrictions recorded for Augusta Ranch Estates Subdivision, and approved as provided therein.

2. The City of Billings shall exercise all due care not to damage property of any kind, including natural landforms and existing vegetation located outside of the easement right-of-way and shall be responsible for replacing, repairing, and/or re-vegetating with similar vegetation any damage occurring outside the easement right-of-way in conformance with the landscape guidelines of The Yellowstone Country Club, or the neighboring Lot Owners.

Grantor shall continue to have the right to use and enjoy the above-described property, including for ranching purposes, except as to the rights herein granted, subject to the following restrictions:

1. Grantor acknowledges that the maintenance, repair, replacement and upkeep of this storm drainage detention system is the responsibility of the Augusta Ranch Estates Home Owner's Association by agreement running with the land through the Subdivision Improvements Agreement recorded with the subdivision plat.
2. Grantor agrees not to construct, nor cause to be constructed within the easement right-of-way, any type of building or structure, such as, but not limited to, houses, garages, sheds, kennels, fences, nor any other fixed objects of any kind, shape, or form, except as may be licensed by Grantee.
3. Grantor agrees not to plant, nor cause to be planted within the easement, any trees, bushes, shrubs, hedges, nor any other plantings of a similar nature, except as may be licensed by Grantee.
4. Grantor agrees that authorized representatives of the City of Billings can freely travel within the easement right-of-way with their equipment in the performance of their duties at reasonable times, day or night, regardless of outside weather conditions.

HOLD HARMLESS AGREEMENT The parties hereto agree as follows:

1. Grantor agrees that the owner or owners of the above-described property shall at all times fully relieve and save harmless the City of Billings and its authorized representatives from any and all damages to any plant material, ground cover, object, material, equipment, or property of any kind that may be located within the easement right-of-way which cannot, with a minimum of human effort and within a few minutes time period, be removed from the

EXHIBIT A

PERPETUAL STORM DRAIN RIGHT-OF-WAY EASEMENT WITHIN LOT 10, BLOCK 1 OF AUGUSTA RANCH ESTATES SUBDIVISION

PREPARED FOR : AVIARA, INC.

FEBRUARY, 2011

PREPARED BY : SANDERSON STEWART 

BILLINGS, MONTANA

