

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “Agreement”) - dated as of this _____, day of _____, 2015, is entered into by and between **Northridge Assets, LLC**, a North Dakota limited liability company, with an address of 1551 28th Ave South Suite L, Grand Forks, ND 58201, the **City of Billings (the “City”)**, a municipal corporation with an address of 210 North 27th Street Billings, Montana 59103, and **South Billings Urban Renewal Association, Inc. (SBURA)**, a 501(c)(6) non-profit organization located at 430 S Billings Blvd, Billings, MT 59101, (collectively, the “Parties”).

WITNESSETH:

WHEREAS, pursuant to City of Billings Ordinance No. 08-5462 (the “Ordinance”) the City has created the South Billings Boulevard Urban Renewal District (the “Urban Renewal District”) which contains a tax increment provision;

WHEREAS, Northridge Assets, LLC plans to develop certain property located within the Urban Renewal District as a new hotel on property more particularly described in the Northridge Assets, LLC TIF Application Packet (the “Project”) and has provided the Urban Renewal District with a schedule of development.

WHEREAS, the City requires certain details and specification of the rights, duties, obligations and responsibilities which exist in connection with the construction of certain public improvements, consisting of curb, gutter, and sidewalk, drive approaches, landscaping, demolition and abatement, and public utilities as well as all engineering and architectural services, labor material costs, and other costs associated with the construction and installation thereof, as more particularly set forth in the Northridge Assets, LLC TIF Application Packet attached hereto and made a part hereof (hereafter the “Public Improvements”);

WHEREAS, it is the Parties’ intention and desire that a portion of the tax increment revenue generated from the Project (the “Project Tax Increment Revenue”) be used to pay for the costs of a portion of the Public Improvements;

WHEREAS, pursuant to the Ordinance, the City has determined that the Project and Public Improvements to be constructed therewith are Urban Renewal Projects and that such improvements are eligible for tax increment financing;

WHEREAS, the City, and the SBURA, pursuant to the Ordinance creating the Urban Renewal District has determined that it is appropriate to return a portion of the Project Tax Increment Revenue to Northridge Assets, LLC.

WHEREAS, the SBURA board of Directors has voted at its September 1st, 2015 Board of Directors meeting to recommend funding the Northridge Assets, LLC TIF

application for a certain amount, pursuant to a Memorandum of Understanding approved by the City January 13, 2014 establishing the roles of the parties.

NOW THEREFORE, for good and valuable consideration, the Parties hereto hereby agree, covenant and represent as follows:

Section 1. Development of the Project.

- 1.A. The SBURA has prepared an application packet titled “Northridge Assets, LLC TIF Application Packet” which projects the amount of Project Tax Increment Revenue that will be generated from development of the Project. Northridge Assets, LLC represents that they have undertaken or will undertake construction of the Project, which consists of the construction of an approximately 56,000 square foot hotel property, public utility improvements, demolition and abatement, landscaping, as well as sidewalk, curb, gutter, and drive approaches located at 4908 Southgate Drive near the corner of King Avenue East and South Billings Boulevard.
- 1.B. Northridge Assets, LLC has obtained or will obtain the necessary approval from the City for all construction related to the Project. Northridge Assets, LLC shall construct all on-site improvements in accordance with City ordinances and any other applicable local, state and/or federal laws or regulations. The proposed development plan conforms to the current zoning of the Property. All improvements and construction thereon and adjacent to the Project, including, but not limited to off-site development, building construction, landscaping, and lighting shall be performed in accordance with all local, state, and/or federal regulations and laws, and as approved by the City. Northridge Assets, LLC acknowledges that the Project is subject to applicable utility system development fees in place at the time a building permit was secured as to the construction and/or the extension of services to the Project or any portion thereof. Those fees shall be due and payable from Northridge Assets, LLC at the time of request for service extensions.

Section 2. Construction and Maintenance of the Public Improvements. Northridge Assets, LLC will construct the Public Improvements as a part of the construction project. Northridge Assets, LLC agrees to maintain the adjacent sidewalks and boulevard landscaping as per City policy.

Section 3. Assessments, Taxes, and Abatements. Northridge Assets, LLC acknowledges and understands that the Project will be assessed for real property taxes and at some time in the future may be assessed with respect to special improvement districts. In this regard, Northridge Assets, LLC agrees to pay when due and applicable

all special improvement district assessments and taxes. It is understood that the Northridge Assets, LLC shall at no time pursue a tax abatement either through the City of Billings or Yellowstone County. Application for a tax abatement by Northridge Assets, LLC will terminate this agreement in its entirety including any future reimbursement payments.

Section 4. Reimbursements. Consistent with the Parties' desire that a portion of the Project Tax Increment Revenue, specific to this Project, be used to reimburse Northridge Assets, LLC for a portion of the costs of Public Improvements, the City agrees to allocate up to and not to exceed \$370,847.00. This reimbursement is to be reimbursed in four (4) equal installments of \$92,711.75. The initial reimbursement payment by the City to Northridge Assets, LLC is conditional upon the issuance of a Certificate of Occupancy from the City of Billings Building Division. The initial payment and subsequent payments will be made on June 1st of each year following the issuance of said permit. It is understood that at no time shall Northridge Assets, LLC be reimbursed for more than the portion of the cost of the total agreed upon qualified public improvements. The cost of said Public Improvements may be subject to Audit by the City.

Section 5. Obligation of the City. The City intends to refund a portion of the costs for Public Improvements as set forth above to Northridge Assets, LLC using South Billings Boulevard Urban Renewal District tax increment dollars when this project has been granted a Certificate of Occupancy by the City of Billings Building Division. Subsequent annual reimbursement payments are to be made with South Billings Boulevard Urban Renewal District tax increment dollars.

Section 6. Entire Agreement. This Agreement supersedes all prior written or oral understandings or negotiations that the Parties may have undertaken and constitutes the entire agreement between the Parties.

Section 7. Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of Montana. Venue shall be in Yellowstone County, Montana.

Section 8. Construction. If any provision of this Agreement is found to be invalid to any extent, the remainder of this Agreement shall not be affected thereby, and any such provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 9. Successors and Assigns. The stipulations and agreements of this Agreement shall be binding upon the Parties' successors and assigns.

Section 10. Notices. Any notice, demand or request under this Agreement shall be delivered in person or sent via U.S. Certified Mail, postage prepaid, to the Parties at the following addresses:

City of Billings
2825 3rd Avenue North, 4th Floor
Billings, MT 59101
Attn: Candi Millar

Northridge Assets, LLC
1551 28th Ave South, Suite L
Grand Forks, ND 58201
Attn: Brett Carlson

South Billings Urban Renewal Association, Inc.
430 S Billings Blvd
Billings, MT 59101
Attn: Shawn Hanser

Section 11. Attorney Fees. If it becomes necessary for any party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement, or to give any notice required herein, then the prevailing party shall be entitled to recover from the other party its' reasonable attorney fees and costs.

Section 12. Amendments. Amendments or modifications to this Agreement or any provisions herein shall be made in writing by the party requesting the change and upon written acceptance and execution by all parties shall become a part of this Agreement.

Section 15. Force Majeure. For the purposes of this Agreement "Force Majeure" shall mean any act of God, fire, earth movement, flood, explosion, action of the elements, war, invasion insurrection, acts of terrorism, riot, mob violence, sabotage, inability to procure general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions (unless provoked in bad faith violation of any labor laws by the party claiming its obligation or undertaking was prevented or delayed), condemnation, requisition, laws, orders of governmental or civil or military or naval authorities, or any other cause, similar to the foregoing, not within the

NORTHRIDGE ASSETS, LLC

By: _____

Its:

STATE OF MONTANA)
)
)
County of Yellowstone)

:ss

 This instrument was acknowledged before me on the ____ day of _____,
2015, by _____, the _____,
of Northridge Assets, LLC

SEAL

Sign: _____
Print Name: _____
Notary Public for the State of Montana
Residing at Billings, MT
My Commission expires: _____

**SOUTH BILLINGS URBAN RENEWAL
ASSOCIATION.**

By: _____
Its: President

STATE OF MONTANA)
)
)
County of Yellowstone)

This instrument was acknowledged before me on the ____ day of _____,
2015 ,by _____, the _____,
of South Billings Urban Renewal Association.

SEAL

Sign: _____
Print Name: _____
Notary Public for the State of Montana
Residing at Billings, MT
My Commission expires: _____