

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this ____ day of _____, 2016, by and between CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY-SAINTS, A UTAH CORPORATION SOLE, 50 E. North Temple Street, 4WW, Salt Lake City, Utah, 84150 hereinafter referred to as "CHURCH," and THE CITY OF BILLINGS, MONTANA, a municipal corporation, c/o City Hall, 210 North 27th Street, Billings, Montana, 59101, hereinafter referred to as the "CITY."

WHEREAS, CHURCH is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

Tract 1 of Certificate of Survey No. 3618, Situated in the NE1/4 of Section 31, T 01N, R 25E, P.M.M., in the City of Billings, Yellowstone County, Montana hereinafter referred to as "Church Tract".

WHEREAS, CHURCH has submitted to the City a Petition for Annexation to the City for Church Tract; and

WHEREAS, CHURCH desires to annex Church Tract to the City; and

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. 16-10544 for the Church Tract contingent that a Development Agreement be executed between CITY and CHURCH to identify required off-site infrastructure improvements and guarantees of those improvements.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties do hereby agree as follows:

1. Sanitary Sewer. The Church Tract will be served by an existing sanitary sewer main in 54th Street West. CHURCH will be responsible for

connecting to the sanitary sewer system at the time of development and shall be responsible for payment of the City wastewater system development fee at the time of connection to the sanitary sewer.

2. Water. The Church Tract will be served by an existing water main in 54th Street West. CHURCH will be responsible for connecting to the water system at the time of development and shall be responsible for payment of the City water system development fee at the time of connection to the water main.
3. Storm Drain. There is no City storm drain available in the area. The CHURCH will manage storm drainage on the site in accordance with the City of Billings Stormwater Management Manual (2015).
4. Right of Way. 54th Street West is designated as a Minor Arterial and is located within a 90-foot right-of-way adjacent to Church Tract. Adjacent to Church Tract, there is a 40-foot half right-of-way. CHURCH will be required to dedicate an additional 10 feet of right of way along 54th Street West in the future when there is a need for the additional right of way by CITY as result of a road or pathway project. CHURCH will not be compensated for the right of way dedication.
5. Street Widening. CHURCH will be required to pay for the design and construction in the future for street widening for that portion of 54th Street West adjacent to the Church Tract. CITY shall rely on the attached Waiver filed concurrently herewith, to insure the installation of these street widening improvements on 54th Street West.

Trail Creek Drive is designated as a Residential Local Access and is located within a 60-foot right-of-way adjacent to Church Tract. It is required that Trail Creek Drive be constructed with a minimum future standard width of 34-feet, back of curb to back of curb. CHURCH will enter into a private contract for the construction of Trail Creek Drive adjacent to the Church Tract, which will generally consist of 30 feet of asphalt, a 2-foot curb, roadside ditch and 5-foot sidewalk.

No other off-site street widening will be required by CHURCH.

6. Future Intersection Contributions. District will be required to make cash-in-lieu contributions toward the improvement costs associated with the future intersection improvements, as outlined in the approved Traffic Impact Study (TIS), as follows:

- a. 7.74 percent of future improvement at 54th Street West and Rimrock Road
- b. 10.32 percent of future improvement at 54th Street West and Grand Avenue

It has been assumed that the signalization of each intersection will cost \$250,000.00. CHURCH shall contribute \$44,300.00 to these intersections at the time of building permit issuance.

7. Other Public Improvements. For any other improvements not specifically listed in this Agreement, the CITY shall rely on the attached Waiver filed concurrently herewith, to insure the installation of any or all remaining public improvements. Said improvements shall include, but not be limited to, street construction and paving, curb, gutter, sidewalks, driveways, storm drainage, and street lighting. The attached Waiver, waiving the right to protest the creation of one or more Special Improvement Districts, by this reference is expressly incorporated herein and part hereof.
8. Compliance. Nothing herein shall be deemed to exempt the Church Tract from compliance with any current or future City laws, rules, regulations, or policies that are applicable to the development, redevelopment, or use of the subject property.
9. Runs with Land. The covenants, agreements, and all statements in this Agreement and in the incorporated and attached Waiver shall run with the land and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.
10. Attorney's Fees. In the event it becomes necessary for either 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 or the party giving notice shall be entitled to reasonable attorney fees and costs, including those fees and costs of in-house counsel.
11. Amendments and Modifications. Any amendments or modifications of this Agreement shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

Notary Public in and for the State of Montana

Printed name: _____

Residing at: _____

My commission expires: _____

DRAFT

WAIVER OF RIGHT TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, Owner of the hereinafter described real property, does hereby waive the right to protest the formation of one or more Special Improvement Districts (SID) for the construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area And other incidental improvements which the City of Billings may require.

The Waiver and Agreement shall run with the land and shall be binding upon the undersigned, its successors and assigns, and shall be recorded in the office of County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Certificate of Survey No. _____, Situated in the NE1/4 of Section 5, T 01S, R 25E, P.M.M., Yellowstone County, Montana

“CHURCH” CORPORATION OF THE PRESIDING BISHOP OF THE
CHURCH OF JESUS CHRIST OF LATTER-DAY-SAINTS, A UTAH CORPORATION
SOLE

By: _____

Title: _____

STATE OF MONTANA)

Notary Public)

County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who signed the foregoing instrument as the _____ of CHURCH, and who acknowledged to me that said CHURCH executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

Notary Public in and for the State of Montana

Printed name: _____

Residing at: _____

My commission expires: _____

DRAFT