

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this _____ day of _____, 2017, by and between ALBERTSON'S LLC, a Delaware limited liability company, 250 Parkcenter Boulevard, P.O. Box 20, Boise, Idaho 83126, Attn: Legal Department/Real Estate, hereinafter referred to as "DEVELOPER," 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, DEVELOPER is (or will be) the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

Lot 1, Block 1, Bishop Fox Subdivision, in the City of Billings, Yellowstone County, Montana hereinafter referred to as "Developer Tract".

WHEREAS, DEVELOPER has submitted to the City a Subdivision Plat to the City; and

WHEREAS, DEVELOPER desires to develop Developer Tract; and

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

1. Sanitary Sewer. The Developer Tract will be served by an existing sanitary sewer main in 54th Street West and Grand Avenue. DEVELOPER will be responsible for connecting to the sanitary sewer system in conjunction with WO 16-09 Grand Avenue Project. The City will bid and construct the sanitary sewer connections with WO 16-09. DEVELOPER will be required to pay a cash contribution for the actual cost of construction of the sanitary sewer connections.

2. Water. The Developer Tract will be served by an existing water main in 54th Street West and Grand Avenue. DEVELOPER will be responsible for connecting to the water main in conjunction with WO 16-09 Grand Avenue Project. The City will bid and construct the water connections with WO 16-09. DEVELOPER will be required to pay a cash contribution for the actual cost of construction of the water connections.
3. Payment. The project (WO 16-09) will be bid on March 21, 2017. DEVELOPER'S cash contribution for the estimated cost of the water and sanitary sewer connections is required to be submitted to CITY by March 31, 2017. If DEVELOPER'S cash contribution is not made, CITY will not issue notice to proceed for water and sanitary sewer connections. The water and sanitary sewer connections are estimated to cost \$212,268.40 pursuant to the Engineer's Opinion of Probable Cost for the project, "Additive Alternate 1 - Bishop Fox Subdivision Sewer and Water Services," dated March 16, 2017. Any change order increasing the price of such connections must be approved by DEVELOPER prior to proceeding. Once the project is complete, all construction costs associated with water and sanitary sewer connections will be reconciled. Such reconciliation will include the CITY providing DEVELOPER copies of all invoices, bills and other documentation reasonably required to substantiate the costs of the project directly related to the water and sanitary sewer connections. If there is a price increase due to approved change order(s), DEVELOPER will reimburse CITY the difference. If there is a price decrease for any reason, CITY will reimburse DEVELOPER the difference.
4. Compliance. Nothing herein shall be deemed to exempt the Developer 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.
5. Runs with Land. The covenants, agreements, and all statements in this Agreement and in the incorporated shall run with the land and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties. Upon completion of the project, the parties will record a termination and release of this Development Agreement.
6. 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.

7. 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.

[signatures on the following pages]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

“DEVELOPER”

ALBERTSON’S LLC, a Delaware limited liability company

By: _____

Title: _____

State of Idaho)
):
County of Ada)

On this ___ day of _____, 2017, before me, a Notary Public for the State of Idaho, personally appeared _____, known to me to be the _____ of Albertson’s LLC, a Delaware limited liability company, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

(Notary Signature)
Printed Name: _____
Residing in _____
My Commission expires: _____

This Agreement is hereby approved and accepted by City of Billings, this ____ day of _____, 2017.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

State of Montana)
):
County of _____)

On this ____ day of _____, 2017, before me, a Notary Public for the State of Idaho, personally appeared _____, known to me to be the _____ of _____, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

(Notary Signature)
Printed Name: _____
Residing in _____
My Commission expires: _____