

Return to:  
Barrett Road, LLC  
2210 Anna Drive  
Billings, MT 59106

## **DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Barrett Road, LLC, 2210 Anna Drive, Billings, MT 59106 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 the Owner of certain real property situated in Yellowstone County, Montana, particularly described as follows:

Tract 1-A of Certificate of Survey No. 840, Second Amended, according to the official plat on file and of record in the office of the Clerk and Recorder of said County, under Document No. 3854104, hereinafter referred to as "Developer Tract".

**WHEREAS**, DEVELOPER desires to annex the Developer Tract to CITY and has submitted to CITY a Petition for Annexation; and;

**WHEREAS**, DEVELOPER is proposing to develop the Developer Tract in one phase as shown in Exhibit A, attached and incorporated into this Agreement; and

**WHEREAS**, CITY has approved the Petition for Annexation of the Developer Tract by Resolution No. \_\_\_\_\_ contingent upon this Development Agreement being executed between CITY and DEVELOPER to identify required off-site infrastructure improvements and guarantees of those improvements.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, CITY and DEVELOPER hereby agree as follows:

1. Roads and Access. CITY requires that the Developer Tract I be accessed by two CITY-approved approaches along Barrett Road. These two approaches must be constructed to meet CITY codes and regulations current and applicable at the time of construction. All internal roads within Developer Tract will be paved and private. These two accesses and the Developer Tract's internal accesses must be approved by CITY and constructed by DEVELOPER in accordance with CITY- approved Traffic Impact Study.
2. Sanitary Sewer. The Developer Tract will be served by existing sanitary sewer service along Barrett Road. DEVELOPER will be responsible for connecting and extending the sanitary sewer system along Barrett Road across the entire frontage of Developer Tract prior to receiving a building permit for any development within Developer Tract. DEVELOPER shall be responsible for payment of CITY'S wastewater system development fee at the time of connection to CITY'S existing sanitary sewer mains.
3. Water. The Developer Tract will be served by an existing CITY water service main along Barrett Road. DEVELOPER shall be responsible for payment of CITY'S water system development fee at the time of connection to the existing water main.
4. Storm Drain. DEVELOPER will manage storm drainage within the Developer Tract in accordance with the City of Billings Stormwater Management Manual (2018). Stormwater within the Development Tract will be collected and routed to the Holling Drain. Stormwater may be released from the detention area(s) within the Developer Tract at a rate as defined in the City of Billings Stormwater Management Manual (2018) into the Holling Drain. DEVELOPER will construct Storm drain within and along Barrett Road in accordance with the City of Billings Stormwater Management Manual (2018). DEVELOPER shall extend Storm drain to the east property line of the development.
5. Right-of-Way. No dedication of right-of-way is required from the Developer Tract.
6. Street Widening and Utility Extensions. Barrett Road is designated by CITY as a "collector" street. DEVELOPER will be required to construct street widening and utility extension along the northern frontage of the Development Tract to a collector road width of 39-feet wide back of curb to back of curb; this includes construction of curb and gutter, necessary street widening totally 35' of asphalt width and extension of storm drain within Barrett Road. DEVELOPER will be required to construct concrete boulevard sidewalk with a minimum width of 5-feet and a minimum 5-feet

boulevard width along the northern property frontage. DEVELOPER will also be required to construct a boulevard concrete sidewalk with a minimum width of 5-feet with a minimum 5-foot boulevard width proceeding easterly from the eastern property line of Development Tract to the intersection with Hawthorne Lane.

7. Future Intersection Contributions. DEVELOPER will be required to make cash-in-lieu contributions toward the improvement costs associated with the future intersection improvements based on a Traffic Impact Study (TIS) which will be submitted to and approved by the City Traffic Engineer. A TIS is required to be submitted to and approved by the City Engineer's Office prior to approval of any development. The contributions will be triggered when the first building permit on the Development Tract is applied for.
8. Other Public Improvements. For any other improvements not specifically listed in this Agreement, 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 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. In the event that DEVELOPER defaults in any of the terms of this Agreement, CITY shall have the right to refuse the issuance of building permits and/or to withhold all CITY services in the subdivision.
9. Runs with Land. The covenants, agreements, and all statements in this Agreement and in the incorporated and attached Exhibit A and 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.

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

“DEVELOPER”

BARRETT ROAD, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MONTANA     )

:ss

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 \_\_\_\_\_ of DEVELOPER, and who acknowledged to me that said DEVELOPER 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:\_\_\_\_\_



## WAIVER OF RIGHT TO PROTEST

**FOR VALUABLE CONSIDERATION**, the undersigned, Owner and DEVELOPER 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:

Tract 1-A of Certificate of Survey No. 840, Second Amended, Yellowstone County, Montana

Owner and "DEVELOPER"

BARRETT ROAD, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MONTANA        )  
  :ss.  
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 DEVELOPER, and who acknowledged to me that said DEVELOPER 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: \_\_\_\_\_

WAIVER-2



1 SITE PLAN - 12-04-2017  
 1/8" = 1' - 0"

109 UNITS 54 - 1BED1BATH / 35 - 2BED1BATH / 14 - 2BED2BATH  
 10.34 ACRES  
 4.41 / ACRE

