

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this _____ day of _____, 2020, by and between DOOLEN PROPERTY TRUST, 2510 Meadowcreek Drive, Medford, Oregon, 97504 hereinafter referred to as the "OWNER," 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, OWNER is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

Lot 32A, Block 1 of Yellowstone Meadows – Phase Two, 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 "Tract".

WHEREAS, OWNER has submitted to the City a Petition for Annexation to CITY for OWNER Tract; and

WHEREAS, OWNER desires to annex Tract to CITY; and

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. _____ for Tract contingent that a Development Agreement be executed between CITY and OWNER 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 Tract will be served by an existing sanitary sewer main in 58th Street West. OWNER will be responsible for connecting to the sanitary sewer system at the time of development and shall be responsible

for payment of CITY wastewater system development fees at the time of connection to the sanitary sewer.

2. Water. If public water is not available adjacent to OWNER Tract at the time of lot development, OWNER shall install a new minimum 2,000-gallon cistern constructed in accordance with the Certificate of Subdivision Approval EQ #18-1699 to serve the Tract. The Certificate of Subdivision Approval is on file of record in the office of the Clerk and Recorder of Yellowstone County, under Document No. 3854092.

At the time in which a public water main is constructed adjacent to Tract and the Tract is developed, the OWNER shall connect to the water main with a new water service connection and shall be responsible for payment of CITY water system development fees at the time of connection.

OWNER shall participate in the construction of the water main extension through a Special Improvement District and/or Private Contract. A Waiver of Right to Protest all future water facilities shall be executed with this agreement.

3. Storm Drain. There is no City storm drain available in the area. The OWNER will manage storm drainage in accordance with the version of the City of Billings Stormwater Management Manual adopted at the time of lot development.

OWNER shall participate in the construction of any storm drain extension through a Special Improvement District and/or Private Contract. A Waiver of Right to Protest all future storm drain facilities shall be executed with this agreement.

4. Right of Way. 58th Street West is designated as a future Collector road, which has a required right-of-way width of 74 feet. The total right-of-way width adjacent to OWNER Tract is approximately 78 feet. No additional right-of-way dedication is required by OWNER.

Sweetgrass Creek Drive is designated as a Residential Local Access road and is located within an existing 60-foot right-of-way adjacent to OWNER Tract. No additional right-of-way dedication is required by OWNER.

Street Widening. OWNER shall participate in the construction of the street improvements including, but not limited to asphalt pavement, curb and gutter, and sidewalk through a Special Improvement District and/or Private

Contract for 58th Street West and Sweetgrass Creek Drive. A Waiver of Right to Protest shall be executed with this agreement.

58th Street West is designated as a future Collector and is located within an approximately 78-foot right-of-way adjacent to OWNER Tract. It is required in the future that 58th Street West be constructed with a minimum standard width of 39-feet, back of curb to back of curb.

Sweetgrass Creek Drive is designated as a Residential Local Access and is located within a 60-foot right-of-way adjacent to OWNER Tract. It is required in the future that Sweetgrass Creek Drive be constructed with a minimum standard width of 34-feet, back of curb to back of curb.

5. Future Intersection Contributions. OWNER will not be required to make cash-in-lieu contributions toward the improvement costs associated with the future intersection improvements.
6. 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 OWNER 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.

This Agreement is hereby approved and accepted by City of Billings, this ___ day of _____, 20__.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____, and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

Approved as to Form:

City Attorney

WAIVER OF RIGHT TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

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

Lot 32A, Block 1 of Yellowstone Meadows – Phase Two, situated in the NE1/4 of Section 31, T 01N, R 25E, P.M.M., in the City of Billings, Yellowstone County, Montana

“OWNER”

DOOLEN PROPERTY TRUST

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 OWNER, and who acknowledged to me that said OWNER 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: _____