

Return to:  
Performance Engineering, LLC  
608 N29th Street  
Billings, MT 59101

## **DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Propriedad, LLC, PO Box 20853, Billings, MT 59104 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, more particularly described as follows:

Parcel F of Certificate of Survey No. 537, according to the official plat on file and of record in the office of the Clerk and Recorder of said County, under Document No. 496850 hereinafter referred to as "Developer Tract"

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

**WHEREAS**, DEVELOPER desires to annex Developer Tract to the City; and

**WHEREAS**, DEVELOPER is proposing to develop the Developer Tract in one phase; and

**WHEREAS**, CITY has approved the Petition for Annexation by Resolution No. 20-10895 for the Developer Tracts contingent that a Development Agreement be 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, the parties do hereby agree as follows:

1. Roads and Access. The Developer Tract will be accessed by way of one proposed approach along Lincoln Lane. The approach must be meet current city codes and regulations.
2. Sanitary Sewer. The Developer Tract will be served by existing sanitary sewer within Lincoln Lane. DEVELOPER will be responsible for connecting an additional service to the sewer main. DEVELOPER shall be responsible for payment of the City wastewater system development fee prior to the issuance of any building permits.
3. Water. The Developer Tract will be served by an existing water service along Lincoln Lane operated and maintained by the County Water District of Billings Heights.
4. Storm Drain. The DEVELOPER will manage storm drainage within the Developer Tract in accordance with the City of Billings Stormwater Management Manual (2018).
5. Right-of-Way. An additional 10-foot width of right-of-way along Lincoln Lane is required to be dedicated from the Developer Tract.
6. Street Widening. Lincoln Lane is designated by the City as a local street. DEVELOPER will be required to make road widening improvements along the western frontage of the Development Tract to a local road width of 34-foot wide back of curb to back of curb. This includes construction of curb and gutter, necessary street widening totaling 30' of asphalt width with credit for infrastructure in place. The DEVELOPER will be required to construct concrete boulevard sidewalk with a minimum width of 5-feet and minimum 5-foot boulevard width along the western property frontage. If it is determined through permitting that Lincoln Lane improvements will create safety or drainage issues, construction may be waived with participation occurring through inclusion in a larger SID. SID waivers included in this agreement covers any improvements required within Lincoln Lane covered above.
7. Future Intersection Contributions. DEVELOPER will not be required to make cash-in-lieu contributions toward the improvement costs associated with the future intersection improvements.
8. 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 Developer Tracts 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.

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

“DEVELOPER”

Propriedad, 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 Propriedad, LLC, 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 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 F of Certificate of Survey No. 537, Yellowstone County, Montana

“DEVELOPER”

Propriedad, 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 Propriedad, LLC, 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: \_\_\_\_\_