

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this ____ day of _____, 20____, by and between Dorn Real Estate and Development, P.O. Box 81524, Billings, Montana 59108-5124 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." DEVELOPER and CITY are sometimes referred to in this Agreement individually as "Party" and collectively as the "Parties."

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

Tracts 1 and 2 of Certificate of Survey No. 2828, Situated in the NE ¼ of Section 10, T 01S, R 25E, P.M.M., in the City of Billings, Yellowstone County, Montana
Above referenced property is hereinafter referred to as "Developer Tracts"

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. _____ for the Developer Tract contingent upon a 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, the Parties do hereby agree as follows:

1. Roads and Access. The Developer Tracts will be accessed by way of Bell Avenue and Monad Road. The approach locations and geometry shall be approved by the CITY.

2. Sanitary Sewer. Developer Tracts will be served by extending the existing 24-inch sanitary sewer main within a 30-foot-wide public easement or public right-of-way along the entire south boundary of Tracts 1 and 2 of Certificate of Survey 2828 and along the entire south boundary of Tract 1 of Certificate of Survey 3358. The main is located approximately 390 feet east of Tract 1 of Certificate of Survey 2828. The size and depth of the sanitary sewer main shall be reviewed and approved by the City. DEVELOPER will be responsible for installing the sanitary sewer system at the time of the development. At the request of the DEVELOPER, City staff will forward a Compensation Agreement to City Council for one-half of the cost of the sewer main construction for Council approval.

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 Tracts will be served by existing water mains located in Bell Avenue and Monad Road. Water mains shall be looped and connected from Bell Avenue to Monad Road by Developer. Water main size shall be reviewed and approved by the City.

DEVELOPER shall be responsible for payment of the City water system development fee prior to the issuance of any building permits.

4. Storm Drain. The DEVELOPER will manage storm drainage within the Developer Tracts in accordance with the City of Billings Stormwater Management Manual (2018). Developer shall dedicate to the public the area along Developer Tracts fronting Monad Road for the existing Monad Drain/Shiloh Drain.
5. Right-of-Way. Public right-of-way will be dedicated to the City of Billings in accordance with the 2018 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations.
6. Street Construction, Widening and Sidewalks. DEVELOPER shall construct curb and gutter, street widening, and boulevard sidewalk along Bell Avenue fronting the Developer Tract. DEVELOPER shall be responsible for construction of curb and gutter, street improvements, storm drain, and sidewalk along any right-of-way that is dedicated in the future upon development of Developer Tracts.
7. Multi-use Trail. DEVELOPER is not responsible for construction of any multi-use trails.

8. Future Intersection Contributions. A traffic impact study will be performed at the time of future subdivision and/or development to determine DEVELOPER contributions to future intersection improvements if development exceeds 500 trips/day. The preparation of the traffic impact study and any fees to mitigate impacts to future intersection improvements will be at the expense of the DEVELOPER.
9. 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 ensure the installation of any or all remaining public improvements. Said improvements shall include, but not be limited to, construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and park 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 improvements which the City of Billings may require. 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. All of the Developer properties can be included in a Special Improvements District for improvements identified in Development Agreement regardless of location of individual properties in relation to the improvements.
10. 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.
11. 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.
12. 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.

13. *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”

Dorn Real Estate and Development

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 Dorn Real Estate and Development, 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: _____

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, 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, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and park 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 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:

Tracts 1 and 2 of Certificate of Survey No. 2828 (Document No. 1767966), Situated in the NE ¼ of Section 10, T 01S, R 25E, P.M.M., in the City of Billings, Yellowstone County, Montana, of which plat is on file and recorded at the Yellowstone County Clerk and Recorder’s Office.

“DEVELOPER”

Dorn Real Estate and Development

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 Dorn Real Estate and Development 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: _____