

BufReturn to:
WWC Engineering
550 S. 24th Street W, Ste 201
Billings, MT 59102

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this ____ day of _____, 20____, by and between *Buffalo Crossing, LLC, 353 Old Hays Road, Hays, MT 59527*, 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:

Tract 4A, Certificate of Survey No. 2735, according to the official plat of file and of record in the office of the Clerk and Recorder of said County, under Document No. 3539423 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, 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 Tract will be accessed from one proposed approach along Grand Avenue and a street connection to Stockman Avenue

to the east. The approach shall meet current city codes and regulations. Stockman Avenue shall be constructed and extended across the entire width of Developer Tract to provide a connection to the property to the west per the City of Billings Functional Classification Map proposed future alignment. The City has the right to require an additional street connection from Stockman Avenue to the south property line to provide a connection to the property to the south.

2. Sanitary Sewer. The DEVELOPER is required to extend 18-inch sanitary sewer from the existing manhole located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Developer Tract. If requested by DEVELOPER, City staff will forward a Compensation Agreement to City Council for approval of oversizing of the sanitary sewer. DEVELOPER can submit a reimbursement agreement in accordance with the City's Rules and Regulations Governing Water and Wastewater Service. The south portion of the Developer Tract will be served by a new low pressure sanitary sewer system that will be connected to a sanitary manhole that services the north portion of the Developer Tract by a new gravity sanitary sewer system. The system will be connected to the existing manhole located at the intersection of 60th Street West and Grand Avenue.

DEVELOPER shall be responsible to reimburse the City for their proportionate share of the existing sanitary sewer line in Grand Avenue. 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 is required to extend a 20-inch water main located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Developer Tract for approximately 270 feet. If requested by DEVELOPER, City staff will forward a Compensation Agreement to City Council for approval of oversizing of the water main.

DEVELOPER shall be responsible to reimburse the City for their proportionate share of the existing water line in Grand Avenue. 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 Tract in accordance with the City of Billings Stormwater Management Manual (2018).
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. DEVELOPER shall dedicate a 60-foot wide half right-of-way along Grand Avenue, an 80-foot wide right-of-way for Stockman Avenue, and a 56-foot wide right-of-way for a street connection from Stockman Avenue to the south property line.

6. Birely Drain. The Birely Drain flows along the east side of the Developer Tract. DEVELOPER shall obtain information from Birely Drain on access and easement requirements within the Developer Tract. As required by the Billings Stormwater Management Manual, DEVELOPER shall either dedicate right-of-way or provide an easement of at least 20 feet in width along the west side and north side of Birely Drain.
7. Street Construction, Widening and Sidewalks. DEVELOPER will be required at the time of development to construct the widening of Grand Avenue along with curb and gutter, and a 10-foot wide asphalt multi-use path along the Developer Tract frontage.

Stockman Avenue is designated by the City as a collector street. DEVELOPER shall construct the extension of Stockman Avenue to City standards which will include construction of curb and gutter and construction of a concrete boulevard sidewalk with a minimum width of 5-feet and minimum 5-foot boulevard width along both sides of Stockman Avenue.

DEVELOPER agrees to construct a Birely Drain street crossing to provide a second access. This includes design, permitting, and construction of the Birely Drain street crossing on Stockman Avenue. The developer of Trails West Subdivision 6th Filing is responsible to construct or provide a cash contribution for one-half of the construction of the Birely Drain street crossing. The City will reimburse DEVELOPER once a cash contribution from the developer of Trails West Subdivision 6th Filing is received.

8. Multi-use Trail. DEVELOPER will be required to construct a 10-foot wide asphalt multi-use trail along the Grand Avenue frontage of the Developer Tract.

DEVELOPER shall be responsible for the maintenance and replacement of the sidewalk and/or trail after construction.

9. 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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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”

Buffalo Crossing, 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 Buffalo Crossing, LLC representative 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: _____

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:

Tract 4 of Certificate of Survey No. 2735, of which plat is on file and recorded at the Yellowstone County Clerk and Recorder’s Office.

“DEVELOPER”

Buffalo Crossing, 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 Buffalo Crossing, LLC representative 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: _____