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City of Billings
2224 Montana Avenue
Billings, MT 59101

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made this _____ day of _____, 20_____, by and between *Department of Military Affairs, PO Box 4789, Fort Harrison, MT 59636*, 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 2 and 3 of Certificate of Survey 1889 situated in the NE 1/4 of Section 26, T.1N., R.25E, P.M.M., Yellowstone County, Montana.

Above referenced property is hereinafter to as “Developer Tracts”

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 an Annexation 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 AJ Way.

2. Sanitary Sewer. AJ Way already has a sanitary sewer main constructed along the Developer Tract frontage. The City reserves the right to limit peak sanitary sewer flow into the public sewer that may require flow attenuation methods by Developer.

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

3. Water. AJ Way already has a water main constructed along the Developer Tract frontage. The City and Developer will review cost-share for water system improvements that may be required to improve the City water system to serve proposed Developer Tract Improvements. Specific improvements and potential cost share will be reviewed at the time of development.

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. If the Developer Tract does not develop through subdivision, a Master Site Plan approval will be required; the City may require the Developer to dedicate adequate right-of-way as part of the City's approval of such Master Site Plan. No right-of-way dedication is necessary with this development.

6. Street Construction, Widening and Sidewalks. AJ Way is already fully constructed with a sidewalk to the Developer Tract. No additional street or sidewalk improvements are necessary with this development.

The owner of the Developer Tract shall be responsible for the maintenance, repair, and replacement of the sidewalk fronting the property.

7. Multi-use Trail. A 10-foot-wide multi-use trail is not required along the frontage of the Developer Tract.

8. Future Intersection Contributions. A traffic impact study shall be required by the City if the development exceeds 500 trips/day as determined by the City. 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.

The traffic impact study may be reviewed by the Montana Department of Transportation.

Furthermore, any improvements identified within the TIS to mitigate off-site traffic impacts would be the responsibility of the DEVELOPER for design and construction.

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 Annexation Agreement regardless of location of individual properties in relation to the improvements.
10. Compliance with Land Use and Development Ordinances and Regulations. Nothing herein shall be deemed to exempt the Developer Tract from compliance with any current or future City laws, rules, regulations, policies, and fees that are applicable to the development, redevelopment, or use of the subject property. Final plats or other dedications of the Developer Tract will be transmitted to the City for City Council acceptance of dedication of right-of-way and public easements. Dedications, deeds or conveyances will be in the name of the City after the effective date of the annexation and will be forwarded to the City Council for acceptance.
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”

Department of Military Affairs

By: _____

Title: _____

STATE OF MONTANA)

:ss

County of _____)

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 Department of Military Affairs 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: _____

