

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made this ____ day of _____, 20_____, by and between Thomas Romine, 1128 North 32nd Street, Billings, MT 59101 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:

A portion of Lot 27A of the Amended Plat of Sunny Cove Fruit Farm Subdivision, recorded on December 29, 2009 under document number 3536038, further described as follows: Beginning at the Northeast corner of Lot 27A, thence S0°07'20"E a distance of 666.42' to the southeast corner of Lot 27A, thence S89°41'20"W a distance of 607.35', more or less, thence N0°24'55"W a distance of 665.74' to a point on the boundary lot line between Lots 27A and 6A-1, thence N89°37'30"E along the boundary line of Lot 27A and 6A-1 a distance of 610.76' to the point of beginning. Said annexation containing 9.31 acres, more or less.

Above referenced property is 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 proposes to develop the Developer Tract in phases over time; 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 by way of one access from Lot 6A1, Sunny Cove Subdivision which will have access from Rimrock Road and Mared Street. Developer shall provide a connection to the west for a future access to 60th Street West.

2. Sanitary Sewer. The Developer Tract will be served by the existing sanitary sewer main in Rimrock Road through Lot 6A1, Sunny Cove Subdivision.

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 the existing water main in Rimrock Road. Developer shall also extend a water main in Mared Street from 58th Street West to serve the property.

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 10-feet of right-of-way along Rimrock Road to make a 60-foot half right-of-way along the Lot 6A1 at the Developer's cost if Lot 6A1 and 27A are developed together.

6. Street Improvements. DEVELOPER will be required at the time of development to submit a traffic study. The traffic study will determine improvements to Rimrock Road that will be required at the time of development. For all future improvements to Rimrock Road, the CITY will assess property owners within the development for their share of the cost of the improvements. Mared Street shall be paved in accordance with City standards at the Developer's cost.

7. Sidewalk. A sidewalk will be required to be constructed along Rimrock Road along Lot 6A1 at the expense of the DEVELOPER.

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

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. 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. Public Improvements. Should the City perform improvements listed in the Agreement or not listed in the Agreement benefitting the Developer Tract, 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 parks 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 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.
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”

Thomas Romine

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

A portion of Lot 27A of the Amended Plat of Sunny Cove Fruit Farm Subdivision, recorded on December 29, 2009 under document number 3536038, further described as follows: Beginning at the Northeast corner of Lot 27A, thence S0°07'20"E a distance of 666.42' to the southeast corner of Lot 27A, thence S89°41'20"W a distance of 607.35', more or less, thence N0°24'55"W a distance of 665.74' to a point on the boundary lot line between Lots 27A and 6A-1, thence N89°37'30"E along the boundary line of Lot 27A and 6A-1 a distance of 610.76' to the point of beginning. Said annexation containing 9.31 acres, more or less.

“DEVELOPER”

Thomas Romine

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 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: _____