

County Water District of Billings Heights
1540 Popelka Drive
Billings, MT 59105

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made this ____ day of _____, 20____ by and between the **COUNTY WATER DISTRICT OF BILLINGS HEIGHTS**, with a mailing address at 1540 Popelka Drive, Billings, Montana 59105 (the "District"), and _____, whose address is _____ (the "Owner").

RECITALS:

A. The District is a county water district incorporated and existing under Montana law, which provides water service to its customers in Yellowstone County, Montana.

B. The Owner is the fee simple owner of that certain real property located within Yellowstone County, Montana, which is more particularly described on the attached Exhibit "A" (the "Property").

C. The Owner has requested and petitioned for annexation of the Property into the District and has submitted a Petition and Request for Annexation of Property into the County Water District of Billings Heights, along with a complete Submittal Package, and desires to enter into this Agreement in order for the District to annex and add the Property upon the terms and conditions set forth in this Agreement.

D. The District desires to annex the Property into the District, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, IT IS HEREBY AGREED:

1. Annexation of Property.

A. The described real property on attached Exhibit "A" is situated in Yellowstone County, Montana and is being annexed and added into the District pursuant to Montana Code Annotated § 7-13-2341, and subject to the terms and conditions set forth in this Agreement. In consideration therefore and in order to extend and receive water service, the Owner hereby agrees to be bound by the conditions, rules, regulations, ordinances and resolutions of the District, as the same may be amended or adopted from time to time, including but not limited to any and all requirements, conditions and/or specifications set forth on attached Exhibit "B".

B. The Owner has submitted plans, drawings and specifications setting forth the intended use of the Property, proposed development designs and public improvements, including

the size and location of any proposed water lines, mains or extensions thereof. The Owner has also submitted a complete legal description of the Property, including a metes and bounds description. The design, sizing and location of any water lines or mains shall be in accordance with plans and specifications submitted to and approved by the District and any other applicable regulatory authority. The Owner understands and hereby agrees that each submittal shall be subject to hydraulic modeling to be performed by the District's Engineering Firm or by an engineering firm designated by the District. The Owner shall be solely responsible for any and all costs and fees associated with the hydraulic modeling analysis.

C. Annexation shall not be effective or final until all of the conditions and requirements herein have been met in their entirety. In the event the District's conditions, requirements, rules, regulations, ordinances and resolutions are not met in their entirety, the District reserves all of its rights, including but not limited to the right to reject the annexation petition or to revoke its approval of annexation, thereby not including the Property in the District. In no event shall water service be provided until all of the District's conditions, specifications, requirements, rules, regulations, ordinances and resolutions have been met in their entirety. In the event the District determines, in its discretion, that an extension or extensions of water mains is necessary, then the District and the Owner shall execute a Water Main Extension Agreement in a form and on terms acceptable to the District, which Water Main Extension Agreement shall specifically govern the terms of such extension.

D. The Owner understands and agrees that all water lines for which the District is responsible shall be constructed within public right of way or, with the District's prior approval, within private right of way granted to the District by the owners of those properties crossed by the water lines. The private right of way easement shall be in such written form and on terms acceptable to the District.

2. **Other Laws.** The above-described Property is being (and shall be) developed in accordance with all applicable local, state and federal laws, regulations, ordinances and administrative rules, and any amendments thereto.

3. **Binding Covenants.** The Owner by signature subscribed herein below agrees, consents and shall be bound by the provisions of this Agreement. The covenants, agreements and all statements in this Agreement shall be covenants running with the Property.

4. **Default.** If Owner shall fail to fully perform any of Owner's obligations under this Agreement and such default shall not have been cured within ten (10) days after written notice thereof has been given by the District, then the District shall have all rights and remedies available in law or in equity; provided, however, if such default cannot be cured within said ten (10) day period but can reasonably be cured within thirty (30) days after such notice, then the Owner shall not be in default if and so long as Owner commences to cure within said ten (10) day period and thereafter proceeds to cure continuously and diligently in a manner reasonably satisfactory to the District and completes the same within thirty (30) days.

5. **Attorney Fees.** If either party defaults in its performance hereunder, and the other party employs an attorney because of such default, the defaulting party agrees to pay, on demand, all

costs, charges and expenses, including reasonable attorney's fees, incurred at any time by the other party because of the default.

6. **Notice.** Any notice given hereunder shall be in writing and either be served upon a party personally or served by registered or certified mail, return receipt requested, directed to the party to be served at the address of the party set forth on the first page of this Agreement. A party wishing to change its designated address shall do so by notice in writing to the other party. Notice served by mail shall be deemed complete two days after deposit in the United States mail, postage prepaid, properly addressed. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice.

7. **Entire Agreement.** This Agreement contains the entire agreement and understanding of the parties concerning the annexation, and supersedes any and all prior negotiations and understandings. This Agreement shall not be modified, amended or changed in any respect except by written document signed by all parties hereto.

8. **Waiver.** The failure of the District to insist in any one or more instances upon strict performance of any of the terms or covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of such covenant, but the same shall continue and remain in full force and effect.

9. **Interpretation.** This Agreement has been made and entered into in the State of Montana and shall be governed by the laws of the State of Montana. If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall nonetheless be effective.

10. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties.

11. **Recording.** This Agreement shall be recorded in the real estate records in the office of the Clerk and Recorder of Yellowstone County, Montana.

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

COUNTY WATER DISTRICT OF
BILLINGS HEIGHTS

By: _____

Its: _____

“District”

“Owner”

STATE OF MONTANA)
)
 : ss.
County of Yellowstone)

This instrument was acknowledged before me on the _____ day of _____,
20__, by _____ as General Manager of County Water District of Billings Heights.

(Notarial Seal)

[Print or Type Name]
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____
[Month, Day, 4-Digit Year]

STATE OF MONTANA)
)
 : ss.
County of Yellowstone)

This instrument was acknowledged before me on the _____ day of _____,
20__, by _____ as _____ of _____.

(Notarial Seal)

[Print or Type Name]
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____
[Month, Day, 4-Digit Year]