

**FIRST AMENDMENT TO
AGREEMENT TO DEDICATE RIGHT-OF-WAY**

THIS AMENDMENT ("Amendment"), signed this ^{21st}~~9th~~ day of September, 2021 is intended to amend the Agreement to Dedicate Right of Way ("Original Agreement") entered into between Rocky Mountain Beverage of Montana, LLC, a Montana limited liability company ("RMB"), and the City of Missoula, a Montana political subdivision ("City") on April 9, 2021.

RECITALS

Whereas, the Parties previously entered into the Original Agreement with the understanding that the City would be able to complete the construction of all the right-of-way improvements identified in Section 3 of the Original Agreement on a timeline that worked for both Parties; and

Whereas, due to a variety of factors the City's construction timeline for the right-of-way improvements described in Section 3 of the Original Agreement have been delayed; and

Whereas, RMB desires to construct a portion of the right-of-way improvements in order to serve a development RMB is constructing in the area.

Now therefore, in consideration for the promises and covenants contained below, the Parties agree to amend the Original Agreement by adding the following provision as a new Section 14 in the Original Agreement:

14. In addition to construction of the portion of Mary Jane Boulevard described in Section 2, RMB shall construct Mary Jane Boulevard from West Broadway to Veterans Way (approximately 350 feet) to the plans and specifications provided by the City and included in Exhibit B. This portion of Mary Jane Boulevard will serve as an interim approach for the VA Clinic until the remaining BUILD Project improvements are completed by the City.

The parties agree that the previous cost of the construction described in Section 2 was \$51,395, which will be deducted from the \$134,293 remaining in the Subdivision Improvements Agreement, as described in Section 4.

The City agrees that the \$82,898 balance of the Improvements Agreement will be applied to construction of Mary Jane Boulevard from West Broadway to Veterans Way. In addition, the City will contribute \$50,000 toward completion of this portion of Mary Jane Boulevard. City shall pay this lump sum amount to RMB within 45 days after completion and acceptance of the work by the City, which shall satisfy the City's obligations to provide access per Section 6.

All other terms and conditions of the Original Agreement remain in full force and effect. This Amendment is effective upon execution by all of the parties.

IN WITNESS WHEREOF the parties have executed this Amendment on the date referenced beside each signature below.

Rocky Mountain Beverage of Montana, LLC
a Montana Limited Liability Company

A handwritten signature in black ink, appearing to read "Greg Markovich", written over a horizontal line.

By: Greg Markovich, authorized member

City of Missoula

By: John Engen, Mayor

Attest: _____
City Clerk