

Return to: City Clerk  
City of Missoula  
435 Ryman Street  
Missoula MT 59802-4297

**RESOLUTION NUMBER \_\_\_\_\_**

**A resolution to annex and incorporate within the boundaries of the City of Missoula Lots 2 through 8 in the Linda Vista 11<sup>th</sup> Supplement and a portion of Joy Drive adjacent, Lots 1 through 41, Common Area 1 and 2, and portions of Max Drive, Maggie Mae Drive, and Guinevere Drive in the Linda Vista 18<sup>th</sup> Supplement and a portion of Miller Creek Road, and Tract 3A of Certificate of Survey No. 6798 and a portion of Jim Loop Drive within the tract, all located in Section 13, Township 12 North, Range 20 West and shown on Exhibits A and B, and zone the property PUD Miller Creek View Addition, subject to conditions of annexation, based on the findings of fact in the staff report.**

**LEGAL DESCRIPTION:** Lots 2 through 8 in the Linda Vista 11<sup>th</sup> Supplement and a portion of Joy Drive adjacent, Lots 1 through 41, Common Area 1 and 2, and portions of Max Drive, Maggie Mae Drive, and Guinevere Drive in the Linda Vista 18<sup>th</sup> Supplement and a portion of Miller Creek Road, and Tract 3A of Certificate of Survey No. 6798 and a portion of Jim Loop Drive within the tract, all located in Section 13, Township 12 North, Range 20 West and shown on Exhibit A and Exhibit B.

**WHEREAS**, the Lloyd A. Twite Family Partnership, owner of 100% of the property described herein as Lots 1 through 41, Common Area 1 and 2, and portions of Max Drive, Maggie Mae Drive, and Guinevere Drive in the Linda Vista 18<sup>th</sup> Supplement Subdivision, and Tract 3A of Certificate of Survey No. 6798 including the publicly dedicated portion of Jim Loop Drive within the tract, has filed Petition Nos. 10097 and 10098 with the City Clerk requesting annexation of a combined 33.72 acres and waiving the need to prepare a service plan for the annexation; and

**WHEREAS**, concurrently, the City of Missoula seeks to annex Lots 2 through 8 in the Linda Vista 11<sup>th</sup> Supplement Subdivision with a total area of 2.45 acres, which were platted in 2001, and are developed with homes that receive City water and sewer services; and

**WHEREAS**, the Missoula County Commissioners approved the final subdivision plat of the Linda Vista 11<sup>th</sup> Supplement and as stated on the final subdivision plat, the lot owners, successors, and assigns waived their right to protest annexation contingent upon receiving municipal sewer services by the City of Missoula, which they receive; and

**WHEREAS**, it is the Missoula City Council's decision to consider these properties for annexation pursuant to the statutory annexation by petition method set forth in Title 7 Chapter 2 Part 46 Section 4601 (3)(a)(ii) Montana Code Annotated (MCA), wherein the petitioner owns real property representing 50% or more of the total land area to be annexed; and

**WHEREAS**, the herein described property is within the City of Missoula Utilities Service Area boundary, the City has current and future capacity to serve the property and development; and the owners/developers have paid all costs to extend the municipal sewer and water service to the property; and

**WHEREAS**, the City Council desires the annexation and zoning of the herein described property be conditioned upon annexation subject to the following conditions:

1. The applicant and owner of Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798, at the time of petition for annexation, shall file easements with the Missoula County Clerk and Recorder for all public water and sewer mains, fire hydrants, City storm drainage facilities, and public access with private maintenance easements for Maritsa Court, Audrey Court, Uncle Robert Lane, and Alex Lane within Tract 3A of Certificate of Survey No. 6798, subject to review and approval by the City Engineer and City Geographic Information Systems office, prior to approval of the first sewer connection permit on any lot within Linda Vista 18<sup>th</sup> Supplement or within ninety (90) days of annexation, whichever comes first. Annexation will be null and void if this condition is not met and all the property within this annexation will revert to the County.
2. The applicant and owner of Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798, at the time of petition for annexation, shall provide a maintenance agreement for Jim Loop and all internal streets within Tract 3A of Certificate of Survey No. 6798 that have not been accepted for maintenance by Missoula County or the City of Missoula, filed with the County Clerk and Recorder, subject to review and approval of City Engineering, prior to approval of the first sewer connection permit on a lot within Linda Vista 18<sup>th</sup> Supplement, or within ninety (90) days of annexation, whichever comes first.
3. The applicant and owner of Linda Vista 18<sup>th</sup> Supplement and Certificate of Survey No. 6798 shall submit a petition for the property to be included in the Missoula Urban Transportation District, subject to review and approval of Development Services, prior to approval of the first sewer connection permit on any lot within the Linda Vista 18<sup>th</sup> Supplement or within ninety (90) days of annexation, whichever comes first.
4. The Resolution to annex the above property is not effective until the Developer complies with Conditions of Approval 1, 2, and 3. In the event that Developer does not comply with Conditions of Approval 1, 2, and 3 within 90 days of City Council approving this annexation, this Resolution shall become null and void. Once the Petitioner complies with Conditions of Approval 1, 2, and 3, the City Clerk shall certify this Resolution and cause it to be filed with the Missoula County Clerk and Recorder's Office pursuant to Section 7-2-4607, MCA.

**WHEREAS**, Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road rights-of-way that are adjacent to the property being annexed; and

**WHEREAS**, portions of Joy Drive, Jim Loop, Max Drive, Guinevere Drive, Maggie Mae Drive, and Miller Creek Road, including the intersection of Miller Creek Road and Jeff Drive, are located within public rights-of-way adjacent to or in the immediate vicinity of, and are not within the municipal boundary of the City of Missoula, therefore the City has included the full width of these rights-of-way in the annexation boundaries as shown in Exhibit A and Exhibit B; and

**WHEREAS**, the parcels described herein are currently zoned Planned Unit Development / Miller Creek View Addition in the County and the recommended zoning in the City is the same Planned Unit Development / Miller Creek View Addition in accordance with MCA 76-2-303(3)(a)(i & ii) and Missoula Municipal Code criterion 20.85.040(I)(2a & 2b), it is the intention of the City of Missoula to annex this property with the recommended city zoning. FURTHER, the property is situated adjacent to City Council Ward Area No. 5 and the Miller Creek Neighborhood Council District, and it is the intention of the Council to add this property to said Ward and Neighborhood Council District; and

**WHEREAS**, in the judgment of the City Council of the City of Missoula, it is deemed to be in the best interest of the City of Missoula, the inhabitants thereof and the current and future inhabitants of the property described herein, which have petitioned for annexation or waived their right to protest

annexation, and are within the urban growth boundary, that the boundaries of the City of Missoula shall be extended to include the same within the corporate limits.

**WHEREAS**, the Council of the City of Missoula passed and adopted Resolution Number 8560, approved by the Mayor on 10/18/2021, stating the City's intention to consider extending the City limits to include the within described properties. Council set a public hearing for 10/25/2021 at its regularly scheduled City Council meeting to hear all matters pertaining to the annexation and zoning of said property; and

**WHEREAS**, the *Missoulian* published notice of such proposed extension of the city limits on 10/3/2021 and 10/10/2021 as provided by Section 76-2-303 and 7-1-4127 MCA; and

**WHEREAS**, in the judgment of the City Council of the City of Missoula, it is deemed to be in the best interest of the City of Missoula, the inhabitants thereof and the current and future inhabitants of the parcels of land described herein, which have petitioned for annexation, wherein the petitioner owns real property representing 50% or more of the total land area to be annexed; and are within the urban growth boundary, that the boundaries of the City of Missoula shall be extended to include the same within the corporate limits.

**NOW, THEREFORE BE IT RESOLVED** that the corporate limits of the City of Missoula are hereby extended to incorporate and annex the property described herein; and

**BE IT FURTHER RESOLVED** that the parcel is hereby zoned Planned Unit Development / Miller Creek View Addition in the City. FURTHER, that the parcel is hereby assigned to City Council Ward Area No. 5 and the Miller Creek Neighborhood Council District; and

**BE IT FURTHER RESOLVED** that the minutes of City Council of the City of Missoula, Montana, incorporate this resolution; and

**BE IT FURTHER RESOLVED** that if the city annexation of any lot(s), parcel(s), block(s) or tract(s) of land annexed into the city pursuant to this city annexation resolution or any provision of this resolution is ever held to be invalid or unconstitutional, the City Council hereby declares that any such decision shall not affect the validity of the annexation of the remaining lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or the remaining provisions of this resolution. The City Council hereby declares that it would have passed this resolution and annexed each lot(s), parcel(s), block(s) or tracts(s) of land into the city as well as each provision of this resolution irrespective of the fact that the annexation of any one or more lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or provision of this resolution may have been declared invalid or unconstitutional, and if for any reason the annexation of any lot(s), parcel(s), block(s), tract(s) of land or any provision of this resolution should be declared invalid or unconstitutional, then the annexation of the remaining lot(s), parcel(s), block(s) or tracts(s) of land and resolution provisions are intended to be and shall be in full force and effect as enacted by the City Council.

**PASSED AND ADOPTED** this 1<sup>st</sup> day of November, 2021.

**ATTEST:**

**APPROVED:**

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Martha L. Rehbein, CMC  
City Clerk

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John Engen  
Mayor

(SEAL)