

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

RESOLUTION NUMBER _____

A resolution of intent to annex and incorporate within the boundaries of the City of Missoula, five existing tracts of record that can be referenced in Book 810 of Micro Records Pages 1424-1428 and all located in Township 12 North, Range 19 West and Section 5, Township 13 North, Range 19 West, as shown and legally described in Exhibits A and B, and zone the property R5.4 Residential, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval, ; refer this item to the Land Use and Planning Committee for discussion on August 28, 2024, and set a public hearing on September 9, 2024.

WHEREAS, Hillview Road LLC and Hillview MF Project Owner LLC, owners of 100% of the property described herein, have filed Petition No. 10209 with the City Clerk requesting annexation and waiving the need to prepare a service plan for the annexation; and

WHEREAS, it is the Missoula City Council's decision to consider this petition 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); and

WHEREAS, the herein described property is within the City of Missoula Utility Service Area boundary, the City has current and future capacity to serve the property and development, and the owners/developers will pay 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:

Phasing

1. Final plat submittals shall be made in accordance with the Revised Phasing Plan, unless the timeframes are extended or the phasing plan is amended as per City Subdivision Regulations Section 4-070.3.C. The Revised Phasing Plan includes deadlines for submittal of each final plat phase and shows Phase 6 being Lots 58 - 67. (*City Subdivision Regulations Section 4-070.2 and 4-070.3.C*)

Streets, General

2. All street and non-motorized improvements shall be designed and built in accordance with the City Public Works Standards and Specifications Manual and the City of Missoula Subdivision Regulations (except as modified by variance), and comply with Public Rights-of-Way Accessibility Guideline requirements, subject to the review and approval by City Public Works & Mobility or secured with an improvements agreement, prior to final plat approval. (*City Subdivision Regulations Section 3-020.2*)
3. The following statement shall appear on the face of each final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval of all phases:

“Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID/SLID, based on benefit, for future improvements and maintenance of Sommers Street, Deer Creek Road, Speedway Avenue, Waterside Drive, Lupine Lane, Crosscut Way, Jumbo Drive, Heartwood Place, and Aspire Loop as shown on the preliminary plat, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening, street lighting, and drainage facilities, and may be used in lieu of their signatures on an improvement district petition.” (*City Subdivision Regulations Sections 5-050.3.AA, 5-050.3.BB, 3-020.3.A.1, 3-020.3.G and 3-020.4.B, Title 12.10.110 and 12.02*)

4. The subdivider shall provide a road naming plan for review and approval of Missoula City GIS and City Public Works & Mobility prior to final plat approval of Phase 1. The signage plan shall include a name for the alleys providing vehicular access to lots. The subdivider shall install or secure with an improvements agreement the approved road name signs appurtenant to each phase prior to final plat approval of each phase. (*City Subdivision Regulations Section 3-020.4.H and 3-020.12*)
5. The subdivider shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices subject to review and approval of City Public Works & Mobility and City Fire prior to final plat approval of each phase. The subdivider shall install or secure with an improvements agreement the approved street signage appurtenant to each phase prior to final plat approval of each phase. (*City Subdivision Regulations Section 3-020.4.H*)

Sommers Street Offsite

6. The subdivider shall provide plans for improvements to Sommers Street from the Aspire property to the Montana Highway 200 right-of-way prior to final plat approval of Phase 1, subject to review and approval of Missoula County Public Works and City Public Works & Mobility. The subdivider shall install or secure with an improvements agreement the approved street improvements prior to final plat approval of Phase 1, with final approval required upon completion by Missoula County Public Works and City Public Works & Mobility. [*City Subdivision Regulations Section 3-020.13.C(1), 3-020.4.A, and 4-010.14.D(2)*]

Onsite Streets and Alleys

7. The subdivider shall provide plans for and install or secure with an improvements agreement all streets and alleys within each phase as shown on the preliminary plat, phasing plan, and road and trail plans submitted with the preliminary plat application, subject to review and approval of City Public Works & Mobility, prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A*)
8. The subdivider shall provide plans for and install or secure within an improvements agreement all non-motorized facilities within each phase as shown on the preliminary plat, phasing plan, and road and trail plans submitted with the preliminary plat application, subject to review and approval of City Public Works & Mobility and Parks & Recreation, prior to final plat approval of each appurtenant phase, except for the pathways leading to and within the riverfront park, which shall be installed prior to final plat approval of Phase 3. Landscaping improvements along the southern property boundary shall be installed prior to final plat approval of Phase 6, as shown in the road and trail plans, subject to review and approval of Parks and Recreation. (*City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A*)
9. The subdivider shall install a sewer maintenance road along Lots 6 – 18 and Lots 103 – 113 within a 12-foot drivable easement as shown on the preliminary plat to allow City utility staff to access, maintain, and replace the sewer main. The plans shall be reviewed and approved by City Public Works & Mobility and the road shall be installed prior to final plat approval of Phase 1, with the portion running along the south boundary of the 1.73-acre western park to be paved prior to final plat approval of Phase 4, all subject to review and approval of Public Works & Mobility and Parks & Recreation. [*Preliminary Plat, City Subdivision Regulations Section 4-010.14.D(2)*]

Rights-of-Way and Easements

10. The subdivider shall establish and dedicate right-of-way easements to the City of Missoula from Sommers Drive to Crosscut Way to the proposed and existing Waterside Drive, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
11. All proposed rights-of-way and easements shall be shown on each appurtenant final plat, identified for their width and purpose, dedicated to the City of Missoula, and recorded with the County Clerk & Recorder's Office with book and page of the recorded documents provided in accordance with Missoula City Public Works Standards and Specifications Manual, subject to review and approval by City Public Works & Mobility, prior to final plat approval of each phase. *(City Subdivision Regulations Sections 3-020.3.B, 3-040.2.B, 3-040.3.H & 3-060.1)*
12. The subdivider shall include the following statement on the face of each final plat, subject to review and approval by City Public Works & Mobility: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever." *(City Subdivision Regulations Section 5-050.3.X)*

Stormwater and Drainage

13. The subdivider shall submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a stormwater pollution prevention plan for all lots, blocks and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of City Public Works & Mobility, prior to final plat approval of each phase. All drainage facilities shall be constructed in accordance with the approved plans prior to final plat approval of each appurtenant phase. *(City Subdivision Regulations Section 5-020.11)*
14. Prior to construction of the riverbank trail and planting of vegetation within 50 feet of the ordinary high watermark of the Clark Fork River, the subdivider shall acquire a 310 permit from the Missoula Conservation District and submit a copy of the permit to Development Services and Parks & Recreation. *(City Subdivision Regulations Section 3-010.1)*
15. The following statement shall be placed on each final plat and added to the Development Covenants: Runoff from roofs shall be diverted via gutters to street rights-of-way or residential rock sumps to avoid overflow onto adjoining properties, to limit the potential for erosion, and to protect Clark Fork River water quality in accordance with the approved grading and drainage plans. *(City Subdivision Regulations Section 3-040 and 5-0203.B, MCA 76-3-608(3)(a) Effect on the Natural Environment)*

Riparian Resource Area

16. The subdivider shall submit a Riparian Resource Management Plan addressing the requirements in City Subdivision Regulations Sections 3-130.3 and 5-020.14.L, subject to review and approval of Development Services, prior to final plat approval of Phase 1. The final approved plan shall be appended to the Development Covenants and referenced during subdivision and park improvement design and construction. *(City Subdivision Regulations Sections 3-130.3 and 5-020.14.L)*

Water Systems, Sewer Systems, and Solid Waste Disposal

17. The subdivider shall submit plans for water supply and sewage disposal facilities meeting the requirements of the Montana Department of Environmental Quality, Missoula City/County

Health Department, and City of Missoula, prior to final plat approval of each phase. The subdivider shall install or secure with an improvements agreement the approved facilities prior to final plat approval of each phase, subject to review and approval of City Public Works & Mobility. (*City Subdivision Regulations Section 3-070.1*)

18. The subdivider shall provide plans for and upgrade the existing water mains in Sommers Street, Dakota Avenue, and Staples Street to a 12-inch main to maintain fire flows necessary to serve homes in the Canyon River Subdivision, subject to review and approval of City Public Works & Mobility, prior to final plat approval of Phase 3. Before initiating work, the subdivider shall enter into a work plan and cost sharing agreement with City Public Works & Mobility to pay a proportionate share of these improvements. (*City Subdivision Regulations Section 3-010.5, 3-070.1*)

19. The subdivider shall submit solid waste disposal plans meeting the regulations of Montana Department of Environmental Quality, Missoula City/County Health Department, and the City of Missoula, subject to the review and approval of City Public Works & Mobility and the Missoula City/County Health Department prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-070.1*)

Fire Protection

20. The subdivider shall provide plans for fire suppression water flow, hydrant placement, and address signage standards, subject to review and approval by the City Fire Department and City Public Works & Mobility, prior to final plat approval of Phase 1. The subdivider shall install fire hydrants and related improvements, subject to review and approval by City Fire Department and City Public Works & Mobility, prior to combustible construction in each appurtenant phase. (*City Subdivision Regulations Section 3-010.1.F and 3-070.1*)

Mail Delivery

21. The subdivider shall provide plans for and install or secure an improvements agreement for mail delivery facilities for future subdivision residents, subject to review and approval by the U.S. Postal Service and City Public Works & Mobility, prior to final plat approval of Phase 1. The subdivider shall install or secure with an improvements agreement the approved mail delivery facilities prior to final plat approval of each appurtenant phase, subject to review and approval of the U.S. Postal Service and Public Works & Mobility. (*City Subdivision Regulations Sections 3-020.15.D(2)(c) and 3-100.18*)

Parkland Dedication, Boulevard Landscaping & Weeds

22. The subdivider shall provide plans for and install or secure with an improvements agreement park improvements to all parkland, including but not limited to grading, preservation of existing mature vegetation where possible, application of topsoil, installation of commercial grade irrigation system, installation of turf grass and dryland seed or sod, installation of park trees, and design to allow for future amenities, subject to review and approval by City Parks & Recreation, prior to final plat approval for each phase containing parkland. Park improvements must meet standards found in the City of Missoula Parks and Recreation Design Manual. (*City Subdivision Regulations Section 3-080 and 5-020.14.H*)

23. The subdivider shall dedicate to the City 2.4 acres of parkland in a linear park along the Clark Fork River as shown on the preliminary at the time of final plat approval of Phase 1. The subdivider shall install or secure with an improvements agreement the proposed 8-foot gravel pathway with improved access points from Waterside Drive along with selection and planting of park trees as depicted on the plat and landscaping plans, prior to final plat approval of Phase 3, subject to review and approval of City Parks & Recreation. (*City Subdivision Regulations Section 3-080*)

24. The subdivider shall dedicate to the City 1.73 acres of parkland adjacent to the Missoula County Canyon View Park as shown on the preliminary plat at the time of final plat approval

of Phase 4, subject to review and approval by Parks and Recreation. *(City Subdivision Regulations Section 3-080 and 5-020.14.H)*

25. The subdivider shall provide or secure with an improvements agreement a paved path from the internal extension of Sommers Street, through the 1.73-acre park and Canyon View Park, to Robinson Street, subject to review and approval by City Parks & Recreation and Missoula County Parks, Trails, and Open Lands Department, prior to final plat approval of Phase 4. The sewer maintenance access road along the southern edge of the park shall be used for a portion of this path. *[City Subdivision Regulations Section 3-080.8.C, 4-010.13.B(c) and (g)]*
26. The subdivider shall remove the substandard playground equipment in Canyon View Park, subject to review and approval by City Parks & Recreation and Missoula County Parks, Trails, and Open Lands Department, prior to final plat approval of Phase 4. *[City Subdivision Regulations Section 3-080.8.C, 4-010.13.B(c) and (g)]*
27. The following statement shall appear on the face of each final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by City Parks & Recreation and Development Services: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for future improvements and maintenance of parks within and adjacent to the Aspire Subdivision, including but not limited to lighting, watering, drainage, planting, transportation, play equipment, exercise equipment, garbage facilities, signage, and maintenance, and may be used in lieu of their signatures on an improvement district petition." *[City Subdivision Regulations Sections 5-050.3.AA, 3-080.8.C, 4-010.13.B(c) and (g)]*
28. The subdivider shall provide plans for boulevard landscaping for all roads within and adjacent to development lots, subject to review and approval by City Parks & Recreation, prior to final plat approval for each phase. Except as provided in the condition immediately below, the subdivider shall plant or secure with an improvements agreement Class II street trees at a linear spacing between 25 and 35 feet, with a minimum of one tree per lot, and while tree locations shown on the landscape plans may change slightly in final design, the total number of trees shown (357 total) within the rights-of-way will remain the same. If during final design and installation a tree cannot be located where planned due to a fire hydrant or other appurtenance, the subdivider shall install a tree in one of the subdivision parks, subject to review and approval of City Parks & Recreation. *(City Subdivision Regulations Section 5-050.5.C)*
29. The subdivider shall amend the Development Covenants to state that "Lot owners shall be responsible for obtaining boulevard landscaping permits prior to building permit approval and for installation of boulevard landscaping adjacent to development lots prior to Certificate of Occupancy in accordance with City of Missoula standards," subject to review and approval by Parks and Recreation prior to final plat approval. *(City Subdivision Regulations Section 5-050.5.C)*
30. The subdivider shall provide a Weed Management and Revegetation Plan, appended to the Development Covenants and approved by the Missoula County Weed District, subject to review and approval by Development Services, prior to final plat approval. *(City Subdivision Regulations Section 5-010.14.K)*

Water Rights

31. The subdivider shall convey the water rights associated with the property to the City of Missoula prior to final plat approval of Phase 1, subject to review and approval of the City Attorney. In doing so, the subdivider shall cooperate with the City's efforts to obtain approval from DNRC to convert the water rights to the City's ownership, including possible changes in use, point of diversion, or changes to accommodate the City's use, integrating the

subdivider's water rights into the City's larger water rights holdings to ensure water can be provided to support the subdivision's need for domestic and irrigation water. This cooperation shall include responding verbally or in writing to requests for information on historic water use on the property, assisting the City in obtaining any necessary information in the subdivider's possession, and executing any documents necessary to convey the rights or process change applications with the DNRC. *[City Subdivision Regulations Section 4-010.14.D(1)]*

32. The subdivider shall denote on all final plats that water rights have been severed from the land within the Aspire Subdivision, subject to review and approval by Development Services. *(City Subdivision Regulations Section 3-060.4)*

Development Covenants

33. The subdivider shall submit final Development Covenants meeting the requirements of City Subdivision Regulations Section 5-020.14.K, subject to review and approval by Development Services, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 5-010.14.K)*
34. The subdivider shall include language in the Development Covenants prohibiting obstructions to be placed within any proposed public access or pedestrian access easements and any dedicated parkland, or any obstructions aside from fences in proposed utility easements, so as to maintain sufficient perpetual legal access, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 5-020.5)*
35. The subdivider shall include the following sections in the Development Covenants, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval: maintenance and replacement of mail delivery facilities, address signage standards, easements remaining unobstructed, wood burning devices, weed control, MTFWP "Living With Wildlife" recommendations, radon mitigation, riparian resource management plan, SID/RSID/SLID, and wildland urban interface fire protection standards, and said sections may not be amended or deleted without written approval by the governing body, prior to final plat approval of Phase 1. *(City Subdivision Regulations Sections 5-010.14.K, 5-020.14.F & 3-010.2)*

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, a portion of the rights-of-way for Rimel Road are adjacent to the subject property and are not within the municipal boundary of the City of Missoula, therefore the City has included the full width of the adjacent Rimel Road right-of-way in the annexation boundary; and

WHEREAS, the parcel described herein is currently within the Residential Medium of the Our Missoula 2035 Growth Policy, which is the applicable regional plan. The recommended zoning in the City is R5.4 Residential and in accordance with MCA 76-2-303(3)(a) and Missoula Municipal Code criterion 20.85.040(l)(2), it is the intention of the City of Missoula to annex this property with the recommended City zoning. FURTHER, the parcels are situated in the vicinity of City Council Ward No. 4 and the Moose Can Gully Neighborhood Council District, and it is the intention of the Council to add these parcels 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 tracts and parcels of land described herein, which have petitioned for 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.

NOW THEREFORE BE IT RESOLVED that it is the intention of the City Council of the City of Missoula to incorporate and annex into the City's jurisdictional boundary the herein described property, apply City zoning as stated within, and assign the property to the said Ward and Neighborhood Council District; and

BE IT FURTHER RESOLVED that the City did, pursuant to Section 76-2-303 and 7-1-4127 MCA, publish in the Missoulian, a newspaper of general circulation in the City of Missoula, which newspaper is nearest to the said land being considered for annexation, at least once a week for two successive weeks on July 27, 2024 and August 3, 2024, a notice of the public hearing date and that a resolution of intention did appear on the City Council agenda for the meeting scheduled on August 19, 2024, and that the City will accept expressions of approval or disapproval in writing of this proposed alteration of the boundaries of the city and zoning until the close of the City Council public hearing on September 9, 2024, which is scheduled to occur at 6:00 p.m. at the regularly scheduled City Council meeting with final consideration on the resolution following the City Council public hearing on September 9, 2024; 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 Xth day of August, 2024.

ATTEST:

APPROVED:

Claire Trimble
City Clerk

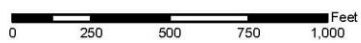
Andrea Davis
Mayor

(SEAL)

EXHIBIT A: ANNEXATON MAP



Exhibit 'A'



Tract A and Tract B Certificate of Survey 1328, Parcels 1, 2 & 5 of Page 1173 of Micro Book 1074 & Adjacent Right-of-Way

All Located in Sections 5 & 8, T.12 N., R.19 W., P.M.M.

Prepared by: CITY OF MISSOULA GIS SERVICES

Legend

- Parcel Boundaries
- Proposed Annexation
- Annexation Resolutions
- City Limits

EXHIBIT B: LEGAL DESCRIPTION

PARCEL 1: $W\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1424

PARCEL 2: $E\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1425

PARCEL 3: A TRACT OF LAND LOCATED IN THE $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT A OF CERTIFICATE OF SURVEY NO. 1328. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1426

PARCEL 4: A TRACT OF LAND LOCATED IN THE $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT B OF CERTIFICATE OF SURVEY NO. 1328. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1427

PARCEL 5: $E\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1428