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435 Ryman
Missoula, MT 59802

FOX TRIANGLE LAND USE AND DEVELOPMENT REQUIREMENTS AGREEMENT
May 8, 2017

This Land Use and Development Requirements Agreement, hereinafter referred to as "Agreement" is made this 7 day of June, 2017 between the Developer, which includes Hotel Fox Partners, LLC, and Riverfront Triangle Partners, LLC, a Montana Limited Liability Corporations, hereinafter referred to as the "Developer" and the City of Missoula, 435 Ryman Street, Missoula, MT 59802, hereinafter referred to as "City".

The Developer states that they are obligated and have the right to obligate any associated entity purchasing parcels of the Real Property described in Exhibit #1, hereinafter referred to as "Real Property", to the requirements, standards, and restrictions in this Agreement.

The Developer owns or proposes to own all the Real Property. The Developer and the City agree and declare that all the Real Property shall be subject to the following standards and restrictions and this Agreement shall be binding upon all parties having or acquiring any right, title or interest in the Real Property and shall be binding upon each successor in interest of all portions of the Real Property.

STANDARDS AND RESTRICTIONS

1. **Permitted Uses:** The Real Property may be developed with uses listed as permitted and conditional in the CBD-4 Central Business District per Title 20, City Zoning Ordinance, however development must include the following uses: Residential, Conference Center (Entertainment and Spectator Sport – Large Venue), Hotel, Office, Retail, and Restaurant.
 - a. A separate agreement shall be required addressing the appropriate mix of multi-income housing, including low to moderate income housing, that will be provided in the residential portion of the development. This agreement shall be approved by the Developer and City Council prior to the residential design phase of the Fox Triangle development. The purpose

of this agreement is to describe what component of the housing will serve households meeting the HUD definition of affordable housing and the timeframe or duration that these housing units will be priced to serve households meeting the HUD definition. Further the intent of this agreement is to involve the City of Missoula, Developer, a non-profit housing developer, and any other possible entities that can constructively and financially participate in creating this affordable housing component of the Fox Triangle Development, to have input into and participate in creating a development formula that will effectuate the purpose of the agreement, as listed above.

2. **Setbacks:** Title 20, Section 20.10.040B "Floodplain Setbacks for CBD District" applies to the Fox Site Development. If a variance to this setback standard is approved, buildings shall be setback a minimum of 25 feet from the top of the north bank of the Clark Fork River. The setback area may not contain parking areas, driveways or other vehicular uses. The setback area may contain active transportation facilities such as the Riverfront Trail.
3. **Building Design Standards:** Title 20, Section 20.40.170 of the Missoula Municipal Code, providing Use and Building Specific Design Standards for Commercial Buildings, shall apply to all mixed-use and non-residential use buildings constructed within the Real Property, regardless of size. A primary façade shall include sides of a building that face a public or private street and any public space, such as the Riverfront Trail, a public park, a plaza or public access easement. Any future amendments to the design standards in Title 20 approved by City Council shall apply to the Real Property.
 - a. **Single Purpose Residential Buildings:** All single-purpose residential use buildings shall meet the Multi-dwelling standards in Title 20 of the Missoula Municipal Code, except for Section 20.40.090F Landscaping. Multi-dwelling units in single purpose residential buildings shall be provided storage rooms meeting Section 20.40.090E3 Storage except that the storage room may be located attached to or within an individual dwelling unit, or in another location within the building.
 - b. **Mixed Use buildings:** In addition to meeting the Commercial Building Design Standards in Title 20, multi-dwelling units in Mixed Use buildings shall be provided storage rooms meeting Section 20.40.090E3 Storage except that the storage room may be located attached to or within an individual dwelling unit, or in another location within the building.
4. **Building Design Standards – Glazing:** In addition to the standards required in Title 20, Section 20.40.170 of the Missoula Municipal Code, development of the Real Property shall include the following glazing requirements for facades of buildings facing a primary façade as defined in #3 above:
 - a. Incorporate windows, doors and other transparencies to encompass at least 25% of the first story of the building façade between finished grade and 12 feet above grade.
 - b. Incorporate windows, doors and other transparencies to encompass at least 15% for the portion of a building façade above the first story.
 - c. Darkly tinted, mirrored or highly reflective glazing or doors with less than 50% glass may not be counted toward minimum glazed area requirements.

5. **Views:** Development of the Real Property shall maintain unobstructed views through the site along the Riverfront Trail, along W Front Street and Owen Street including the full width of the public access easements located within the vacated portions of the right-of-way.
6. **Parking:** Development of the Real Property shall include the requirement for off-street parking meeting Title 20, Chapter 20.60 of the Missoula Municipal Code, except as follows:
 - a. The amount of off-street parking required shall be equal to 0.75 times the amount of parking required in Title 20, Section 20.60.020(C) Off-street Parking Schedule of the Missoula Municipal Code;
 - b. Off-street parking shall be provided in structured parking garages, either above or below grade. Structured parking garages shall not be located at street level fronting W Broadway, N Orange Street or along the south side of W Front Street. Where allowed at street level with frontage on a public or private street, Riverfront Trail, or public access easement, structured parking garages shall be screened from view by a solid wall, landscaping, green wall or any combination of the three.
 - c. Surface parking lots may be utilized to provide off-street parking, temporarily, prior to build-out of the real property. However as development occurs temporary surface parking lots shall be replaced with development meeting Title 20, Section 20.40.170 Use and Building Specific Design Standards for Commercial Buildings of the Missoula Municipal Code. Permanent surface parking lots are prohibited;
 - d. Off-street parking spaces, except required ADA spaces, may be provided off site subject to parking agreements filed prior to building permit approval; and
 - e. Short Term and Long Term bicycle parking spaces shall meet standards in Title 20, Section 20.60.090 of the Missoula Municipal Code.
7. **Public Parking:** The Developer will schedule a meeting with Parks and Recreation, MRA and the Parking Commission to brief Parks and Recreation on the plan for public parking on the site.
8. **Riverfront Trail:** Development of the Real Property shall include construction of the Riverfront Trail along the north shore of the Clark Fork River beginning at the existing Riverfront Trail under the Orange Street Bridge and extending to the western edge of the Real Property connecting to W Broadway without interruption or detour. The minimum trail width shall be 10 feet with 1 foot shoulders on either side of the path, ideally within a 20 foot wide easement measured from the top of the riverbank. Design of the Riverfront Trail and any variation from the standards, including easement width, surface width of the trail, lighting, provision for trash receptacles and benches, shall be specific to the site and approved by City Parks and Recreation. Development shall include a bicycle commuter connection from the Riverfront Trail to W Broadway or W Front Street either through the site in the general area of the vacated Owen Street right-of-way or through a north/south public access easement on the western edge of the Real Property.
9. **Greenway – W Front Street vacated ROW:** Development of the Real Property shall include construction of active transportation facilities within the 30 foot wide public access easement

located within the general area of the vacated portion of W Front Street connecting active transportation facilities on W Broadway at the western edge of the Real Property to active transportation facilities at the proposed round-about at the intersection of W Front Street and Owen Street. The design of the active transportation facilities shall accommodate all modes of active transportation and shall be approved by the City Engineer and City Parks.

10. **Plaza – Owen Street vacated ROW:** Development of the Real Property shall include construction of a Plaza and active transportation facilities within a public access easement that is no less than 60 feet in width and up to 90 feet in width as necessary to contain the "Plaza" and active transportation facilities, to be located within the general area of the vacated portion of Owen Street connecting the Riverfront Trail to the active transportation facilities at the proposed round-about at the intersection of W Front Street and Owen Street. Unobstructed views from properties north of W Broadway to the River shall be maintained for the full width of the Plaza. The design of the Plaza shall accommodate all modes of active transportation.
11. **Greenway and Plaza Design:** The Developer will meet with Missoula Redevelopment Agency (MRA) and with Parks and Recreation to review the design for the Greenway within the West Front Street vacated right-of-way and Plaza within the Owen Street vacated right-of-way at the pre-design phase, and at 30% and 100% Schematic Design, and at 30% and 60% Design Development points.
12. **Design Standards:** Development of the Real Property shall meet all applicable Missoula Parks and Recreation standards including, but not limited to, Public Landscape and Recreation Facilities Design Manual, Urban Forest Management Plan, and shall comply with AASHTO and NACTO standards and standards for Crime Prevention through Environmental Design (CPTED).
13. **Access Easements:** The Developer will grant to the City administrative access easements to allow the City motorized, administrative access to any publically-managed portion of the site for maintenance and repairs. The motorized, administrative access easements will include a temporary construction easement, which is a minimum of 20' and allows for heavy equipment access to the Riverfront Trail and a perpetual non-motorized access easement, with motorized access for administrative and maintenance purposes, for any non-motorized trails managed by the City, including but not limited to the Riverfront Trail. The specific width and location of the easement will be mutually agreed-upon by the Developer and the City, and any such easement may be relocated to a different location or amended to alter the width or other specifications upon mutual written agreement by both the City and the Developer.
14. **Construction Closures and Detours:** The Developer will submit a plan to the Missoula Parks & Recreation and City's Bicycle and Pedestrian Office for approval addressing detours and advanced notification signage for bicyclists and pedestrians for any public pedestrian trail through the Real Property at least 30 days in advance of any closures, temporary or otherwise occurring on the site.
15. **Riverfront Park:** The Developer will engage Parks and Recreation in the design of the remainder of the City-owned parcel of land that will be a riverfront park. The Developer will

schedule design review meetings with Parks and Recreation at the following points in the design process: Pre-design, 30% Schematic Design, 100% Schematic Design (approval by Department of Parks and Recreation required,) 30% Design Development, 60% Design Development, 100% Design Development (approval by Department of Parks and Recreation required,) 75% Construction Documents (final redline by City). Storm drainage structures are acceptable in the City Riverfront Park land but must be sub-surface infrastructure that does not limit the park, trail or green space values. Storm water drainage plans shall be reviewed and approved by Missoula City Public Works and Department of Environmental Health.

16. **Maintenance and Management Agreements:** The Developer and the City shall enter into maintenance agreements to delineate each party's obligations for maintenance and management of the various public spaces on the site, including but not limited to the Greenway within the West Front Street vacated right-of-way, the Plaza within the Owen Street vacated right-of-way, the Riverfront Park, and the Riverfront Trail.
17. **Street Tree Design:** Prior to beginning development of the Real Property, the Developer will meet with Parks and Recreation to review and approve the design and selection of street trees.
18. **Future Pedestrian Bridge:** The Developer shall meet with Parks and Recreation to determine the best location for a potential future pedestrian bridge across the Clark Fork River from City-owned park land at McCormick Park on the south side of the river to the Real Property on the north side of the River. The Developer will document and define this location in its plans and will facilitate future design and construction of this bridge by placing any necessary infrastructure within the Real Property to accommodate a future bridge and that could not be placed after development of the Real Property.
19. **River Access:** The Developer will include the conceptual design, or at least note on plans, the potential for a hardened river access under the Orange Street Bridge in Developer's design of the Riverfront Trail and Park.
20. **Riverbank Stabilization and Vegetation:**
 - a. **For Areas Disturbed by Developer Activities:** In any area where the riverbank is disturbed by the Developer's activities, the Developer will repair and stabilize any damage and will plant native riparian shrubs along the riverbank in the disturbed area to stabilize against erosion and enhance the natural environment along the river. The Developer will work with Parks and Recreation to select the specific type of vegetation, but will select drought tolerant plants with characteristics that discourage people from accessing the bank in locations other than the hardened river access point described in #18 above. Additionally, along the riverbank and Riverfront Trail, the Developer shall work with Parks and Recreation to determine if physical barriers (eg. fencing, boulders, signage etc.) along the edge of the stream bank is required to prevent erosion, to direct users to sustainable river access points and/or prevent undesired access to the river, and shall install such physical barriers if deemed necessary.

- b. **For Existing Areas Not Disturbed by Developer Activities:** The Developer will pay an allowance of \$2,500.00 to City Parks and Recreation to cover the cost of purchasing and installing native plants and restoration/stabilization materials to repair existing erosion and stabilize the riverbank in the area between the river and the top of bank. City Parks and Recreation is responsible for procuring plant materials and carrying out or supervising planting in this area.

21. **Amendments:** No part of this Agreement may be amended or deleted without prior written consent of the Missoula City Council and the Developer, or their successors and assigns.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 7 day of June, 2017.

By (signature): James P. Corrick
Name (printed): JAMES P. CORRICK
Title: AUTHORIZED REPRESENTATIVE

On this 7th day of June, 2017, before me the undersigned,
a Notary Public for the State of Montana, personally appeared
James P. Cornick, known to me personally (or proved to me on
the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same, as the authorized
representative for Hotel Fox Partners, LLC.

Seal, the day and year first above written.

(Signature)

 JILAYNE R DUNN
NOTARY PUBLIC for the
State of Montana
Residing at Missoula, MT
My Commission Expires
September 08, 2017.

Notary Public for the State of Montana
Residing at Missoula, Montana
My commission expires Sept 8, 2017


By (signature): James P. Corrick
Name (printed): JAMES P. CORRICK
Title: MANAGING MEMBER

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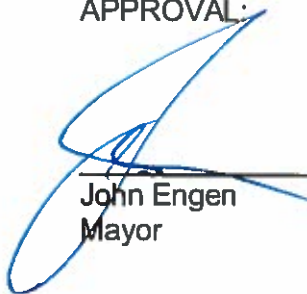
CITY OF MISSOULA

ATTEST:

APPROVAL:



Martha L. Rehbein
City Clerk



John Engen
Mayor

(SEAL)

