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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, Montana one certain parcel of land described as Parcel 8A of Certificate of Survey number 6109 in Section 12, Township 13 North, Range 20 West, P.M.M., and zone the property B2-2 Community Business, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval as amended by City Council.

LEGAL DESCRIPTION: Parcel 8A of Certificate of Survey number 6109 located in Section 12, Township 13 North, Range 20 West, P.M.M., and shown on Exhibit A attached hereto and made a part hereof,

WHEREAS, Tollefson Properties, LLC., owner of 100% of the property described herein as Parcel 8A of COS 6109 (20.21 acres), has filed Petition No. 10057 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, 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, the Pius Way right-of-way adjacent to the southern boundary of the parcel is already within the municipal boundary of the City of Missoula; and

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

Agricultural Water Users Facilities

1. On the face of the plat the applicant shall grant a 20-foot wide irrigation easement centered on the private irrigation ditch running along length of the east property boundary for the benefit of the Hellgate Valley Irrigation Company, its heirs and assigns, and water rights holders with legal access to irrigation water from the ditch. The easement language shall stipulate the purpose is for ditch and culvert access, maintenance, repair and replacement and shall run with the land.
2. The applicant shall install an approximately 105-foot long buried steel culvert under Abby Lane with capacity to carry irrigation water flows in historic volumes, and shall also culvert the ditch in the southeastern corner of the property under the Tipperary Way Trail extension. The applicant shall provide approval from the Hellgate Valley Irrigation Company of the culverts and installation prior to final plat submittal.

3. The applicant shall relocate the irrigation pipe at the northwest corner of the property to ensure the property owner of Parcel 6 of Certificate of Survey No. 3176 to the north of the subdivision is able to receive irrigation water in an undiminished, historic fashion. The applicant shall provide confirmation from the property owner of Parcel 6 prior to final plat submittal.

Transportation - General

4. All street and non-motorized improvements shall be designed and built in accordance with City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance). All plans must comply with Americans with Disabilities Act requirements. All plans must be reviewed and approved by the Public Works and Mobility Department in accordance with City policies. (City Subdivision Regulations Section 3-020.2)
5. The applicant shall provide a street naming exhibit to be reviewed and approved by the Public Works & Mobility Department prior to final plat application submittal.
6. The applicant shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the Public Works and Mobility Department prior to final plat application submittal.
7. The following statement shall appear on the face of the plat, in the covenants, and on each instrument of conveyance:
 1. "Acceptance of a deed for a lot within this subdivision constitutes the owner's assent to any future SID, based on benefit, for future improvements and maintenance to Briar Way, Winchester Drive, Remington Drive, Abby Lane, George Elmer Drive, and Old Ranch Road, including but not limited to the installation of paving, drainage facilities, curbs and gutters, traffic control devices, motorized and non-motorized facilities, street widening, and all streets within, and providing access to, the property."
8. All proposed rights-of-way shall be dedicated to the public on the face of the final plat and approved by the City Engineer.
9. All proposed easements, except as modified by these conditions, shall be shown on the face of the final plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation ditches.
10. Prior to submittal of the final plat application, the applicant shall petition the City of Missoula to create a new street light improvement district and shall install street lighting within the subdivision along George Elmer Drive in accordance with the Missoula Public Works Standards and Specifications Manual.

Specific Streets

11. The Mcnett Flats Subdivision is located within the Mullan BUILD project area and George Elmer Drive, which provides access to the subdivision property, is planned to be improved as part of the Mullan BUILD project. Federal funds are planned to pay for a portion of the Mullan BUILD improvements. Funding mechanisms are currently being explored to pay for the remainder of the improvements. The funding mechanisms may include, but are not limited to, a special improvement district, impact fee, latecomers fee, or cost share agreements that allow the City of Missoula and Missoula County to recover the cost of constructing infrastructure from the properties that benefit from the Mullan BUILD project. To the extent that such funding mechanism(s) is created in accordance with state law and applicable principles of land use law, the applicant, successors, and assigns shall participate in and be bound by the fees assessed and not oppose the creation of or participation in such a district.
12. As authorized by variance, the right-of-way for George Elmer Drive may remain 80 feet wide through the subdivision. However, the applicant shall provide five-foot public access and utility easements on both sides of George Elmer Drive on the final plat.
13. The applicant shall pay a proportionate share of the remaining costs for a future roundabout design and construction at the intersection of George Elmer Drive and Cattle Drive. The proportionate share shall be based on the projected percentage of vehicle trips for this subdivision at the George Elmer Drive / Cattle Drive intersection, compared to overall vehicle trips for full build-out at the George Elmer Drive / Cattle Drive intersection within the area of benefit. The proportionate share percentage as defined above shall be multiplied by the total amount of

remaining design and construction costs to complete the intersection improvements to arrive at the Mcnett Flats subdivision proportional costs. The amount of remaining costs shall be based on a cost estimate provided by Public Works & Mobility. The methodology and assumptions used to determine the area of benefit and proportionate share of vehicle trips shall be provided by the applicant and reviewed and approved by Public Works & Mobility. Payment of proportionate share costs shall be provided by the applicant to the City in the form of a cashier's check prior to or in conjunction with final plat application submittal.

14. Winchester Drive, Remington Drive, Briar Way, Abby Lane and Old Ranch Road shall be designed and built as proposed to Urban Local street standards including at minimum two 10-foot drive lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within 64-foot rights-of-way.
15. Prior to final plat application submittal Pius Way shall be improved as proposed on the Pius Way Improvements Exhibit including half-street improvements to bring the pavement width up to 31 feet, intersection bulb-outs, a 7-foot wide landscaped boulevard west of Old Ranch Road, 12-foot landscaped boulevard east of Old Ranch Road, and 10-foot asphalt surfaced commuter trail within the public access easements on Lots 4 and 5 as depicted on the preliminary plat and Pius Way Improvements Exhibit.

Non-Motorized Transportation Facilities

16. Except for along the north side of Pius Way, the applicant shall provide at minimum 5-foot wide sidewalks within the proposed public access and utility easements along all street frontages. Along Pius Way, the applicant shall provide a 10-foot Secondary Commuter Trail within an additional 10.5-foot public access easement across the southern boundary of Lot 5 and within a 16-foot public access easement along the southern boundary of Lot 4. The final plat shall show the proposed 1-foot no access easement along the south property boundary along Lots 5 and 4. The trail shall be constructed as shown on the preliminary plat and Pius Way Improvements Exhibit. All sidewalk and trail plans, including specifications for ADA accessibility, safe street crossings, and maintenance, shall be reviewed and approved by the Public Works & Mobility and Parks and Recreation departments prior to construction with final approval provided provide with the final plat application submittal.

Transit

17. The applicant shall petition for the property to be included in the Missoula Urban Transportation District prior to final plat application submittal. City Subdivision Regulations Section 3-010.7 and 3-020.1, City of Missoula Annexation Policy

Fire Protection

18. The applicant shall provide a final fire hydrant plan for review and approval prior to final plat application submittal. All approved fire protection improvements shall be installed in accordance with the approved plan.

Drainage

19. The applicant shall submit complete grading and drainage plans prior to final plat application submittal showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities shall be constructed in accordance with the approved plan and accommodate the planned post-development runoff.

Water System and Sewer System

20. The applicant shall submit plans for water supply and sewage disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting. Construction of all water supply and sewer systems shall be in accordance with City policies.

Solid Waste

21. The applicant shall submit plans for solid waste disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final plat application submittal.

Parkland

22. The applicant shall meet the parkland dedication requirement by providing cash in lieu of 1.46 acres of parkland and providing 1.46 acres of common area to be platted to the east of George Elmer Drive and immediately north of the Tipperary Way Trail easement on Lots 4 and 5, along with dedication of 0.15 acres of multi-use trail easement. The applicant shall submit a letter of approval from Parks and Recreation addressing common area requirements for design, vegetation, construction, and maintenance prior to final plat application submittal.
23. The applicant shall submit a boulevard landscaping and maintenance plan to be reviewed and approved by the City Parks and Recreation Department prior to final plat application submittal. (City Subdivision Regulations Section 5-050.4)

Noxious Weeds

24. The Weed Management and Revegetation Plan for the Mcnett Flats Subdivision shall be appended to the covenants, conditions and restrictions. The applicant shall provide evidence of plan implementation and noxious weed control prior to final plat filing.

Airport Influence Area

25. The final plat shall include the following statement: "This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Mcnett Flats Subdivision may also be within an extended approach and departure zone and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase."

Covenants, Conditions, and Restrictions

26. Final covenants, conditions, and restrictions meeting the requirements of City Subdivision Regulations Section 5-020-14.K shall be submitted for review and approval along with the final plat application. The covenants shall include a prohibition on basements and wood burning devices, the avigation easement and airport influence area notification to lot purchasers, I address noxious weed control, provide agricultural, airport influence area, and radon gas notification statements, and other elements proposed in the draft submitted with the preliminary plat application and described in these conditions.

Additional Condition of Annexation

27. The B2-2 Community Business zoning designation shall be adopted concurrent with City Council approval of the preliminary plat application based on the findings of fact and conclusions of law in the staff report.

WHEREAS, the parcel described herein is currently zoned C-RR1 Residential in the County and the recommended zoning in the City is B2-2 Community Business in accordance with MCA 76-2-303(3)(a) and Missoula Municipal Code criterion 20.85.040(l)(2c), it is the intention of the City of Missoula to annex this property with the recommended city zoning. FURTHER, the parcel is situated adjacent to City Council Ward Area No. 2 and the Captain John Mullan Neighborhood Council District, and it is the intention of the Council to add this parcel to said Ward and Neighborhood Council District; and

WHEREAS, there was duly and regularly passed and adopted by the Council of the City of Missoula and approved by the Mayor on 01/25/2021, Resolution Number 8490 stating the City's intention to consider extending the City limits to include the within described properties and Council set a public hearing for 02/22/2021 at its regularly scheduled City Council meeting to hear all matters pertaining to the annexation and zoning of said property; and

WHEREAS, the City Clerk published notice of such proposed extension of the city limits on 01/17/2021 and 01/24/2021 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 parcel 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

BE IT FURTHER RESOLVED that the parcel is hereby zoned B2-2 Community Business in the City. FURTHER, that the parcel is hereby assigned to the City Council Ward Area No. 2 and the Captain John Mullan 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 ___ day of _____, 2021.

ATTEST:

APPROVED:

Martha L. Rehbein, CMC
City Clerk

John Engen
Mayor

(SEAL)