

**IMPROVEMENT AGREEMENT FOR FAITH LUTHERAN CHURCH OF GREAT FALLS,
FOR LOT 3 OF BLOCK 1 OF SHANAHAN MINOR,
LOCATED IN THE SW¼ NE¼ OF SECTION 22, TOWNSHIP 20
NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA**

The following is a binding Agreement dated this _____ day of _____, 2015, between Faith Lutheran Church of Great Falls, a religious corporation of the State of Montana, hereinafter referred to as "Owner," and the City of Great Falls, Montana, a municipal corporation of the State of Montana, hereinafter referred to as "City," regarding the requirements for annexation into the corporate limits of City of a tract of land legally described as Lot 3 of Block 1 of Shanahan Minor, located in the SW¼ NE¼ of Section 22, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, hereinafter referred to as "Subject Property." The City is authorized to enter into this agreement by 17.68.010-040 of the Official Code of the City of Great Falls.

1. Supporting Document.

- A. Subdivision Plat of Shanahan Minor filed of record in the Clerk and Recorder's Office of Cascade County, Montana (P-2015-0000009 PL).
- B. Engineering drawings, specifications, reports and cost estimates, preliminary and final, prepared for the Subject Property, consisting of documents for, but not limited to, sanitary sewer mains, water mains, storm drainage improvements, and paving.
- C. Legal documents, including but not limited to any articles of incorporation, bylaws, covenants, and declarations establishing the responsibilities of owners recorded in the Clerk and Recorder's Office of Cascade County, Montana.

2. Changes. Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by the City Engineer and the City's Public Works Department and which do not materially affect the hereinabove mentioned Subject Property, can be made as follows:

- A. The Owner understands that failure to build in compliance with approved plans is a breach of this agreement and a violation of the OCCGF, subject to the penalties provided for such violations. The City recognized, however, that minor changes are often necessary as construction proceeds and the Administrator (The Administrator is the person charged by the City Manager with the administration of this improvement agreement) is hereby authorized to permit minor changes to approved plans, as provide below.

- a. Before making changes, the applicant must submit revised plans to the Administrator for review. Failure to do this before the proposed change is made is a breach of this agreement and a violation of the OCCGF. The Administrator shall respond to all proposed changes within five (5) business days of receipt of the revised plan.
- b. Based on a review of the revised plans, the Administrator may permit minor dimensional changes provided they do not result in a violation of the conditions of approval for the Subject Property or the OCCGF.
- c. Based on a review of the revised plans, the Administrator may permit substitutions for proposed building and construction materials provided that the proposed substitute has the same performance and, for exterior materials, appearance as the originally approved material.
- d. Minor changes in the location and specifications of the required public improvements may be permitted. Revised plans showing such changes must be referred to and accepted by the Director of Public Works before being submitted to and then considered for approval by the Administrator.

B. Substantial changes are not permitted by this agreement. A new public review and permitting process will be required for such changes. ‘Substantial Change’ versus ‘Minor Change’ is described as follows:

- a. Substantial changes are not permitted by this Agreement. A new public review and permitting process will be required for such changes. ‘Substantial Change’ is defined here, in order to further clarify what may be permitted as a ‘Minor Change.’ A substantial change adds one or more lots; changes the approved use; changes the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 4,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed may be treated as a minor dimensional change); changes the location, extent, or design of any required public improvement, except where a minor change is approved by the Director of Public Works and the Administrator; or changes the approved number of buildings, structures or units; or the size of any building or structure by more than 10%. A smaller change in the size of a lot, building, or structure may be treated as a minor dimensional change.

3. Successors. This Agreement and the approval by the City on which it is based run with the land. This Agreement applies to any party to whom the land is conveyed by any means, in whole or in part, and is binding on them as if they were the Owner who has signed below.

4. Fees And Charges.

A. Owner shall pay the following fees as provided by City policy and resolution:

- a. Storm Sewer Fee (\$250/acre x 3.925 acres) \$ 981.25
- b. Proportionate share of the Ferguson Drive public storm drain (\$24.50/L.F. x ____ L.F., refer to Cost Estimate for reimbursements – O.F. 1174.5 prepared by City Engineers Office /_/____) \$
- c. Proportionate share of the Ferguson Drive public water main installed in 2004 by the City (\$17.43/L.F. x _____ L.F., refer to Cost Estimate for reimbursements – O.F. 1397.1

prepared by City Engineers Office (/ /)	\$
d. Recording fees for Improvement Agreement and <u>Resolution (\$11 per page x 6 pages)</u>	<u>\$ 66.00</u>
Total fees made payable to City of Great Falls	\$

These fees are in addition to the \$2,000.00 application fee for City zoning, the \$500.00 application fee for Annexation, and the \$1,500.00 application fee for a Conditional Use Permit, which have been paid prior to this Improvement Agreement.

- B. The total fees summarized in Section A above shall be paid to the City no later than 30 days after City Commission action to annex Subject Property into the City.
- C. Owner or its successors or assigns shall reimburse City for its expenses incurred for inspection, testing and acceptance of public utilities serving the Subject Property and sidewalk at the rates charged by City for said work at the time performed.
- D. Water service tapping and water and sewer service connection fees will be assessed at the time of installation.
- E. The absence of any fee from this Agreement which is lawfully charged by the City in connection with construction activity associated with Subject Property shall not constitute a waiver by the City.

5. Public Improvements.

- A. Upon annexation into the City of Great Falls, the Owner hereby agrees to install a sidewalk on the west side of Ferguson Drive, adjacent to the Subject Property. Said sidewalk shall be installed in accordance with Title 17 - Land Development Code of the Official Code of the City of Great Falls after review and approval of the City Public Works Department.
- B. Upon annexation into the City of Great Falls, the Owner hereby agrees to install three public fire hydrant assemblies on the site at a location as stipulated by the City. Such fire hydrant assembly shall include a 20 foot wide public utility easement (10 feet on each side of the fire line and hydrant) and be designed and constructed in accordance with City and Montana State Department of Environmental Quality standards.
- C. The Owner agrees to install all on-site improvements required for the Development, prior to certificate of occupancy of any structure built upon the Subject Property, and shall be installed as shown on the final construction plans that are submitted to and approved by the City's Public Works Department. The on-site improvements shall include everything required to provide water, sanitary sewer, stormwater management, and access. The Owner shall provide public utility easements for all required public utilities.

6. Other Required Improvements.

- A. The Owner agrees to pave with asphalt the Private Roadway Easement from Flood Road, as shown on the Shanahan Minor subdivision plat, to the beginning of the northern parking lot entrance of the Subject Property. Said roadway may be constructed to a driveway standard with a minimum width of 22-feet. The Owner shall submit plans and specifications to the City's Public Works Department for review and approval. Prior to construction of said roadway, the Owner shall obtain an Encroachment Permit from Cascade County for access onto Flood Road.

7. Future Improvements.

- A. At the time property to the west of the Subject Property annex and develop, the City shall require the construction and maintenance of an 8-foot wide concrete sidewalk for the entire length of the 40-foot easement shown on the Shanahan Minor subdivision plat, north of the Subject Property. A perpetual maintenance agreement shall be provided to the City Public Works and Planning and Community Development Department for review and approval.
- B. At the time property to the west of the Subject Property annex and develop, the City shall require the dedication of the Private Driveway easement to the City of Great Falls as a public roadway. Improvements to said driveway shall be constructed to City standard local roadway requirements for public streets. Plans and specifications shall be submitted to the City's Public Works Department for review and approval.
- C. The Owner agrees to dedicate the portion of the cul-de-sac abutting their northern property line, to the City of Great Falls, as a public roadway, at the time property to the west of the Subject Property annex and develop.
- D. The Owner agrees to construct a sidewalk along the portion of their property abutting the cul-de-sac, at the time improvements are constructed for the Private Driveway when property to the west of the Subject Property annex and develop.
- E. At the time property to the west of the Subject Property annex and develop, the City shall require the construction of the cul-de-sac. Improvements to said cul-de-sac shall be constructed to City standard public roadway requirements. Plans and specifications shall be submitted to the City's Public Works Department for review and approval. The Owner shall have no financial obligation or responsibility in the construction of said cul-de-sac.

8. Site Conditions. The Owner warrants that it has conducted site investigations sufficient to be aware of all natural conditions, including, but not limited to, flooding, slopes, and soils characteristics, that may affect the installation of improvements on the site and its development for the approved use. The Owner further warrants that all plans submitted pursuant to this Agreement and all applications for building permits within the Development will properly account for all such conditions. The Owner holds the City harmless for natural conditions and for any faults in its own assessment of those conditions.

9. Restrictions On Building Permits. A Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.

10. Maintenance Districts. Owner hereby agrees to waive its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to the Subject Property.

- 11. Public Roadway Lighting.** Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service the Subject Property, and further agrees to pay for its proportionate share of the costs associated with roadway lighting which services the Subject Property that may be installed with or without a special lighting district.
- 12. Warranty, Ownership And Inspection Of Public Improvements.** Installation of all public streets, water, sewer, storm drain, and other public improvement required for the Subject Property shall be subject to City's inspection policy in place at the time of installation.
- 13. City Acceptance and Zoning.** In consideration of the foregoing, City hereby accepts and approves Lot 3 of Block 1 of Shanahan Minor, located in the SW¼ NE¼ of Section 22, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of R-3 Single-family high density.
- 14. Binding Effect.** The provisions, covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA
A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

OWNER

By: _____
Its: _____

State of _____)
:ss.
County of _____)

On this _____ day of _____, in the year Two Thousand and Fifteen, before me, the undersigned, a Notary Public for the State of _____, personally appeared _____, known to me to the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of _____

(NOTARIAL SEAL)

Notary Public for the State of _____ (Printed)
Residing at _____
My commission Expires _____, 20_____