

RESOLUTION NO. R19-78

A RESOLUTION ACCEPTING AN EASEMENT FROM THE DIEFENDERFER FAMILY TRUST FOR THE PURPOSE OF CREATING A PERPETUAL EASEMENT AND RIGHT-OF-WAY OVER, ACROSS, UNDER, AND THROUGH THE DESCRIBED PROPERTY FOR THE CONSTRUCTION AND/OR INSTALLATION OF PUBLIC IMPROVEMENTS WITHIN THE MIDWAY RENTALS COMMERCIAL PROPERTY.

WHEREAS, the City of Laurel and Montana Law requires the creation of certain public easements and rights-of-way within new commercial construction for the purpose of the installation and construction of public improvements including roads, water, wastewater and sewer systems which benefit the citizens and residents of the area; and

WHEREAS, the development of the commercial construction known as Midway Rentals currently requires the developer to construct public improvements that will cross property owned by the Diefenderfer Family Trust; and

WHEREAS, the Diefenderfer Family Trust, by and through its Trustee's authorized and approved the attached Easement Agreement in favor of the City of Laurel for the construction of certain public infrastructure as provided therein; and

WHEREAS, the attached Easement Agreement contains the terms, conditions and location of the affected property and is hereby incorporated as part of this Resolution as provided therein.

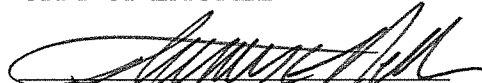
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Laurel, Montana, that the City Council hereby accepts the Easement attached hereto pursuant to the terms and conditions contained therein.

Introduced at a regular meeting of the City Council on October 8, 2019, by Council Member Klose.

PASSED and APPROVED by the City Council of the City of Laurel this 8th day of October, 2019.

APPROVED by the Mayor this 8th day of October, 2019.

CITY OF LAUREL

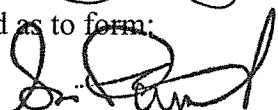

Thomas C. Nelson, Mayor

ATTEST:



Bethany Langve, Clerk-Treasurer

Approved as to form:



Sam Painter, Civil City Attorney

Return to:
Steve Diefenderfer
3619 Flagstone Dr.
Billings, MT 59102

EASE **3896482**
09/16/2019 02:28 PM Pages: 1 of 4 Fees: 28.00
Jeff Marlin Clerk & Recorder Yellowstone MT

PERPETUAL RIGHT-OF-WAY EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged on this 12th day of September, 2019, the undersigned **DIEFENDEFER FAMILY TRUST**, with the address of 3619 Flagstone Drive, Billings, Montana 59102, hereinafter called "Grantor," hereby grants and conveys unto the **CITY OF LAUREL**, a municipal corporation and political subdivision of the State of Montana, of the address of 115 West First Street, Laurel, Montana 59044, hereinafter called "Grantee," a perpetual easement and right-of-way over, across, under, and through the following described tracts of real property in Yellowstone County, Montana:

A strip of land 40 feet in width centered on the common lot line of Lot 1B, Block 1, Entertainment Park Subdivision and Lot 1A, Block 1, Entertainment Park Subdivision (as recorded under document #3793829 at the office of the Yellowstone County Clerk and Recorder), from the north lot line of said Lots 1A and 1B, south for 350' to the center of a 43.5 foot radius cul-de-sac, inclusive of said 43.5 foot radius cul-de-sac and a strip of land 20 feet in width commencing from the intersection of the south end of said 43.5 foot radius cul-de-sac with the common lot line of said Lot 1A and 1B, thence S38° 28' 30" E, a distance of 74.5 feet to an existing storm drain & sanitary sewer easement as is shown on (EXHIBIT "A") attached to this document.

This perpetual easement to Grantee is for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing sanitary sewers and/or water lines over, across, under and through the said real property, together with the right of free ingress and egress at all times for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing said sanitary sewers and/or water lines and appurtenances, and adding additional sanitary sewer and/or water lines.

Grantor shall continue to have the right to use and enjoy the above-described property, except as to the rights herein granted, subject to the following restrictions:



- (a) Grantor and its successors agree not to construct, nor cause to be constructed, within the easement right-of-way, any type of building or structure, such as, but not limited to, houses, garages, sheds, kennels, fences, nor any other fixed objects of any kind, shape or form, except as may be licensed by Grantee.
- (b) Grantor agrees not to plant, nor cause to be planted within the easement right-of-way any trees, bushes, shrubs, hedges, nor any other plantings of a similar nature, except as may be licensed by Grantee.
- (c) Grantor agrees that authorized representatives of the City of Laurel can freely travel within the easement right-of-way with their equipment in the performance of their duties at any time, day or night, regardless of outside weather conditions.
- (d) Grantor agrees to obtain the permission of the Public Utilities Department or Grantee prior to placing or removing any fill dirt within the easement right-of-way and, in addition, in the event such permission is granted, the Grantor agrees to perform any work necessary to modify the existing sanitary sewers and/or water lines and appurtenances, which work may be required prior to placing or removing any fill dirt within the easement right-of-way and all such work shall be done at the Grantor's expense and without expense to the City.
- (e) Grantor agrees that the sole responsibility of the City of Laurel for any surface restoration due to any construction, replacement, repair or service work to the sanitary sewer and/or water lines by the City of Laurel shall be limited to trench backfill compaction and placement of backfill material to existing grade by the City of Laurel.
- (f) **HOLD HARMLESS AGREEMENT:**
 - 1. Grantor agrees that the owner or owners of the above-described property shall at all times fully relieve and save harmless the City of Laurel and its authorized representatives for any and all damages of property that may be caused within said easement right-of-way, such as, but not limited to, ruts or deep tracks in lawns, gardens, or flower beds, broken or crushed shrubs, bushes, hedges, trees or any other type of plantings; crushed, cracked, split or otherwise damaged, irrigation piping and appurtenances; and any other damage to any other type of object, material or equipment located within the easement right-of-way which cannot, with a minimum of human effort and within a few minutes time period, be removed from the easement right-of-way by authorized representatives of the City of Laurel in exercise of any of their rights under this easement right-of-way.
 - 2. Grantor agrees the owners of the above-described real property shall reimburse the City of Laurel for any and all damage claims paid



by the City for damages of any type or nature to any and all persons and entities in the event such damage results from or was caused to happen by such owner's failure to comply with any portion of the rights, restrictions, obligations or responsibilities contained in this Agreement.

- (g) The Restrictions, Covenants, and Hold Harmless Agreements herein contained shall attach to and run with the land and shall bind the parties hereto and all persons claiming thereunder.

Grantor warrants and covenants that there are no liens or other encumbrance on the described tract or tracts.

The grant of this easement shall run with the land and shall be binding to the parties hereto, their successors and their assigns.

Diefenderfer Family Trust

By: Stephen B. Diefenderfer
Stephen B. Diefenderfer, Co-Trustee

By: Rhonda R. Diefenderfer
Rhonda R. Diefenderfer, Co-Trustee

STATE OF MONTANA)

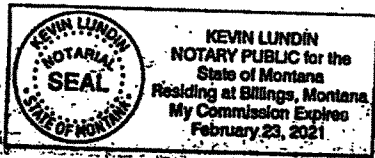
SS:

County of Yellowstone)

On this 12th day of September, 20 , before me the undersigned Notary Public for the State of Montana, personally appeared Stephen B. Diefenderfer and Rhonda R. Diefenderfer, as Co-Trustees of the Diefenderfer Family Trust, known to me to be the persons who signed the forgoing instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate above written.

(SEAL)



Kevin Lundin
Signature of Notary

KEVIN LUNDIN
Notary Public for the State of Montana
Residing at Billings
My Commission expires February 23, 2021



EXHIBIT "A" PERPETUAL RIGHT-OF-WAY EASEMENT

