

After Recording Return to:
City of Sisters
PO Box 39
Sisters, OR 97759

**CITY OF SISTERS
AMENDED AND RESTATED ANNEXATION AGREEMENT**

This AMENDED AND RESTATED ANNEXATION AGREEMENT ("Agreement") is entered into this _____ day of _____, 2017, by and between THE CITY of SISTERS, an Oregon municipal corporation ("City") and MCKENZIE MEADOWS VILLAGE, LLC, an Oregon limited liability company ("Owner").

RECITALS

1. Owner is the sole owner of that certain real property more particularly described on **Exhibit A** hereto (the "Owner Property").
2. Owner and City previously entered into that certain City of Sisters Annexation Agreement recorded in the official records of Deschutes County, Oregon, at 2009-51015, as amended pursuant to that certain City of Sisters Amended Annexation Agreement recorded in the official records of Deschutes County, Oregon, at 2010-22024, and that certain City of Sisters Amended Annexation Agreement recorded in the official records of Deschutes County, Oregon, at 2011-31635 (collectively, the "Original Annexation Agreement") for the Owner Property as a condition of annexation of the Owner Property into the City of Sisters.
3. Since the Annexation Agreement was adopted, a number of issues that were addressed in it have since been memorialized in the City's Development Code. In addition, market and development circumstances have changed dramatically in the City of Sisters and Central Oregon since the Original Annexation Agreement was adopted. In addition, despite Owner's best efforts, including the expenditure of significant time and money, and the filing of multiple land use applications, Owner has not been successful in developing the Owner Property in conformance with the Original Annexation Agreement. Therefore, Owner desires to amend the Annexation Agreement on the terms and conditions set forth herein, and City is agreeable to the proposed amendments set forth in this Amended Annexation Agreement.
4. Upon full execution of this Agreement, this Agreement shall supersede the Original Annexation Agreement, which will no longer have any force or effect.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree to amend and restate the Original Annexation Agreement as follows:

AGREEMENT

1. City Approval of Annexation: The City has approved the annexation of the Owner Property.

2. Affordable Housing:

A. Owner shall provide affordable housing units (individually, an "AHU" and collectively, the "AHUs") on the Owner Property at a ratio of not less than one AHU for every ten market-rate residential units.

B. As used herein, a unit shall qualify as an AHU if the unit is affordable for individuals or families earning one hundred percent (100%) of the Deschutes County area median income ("AMI"), as such AMI is calculated by the United States Department of Housing and Urban Development. Affordability shall be determined by reference to whether the cost of the unit (whether paid as rent or a mortgage) would not exceed thirty percent (30%) of the gross income of an individual who earns one hundred percent (100%) of Deschutes County AMI.

C. Owner or its successor shall assure that the affordable housing units remain affordable for not fewer than 20 years.

D. City approval for any future master plan for the Owner Property may be conditioned upon Owner documenting, to the City reasonable satisfaction, assurances that such units will be provided.

3. Water Rights: Owner shall pay a fee of \$670 per EDU for water mitigation. This fee is in addition to any water SDC or other SDC that may be required as a condition of development of the property. If the City amends its water SDC to include a water mitigation component within its water SDC within 5 years of this agreement, Owner shall pay to the City or City shall reimburse or provide SDC Credit based on the difference between the \$670 EDU fee assessed and the actual SDC water mitigation component

4. Infrastructure: In recognition of a sewer facility up-grade contribution, the City reserves capacity within its public facility systems to accommodate up to 131 EDUs. If development is planned for more than 131 EDUs, the City may require, Owner to provide an additional capacity analysis, as specified in the Development Code. Pursuant to Development Code provisions, the City may require Owner to construct (at Owner's expense) appropriate mitigation measures (including payment of mitigation fees) or infrastructure improvements necessary to provide additional capacity required by development.

5. Mediation: In the event the parties have a dispute as to any of the terms or applicability of this Agreement, the parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of mediation, including their proportionate share of the compensation of the mediator selected by the parties. If a mediator has not been selected by the parties within thirty (30) days after one of the parties has requested that a dispute arising under this Agreement be mediated, then any of the parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the parties.

