

COUNCIL RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, PURSUANT TO BILLINGS CITY CODE CHAPTER 12, EMINENT DOMAIN, DECLARING PUBLIC PURPOSE AND USE, DESCRIBING THE PROPERTIES TO BE TAKEN AND AUTHORIZING CITY OFFICIALS TO PROCEED.

WHEREAS, the City of Billings finds it necessary to acquire certain real property to allow it to utilize such property for purposes of constructing, operating, and maintaining a new water reservoir and all appurtenances to serve and meet the water storage needs of Zone 3 in the City's water pressure zone scheme; and

WHEREAS, the real property to be acquired, and the temporary construction easement, necessary to complete these improvements is described in Exhibits "A" and "B" attached hereto and by this reference incorporated herein; and

WHEREAS, the City officials have attempted to purchase said real property at a mutually agreeable purchase price but have been unable to obtain the consent of the owner to sell said real property; and

WHEREAS, pursuant to Chapter 12, Section 12-102 of the Billings City Code, it is necessary to pass a Resolution initiating eminent domain procedures; and

WHEREAS, said use is a public use and will benefit the general public and will be used for public purposes; and

WHEREAS, it is necessary to condemn said real property by exercise of the right of eminent domain to make land available for said construction, operation, and maintenance of a new water reservoir and all appurtenances; and

WHEREAS, it is necessary to condemn the right of way in said private real property in fee simple and for a temporary construction easement as described in Exhibits "A" and "B" for the purpose of constructing, operating, and maintaining a new water reservoir and all appurtenances; and

WHEREAS, the City officials should be authorized to proceed with the condemnation proceedings as provided by law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Billings, Montana, as follows:

1. **PUBLIC USE:** The City hereby declares that the above-described interests in real property shall be condemned at its fair market value under the City's eminent domain powers to enable the City to acquire said property, and necessary construction easement(s), for the purpose of constructing, operating, and maintaining a new water reservoir and all appurtenances;

2. **PUBLIC PURPOSE AND NECESSITY:** It is hereby declared that said real property is being acquired for a public purpose, for public use and is necessary to the project.

3. **DESCRIPTION OF PROPERTY, EXTENT OF INTEREST:** The right of way in fee simple and temporary construction easement described in Exhibits "A" and "B" shall be taken for public purpose.

4. **AUTHORIZATION TO PROCEED:** That the appropriate City officials are hereby directed and authorized to proceed with condemnation of said real property as provided by law.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, at a regular session thereof held on the 13th day of August, 2012.

THOMAS W. HANEL, Mayor

ATTEST:

CARI MARTIN
City Clerk

APPROVED AS TO FORM:

BRENT BROOKS
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY ACQUISITION FROM EATON LAND DEVELOPMENT

BASIS OF BEARING:

Consider the Basis of Bearing to be the east line of Certificate of Survey No. 746 Amended, said line bearing S.00° 00' 00"E., with all other bearings contained herein being relative thereto:

A parcel of land lying in Tract 3-B of Amended Tract 3 of Certificate of Survey No. 1834, located in the SE1/4 of Section 25, T.1N., R.25E., P.M.M., Yellowstone County, Montana. The perimeter boundary of which is described as follows:

Commencing at the southwest corner of said Certificate of Survey No. 746 Amended said point also being the True Point of Beginning; thence N.89° 07' 04"W. for 292.40 feet; thence N.00° 15' 12"E. for 249.97 feet; thence N.43° 56' 15"E. for 310.77 feet to the northerly line of said Tract 3-B; thence S.49° 44' 11"E., along said line, for 63.64 feet to the northwest corner of Certificate of Survey No. 746 Amended; thence S.23° 26' 32"E., along the line common to said Certificate of Survey and said Tract B for 68.05 feet to an angle point in same; thence S.00° 00' 05"W. for 374.69 feet, to the True Point of Beginning, the Area being 2.56 Acres more or less.

EXHIBIT "B"

LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT OBTAINED FROM EATON LAND DEVELOPMENT

BASIS OF BEARING:

Consider the Basis of Bearing to be the east line of Certificate of Survey No. 746 Amended, said line bearing S.00° 00' 00"E., with all other bearings contained herein being relative thereto:

A parcel of land lying in Tract 3-B of Amended Tract 3 of Certificate of Survey No. 1834, located in the SE1/4 of Section 25, T.1N., R.25E., P.M.M., Yellowstone County, Montana. The perimeter boundary of which is described as follows:

Commencing at the southwest corner of said Certificate of Survey No. 746 Amended said point also being the True Point of Beginning; thence S.38° 40' 45"W. for 217.81 feet; thence N.71° 01' 58"W. for 54.05 feet; thence N.80° 49' 43"W. for 196.41 feet; thence N.00° 15' 12"E. for 283.66 feet; thence N.43° 56' 15"E. for 127.72 feet; thence S.00° 15' 12"W. for 249.97 feet; thence S.89° 07' 04"E. for 292.40 feet, to the True Point of Beginning, the Area being 1.50 Acres.