

MEMORANDUM OF UNDERSTANDING (MOU)

Indemnification for Right of Way Acquisition for Bench Boulevard–Billings (Project ID: MT 1036(1)) and Bench Blvd–Hilltop to US87 (Project ID: MT 1036(2)) as well as any additional projects within the limits of Lincoln Lane and US Highway 87 that may be developed in the future as a result of splitting the projects into smaller segments,

This AGREEMENT is entered into this _____ day of _____, 2012, by and between the **STATE OF MONTANA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as “**MDT**”, and the **CITY OF BILLINGS**, hereinafter designated as “**CITY**”.

WHEREAS, MDT is the managing agency on the Bench Boulevard widening project that includes two projects. The first of these projects will reconstruct Bench Boulevard from Lincoln Lane to Hilltop Road. The second of these projects will reconstruct Bench Boulevard from Hilltop Road to Highway 87; and

WHEREAS, the existing roadway along this portion of Bench Boulevard is a two-lane, mostly straight, mostly rural facility with lane widths that vary from 11 to 12 feet and shoulder widths that vary from zero to 12 inches and pre-existing right-of-way widths varying from 60 to 100 feet; and

WHEREAS, the Bench Connector project is designed with typical section widths proposed between Lincoln Lane and Hilltop Road with two 14 foot travel lanes, plus, typically, a 5 foot boulevard on both sides of the roadway, a 5 foot sidewalk on both sides of the roadway, a two way left turn lane in the center, and curb and gutter; and

WHEREAS, MDT is using funds available for the project to purchase additional right-of-way for completion of this work and will convey the properties it acquires to the City of Billings, and

WHEREAS, the first of these projects on Bench from Lincoln Lane to Hilltop Road includes seven parcels remaining to be transferred to city. This section of Bench is estimated to begin construction in early 2013. The second of these projects for Bench, Hilltop Road to Highway 87, contains over 160 parcels that will be purchased by MDT and transferred to the CITY. Each parcel would have to be considered by and approved by the City Council of the City of Billings if its current policy were followed with regard to these transfers; and

WHEREAS, the CITY concurs and has concurred that the additional parcels that will become additions to the Bench Boulevard right-of-way should be accepted by the CITY; and

THEREFORE BE IT AGREED by **MDT** and the **CITY**:

1. The Mayor for the CITY shall execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement of the deed for each parcel so that it can be recorded in the name of the City of Billings if:

- a. It is a parcel that is being acquired to make possible the completion of the Bench Boulevard projects, specifically, Bench Boulevard–Billings (Project ID: MT 1036(1)) and Bench Blvd–Hilltop to US87 (Project ID: MT 1036(2)) as well as any additional projects within the limits of Lincoln Lane and US Highway 87 that may be developed in the future as a result of splitting the projects into smaller segments,
- b. MDT has
 - (1) negotiated the purchase price with the property owner,
 - (2) obtained a title report reflecting the names all persons or entities that have a legal interest in and to the property,
 - (3) has obtained the signature of all owners on a deed naming the City of Billings as the Grantee and specifying that the recorded deed is to be returned by the Yellowstone County Clerk and Recorder to the Billings, Montana City Clerk, and
 - (4) forwarded the original deed, all necessary written consents, a completed Realty Transfer Certificate and the title report to the City for legal review, and
- c. The CITY has obtained an opinion from the Office of the City Attorney that all necessary parties have signed the right-of-way deed and consented to the transfer.

2. MDT agrees to indemnify, defend and hold harmless the CITY, its mayor, council, administrators, employees and other related parties from any and all claims, demands, losses, liabilities, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, by reason of any claim arising from any lien-holders on property acquired by MDT on behalf of the CITY for right-of-way on the Bench Boulevard widening projects known as Bench Boulevard-Billings (Project ID MT 1036(1)) and Bench Blvd-Hilltop to US87 (Project ID MT 1036(2)) as well as any additional projects within the limits of Lincoln Lane and US Highway 87 that may be developed in the future as a result of splitting the projects into smaller segments.

3. Upon the satisfaction of these requirements and after the Mayor has signed the Acknowledgment and Acceptance, the City Clerk shall transmit each deed to the Clerk and Recorder of Yellowstone County with instructions to authorize payment of all Clerk and Recorder fees for recording the documents out of the State of Montana Department of Transportation account at that office, and to transmit an electronic copy of the recorded deed to MDT.

MONTANA DEPARTMENT OF TRANSPORTATION

By _____
Stefan Streeter, Billings District Administrator

CITY OF BILLINGS, MONTANA

By _____
Thomas W. Hanel, Mayor

(SEAL & ATTEST)
City Clerk

APPROVED AS TO FORM:

City Attorney