

**LICENSE AGREEMENT
ACCESS FOR SANITARY SEWER LIFT STATION PROJECT**

This Agreement made and entered into this ____ day of _____, 2013, by and between **BCJM PROPERTIES, LLC**, of P.O. Box 20318, Billings, Montana, 59104 (hereinafter referred to as 'Licensor'), and the **CITY OF BILLINGS**, a Montana Municipal Corporation, of P.O. Box 1178, Billings, Montana 59103 (hereinafter referred to as 'Licensee').

In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

**SECTION ONE
GRANT OF LICENSE AND DESCRIPTION OF PREMISES**

Licensor grants to Licensee a license to occupy and use, subject to all of the terms and conditions of this Agreement, certain real property approximately 0.5 acre in size as depicted in Exhibit A, and located in Section 11, Township 1 North, Range 26 East, P.M.M., Yellowstone County, Montana, more particularly located within the following described property:

Remainder Tract 3A-1 of Certificate of Survey No. 2317, NE of Bitterroot Heights Subdivision, 1st Filing, Recorded June 29, 2007 under Document No. 3428551, Records of Yellowstone County, Montana

It is understood that the Licensor shall allow Licensee to occupy and use the described property for vehicular and construction equipment access and for equipment and materials staging in order to facilitate the Licensee constructing a new sanitary sewer lift station in adjacent Bitterroot Heights Park. The specific location of the access route(s) and staging area(s) may be changed at the discretion of the Licensor.

**SECTION TWO
LIMITATION TO DESCRIBED PURPOSE**

The above-described property may be occupied and used by Licensee solely for the purpose of allowing Licensee to construct a new sanitary sewer lift station in adjacent Bitterroot Heights Park. Occupation and use of the property shall be limited to vehicular and construction equipment access, equipment and materials staging and incidental purposes related to constructing the lift station.

It is further understood that this access license is not a license for general public travel.

SECTION THREE DURATION

This license shall commence on the date this Agreement is signed and shall continue until both parties expressly agree to terminate it.

SECTION FOUR CONSIDERATION

The parties agree that the consideration given by Licensee to Licensor shall be delivery of all excess native fill material generated during construction of the sanitary sewer lift station project to an existing fill stockpile located on the Tract 3A-1 property unless and until Licensor gives other written instructions to Licensee. Licensee may deliver fill to other stockpile locations on the aforementioned Tract 3A-1 property designated by Licensor if Licensee is notified in writing no less than 48 hours in advance. When Licensor instructs Licensee in writing that it does not desire Licensee to deliver any more fill material to any location on Tract 3A-1, Licensee shall haul fill material off-site unless and until otherwise instructed in writing by Licensor. Licensee shall deliver fill material at its sole cost and expense.

Licensee shall control weeds in the portions of the property disturbed, occupied and used by Licensee during the term of this Agreement. Disturbed areas shall be restored or reseeded, as Licensee deems appropriate, at the conclusion of the construction project. Restoration of disturbed areas shall be inspected approximately one (1) year after the date of substantial project completion. Unsatisfactory site restoration observed at this inspection shall be corrected by Licensee to the satisfaction of Licensor. Licensee shall conduct an additional weed control application in the portions of the property disturbed by the project approximately one year after the date of substantial project completion.

SECTION FIVE TERMINATION

If Licensee fails to comply with any condition of this Agreement at the time or in the manner provided for, the Licensor may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within sixty (60) calendar days after the date Licensor provides written notice to the Licensee. Said notice shall set forth the items to be cured. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**SECTION SIX
LICENSE RUNS WITH THE LAND**

This license shall run with the land and shall be binding on and shall inure to the benefit of the parties to this Agreement, their respective heirs, successors, or assigns.

**SECTION SEVEN
GOVERNING LAW**

This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

**SECTION EIGHT
NOTICES**

Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent by United States Mail, First Class postage prepaid, if sent to the respective address of each party as set forth at the beginning of this agreement.

**SECTION NINE
ASSIGNMENTS**

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other party, which consent shall not be unreasonably denied.

**SECTION TEN
ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

IN WITNESS WHEREOF the parties have hereunto affixed their hands and seals the date first hereinabove written.

**CITY OF BILLINGS, a Montana
Municipal Corporation**

By: _____
THOMAS W. HANEL,

Mayor

ATTEST:

By: _____
CARI MARTIN, City Clerk

STATE OF MONTANA)

: ss.

County of Yellowstone)

On this _____ day of _____, 2013 before me, a Notary Public for the State of Montana, personally appeared **THOMAS W. HANEL** and **CARI MARTIN**, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

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

(Signature)

(NOTARIAL SEAL)

(Printed Name)
Notary Public for the State of Montana
Residing in _____
My Commission Expires: _____

BCJM PROPERTIES, LLC

[Handwritten Signature]

By: Matt Brosovich

Its Authorized Agent

STATE OF MONTANA)

:SS

County of Yellowstone)

On this 30th day of January, 2013, before me, personally appeared **MATT BROSOVICH**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same as the duly appointed and authorized agent of **BCJM PROPERTIES, LLC**.

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

Notarial Seal

Notary Public for the State of Montana

Printed Name: _____

Residing at Billings, Montana

My Commission Expires: _____

[Handwritten Signature: Susan Wellbrook]

