

Return to:
The City of Billings
P.O. Box 1178
Billings, MT 59103

UTILITY RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this 5th day of February, 2013, by and between the following:

BERRY Y & V FABRICATORS, LLC, a Montana limited liability company
2450 South 32nd Street West
Billings, Montana 59102
Hereinafter referred to as GRANTOR

and

CITY OF BILLINGS, a Municipal Corporation
City Hall - 210 North 27th Street
P.O. Box 1178
Billings, Montana 59101
Hereinafter referred to as GRANTEE

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESS THAT GRANTOR does hereby grant and convey unto the GRANTEE, a perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve sanitary sewer and water mains together with necessary fixtures and appurtenances, over, across, under, and through certain real property located in the NE1/4 of Section 23 and the NW1/4 of Section 24, T. 1 S., R. 25 E., P.M.M., Yellowstone County, Montana, more particularly described as follows, to wit:

An easement 20 feet in width being 10 feet each side of the common line between Sections 23 and 24 in Township 1 South, Range 25 East, P.M.M., commencing at a point 652.30 feet south of the common north corner of said Sections 23 and 24 and terminating on the northerly right-of-way line of the BNSF Railway.

Said easement being more particularly described as follows: Beginning at a point on the west line of Section 24, T. 1 S., R. 25 E., P.M.M., said point being situated S00°17'34"E a distance of 652.30 feet from the northwest corner of said Section 24; thence, from said point of beginning, N89°42'26"E a distance of 10.00 feet; thence, along a line that is parallel to and 10.00 feet distant from the west line of said Section 24, S00°17'34"E a distance of 687.47 feet to a point on the northerly right-of-way line of the BNSF Railway; thence, along said northerly right-of-way line, S55°18'09"W a distance of 24.24 feet; thence, along a line that is parallel to and 10.00 feet distant from the west line of said Section 24, N00°17'34"W a distance of 701.17 feet; thence N89°42'26"E a distance of 10.00 feet to the Point of Beginning; said easement having an area of 13,886 square feet.

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.

Grantors 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:

1. Grantors and their 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 many be licensed by Grantee.
2. Grantors agree 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.
3. Grantors agree that authorized representatives of the City of Billings 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.
4. Grantors agree to obtain the permission of the Public Works 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 Grantors agree 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.
5. Grantors agree that the sole responsibility of the City of Billings 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 Billings, shall be limited to trench backfill compaction and placement of backfill material to existing grade by the City of Billings.

6. HOLD HARMLESS AGREEMENT:

- Grantors agree that the owner or owners of the above-described property shall at all times fully relieve and save harmless the City of Billings 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 easement right-of-way by authorized representatives of the City of Billings in exercise of any of their rights under this easement right-of-way.

ACKNOWLEDGEMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this perpetual easement and hereby accepts the property interest conveyed through this instrument.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they duly executed the same on behalf of the City of Billings.

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

Notary Public in and for the State of _____
Printed Name _____
Residing at _____
My commission expires _____