

AGREEMENT RE CITY OF BILLINGS AFFINITY LICENSE PLATES

This Agreement regarding City of Billings Affinity License Plates (“Agreement”) is made and executed effective December 9, 2013, by and between **THE CITY OF BILLINGS**, a Montana Municipal Corporation (hereafter “CITY”), and **THE BILLINGS KIWANIS CLUB** (hereafter “CLUB”), a not-for-profit civic service organization operating in Billings under charter from Kiwanis International.

RECITALS:

WHEREAS, CITY and CLUB entered into an agreement on March 12, 2007 (hereafter “Agreement”) to authorize the CITY, as a qualifying governmental body eligible to apply under M.C.A. §§61-3-472, et seq., to the State of Montana Department of Justice, Motor Vehicle Division (“MVD”) for sponsorship of an affinity license plate, using artwork developed and paid for by CLUB, so that a portion of the fees generated from the sale of the affinity plates would be remitted by MVD to the CITY; and

WHEREAS, CITY and CLUB agreed that CLUB would pay the initial application fee for the affinity license plate, and after CLUB was reimbursed this fee out of proceeds from the sale of affinity plates to the public, CITY and CLUB would divide the remaining proceeds from sale of such plates equally between them; and

WHEREAS, the CITY and the CLUB have now gained years of experience and revenue operating under the terms of the Agreement, and based upon that experience, have independently and mutually determined that sale of affinity license plates bearing words identifying the plates with the CITY have promoted the CITY and have raised funds useful and necessary for CITY parks programs, and for the various civic and community service activities conducted and sponsored by CLUB within the City; and

WHEREAS, the CITY and the CLUB agree that the CITY has now fully reimbursed the CLUB for its payment of the initial application fee and all sums received by the CITY from MVD for this program have been distributed in accordance with the Agreement; and

WHEREAS, the CITY and the CLUB now wish to change the agreement to provide that 80% of all net revenues received by CITY from MVD, beginning on December 9, 2013, shall be paid to CLUB for the continuing use of the CLUB’s design on the affinity license plate and 20% shall be retained by CITY;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, the parties agree as follows:

1. **Distribution and Disbursement of Administrative Fees Collected on Sale of Plates**: The parties acknowledge their mutual understanding that the cost of the plates to the general public will be the applicable vehicle registration fees plus \$35.00 annually; that MVD will collect from the amounts paid for initial issuance or renewal of such City affinity plates a \$15.00 administrative fee in addition to the applicable vehicle registration fees; and that the

remaining \$20.00 (“net fees”) will be remitted by MVD not less than annually to the CITY. CITY and CLUB acknowledge their mutual understanding the net fees will be remitted by MVD to the CITY. CITY and CLUB hereby agree that 20% of all net fees received after December 9, 2013, shall be retained by CITY and 80% shall be disbursed to CLUB, along with the CITY’s written statement or accounting describing computation of the parties’ respective shares. This fee to the CLUB is for the continuing use of the affinity license plate design which is owned by the CLUB. In the event that the net fees remitted per plate application by MVD increase during the terms of this Agreement or any renewal or extension of this Agreement, the foregoing 80%/20% division of such net fees shall continue to apply.

2. **Term of Agreement; Renewal or Extension:** Unless otherwise mutually agreed in writing, the term of this Agreement shall be four (4) years from the effective date; and shall be automatically renewed for successive terms of four (4) years each unless either party gives the other notice not less than sixty (60) days prior to the renewal date of the intent of the party giving notice not to renew.

3. **Nondiscrimination:** CITY and CLUB agree that neither party shall discriminate in the performance of their duties under this agreement, or in the expenditure of any funds received by either party, on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

4. **Governing Law and Venue:** 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.

5. **Entire Agreement:** This Agreement, including its appendices, if any, embodies 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.

6. **Modification; Binding Effect:** This Agreement shall not be modified or amended except by written instrument signed by both parties and approved, to the extent required by applicable law or ordinance, by the Council. This Agreement, upon execution by both parties and approval by the Council, shall be binding upon them and their respective successors and assigns. Neither party shall assign such party’s rights or obligations hereunder without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

In witness whereof, this Agreement has been made and executed effective December 9, 2013.

CITY:

CITY OF BILLINGS, a Montana
Municipal Corporation

By: _____
THOMAS W. HANEL, Mayor

ATTEST:

By: _____
CARI MARTIN, City Clerk

BILLINGS KIWANIS CLUB

(Signature)

By: _____
(Printed Name)

Its: _____
(Title)

Approved As To Form:

Brent Brooks, City Attorney