

# CITY OF BILLINGS

## CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE  
PEOPLE FLOURISH AND BUSINESS THRIVES.”**

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### AGENDA

**COUNCIL CHAMBERS**

**March 24, 2014**

**6:30 P.M.**

**CALL TO ORDER:** Mayor Hanel

**PLEDGE OF ALLEGIANCE:** Mayor Hanel

**INVOCATION:** Councilmember Swanson

**ROLL CALL:** Councilmembers present on roll call were:

**MINUTES:** March 10, 2014

**COURTESIES:** Police Department Donation Presentation

**PROCLAMATIONS:** National Service Recognition Day - April 1, 2014

### **ADMINISTRATOR REPORTS - TINA VOLEK**

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item #1 ONLY. Speaker sign-in required.** (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or at the podium. Comment on items listed as public hearing items will be heard **ONLY** during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

1. **CONSENT AGENDA** -- Separations:
  - A. **Consultant Agreement** with Sanderson Stewart to conduct the Highway 3 Corridor Planning Study; not to exceed \$68,000.
  - B. **Contract** for Downtown Parking Strategic Plan; Kimley-Horn; not to exceed \$86,025.

- C. **Construction/Maintenance Agreement and Easement** with Montana Rail Link for W.O. 11-10, 25th Street Pedestrian Bridge.
- D. **Approval** of 5-year Airport Business Park Building and Ground Lease with State of Montana Department of Environmental Quality (3/1/14-2/28/19); 5-year revenue - \$380,839.20
- E. **Approval** of 5-year Airport Business Park Building and Ground Lease with State of Montana Department of Natural Resources and Conservation (3/1/14-2/28/19); 5-year revenue - \$435,918.60.
- F. **Amendment #1, W.O. 12-44 Water Treatment Plant High Service Pump Station H2-3 Pump Replacement.** Professional Services Contract, HDR Engineering; \$16,300.
- G. **Confirmation of Probationary Police Officers** - Zachary Wallis, Gabrielle DeNio, Matthew Widdekind, Robert Miller & Matthew Edwards.
- H. **Right-of-Way Easement** with Aviara, Inc.; RIMS Development, LLC; and X Bar S Enterprise, LLC for Falcon Ridge Estates Subdivision, 2nd Filing.
- I. **Acceptance of Donation** to Billings Animal Control from EBMS in memory of Lisa Marie Frank; \$500.
- J. **Acceptance** of grant from Spare Change for Real Change on behalf of the Mayor's Committee on Homelessness for venue rental for the 2015 Billings Community Connect ; \$1,000.
- K. **Resolution of Intent** to construct W.O. 14-02, Miscellaneous Improvements Program, and set a public hearing for April 28, 2014.
- L. **Preliminary Minor Plat** of North Pointe Square Subdivision, 2nd Filing, described as five lots on approximately 4.8 acres of land on the west side of Highway 87 North, just north of the intersection with Highway 312 in the Billings Heights; Vacant Land LLC, owner; Sanderson Stewart, agent; conditional approval and adoption of the Findings of Fact.
- M. **Bills and Payroll:**
  - 1. February 24, 2014

## **REGULAR AGENDA:**

2. **PUBLIC HEARING AND RESOLUTION** vacating the east 21.6 feet of Henesta Drive right-of-way located on Lot 10, Block 2, Justiss Subdivision; David and Barbara Hawkins, petitioners; estimated value - \$3,700. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING AND RESOLUTION** authorizing the sale of a 20-foot-wide strip of parkland situated between Lots 7 and 8, Block 4, Rehberg Ranch Estates Subdivision, 1st Filing; using the Comparative Market Analysis value as the minimum opening bid price. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND RESOLUTION** assessing the cost of removing a dangerous or unsafe tree deemed as a public hazard or nuisance as provided in Billings, MT Municipal Code (BMCC), Section 25-209. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND RESOLUTION** granting a tax exemption to Billings Ventures, LP, dba Big Horn Resort for building expansion at 1801 Majestic Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
6. **PUBLIC HEARING AND RESOLUTION** granting a tax exemption to Roscoe Steel dba True North Steel for building expansion at 1501 S. 30th Street West. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
7. **PUBLIC HEARING AND RESOLUTION** granting a tax exemption to FKCD LLP/360 Office Solutions Inc. for building remodel at 3723 Pierce Parkway. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. *(Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or at the podium.)*

## **COUNCIL INITIATIVES**

## **ADJOURN**

*Additional information on any of these items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.*

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Consulting Agreement with Sanderson Stewart - Highway 3 Corridor Planning Study

**PRESENTED BY:** Candi Millar, Planning & Community Services Department Director

**Department:** Planning & Community Services

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**PROBLEM/ISSUE STATEMENT**

The Highway 3 Corridor Planning Study will provide an access plan for the Highway 3 corridor in Billings and Yellowstone County, specifically between the N. 27th Street intersection and the Apache Trail intersection that accesses the Indian Cliffs Subdivision (approximately 5 miles). The study will include bike/pedestrian amenities along the rim top, a parking plan and a detailed corridor storm water management plan. This study will address current vehicle and non-motorized traffic circulation and access along the corridor and plan for future changes to the corridor from traffic patterns and development activity. Drafting of the study will include community and stakeholder input. This project is identified in the FY14 Billings Urban Area Unified Planning Work Program (UPWP). The UPWP is developed each year and identifies tasks to be completed through the use of Federal Planning dollars allocated to the Metropolitan Planning Organization. This Planning Study will require a Scope of Work and Documentation package to be completed within 10 months of contract signing.

Through a competitive selection process conducted in February, 2014, Sanderson Stewart was chosen as the consultant to complete the study. The negotiated fee will not exceed \$68,000. Staff is requesting that the Council approve this agreement with Sanderson Stewart and a draft contract is attached for Council review.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the agreement as proposed
- Not approve the agreement
- Direct staff to negotiate specific changes with Sanderson Stewart and return a revised agreement

**FINANCIAL IMPACT**

The estimated cost of this study is \$68,000.00. The costs are detailed in Exhibit B of the consultant agreement. The source of funding is through the Billings Urban Area Metropolitan Planning Organization's Federal PL (planning) funds administered by the City-County Planning Division.

**RECOMMENDATION**

Staff recommends that the City Council approve the Consultant Agreement with Sanderson Stewart to conduct the Highway 3 Corridor Planning Study.

**APPROVED BY CITY ADMINISTRATOR**

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Draft Contract

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## CONSULTANT AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “**CITY**,” and Sanderson Stewart, 1300 North Transtech Way, Billings, Montana 59102, hereinafter referred to as “**CONSULTANT**.”

### **WITNESSETH:**

**WHEREAS**, the **CITY** proposes to obtain information regarding the development of a Highway 3 Corridor Planning Study and desires to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof.

**WHEREAS**, the **CITY** has authority to contract for such services, and;

**WHEREAS**, the **CONSULTANT** represents that he/she is fully qualified to perform such services personally and is in compliance with the Montana Statutes relating to the provisions of such services.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PURPOSE:** **CITY** agrees to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof. In performing these services, the **CONSULTANT** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.
  
2. **TERM:** This **AGREEMENT** shall be for a period of ten months, from the execution of this **AGREEMENT**. This **AGREEMENT** may be extended for 1-three month option by mutual agreement of both parties, in writing, thirty (30) days prior to termination.



3. **PAYMENT:** In consideration of the services provided by the **CONSULTANT** under this **AGREEMENT**, the **CITY** agrees to pay **CONSULTANT** a price not to exceed \$68,000.00 as described in the Project Cost attached hereto as Exhibit “B”.

In the event scope of work issues arise, the **CONSULTANT** shall immediately discuss them with the Project Manager for the **CITY**. It is understood that the Consultant will not perform any work that the **CITY** deems outside the scope prior to receiving written approval from the **CITY**, and at a rate agreed upon by both parties. Any payment for work not agreed upon by the **CITY** shall be denied.

**CONSULTANT**, shall invoice City monthly for the percentage of the work completed by the **CONSULTANT**. **CITY** shall pay undisputed invoices within thirty (30) days of the invoice date and may deduct five percent (5%) from each pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final invoice by the **CITY**, and determination has been made by the **CITY** that the scope of work has been satisfactorily completed.

4. **INDEPENDENT CONTRACTOR STATUS:** The parties agree that **CONSULTANT** is an independent Contractor for purposes of this **AGREEMENT** and is not to be considered an employee of the **CITY** for any purpose. **CONSULTANT** is not subject to the terms and provisions of the **CITY**'s personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **CONSULTANT** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **CONSULTANT** and any third parties.

5. **INDEMNITY AND INSURANCE:**

- A. The Consultant shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the **AGREEMENT**.
- B. The Consultant agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or its agents or employees.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Consultant, the Consultant shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the



Consultant's or any subcontractor's wrongful or negligent acts occurring as a result from the Consultant's performance pursuant to this **AGREEMENT**.

- D. The **CONSULTANT** shall maintain in good standing the insurance described in this Section. Before rendering any services under this **AGREEMENT**, the **CONSULTANT** shall furnish the **CITY** with proof of insurance in accordance with this Section.

The **CONSULTANT** shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.
3. Commercial automobile liability -- \$1,500,000 per accident.
4. Professional liability in the amount of \$1,500,000 per claim.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the **CITY** prior to cancellation. **CONSULTANT** may use an Excess Limits policy that drops down and follows form to meet the required insurance limits.

The **CITY** shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies.

In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

**CONSULTANT** shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. **CONSULTANT** shall maintain workers' compensation insurance coverage for all members and employees of **CONSULTANT's** business, except for those members who are exempted as independent **CONSULTANTS** under the provisions of §39-71-401, MCA.

**CONSULTANT** shall furnish **CITY** with copies showing one of the following: (1) proof of registration as a registered Contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent Contractors.



**6. AGREEMENTS OF CONSULTANT:** As an inducement to the execution of this **AGREEMENT** by the **CITY** and in consideration of the agreements to be performed by the **CITY**, the **CONSULTANT** agrees that:

A. Qualifications

The **CONSULTANT** is qualified to perform the services to be furnished under this **AGREEMENT** and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform.

B. Solicitation of Agreement

The **CONSULTANT** has not employed any person to solicit this **AGREEMENT** and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this **AGREEMENT**.

C. Facilities and Personnel

The **CONSULTANT** has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

D. Subcontracting

None of the work or services covered by this **AGREEMENT** shall be subcontracted without the prior approval of the **CITY**.

E. Affidavits of Compliance

The **CONSULTANT** will, if requested by the **CITY**, furnish the **CITY** affidavits certifying compliance with the provisions of this Section.

**7. AGREEMENTS OF CITY:**

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the City of Billings' portion of the project as designated in the scope of work.

B. Name a Project Manager who shall be the liaison between the Consultant and the City of Billings. For this project, the Project Manager for **CONSULTANT** designated is Danielle R. Scharf and the Project Manager for **CITY** designated is Scott Walker.



**8. NONDISCRIMINATION:**

- A. The **CONSULTANT** will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The **CONSULTANT** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The **CONSULTANT** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The **CONSULTANT** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The **CONSULTANT** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **CONSULTANT** shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such sub-consultant or vendor of the **CONSULTANT** under this **AGREEMENT**.
- E. The **CONSULTANT** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination (Exhibit "C").
- 9. PERMITS, LAWS, AND TAXES:** The **CONSULTANT** shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this **AGREEMENT**. All actions taken by the **CONSULTANT** under this **AGREEMENT** shall comply with all applicable statutes, ordinances, rules and regulations. The **CONSULTANT** shall pay all taxes pertaining to its performance under this **AGREEMENT**.



10. **NONWAIVER:** The failure of either party at any time to enforce a provision of this **AGREEMENT** shall in no way constitute a waiver of the provision, nor in any way affect the validity of this **AGREEMENT** or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
11. **DECLARATION OF NO FINANCIAL INTEREST:** The **CONSULTANT** hereby declares that he does not have any interest (including that of real estate agent or broker), direct or indirect, present or prospective, in any property described in Section 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this **AGREEMENT**, any person having any such interest. Until the property is acquired by the **CITY** or excluded from its project by resolution of its governing body, the **CONSULTANT** and any employees of the **CONSULTANT**, so long as they are employed by the **CONSULTANT**, will not acquire any such interests and will not, for their own account or for other than the **CITY**, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.
12. **SUCCESSORS AND ASSIGNS:** This **AGREEMENT** and all of the covenants hereof shall inure to the benefit of and be binding upon the **CITY** and the **CONSULTANT** respectively and his partners, successors, assigns, and legal representatives. Neither the **CITY** nor the **CONSULTANT** shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party.
13. **CHANGES IN WORK:** Any change in the scope of **CONSULTANT'S** services as stated in this **AGREEMENT** for whatever reason, will be negotiated between the **CITY** and the **CONSULTANT** and an amendment to this **AGREEMENT** will be issued with the appropriate change of services and **AGREEMENT** fee noted.
14. **LEGAL RELATIONS:** The **CONSULTANT** shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done.



15. **TERMINATION OF AGREEMENT:** The right is reserved by the **CITY** to terminate this **AGREEMENT** at any time upon not less than thirty (30) days written notice to the **CONSULTANT**. If one of the parties fails to comply with the terms and conditions of the Agreement, written notice may be provided describing the default. If the defaulting party fails to cure and correct the claimed default within a reasonable period specified in the notice, the non-defaulting party may terminate its services under the Agreement.

In the event the **CITY** terminates this **AGREEMENT**, the **CONSULTANT** shall be paid for the amount of work performed or services rendered to date of termination per the **AGREEMENT** fee.

16. **ENDORSEMENTS:** The **CONSULTANT** shall furnish signatures, statements, or other suitable means to signify responsible endorsement of work on all reports furnished by him.
17. **OWNERSHIP OF DOCUMENTS:** All information relating to the project and prepared under the terms of this **AGREEMENT**, including reports, data, recommendations, exhibits, analyses, and plans shall be deemed the property of the **CITY**. Reproducibles of all notes, reports, and plans shall be made available at the **CITY'S** request. **CONSULTANT** shall not be liable for modifications to documents prepared by **CONSULTANT** which are made without **CONSULTANT's** advice after delivery to **CITY**, nor shall **CONSULTANT** be liable for their use in projects other than the Project outlined within this Agreement.
18. **PUBLIC INFORMATION:** The **CONSULTANT** shall not issue any statements, releases, or information for public dissemination without prior written approval of the **CITY**.
19. **PROPRIETARY RIGHTS:** If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be the property of the **CITY**. Pre-existing works created by **CONSULTANT** outside of the services for **CITY** but utilized in connection with such services shall continue to be owned by **CONSULTANT**.
20. **RECORDS:** The **CONSULTANT** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the **AGREEMENT** term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.



- 21. **ATTORNEY’S FEES AND COSTS:** That in the event it becomes necessary for either Party to this **AGREEMENT** to retain an attorney to enforce any of the terms or conditions of the **AGREEMENT** or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney’s fees and costs.
- 22. **LITIGATION LOCATION:** The parties agree that this **AGREEMENT** shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the **AGREEMENT** or the performance of its terms.
- 23. **MODIFICATION AND AMENDMENTS:** That any amendment or modification of this **AGREEMENT** or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this **AGREEMENT**.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

**SANDERSON STEWART**  
**CONSULTANT (Print Name Above)**

By \_\_\_\_\_  
**THOMAS W. HANEL,**  
**MAYOR**

By \_\_\_\_\_  
**Print Name** \_\_\_\_\_  
**Print Title** \_\_\_\_\_

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
**BRENT BROOKS, CITY Attorney**



## EXHIBIT A SCOPE OF WORK

### HIGHWAY 3 CORRIDOR PLANNING STUDY

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The Billings Metropolitan Planning Organization (MPO) has identified the need to conduct a Access Study along with a Non-Motorized Trail and Parking element to evaluate the challenges of the transportation system along the Highway 3 corridor in Billings and Yellowstone County, specifically between the N. 27<sup>th</sup> Street intersection and the Apache Trail intersection that accesses the Indian Cliffs Subdivision (approximately 5 miles). The Study will provide an access plan for the above mentioned corridor including bike/pedestrian amenities along the rim-face which would include a parking plan and a detailed storm water management plan. This study will address current vehicle and non-motorized traffic circulation and access along the corridor and plan for future changes to the corridor from traffic patterns and development activity.

The Study will provide an access management and transportation circulation plan for the above mentioned corridor, including the incorporation of bike/pedestrian facilities, a parking plan, and a storm water management plan along the rim tops. Drafting of the study will include community and stakeholder input. This Planning Study will require the following Scope of Work and Documentation package to be completed within 10 months of contract signing. The Study will include, but not be limited to the following:

Below is a general outline of the anticipated scope of work. However, the final scope of work will be negotiated after completion of this contract.

#### Summary

- Identify existing and future vehicle access points through the corridor.
- Identify areas where there are traffic safety issues and propose mitigation alternatives.
- Identify a pedestrian and bicycle pathway through the corridor.
- Provide detailed traffic analysis to assist in the design and construction of future transportation infrastructure improvements in the corridor; include truck and wide load access and parking.
- Be consistent with other plans (i.e. Long Range Transportation Plan, Billings Urbanized Area Bikeway & Trail Master Plan, Storm Water Master Plan, etc).
- Formulate a parking plan along the rim-top face to mitigate erosion and aid in safe orderly parking.
- Formulate a parking plan along the rim-top to mitigate erosion and aid in safe orderly parking.
- Conduct a storm water analysis and provide recommendations to aid in control and management of water flow off the rims, consistent with the City of Billings' Storm Water Master Plan.



Consultant will be required to update and receive input from the community through a public participation process that follows the 2009 Yellowstone County Board of Planning Participation Plan.

#### Deliverables

- Weekly email updates of project status to City-County Planning Division. Project meetings as needed.
- Attendance at public meetings and meetings with the Technical Advisory Committee (TAC) and the Policy Coordinating Committee (PCC) and Governing Bodies are required.
- A final Highway 3 Corridor Planning Study summarizing the study purpose, methods and conclusions. Preliminary maps and drawings that illustrate existing and recommended transportation improvements, pathways, trails and safety improvements are a must. Corridor renderings encouraged to demonstrate before and after views of the corridor.
- A project priority summary, outlining long-term and short-term projects and phasing for improvement of the corridor.

Note: The final plan shall be provided to the **CITY** by the **CONSULTANT** in the following manner: 15 printed copies, 1 compact discs in a pdf. electronic version and one electronic version that can be manipulated and edited for future updates.



## EXHIBIT B

# PROJECT COSTS/BUDGET JUSTIFICATION DRAFT

2 Weeks	6 Weeks	8 Weeks	8 Weeks	4 Weeks	4 Weeks
<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 80px; margin: 0 auto;"> <b>1</b> Project Initiation         </div>	<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 100px; margin: 0 auto;"> <b>2</b> Data Collection &amp; Issue Identification         </div>	<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 100px; margin: 0 auto;"> <b>3</b> Visioning &amp; Problem Solving         </div>	<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 100px; margin: 0 auto;"> <b>4</b> Evaluation &amp; Alternative Improvement         </div>	<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 100px; margin: 0 auto;"> <b>5</b> Preferred Alternative Selection         </div>	<div style="background-color: #4f81bd; color: white; padding: 10px; border-radius: 10px; width: 100px; margin: 0 auto;"> <b>6</b> Final Plan, Reviews and Approval         </div>
<b>Project Management &amp; Communication</b>					
<b>Stakeholder Involvement</b>					
<b>Products and Tasks</b>					
1. Finalize project scope, work plan, and communication plan 2. Finalize public involvement plan 3. Contract 4. Notice to Proceed  DELIVERABLES: Final work plan and executed contract documents	1. Goal setting with staff and steering committees 2. Compile and review existing planning documents 3. Collect traffic and demographic data, inventory existing conditions 4. Compile base mapping and topographic info 5. Solicit and compile initial public response/expectations  DELIVERABLES: Memorandum summarizing data collection and issues identified	1. Conduct intersection and corridor-level traffic modeling 2. Conduct analysis of stormwater runoff volumes/patterns 3. Conduct workshop(s) with staff, stakeholders to develop full range of alternatives to address project goals and issues 4. Develop visual renderings of corridor alternatives  DELIVERABLES: Summary memo and exhibits, and visual renderings of prelim alternatives	1. Develop preliminary evaluation criteria 2. Internal review and refinement of alternatives 3. Public Meeting to present alternatives  DELIVERABLES: Memo summarizing alternatives and public feedback	1. Refine evaluation criteria 2. Meetings with Staff and Steering Committees to rank and select  DELIVERABLES: Draft Corridor Plan	1. Prepare Final Plan 2. Public Hearings and Approvals  DELIVERABLES: Final Plan



## EXHIBIT C DBE AND NON-DISCRIMINATION NOTICE

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### DBE Goals

There are no DBE/WBE goals for this work, but firms are strongly encouraged to utilize DBE firms if applicable. A Montana certified DBE consultant list is available and can be found on the MDT web page, <http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>

### Nondiscrimination Compliance

Consultants will be subject to Federal and Montana nondiscrimination laws and regulations (see attached notice).

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### NON-DISCRIMINATION NOTICE

During the performance of this Agreement, the Consultant (hereafter in this Section “the Party”), for itself, its assignees and successors in interest, agrees as follows:

#### A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.



(4) Information and Reports: The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

(a) Withholding payments to the Party under the Agreement until the Party complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Party or the State may request the United States to enter into such litigation to protect the interests of the United States.

**B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, §49-3-207, MCA**

In accordance with Section 49-3-207, MCA, the Party agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

**C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

(1) The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs:



"The Party will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."

All video recordings produced and created under contract and/or agreement will be closed captioned.

**D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR §26**

Each Agreement the Department signs with a Party (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Party, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Party shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Party to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.



**EXHIBIT D**  
**CERTIFICATE OF LIABILITY INSURANCE**

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**NEED**



**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Contract with Kimley-Horn for Parking Strategic Plan

**PRESENTED BY:** Bruce McCandless, Assistant City Administrator

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

City Council has been considering for the past two (2) years how to best operate the downtown parking system. After Billings voters rejected a Charter amendment that would have allowed the Council to create a Parking Commission, staff and the Parking Advisory Board (PAB) met to determine what to do next. Staff and the PAB recommended a parking strategic plan at the Council's January 6, 2014 meeting, answered a number of Council questions and again presented material and the recommendation to Council at the February 3, 2014 work session. Among the material was a Request for Proposals (RFP) to solicit responses from consulting companies to help the City prepare a parking strategic plan. The Council consensus was to issue the RFP and review the responses.

The City received five (5) responses to the RFP. The responders were: Desman Assoc., RNR Consulting, Kimley-Horn, Walker Parking and Nelson-Nygaard. Four of these companies are well known, national parking consultants. A committee of PAB members and Councilmembers Cromley and Yakawich reviewed the responses and unanimously selected Kimley-Horn. The proposed fee is \$68,025 and up to \$18,000 of expenses for a total contract maximum of \$86,025. This is at the high end of the cost range that staff estimated for Council in January and February. The reasons that the committee selected Kimley Horn include:

- Kimley-Horn's parking consultancy focuses on downtowns
- Familiarity with the community - 1998's Downtown Framework Plan, Downtown Parking Forum (9-24-13)
- Use of other communities' practitioners as a panel to identify issues and solutions
- Capacity to complete the project, with over 2,000 employees and committed time from company principals
- Thorough explanation of the stakeholder outreach program
- Promise of follow-up consultation if needed
- Acceptable schedule (4 months) with specifically identified tasks and milestones
- Peer city comparison and analysis

The attached model contract will be completed and executed if Council approves the recommendation. The Kimley-Horn proposal is available for review in the City Clerk's office.

### **ALTERNATIVES ANALYZED**

The City Council may approve or disapprove contracting with Kimley-Horn to complete a downtown parking strategic plan. If Council disapproves the contract, the PAB and staff will try to identify other ways to improve downtown parking.

### **FINANCIAL IMPACT**

The Parking Fund has \$869,000 in cash as of March 1. Staff will recommend about \$333,000 of parking garage repairs next fiscal year, leaving a balance of at least \$586,000 cash in the Fund. In addition, the Parking Advisory Board is discussing parking garage rates and may recommend an increase because the last rate adjustment was in 2006.

### **RECOMMENDATION**

Staff recommends that the City Council approve a consulting contract with Kimley-Horn to prepare a Downtown Parking Strategic Plan and a not to exceed price of \$86,025.

### **APPROVED BY CITY ADMINISTRATOR**

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Consultant agreement

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## CONSULTANT AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “**CITY**,” and \_\_\_\_\_, of \_\_\_\_\_, hereinafter referred to as “**CONSULTANT**.”

### **WITNESSETH:**

**WHEREAS**, the **CITY** proposes to \_\_\_\_\_ and desires to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof.

**WHEREAS**, the **CITY** has authority to contract for such services, and;

**WHEREAS**, the **CONSULTANT** represents that he/she is fully qualified to perform such services personally and is in compliance with the Montana Statutes relating to the provisions of such services.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PURPOSE:** **CITY** agrees to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof. In performing these services, the **CONSULTANT** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

2. **TERM:** This **AGREEMENT** shall be for a period of \_\_\_\_\_ years, from the execution of this **AGREEMENT**. This **AGREEMENT** may be extended for \_\_\_\_\_ one year options by mutual agreement of both parties, in writing, thirty (30) days prior to termination.



3. **PAYMENT:** In consideration of the services provided by the **CONSULTANT** under this **AGREEMENT**, the **CITY** agrees to pay **CONSULTANT** a price not to exceed \$\_\_\_\_\_.

In the event scope of work issues arise, the **CONSULTANT** shall immediately discuss them with the Project Manager for the **CITY**. It is understood that the Consultant will not perform any work that the **CITY** deems outside the scope prior to receiving written approval from the **CITY**, and at a rate agreed upon by both parties. Any payment for work not agreed upon by the **CITY** shall be denied.

4. **INDEPENDENT CONTRACTOR STATUS:** The parties agree that **CONSULTANT** is an independent Contractor for purposes of this **AGREEMENT** and is not to be considered an employee of the **CITY** for any purpose. **CONSULTANT** is not subject to the terms and provisions of the **CITY**'s personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **CONSULTANT** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **CONSULTANT** and any third parties.

5. **INDEMNITY AND INSURANCE:**

- A. The Consultant agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or its agents or employees.
- B. The Consultant shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the **AGREEMENT**.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Consultant, the Consultant shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Consultant's or any subcontractor's wrongful or negligent acts occurring as a result from the Consultant's performance pursuant to this **AGREEMENT**.
- D. The **CONSULTANT** shall maintain in good standing the insurance described in this Section. Before rendering any services under this **AGREEMENT**, the



**CONSULTANT** shall furnish the **CITY** with proof of insurance in accordance with this Section.

The **CONSULTANT** shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.
3. Commercial automobile liability -- \$1,500,000 per accident.
4. Professional liability in the amount of \$1,500,000 per claim.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the **CITY** prior to cancellation.

The **CITY** shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies.

In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

**CONSULTANT** shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. **CONSULTANT** shall maintain workers' compensation insurance coverage for all members and employees of **CONSULTANT's** business, except for those members who are exempted as independent **CONSULTANTS** under the provisions of §39-71-401, MCA.

**CONSULTANT** shall furnish **CITY** with copies showing one of the following: (1) proof of registration as a registered Contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent Contractors.



6. **AGREEMENTS OF CONSULTANT:** As an inducement to the execution of this **AGREEMENT** by the **CITY** and in consideration of the agreements to be performed by the **CITY**, the **CONSULTANT** agrees that:

A. Qualifications

The **CONSULTANT** is qualified to perform the services to be furnished under this **AGREEMENT** and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform.

B. Solicitation of Agreement

The **CONSULTANT** has not employed any person to solicit this **AGREEMENT** and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this **AGREEMENT**.

C. Facilities and Personnel

The **CONSULTANT** has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

D. Subcontracting

None of the work or services covered by this **AGREEMENT** shall be subcontracted without the prior approval of the **CITY**.

E. Affidavits of Compliance

The **CONSULTANT** will, if requested by the **CITY**, furnish the **CITY** affidavits certifying compliance with the provisions of this Section.

7. **AGREEMENTS OF CITY:**

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the City of Billings' portion of the project as designated in the scope of work.

B. Name a Project Manager who shall be the liaison between the Consultant and the City of Billings. For this project, the Project Manager for **CONSULTANT** designated is \_\_\_\_\_ and the Project Manager for **CITY** designated is \_\_\_\_\_.



**8. NONDISCRIMINATION:**

- A. The **CONSULTANT** will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The **CONSULTANT** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The **CONSULTANT** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The **CONSULTANT** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The **CONSULTANT** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **CONSULTANT** shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such sub-consultant or vendor of the **CONSULTANT** under this **AGREEMENT**.
- E. The **CONSULTANT** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.

- 9. PERMITS, LAWS, AND TAXES:** The **CONSULTANT** shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this **AGREEMENT**. All actions taken by the **CONSULTANT** under this **AGREEMENT** shall comply with all applicable statutes, ordinances, rules and regulations. The **CONSULTANT** shall pay all taxes pertaining to its performance under this **AGREEMENT**.



10. **NONWAIVER:** The failure of either party at any time to enforce a provision of this **AGREEMENT** shall in no way constitute a waiver of the provision, nor in any way affect the validity of this **AGREEMENT** or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
  
11. **DECLARATION OF NO FINANCIAL INTEREST:** The **CONSULTANT** hereby declares that he does not have any interest (including that of real estate agent or broker), direct or indirect, present or prospective, in any property described in Section 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this **AGREEMENT**, any person having any such interest. Until the property is acquired by the **CITY** or excluded from its project by resolution of its governing body, the **CONSULTANT** and any employees of the **CONSULTANT**, so long as they are employed by the **CONSULTANT**, will not acquire any such interests and will not, for their own account or for other than the **CITY**, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.
  
12. **SUCCESSORS AND ASSIGNS:** This **AGREEMENT** and all of the covenants hereof shall inure to the benefit of and be binding upon the **CITY** and the **CONSULTANT** respectively and his partners, successors, assigns, and legal representatives. Neither the **CITY** nor the **CONSULTANT** shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party.
  
13. **CHANGES IN WORK:** Any change in the scope of **CONSULTANT'S** services as stated in this **AGREEMENT** for whatever reason, will be negotiated between the **CITY** and the **CONSULTANT** and an amendment to this **AGREEMENT** will be issued with the appropriate change of services and **AGREEMENT** fee noted.
  
14. **LEGAL RELATIONS:** The **CONSULTANT** shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done.



15. **TERMINATION OF AGREEMENT:** The right is reserved by the **CITY** to terminate this **AGREEMENT** at any time upon not less than thirty (30) days written notice to the **CONSULTANT**.

In the event the **CITY** terminates this **AGREEMENT**, the **CONSULTANT** shall be paid for the amount of work performed or services rendered to date of termination per the **AGREEMENT** fee.

16. **ENDORSEMENTS:** The **CONSULTANT** shall furnish signatures, statements, or other suitable means to signify responsible endorsement of work on all reports furnished by him.
17. **OWNERSHIP OF DOCUMENTS:** All information relating to the project and prepared under the terms of this **AGREEMENT**, including reports, data, recommendations, exhibits, analyses, and plans shall be deemed the property of the **CITY**. Reproducibles of all notes, reports, and plans shall be made available at the **CITY'S** request.
18. **PUBLIC INFORMATION:** The **CONSULTANT** shall not issue any statements, releases, or information for public dissemination without prior written approval of the **CITY**.
19. **PROPRIETARY RIGHTS:** If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be the property of the **CITY**.
20. **RECORDS:** The **CONSULTANT** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the **AGREEMENT** term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.
21. **ATTORNEY'S FEES AND COSTS:** That in the event it becomes necessary for either Party to this **AGREEMENT** to retain an attorney to enforce any of the terms or conditions of the **AGREEMENT** or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.



22. **LITIGATION LOCATION:** The parties agree that this **AGREEMENT** shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the **AGREEMENT** or the performance of its terms.
23. **MODIFICATION AND AMENDMENTS:** That any amendment or modification of this **AGREEMENT** or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this **AGREEMENT**.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

\_\_\_\_\_  
**CONSULTANT (Print Name Above)**

**Print Name** \_\_\_\_\_

**Print Title** \_\_\_\_\_

**CITY OF BILLINGS, MONTANA**

**By:** \_\_\_\_\_

**Thomas W. Hanel, Mayor**

**Attest:** \_\_\_\_\_

**Cari Martin, City Clerk**

**APPROVED AS TO FORM:**

**By** \_\_\_\_\_

**BRENT BROOKS, CITY Attorney**

**Regular City Council Meeting****Meeting Date:** 03/24/2014**TITLE:** Easement and Construction & Maintenance Agreement with Montana Rail Link for WO 11-10 25th Street Pedestrian Bridge**PRESENTED BY:** David Mumford, Public Works Director**Department:** Public Works**PROBLEM/ISSUE STATEMENT**

The purpose of this project is to construct a pedestrian bridge across the Montana Rail Link railroad tracks connecting Minnesota Avenue to Montana Avenue at North 25th Street. It is necessary to enter into a Construction & Maintenance Agreement with Montana Rail Link (MRL) for the construction of the bridge. The Construction and Maintenance Agreement outlines the necessary costs incurred by MRL for review and incidentals during construction which will be reimbursed by the City. MRL will be removing a section of tracks for this project, perform flagging for the project and reviewing the project. It is also necessary to purchase an easement from MRL for the bridge. An appraisal was obtained by the City and the amount for the easement is included in the Construction and Maintenance Agreement.

**ALTERNATIVES ANALYZED**

The Council may:

- Accept the Construction & Maintenance Agreement and the Easement; or
- Do not accept the Construction & Maintenance Agreement or the Easement. In this case the bridge would not be bid or completed.

**FINANCIAL IMPACT**

The total project funding and expenditures are as follows:

Total Funding	\$821,559.00
Prior Encumbrances	\$177,700.00
Cost of Easement	\$32,600.00
Cost for MRL to Remove Tracks and review project	\$6,738.00
MRL Flagging Costs	\$22,500.00

The cost for MRL to remove tracks, review of the project and provide flagging for the project make up the cost included in this Construction and Maintenance Agreement. The cost of the easement is included in the Construction and Maintenance Agreement also.

**RECOMMENDATION**

Staff recommends that the City Council approve the Construction and Maintenance Agreement and the Easement from MRL for the construction of the 25th Street Pedestrian Bridge and authorize the Mayor to sign necessary documents.

**APPROVED BY CITY ADMINISTRATOR**

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Construction & Maintenance Agreement

Easement

Exhibit A

Exhibit B

Exhibit C

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**CONSTRUCTION AND MAINTENANCE AGREEMENT  
25<sup>TH</sup> STREET PEDESTRIAN BRIDGE  
BILLINGS, MONTANA**

AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2014, between the **CITY OF BILLINGS**, a political subdivision of the State of Montana, hereinafter referred to as "CITY", and **MONTANA RAIL LINK, INC.**, a Montana corporation, hereinafter referred to as "RAILROAD".

WHEREAS, CITY is proposing to undertake a federal aid Community Transportation Enhancement Project MT-STPE 1099(71), CN 7546, City of Billings WO 11-10, which includes construction and maintenance of a pedestrian bridge on, along and across RAILROAD right-of-way on the Jones Junction to Spurling main line, located in the City of Billings, Yellowstone County, Montana, as is more particularly shown on the map marked as Exhibit "A" attached; and

WHEREAS, the parties want this project to be constructed in accordance with plans and specifications to be prepared by CITY; and

WHEREAS, it will be necessary for RAILROAD to perform certain work on its facilities for this project; and

WHEREAS, CITY will undertake the construction of said project with CITY funds and federal funds as are available for this purpose, and the RAILROAD will consent to the construction of said project upon the terms and conditions hereinafter stated and will receive no net benefit.

NOW, THEREFORE, in consideration of the premises herein contained, the parties agree:

I

The RAILROAD, in consideration of the sum of (\$32,600) Thirty two thousand six hundred dollars, will grant to CITY the following:

By separate instrument, an easement on its operating right-of-way, as shown and described on Exhibit "A," for the construction, maintenance and operation of a pedestrian bridge.

This instrument gives a one-year right-of-entry temporary construction easement for the areas shown hatched on the Exhibit "A," which commences prior to construction on a date specified by the CITY.

II

The CITY has provided the RAILROAD preliminary project plans and will submit final plans and specifications for concurrence and/or approval at a later date. The CITY will construct or cause to construct the pedestrian bridge and thereafter own and maintain the proposed facility. The CITY

will provide the RAILROAD with as-built plans, provided there are RAILROAD approved changes to the original design.

The CITY will present the attached Exhibit "C", contractor requirements for work on the right-of-way of the RAILROAD, to its contractor. The CITY's contractor will comply with all aspects of this attachment. There will be no equipment, manpower or work on the right-of-way of the RAILROAD prior to approval by the RAILROAD. CITY's **contractor(s) will telephone the RAILROAD's Communication Network Control Center at (800) 338-4750** (a 24-hour number), and Utilities Underground Location Center **(800) 424-5555**, to determine if underground utilities or communication facilities are buried anywhere in the area. Nothing provided in this agreement will be construed or deemed to be ratification or an adoption by the RAILROAD of either or both said plans and specifications as its own.

Should it become necessary for the RAILROAD to obtain the services of a consultant engineer or a contractor after this agreement is completed, and due to any exigency of the RAILROAD and the project, the CITY and the RAILROAD will mutually agree, in writing, as to the area of need and the RAILROAD's selection of a consultant or contractor. All work performed and cost incurred under this agreement will be in accordance with 23 Code of Federal Regulations (CFR) and 48 CFR, including but not limited to Chapter 1, Part 31, hereinafter referred to as "48 CFR" which is hereby incorporated into and made part of this agreement by reference.

### III

The CITY will reimburse the RAILROAD for the work it performs pursuant to this agreement in accordance with and subject to the terms of 23 CFR, including but not limited to Parts 1, 140 (Subpart I), 172, 646, hereafter referred to as "23 CFR" which is hereby incorporated into and made part of this agreement by reference. Payment will be made to the RAILROAD within sixty (60) days after receipt of a properly completed invoice addressed to the CITY. The RAILROAD may assign any receivables due under this Agreement, provided, however, such assignment will not relieve the assignor of any of its rights or obligations under this agreement.

The estimated cost of work, except flagging, to be performed under this agreement by the RAILROAD's forces at the expense of the CITY is shown on the detailed estimate attached as Exhibit "B" and made a part of this agreement. Force account work is to be billed separately under force account.

The railroad has reviewed and inspected the materials in the field prior to signing this agreement. The salvage value of the materials, if any, to be retained by the RAILROAD is shown on the attached Exhibit "B." The railroad will dispose of all scrap from the RAILROAD's work covered in this agreement at CITY expense.

### IV

CITY and the RAILROAD will perform various items of work as follows:

#### PART A

WORK TO BE PERFORMED BY CITY OR ITS CONTRACTOR AT CITY EXPENSE:

1. Except as otherwise herein provided, furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for construction of the project, complete in all details.
2. Perform all work not specifically mentioned as work performed by the RAILROAD necessary to complete the project in accordance with plans and specifications.
3. Any work or modification which, under this contract, may be performed by the contractor will nevertheless be the obligation of CITY, and the RAILROAD will be entitled to look to CITY for full performance thereof.
4. The CITY's Contractor will provide one set of shoring plans for any excavation work within RAILROAD right-of-way or for false work adjacent to or over the tracks. These plans will be submitted to the RAILROAD through the CITY's engineer. The CITY will review the plans and provide any pertinent comments which will be forwarded to the RAILROAD for their review.
5. Replace any existing fencing that is displaced because of construction activities and/or new easement limits. Replacement fencing shall match the existing fencing. Temporary fencing shall be erected when and where existing fencing is removed during construction to keep trespassers from entering the RAILROAD right-of-way. The temporary fence must be of sturdy construction and affixed to the extents of the temporary fence opening in the existing fence so as to provide an actual obstacle against trespassers.
6. Replace to the existing line and grade all concrete removed to accommodate construction of the pedestrian bridge outside of the new bridge substructure and inside of the new fence line.
7. Should the City's contractor desire to use a portion of the RAILROAD right-of-way outside the limits of the temporary construction easement as a lay down or staging area for this project, the contractor and RAILROAD must mutually agree as to the location and extents of such use. The contractor will be required to execute a Temporary Occupancy Permit (TOP) on the RAILROAD's prescribed form and comply with all the conditions therein.

#### PART B

##### WORK TO BE PERFORMED BY THE RAILROAD AT CITY'S EXPENSE:

1. Preliminary Engineering for this project. The CITY will pay \$2,444.00 as a Lump Sum Payment for Preliminary Engineering. Preliminary Engineering includes all costs for developing this agreement.
2. Provide railroad flagging protection during construction as deemed necessary by the RAILROAD.

3. Should it become necessary to augment, move, adjust, or modify any of the RAILROAD's signal cables or systems, including Quiet Zone signals, as a consequence of this project, the CITY shall bear all costs, including engineering, fabrication, purchasing, shipping, installing, and testing of any signals changes.
4. The CITY will pay RAILROAD to remove approximately 290 linear feet of track to accommodate the construction of the pedestrian overpass. The CITY shall pay the RAILROAD for this track removal the not to exceed amount of \$4,294.00 as included in Exhibit "B."

### PART C

#### SEQUENCE OF OPERATION:

The CITY will coordinate the date and time of the pre-construction conference so that the RAILROAD's public works engineer or his designee can attend.

Any cranes or similar equipment to be used during the project must comply with the attached Exhibit "C", contractor requirements for work on the right-of-way of the RAILROAD

The CITY shall have up to six (6) hours total consisting of one, or, at most, two blocks of time when the RAILROAD shall provide a track window(s) during which no railway traffic shall route through the construction area. The track window(s) for the CITY will be coordinated to happen in conjunction with the RAILROAD's scheduled track maintenance windows in the Laurel-Billings area. As of the date of this agreement, the RAILROAD's scheduled track maintenance windows will be between the dates of June 17 – July 21, 2014. The schedule for RAILROAD's track maintenance is subject to change. The track window time(s) and date(s) shall be mutually agreed between the CITY and the RAILROAD. Flagging will be required during the track window.

It is not anticipated that any temporary construction grade crossings will be installed in the project area.

No portion of the RAILROAD's coach (business car) track nearest the Billings Depot will be removed to accommodate construction. When not required by RAILROAD for passenger car use, the track may be locked and tagged out to allow CITY or its contractor to be foul of the track during construction.

The schedule of work for the pedestrian overpass (including the abutments and structures appurtenant thereto) shall accommodate RAILROAD's unrestricted use of its coach (business car) track near the Billings Depot for passenger car use. As of the date of this agreement, RAILROAD has scheduled one visit to that coach track for several days sometime between August 15-September 3, 2014. RAILROAD will provide at least 48 hours (during business days) notice to CITY for arrival and departure times of passenger cars for the said track. RAILROAD has the authority to add or delete passenger car usage of the said track with the notice to CITY contained herein. RAILROAD will not be responsible for costs to the CITY or its contractor for changes, modifications or delays due to RAILROAD's usage, including usage during additional times outside of August 15-September 3, 2014, of

its coach track. During RAILROAD's use of the coach track by passenger cars, CITY or its contractor shall abide by the clearances for people, equipment, and materials as listed in Exhibit "C" attached.

## V

All work to be done by the CITY or its contractor on the RAILROAD's right-of-way will be done in a manner satisfactory to the RAILROAD and will be performed so as not to unnecessarily interfere with the movement of trains or traffic upon the track. The CITY will require its contractor to take precautions to avoid damage to or interfere with the RAILROAD's track or trains and to notify the RAILROAD, as per Exhibit "C," whenever the contractor is about to perform work on, or adjacent to its track to enable the RAILROAD to furnish flagging and other necessary protective services and devices to ensure the safety of railway operations. The RAILROAD can furnish such flagging and protective services and devices that, in its judgment, are necessary to ensure the safety of railway operations, and the CITY will reimburse the RAILROAD for the cost thereof. Whenever safeguarding of the trains or traffic of the RAILROAD is mentioned in this agreement, it is intended to include all permitted users of the RAILROAD's track.

## VI

The RAILROAD will endeavor to submit on a monthly basis progress bills for flagging and other protective services and devices during the progress of the work contemplated by this agreement. The progress bills will contain the date and hours worked per day. The RAILROAD will submit a final and complete billing for flagging and other protective services within one hundred twenty (120) days after being notified of the completion of the project by the CITY. The attached Exhibit "C," which is made a part hereof, is a statement of conditions when flagmen, protective services and devices will be furnished by the RAILROAD. Railroad flagging is to be billed under a separate railroad flagging account.

The RAILROAD may submit progress bills to the CITY during the progress of the work included in this agreement for the actual cost of services and expenses incurred by the RAILROAD. The CITY will reimburse the RAILROAD for the actual cost and expense incurred in connection with said work.

It is further agreed that the final and complete billing of all incurred costs will be made by the RAILROAD at the earliest practical date and that a final audit and review will be made by the CITY. Records are to be available to the CITY or their authorized representatives for audit during the contract period and for a period of three (3) years from the date of final payment.

## VII

**All contracts between CITY and a contractor**, for the construction provided for, or maintenance work on the pedestrian bridge within the RAILROAD right-of-way, shall include language that specifies the contractor is responsible to the RAILROAD, including its affiliated RAILROAD companies, and its tenants for all damages, which includes the loss of net revenue and attorney's fees for any unscheduled delay to freight or passenger trains that is caused by the contractor's negligence, failure to comply with its requirements under this agreement, failure to

properly coordinate its work with the RAILROAD or any cause not attributable to the RAILROAD, but arising from the contractor's activities that affect RAILROAD's ability to meet its customer service obligations. Contractor will be billed for all economic losses including but not limited to loss of revenue, attorney's fees, and contractual penalties resulting from train delays, caused by the contractor, or its subcontractors performing work under the project identified herein. RAILROAD agrees that it will not perform any act which would unnecessarily cause train delay. Contractor is not responsible for any train delay resulting from a general slow order issued by the RAILROAD through this project which is unrelated to the project.

Any disruption to train traffic may cause delays to multiple trains at the same time for the same period. Depending on the length of the disruption caused by the contractor, or its subcontractors performing work under the project identified herein, the cost for damages billed to the contractor can approach \$14,000 per hour (in 2010 dollars).

**The CITY's contractor and subcontractors shall plan, schedule, coordinate and conduct all contractor's work so as to not cause any delays to any trains.**

## VIII

All contracts between the CITY and its contractor, for the construction provided for, or maintenance work on the pedestrian bridge within the RAILROADS's right-of-way, will require the contractor to indemnify, defend and hold harmless the RAILROAD and any other railroad company occupying or using the RAILROAD's right-of-way, or line of railroad, against all loss, liability and damage, including attorney's fees, arising from activities of the contractor, its forces or any of its subcontractors or agents, and will further provide that the contractor will carry insurance of the kind and amount hereinafter specified:

A. Commercial General Liability Insurance. This insurance must contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post-2004 ISO occurrence form or equivalent and include coverage for, but not limited to the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire Legal Liability
- Products and Completed Operations

This policy must also contain the following endorsements, which must be indicated on the certificate of insurance:

- It is agreed that any workers' compensation exclusion does not apply to railroad payments related to the Federal Employers Liability Act or a Railroad Wage Continuation Program or similar programs and any payments made are deemed not to be either payments made or obligations assumed under any Workers' Compensation, disability benefits, or unemployment compensation law or similar law.

- The definition of insured contract must be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.

**No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy.**

B. Business Automobile Insurance. This insurance must contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

C. Worker's Compensation and Employers Liability insurance including coverage for, but not limited to:

- Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

**A Certificate of Insurance must be provided to the RAILROAD prior to commencement of work.**

Additionally, the contractor will furnish to the RAILROAD:

D. Railroad Protective Liability Insurance naming only the RAILROAD as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy must be issued on a standard ISO form CG 00 35 10 93 and include the following:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93).
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- No other endorsements restricting coverage may be added.
- Be written to provide coverage for all physical and structural assets of the RAILROAD (including but not limited to bridges, trestles, tunnels, tracks, overpasses, underpasses, roadbed, and crossings).
- The original policy must be provided to the RAILROAD prior to performing any work or services under this Agreement.

**The RAILROAD is to be provided with a separate Railroad Protective Policy.**

Other Requirements:

Contractor agrees to waive its right of recovery against RAILROAD for all claims and suits against RAILROAD. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against RAILROAD for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against RAILROAD for loss of its owned or leased property or property under Contractor's care, custody or control.

Contractor's insurance policies through policy endorsement, shall include wording which states that the policy is primary and non-contributing with respect to any insurance carried by RAILROAD. The certificate of insurance must reflect that the above wording is included in all applicable policies described herein.

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall include a Separation of Insureds endorsement and RAILROAD shall be named as an additional insured with respect to work performed under this agreement. Separation of Insureds and naming RAILROAD as additional insured shall be indicated on the certificate of insurance.

Prior to commencing the Work, Contractor shall furnish to RAILROAD an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify RAILROAD in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving RAILROAD arising out of this agreement, Contractor will make available any required policy covering such claim or lawsuit.

Any insurance policy shall be written by a reputable insurance company acceptable to RAILROAD or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, RAILROAD may ask to reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

Failure to provide evidence as required by this section shall entitle, but not require, RAILROAD to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without

limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by RAILROAD shall not be limited by the amount of the required insurance coverage.

ALL certificates of insurance required for contractor performed construction and/or maintenance work will be forwarded to the RAILROAD at the following address:

MONTANA RAIL LINK, INC.  
Office of the Chief Engineer  
P.O. Box 16390  
Missoula, MT 59808-6390  
(406) 523-1440 office  
(406) 523-1529 fax

If the CITY, its contractor, subcontractors, or agents, in the performance of the work herein provided for or by the failure to do or perform anything for which it is responsible under the provisions hereof, shall damage or destroy any property of the RAILROAD, such damage or destruction shall be corrected by the CITY in the event its contractor or the insurance carriers fail to repair or restore the same.

#### IX

Upon completion of the work herein stated, the CITY will require its contractor to leave the RAILROAD right-of-way in a condition satisfactory to the RAILROAD.

#### X

The CITY agrees that in removing snow from said pedestrian bridge facility, it will perform such removal in a manner as not to deposit the snow or debris on or near the roadbed or tracks of the RAILROAD. It is expressly forbidden to use deicing material of any type on the pedestrian bridge.

Any snow or debris deposited on or near the roadbed or track sections by actions of the CITY will be removed by the RAILROAD with such costs of removal billed against the CITY. The RAILROAD agrees to notify the CITY of any ongoing problem in this area.

#### XI

Upon completion of the pedestrian bridge, the CITY will own and maintain the pedestrian bridge facility and all appurtenances thereto. The CITY at their expense will be responsible for all future maintenance, repair, improvement, modification or replacement, as needed, based upon prevailing warrants, federal aid guidelines and conditions of said pedestrian bridge. The CITY, or its contractor, at CITY's expense, will perform inspections of the pedestrian bridge structure per CITY's prevailing bridge inspection standards. If railroad flagging is needed during the CITY's inspection,

the CITY will contact the RAILROAD's Roadmaster to schedule flagging per RAILROAD requirements. The flagging needed for the CITY's inspections shall be at the CITY's expense.

After inspection, if either party, the CITY or the RAILROAD, determines maintenance needs to be performed, the other party will be notified and a field review will be scheduled.

The CITY agrees that it will do nothing and permit nothing to be done in the maintenance of the pedestrian bridge facility which will interfere with or endanger facilities of the RAILROAD. The RAILROAD may make changes in or additions to its facilities within the limits of the pedestrian bridge facility; provided the usefulness thereof, and the purpose of said pedestrian bridge facility will not thereby be impaired.

## XII

Neither party will do nor permit anything to be done to reduce the horizontal and vertical clearances provided by the approved plans; provided, however, that the RAILROAD reserves the right to make such ballast raises as, in its opinion, may be justified.

## XIII

In the event said pedestrian bridge facility shall, at any time, cease to be used by the public or otherwise become vacated or abandoned, the rights and benefits of the CITY under this agreement shall immediately cease, and the CITY shall remove said highway facility at its own cost and expense. To facilitate the CITY's removal of the highway facility, the RAILROAD will issue to the CITY, at no cost or expense, a permit to accomplish said removal. If after a reasonable time the CITY has not removed the facility, the RAILROAD, after providing the CITY a minimum of 60 days prior notification, may remove said facility at the expense of the CITY.

## XIV

All notices, billings, payments, and other required communications ("Notices") to the Parties shall be in writing, and shall be addressed respectively as follows:

If to CITY:                      City of Billings  
   Public Works Department  
   2224 Montana Ave. – 2<sup>nd</sup> Floor  
   Billings, MT 59101  
   Telephone     (406) 657-8230  
   Fax                 (406) 237-6291

If to RAILROAD:                MONTANA RAIL LINK, INC.  
   Office of the Chief Engineer  
   P. O. Box 16390  
   Missoula, MT 59808-6390  
   Telephone     (406) 523-1440  
   Fax                 (406) 523-1529

All notices shall be given: (i) by personal delivery to the Parties, or (ii) by electronic communication, with a confirmation sent by mail, or (iii) by mail. All notices shall be effective and shall be deemed delivered: (i) if by personal delivery on the date of delivery if delivered during normal business hours, and, if not delivered during normal business hours, on the next business day following delivery, (ii) if by electronic communication on the next business day following receipt of the electronic communication, or (iii) if solely by mail on the next business day after actual receipt. Any Party may change its address by notice to the other Parties.

**XVI**

This agreement will be binding on the parties hereto, their successors and assigns.

**MONTANA RAIL LINK, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF BILLINGS**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

*Draft - For Review*

**EASEMENT AGREEMENT  
FOR PEDESTRIAN BRIDGE STRUCTURE  
(C&M Agreement)**

THIS EASEMENT AGREEMENT FOR A PEDESTRIAN BRIDGE STRUCTURE ("**Easement Agreement**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2014 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), and THE CITY OF BILLINGS, a political subdivision of the State of Montana ("**Grantee**").

A. Grantor is in the railroad transportation business and owns or controls a system of rail tracks and various real properties associated therewith which Grantor leases to Montana Rail Link, Inc., a Montana corporation, ("**MRL**") pursuant to that certain Master Agreement between Grantor and MRL dated July 21, 1987, including that certain real property situated at or near the vicinity of Billings, County of Yellowstone, State of Montana as described or depicted on Exhibit "A" attached hereto and made a part hereof (the "**Premises**").

B. Grantee and ("**MRL**") have entered into that certain Construction and Maintenance Agreement dated as of \_\_\_\_\_ concerning improvements on or near the Premises (the "**C&M Agreement**").

C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**Section 1    Granting of Easement.**

1.1 Easement Purpose. The "**Easement Purpose**" shall be to construct, operate, maintain, replace, upgrade, and remove a pedestrian bridge structure, including abutments, stairways, walkways, security fences, and necessary equipment and appurtenances thereto, over, under, along and across the Premises. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the C&M Agreement.

1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and is subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"),. Grantee may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the C&M Agreement.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

- (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;
- (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
- (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

1.4 Any easement or permit granted to a public utility over the described premises shall be subject to the provisions of section 69-4-101 Montana Code Annotated. Prior to the issuance of such easement or permit by Grantor the public utility must obtain an occupancy agreement from the Grantee. Any public utility which occupies the above described premises without obtaining such an occupancy agreement shall not be entitled to any relocation cost in the event relocation is determined by the Grantee to be necessary.

Any easement or permit issued by the Grantor to a non-utility over the described premises shall be subject to the provisions of sections 18.7.201 through 18.7.241 Administrative Rules of Montana to the extent applicable. Prior to the issuance of such easement or permit by Grantor the non-utility must obtain an encroachment permit from Grantee.

**Section 2** Term of Easement. The term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual.

**Section 3**     **No Warranty of Any Conditions of the Premises.** Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

**Section 4**     **Nature of Grantor's Interest in the Premises.** THE GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND THE GRANTEE IN THE PEACEABLE POSSESSION, USE OR ENJOYMENT THEREOF; AND THIS GRANT IS SUBJECT TO ALL OUTSTANDING INTERESTS OF OTHERS, INCLUDING THE TENANTS AND LICENSEES OF THE GRANTOR.

**Section 5**     **Improvements.** Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any

construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

**Section 6** This Section intentionally left blank.

**Section 7** **Environmental.**

7.1 Compliance with Environmental Laws. Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

7.2 Notice of Release. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

7.3 Remediation of Release. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such

release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

7.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

## **Section 8 Default and Termination.**

8.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2 Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

8.3 Effect of Termination or Expiration. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9.**

8.4 Non-exclusive Remedies. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the C&M Agreement, at law or in equity.

**Section 9 Surrender of Premises.**

9.1 Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform the following:

- (a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;
- (b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;
- (c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
- (d) leave the Premises in the condition which existed as of the Effective Date.

9.2 Limited License for Entry. If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

**Section 10 Liens.** Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee pursuant to **Section 6.** Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

**Section 11 Tax Exchange.** Grantor reserves the right to assign this Easement Agreement to Apex Property & Track Exchange, Inc. ("**Apex**"). Apex is a qualified intermediary within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended, and Treas. Reg. §

1.1031(k)-1(g), for the purpose of completing a tax-deferred exchange under said Section 1031. Grantor shall bear all expenses associated with the use of Apex, or necessary to qualify this transaction as a tax-deferred exchange, and, except as otherwise provided herein, shall protect, reimburse, indemnify and hold harmless Grantee from and against any and all reasonable and necessary additional costs, expenses, including, attorneys fees, and liabilities which Grantee may incur as a result of Grantor's use of Apex or the qualification of this transaction as a tax-deferred transaction pursuant to Section 1031. Grantee shall cooperate with Grantor with respect to this tax-deferred exchange, and upon Grantor's request, shall execute such documents as may be required to effect this tax-deferred exchange.

**Section 12 Notices.** Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the C&M Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

**Section 13 Recordation.** It is understood and agreed that this Easement Agreement shall not be in recordable form and any recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as **Exhibit "B"** (the "**Memorandum of Easement**") subject to changes required, if any, to conform such form to local recording requirements. The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located.

**Section 14 Miscellaneous.**

14.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of Montana without regard to conflicts of law provisions.

14.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

14.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

14.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable

provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

14.6 Time is of the essence for the performance of this Easement Agreement.

14.7 The terms of the C&M Agreement are incorporated herein as if fully set forth in this instrument which terms shall be in full force and effect for purposes of this Easement even if the C&M Agreement is, for whatever reason, no longer in effect.

[Signature page follows]

Witness the execution of this Easement Agreement as of the date first set forth above.

**GRANTOR:**

BNSF RAILWAY COMPANY, a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**GRANTEE:**

THE CITY OF BILLINGS, a political subdivision of the State of Montana

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

**EXHIBIT "A"**

**Premises**

**After filing, return to:**

City of Billings Public Works  
Attention: Chris Hertz, P.E.  
2224 Montana Ave.  
Billings, MT 59101

**EXHIBIT "B"**

**Memorandum of Easement**

**THIS MEMORANDUM OF EASEMENT** is hereby executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and NORTHWESTERN CORPORATION, (d/b/a Northwestern Energy), a Delaware corporation ("**Grantee**"), whose address for purposes of this instrument is 40 East Broadway, Butte, Montana 59701-9394, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

**WITNESSETH:**

**WHEREAS**, Grantor owns or controls certain real property situated in the City of Billings, Yellowstone County, Montana as described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "**Premises**");

**WHEREAS**, Grantor and Grantee entered into an Easement Agreement, dated \_\_\_\_\_ (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

**WHEREAS**, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises to construct, operate, and maintain a pedestrian bridge as set forth in the Construction and Maintenance Agreement between the Grantee and Montana Rail Link, Inc. ("MRL").

Grantor reserves the right to reasonable access to and from the adjacent property of the Grantor.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual. Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.

**IN WITNESS WHEREOF**, Grantor and Grantee have executed this Memorandum of Easement as of the date and year first above written.

**GRANTOR:**

BNSF RAILWAY COMPANY, a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**GRANTEE:**

THE CITY OF BILLINGS, a political subdivision of the State of Montana

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

**ACCEPTED AND APPROVED:**

**MRL:**

Montana Rail Link, Inc., a Montana Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ §

§

COUNTY OF \_\_\_\_\_ §

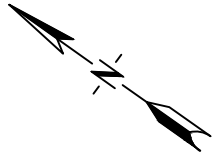
This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2014,  
by \_\_\_\_\_ (name) as \_\_\_\_\_ (title)  
of BNSF RAILWAY COMPANY, a Delaware corporation.

\_\_\_\_\_  
Notary Public

(Seal)

My appointment expires: \_\_\_\_\_





MONTANA AVENUE

MRL RIGHT-OF-WAY



MRL RIGHT-OF-WAY

MINNESOTA AVENUE

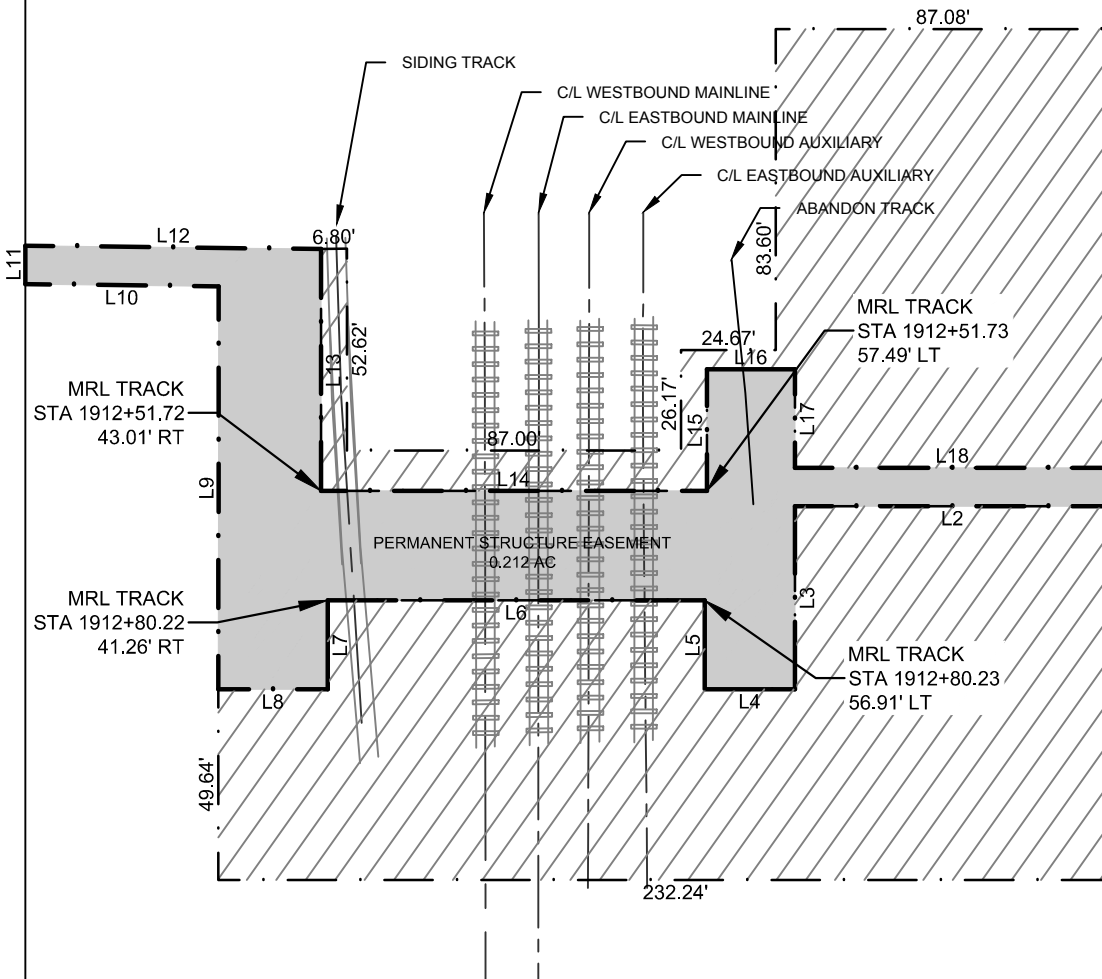
NORTH 25TH STREET

SOUTH 25TH STREET

**LEGEND**

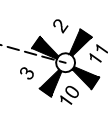
-  PERMANENT STRUCTURE EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT

PERMANENT STRUCTURE EASEMENT LINE TABLE		
SEGMENT	BEARING	DISTANCE
L1	S54° 41' 51"W	10.00
L2	N35° 17' 59"W	82.09
L3	S54° 42' 01"W	47.72
L4	N35° 17' 59"W	23.50
L5	N54° 42' 01"E	23.17
L6	N35° 17' 59"W	98.17
L7	S54° 42' 01"W	23.17
L8	N35° 17' 59"W	28.49
L9	N54° 45' 09"E	104.95
L10	N34° 37' 58"W	50.36
L11	N54° 41' 51"E	10.00
L12	S34° 37' 58"E	77.00
L13	S54° 42' 01"W	62.97
L14	S35° 17' 59"E	100.50
L15	N54° 42' 01"E	31.67
L16	S35° 17' 59"E	22.92
L17	S54° 42' 01"W	25.61
L18	S35° 17' 59"E	82.08



TEMPORARY CONSTRUCTION EASEMENT  
AREA= 29,215sf

N20°01'20"W  
4818.95'



Engineers  
Surveyors  
Scientists  
Planners

315 N. 25th Street  
Suite 102  
Billings MT 59101

Phone: (406) 656-6000  
Fax: (406) 237-1201

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DRAWN BY: CRH/KDK  
CHK'D. BY: JRS  
APPR. BY: GAP  
DATE: 1/2014

BILLINGS CITY OF BILLINGS MONTANA

EASEMENT EXHIBIT FOR  
25TH STREET PEDESTRIAN BRIDGE

PROJECT NO.  
0686.180


SHEET NUMBER  
1

DRAWING NUMBER  
**EX-A**

DESCRIPTION

A permanent easement varying in widths across Montana Rail Link's Right-of-Way at Railroad Station 1912+66 in the NE1/4, Section 3, T.1 S., R. 26 E. P.M.M, City of Billings, Yellowstone County, Montana, where said easement runs across, adjoins or touches the aforementioned tract:

Commencing at the Southeast corner of said section 3, thence N20°01'20"W a distance of 4818.95 feet to a point along the Southerly right-of-way of Montana Rail Link, to the true Point of Beginning; thence S54°41'51"W a distance of 10.00 feet along said right-of-way; thence N35°17'59"W a distance of 82.09 feet; thence S54°42'01"W a distance of 47.72 feet; thence N35°17'59"W a distance of 23.50 feet; thence N54°42'01"E a distance of 23.17 feet; thence N35°17'59"W a distance of 98.17 feet; thence S54°42'01"W a distance of 23.17 feet; thence N35°17'59"W a distance of 28.49 feet; thence N54°45'09"E a distance of 104.95 feet; thence N34°37'58"W a distance of 50.36 feet to a point along the Northerly right-of-way of Montana Rail Link; thence N54°41'51"E a distance of 10.00 feet along said right-of-way; thence S34°37'58"E a distance of 77.00 feet; thence S54°42'01"W a distance of 62.97 feet; thence S35°17'59"E a distance of 100.50 feet; thence N54°42'01"E a distance of 31.67 feet; thence S35°17'59"E a distance of 22.92 feet; thence S54°42'01"W a distance of 25.61 feet; thence S35°17'59"E a distance of 82.08 feet to the Point of Beginning. Said easement containing an area of 0.212 acres, more or less.

 <b>MORRISON MAIERLE, INC.</b> <i>An Employee-Owned Company</i>	<i>Engineers Surveyors Scientists Planners</i>	315 N. 25th Street Suite 102 Billings MT 59101  Phone: (406) 656-6000 Fax: (406) 237-1201	DRAWN BY: <u>CRH/KDK</u> CHK'D. BY: <u>JRS</u> APPR. BY: <u>GAP</u> DATE: <u>1/2014</u>	CITY OF BILLINGS		PROJECT NO. 0686.180
				BILLINGS	MONTANA	SHEET NUMBER 2
EASEMENT EXHIBIT FOR 25TH STREET PEDESTRIAN BRIDGE				DRAWING NUMBER <b>EX-A</b>		



**Exhibit B**

**ESTIMATED COST FOR TRACK REMOVAL**

To Accommodate Construction of the 25th St Ped Bridge  
 Federal Aid Project STPE 1099(71), CN 7546  
 Billings, Montana

**Summary of Work:**

Remove approximately 290 linear feet (LF) of railroad tracks.  
 Dispose of the removed materials.

**Exclusions:**

Restoration of subgrade after track removal.

**Presumption:**

Disposal cost of the removed ties is considered equal to the scrap value of the removed steel.

*DETAILED ESTIMATE OF COST*

ITEM	QTY	UNIT	UNIT COST	TOTAL
LABOR				
SECTION CREW				
REMOVE TRACK	8	HRS	\$ 270.00	\$ 2,160.00
DISPOSE OF MAT'L	4	HRS	\$ 108.00	\$ 432.00
OVERTIME AND MILEAGE			0%	\$ -
EQUIPMENT USAGE				
BOOM TRUCK-SECTION	4	HRS	\$ 121.00	\$ 484.00
PETTIBONE	8	HRS	\$ 133.00	\$ 1,064.00
DUMP TRUCK	4	HRS	\$ 38.50	\$ 154.00
<b>TOTAL ESTIMATED COST</b>				<b>\$ 4,294.00</b>

**MONTANA RAIL LINK**  
**Preliminary Engineering Fee Estimate 2013**  
**Major Highway Projects (railroad construction)**

Description Of Work	Qty	U/M	Unit Cost	Extended
Preliminary engineering costs incurred by Montana Rail Link associated with highway projects requiring construction by railroad forces.				
<b>Payroll</b>				
Roadmaster				
Field Review	8.0	labor hr	76.75	614.00
Public Works Engineer				
Field Review	8.0	labor hr	81.75	654.00
Office Review	6.0	labor hr	81.75	490.50
Document Processing	2.0	labor hr	81.75	163.50
<b>Equipment Rental</b>				
Pickup truck	8.0	equip hr	27.00	216.00
Pool car	8.0	equip hr	27.00	216.00
<b>Travel</b>				
Supervisor, Signal & Communications				
Meals	0.50	day	30.00	15.00
Lodging	0.50	day	60.00	30.00
Public Works Engineer				
Meals	0.50	day	30.00	15.00
Lodging	0.50	day	60.00	30.00
<b>Total</b>				<u>2,444.00</u>
<b>Total, Rounded</b>				<u><u>2,444.00</u></u>

## Exhibit C

### **Requirements for Contractors, Public Employees and Private Individuals (hereinafter referred to as Contractor) when working on the Railroad's Right of Way, 25<sup>th</sup> Street Ped. Bridge, FAP STPE 1099(71), CN 7546**

(Note – these requirements **do not** apply to railroad workers and/or contractors or firms working for the Railroad) Any railroad worker, contractor, or firm doing work for the railroad shall comply with the terms and conditions of their contract.)

#### **1.01 General**

**1.01.01** The Contractor shall plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railroad Property.

**1.01.02** The Contractor's right to enter the Railroad's Property is subject to the absolute right of the Railroad to cause the Contractor's work on the Railroad's Property to cease if, in the opinion of the Railroad, Contractor's activities create a hazard to the Railroad's Property, employees, and/or operations.

**1.01.03** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to, environmental, health and safety. The Contractor shall be responsible for and indemnify and save the Railroad harmless from all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railroad which arise out of Contractor's work.

**1.01.04** For false work, above any tracks or any excavations located, whichever is greater, within twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 1 1/2 horizontal to 1 vertical slope beginning at eleven (11) feet from center line of the nearest track, both measured perpendicular to center line of track, the Contractor shall furnish to the Railroad five sets of working drawings showing details of construction affecting Railroad Property and tracks. The working drawings shall include the proposed method of installation and removal of false work, shoring or cribbing not included in the contract plans and two sets of structural calculations of any false work, shoring or cribbing. All calculations shall take into consideration railroad surcharge loading and shall be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All plans and drawings must be approved by the Railroad. The Contractor shall be required to use lifting devices, such as cranes and/or winches, to place or to remove any false work over the Railroad's tracks. In no case shall the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

**1.01.05** Subject to the movement of the Railroad's trains, the Railroad will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor shall have no claim whatsoever for any type of damages in the event his work is delayed by the Railroad.

**1.01.06** The Contractor shall take protective measures as are necessary to keep the Railroad's facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to Railroad facilities resulting from Contractor's operations will be repaired or replaced by the Railroad and the cost of such repairs or replacement shall be paid for by the Contractor.

**1.01.07** Except as provided for in section 1.02.02, The Contractor shall abide by the following clearances during construction,

25'-0" Horizontally from centerline of the nearest track.

23'-0" Vertically above top of rail

**1.01.08** The Contractor shall not move any equipment or materials across the Railroad's track unless at a public road crossing, or approved temporary crossing and permission has been obtained from the Railroad.

**1.01.09** Discharge, release or spill on Railroad Property of any hazardous substances in excess of a reportable quantity or any hazardous waste is prohibited and Contractor shall immediately notify the Railroad's Chief Dispatcher at 1(800) 338-4750, of any discharge, release or spills. Contractor shall not allow Railroad Property to become a treatment or storage facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

**1.01.10** The Contractor, upon completion of the work covered by this contract, shall promptly remove from the Railroad's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any subcontractor, employee or agent of Contractor or of any subcontractor, and shall cause the Railroad's Property to be left in a condition acceptable to the Railroad's representative.

## **1.02 Protection of Railroad Facilities and Railroad Flagger Services:**

**1.02.01** The Contractor must provide notification to the Railroad's local Roadmaster and Signal Supervisor a minimum of 48 business hours prior to entry upon the Railroad's right of way. For this project, the local Roadmaster is Allan Knutson who can be reached at 406-671-6806 (mobile), and the Signal Supervisor is Leon Scoles who can be reached at 406-241-6674 during normal business hours.

**1.02.02** For work within 25 feet of any track, employees and agents of the Contractor must attend a safety job briefing to be held by the local Roadmaster or his representative. **All work within 25 feet of any track must be performed under the direction and supervision of a Railroad flagman.** All costs associated with providing a Railroad flagman will be the responsibility of the Contractor or the City of Billings. A safety job briefing must be held with the Railroad's representative whenever conditions, procedures or responsibilities change. At a minimum, one job briefing will be held each day before the start of work.

## **1.03 Contractor Safety Requirements**

**1.03.01** Any Contractor employee, its subcontractor's employee, agents or invites under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railroad's Property and subsequently released to the custody of a representative of the Contractor. Future access to the Railroad's Property by that employee will be denied.

**1.03.02** All persons are prohibited from having pocketknives with blades in excess of three (3) inches, firearms or other deadly weapons in their possession while working on Railroad Property.

**1.03.03** All personnel protective equipment used on Railroad Property shall meet applicable OSHA and ANSI specifications. Railroad personnel protective equipment requirements are; a) safety glasses with side shields, b) hard hats, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d) high visibility retro-reflective orange vests as required by the Railroad's representative in charge of the project. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

**1.03.04** The Contractor shall not pile or store any materials, machinery or equipment closer than 25'-0" to the centerline of the nearest Railroad track. At highway/rail at-grade crossings, materials, machinery or equipment shall not be stored or left temporarily which interferes with the sight distances of motorists approaching the crossing. Prior to beginning work, the Contractor will establish a storage area with concurrence of the Railroad's representative.

**1.03.05** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and, if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railroad Property must be left inoperable and secured against movement.

**1.03.06** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water shall meet all Federal, State and Local regulations.

## **1.04 Excavation**

**1.04.01** Before excavating, it must be ascertained by the Contractor if there are any underground pipe lines, electric wires, or cables, including fiber optic cable systems, that either cross or run parallel with the track which are located

within the project's work area. Excavating on Railroad Property could result in damage to buried cables resulting in delay to Railroad traffic, including disruption of service to users resulting in business interruptions involving loss of revenue and profits. **Before any excavation commences, the Contractor must contact the Railroad's Signal Supervisor and Roadmaster.** All underground and overhead wires must be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. It is also the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.

**1.04.02** The Contractor must cease all work and the Railroad must be notified immediately before continuing excavation in the area if unexpected obstructions are encountered. If the obstruction is a utility, and the owner of the utility can be identified, then the owner should also be notified immediately. If there is any doubt about the location of underground cables or lines of any kind, no work will be performed until the exact location has been determined. There will be no exceptions to these instructions.

**1.04.03** All excavations shall be conducted in compliance with applicable OSHA regulations, and regardless of depth, shall be shored where there is any danger to tracks, structures or personnel.

**1.04.04** Any excavations, holes or trenches on Railroad Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, all areas must be secured and left in a condition that will ensure that Railroad employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

## **1.05 Hazardous Waste, Substances and Material Reporting**

**1.05.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to the railroad's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor shall immediately: (a) notify the Railroad's Chief Dispatcher at 1(800) 338-4750, of such discovery; (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties; and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

## **1.06 Insurance Requirements**

**1.06.01** For projects involving construction or demolition on the Railroad's Right of Way, the Contractor will provide proof of insurance which conforms to the current requirements of the Railroad as shown in the Construction and Maintenance Agreement. Contractor should assume Railroad Protective Insurance is required.

## **1.07 Personal Injury Reporting**

**1.07.01** The Railroad is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invites while on the Railroad's Property must be reported immediately (by phone mail if unable to contact in person) to the Railroad's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railroad at 1(406) 523-1529 and to the Railroad's representative no later than the close of shift on the date of the injury.

**NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION**

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St \_\_\_\_\_ 2. Date: \_\_\_\_\_ Time: \_\_\_\_\_  
County: \_\_\_\_\_ 3. Temperature: \_\_\_\_\_ 4. Weather \_\_\_\_\_
5. Social Security # \_\_\_\_\_
6. Name (last, first, mi) \_\_\_\_\_
7. Address: Street: \_\_\_\_\_ City: \_\_\_\_\_ St. \_\_\_\_\_ Zip: \_\_\_\_\_
8. Date of Birth: \_\_\_\_\_ and/or Age \_\_\_\_\_ Gender: \_\_\_\_\_  
(if available)
9. (a) Injury: \_\_\_\_\_ (b) Body Part: \_\_\_\_\_  
[i.e. (a) Laceration (b) Hand]
11. Description of Accident (to include location, action, result, etc.): \_\_\_\_\_
12. Treatment:  
G First Aid Only  
G Required Medical Treatment  
G Other Medical Treatment
13. Dr. Name \_\_\_\_\_ 30. Date: \_\_\_\_\_
14. Dr. Address:  
Street: \_\_\_\_\_ City: \_\_\_\_\_ St: \_\_\_\_\_ Zip: \_\_\_\_\_
15. Hospital Name: \_\_\_\_\_
16. Hospital Address:  
Street: \_\_\_\_\_ City: \_\_\_\_\_ St: \_\_\_\_\_ Zip: \_\_\_\_\_
17. Diagnosis: \_\_\_\_\_

**FAX TO  
RAILROAD AT (406) 523-1529  
AND COPY TO  
RAILROAD REPRESENTATIVE**

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Airport Business Park Building and Ground Lease with the State of Montana  
Department of Environmental Quality

**PRESENTED BY:** Tom Binford, Director of Aviation & Transit

**Department:** Airport

---

**PROBLEM/ISSUE STATEMENT**

The State of Montana Department of Environmental Quality (DEQ) currently rents all of the office space on the first and second floors in the west wing, and office space on the first floor of the southwest wing of IP-9, the City owned office building located in the Airport Business Park. The DEQ also rents storage space in the basement of IP-9, as well as some ground space for vehicle storage, with the vehicle storage ground space being shared with the Department of Natural Resources and Conservation, another tenant in IP-9. The leased premises include 8,754.74 square feet of building space and 22,680 square feet of ground space. This State of Montana agency desires to renew the Lease for this space for another five-year term.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the five-year renewal Lease with the DEQ; or
- Not approve the five-year renewal Lease with the DEQ.

**FINANCIAL IMPACT**

The Lease will generate \$76,167.84 per year of revenue for the City's Airport, and \$380,839.20 for the five-year term beginning March 1, 2014 and ending on February 28, 2019. Should the DEQ opt to extend the Lease for additional years, a new rental rate will be determined for the extended period.

**RECOMMENDATION**

Staff recommends that the City Council approve a new five-year Airport Business Park Building and Ground Lease with the State of Montana DEQ.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Airport Business Park Building and Ground Lease with the State of Montana  
Department of Natural Resources and Conservation

**PRESENTED BY:** Tom Binford, Director of Aviation & Transit

**Department:** Airport

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**PROBLEM/ISSUE STATEMENT**

The State of Montana Department of Natural Resources and Conservation (DNRC) currently rents all of the office space on the first and second floors in the east wing, and office space on the first floor of the southwest wing of IP-9, the City owned office building located in the Airport Business Park. The DNRC also rents storage space in the basement of IP-9, a garage/shop area attached to IP-9, along with some ground space for vehicle storage, with the vehicle storage ground space being shared with the Department of Environmental Quality, another tenant in IP-9. The leased premises include 10,959.41 square feet of building space and 22,680 square feet of ground space. This State of Montana agency desires to renew the Lease for this space for another five-year term.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the five-year renewal Lease with the DNRC; or
- Not approve the five-year renewal Lease with the DNRC.

**FINANCIAL IMPACT**

The Lease will generate \$87,183.72 per year of revenue for the City's Airport, and \$435,918.60 for the five-year term beginning March 1, 2014 and ending on February 28, 2019. Should the DNRC opt to extend the Lease for additional years, a new rental rate will be determined for the extended period.

**RECOMMENDATION**

Staff recommends that Council approve a new five-year Airport Business Park Building and Ground Lease with the State of Montana DNRC.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** W.O. 12-44 Water Treatment Plant High Service Pump Station H2-3 Pump Replacement, Contract Amendment No. 1

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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**PROBLEM/ISSUE STATEMENT**

Staff is requesting that the City Council consider authorizing and executing a Contract Amendment for Professional Services with HDR Engineering to provide design and construction administration services for W.O. 12-44 Water Treatment Plant (WTP) High Service Pump Station H2-3 Pump Replacement. The original Professional Services Agreement in the amount of \$72,900.00 was for design and construction administration services for the replacement and upsizing of the existing H2-3 Pump including a new motor and variable frequency drive (VFD), discharge piping, valves, modification of the existing concrete pump pad, new pad for the VFD, and power supply. Contract Amendment No. 1 for \$16,300.00 is for additional design services to provide changes to the switch board to accommodate future 480 volt pump replacements that will be driven 480 volt VFD's and for providing construction administration services for relocating the Transfer Pump VFD to make room for medium voltage H2-3 pump VFD.

**ALTERNATIVES ANALYZED**

The Council may:

- Authorize Contract Amendment No. 1 with HDR Engineering in the amount of \$16,300.00; or
- Do not authorize the Contract Amendment No. 1. If this amendment is not approved, the additional required work at the WTP will not be able to be designed and constructed which could impact operations and the ability to expand.

**FINANCIAL IMPACT**

Funds for this Contract Amendment No. 1 are available from Water Funds budgeted in FY14. If approved, the Professional Services Contract with HDR Engineering will total \$89,200.00.

**RECOMMENDATION**

Staff recommends that the City Council authorize Contract Amendment No. 1 with HDR Engineering in the amount of \$16,300.00.

**APPROVED BY CITY ADMINISTRATOR**

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Contract Amendment 1

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**AMENDMENT NO. 1**  
**TO**  
**CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES**  
**W.O. 12-44**  
**WTP HIGH SERVICE PUMP STATION H2-3 REPLACEMENT**

THIS AGREEMENT, made and entered into on October 22, 2012, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,  
Billings, Montana 59103,  
Hereinafter designated the City

and

HDR Engineering, Inc.  
2913 Millenium Circle  
Billings, Montana 59102  
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated October 22, 2012, for Contractor to provide engineering services to the City for Work Order 12-44 WTP High Service Pump Station H2-3 Replacement, and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Contractor represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

Part I, Section 3. Change contract termination date to:

November 30, 2014

Part I, Section 4. is amended as follows:

Increase the amount of compensation by Sixteen Thousand Three Hundred and no/100 DOLLARS (\$16,300.00) to Eight Nine Thousand Two Hundred and no/100 DOLLARS (\$89,200.00).

Appendix A, Section 3. Change the following to the Scope of Work based on required project changes from preliminary design:

- Provide pump H2-3 to be medium voltage and driven by a medium voltage variable frequency drive (VFD).
- Provide pump H2-3 to match pump curve of H2-4.

Appendix A, Section 3. Add the following to the Scope of Work:

- Provide design services to Transfer Pump Project to accommodate future 480 volt pump replacements that will be driven 480 volt VFDs as originally planned in H2-3 Project.
- Provide change order construction services to Transfer Pump Project to relocate Transfer Pump VFD to make room for medium voltage H2-3 pump VFD.
- Provide additional warranty services on the Transfer Pump Project for motor failure, motor reconstruction and rehabilitated motor installation and startup.

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF BILLINGS, MONTANA

BY: \_\_\_\_\_  
Mayor

DATE: \_\_\_\_\_

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Confirmation of Probationary Police Officers

**PRESENTED BY:** Rich St. John, Police Chief

**Department:** Police

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**PROBLEM/ISSUE STATEMENT**

Officers Zachary Wallis, Gabrielle DeNio, Matthew Widdekind, Robert Miller & Matthew Edwards were hired by the Billings Police Department as probationary police officers. According to MCA 7-32-4113, the probation period is for one year from the date of hire. At this time the officers have completed their one-year probation and, according to state statute, their names are to be submitted to City Council for confirmation. All of the supervisor comments concerning the officers' performance are positive; indicate they are doing a good job, and recommend confirmation.

**ALTERNATIVES ANALYZED**

Council may:

- Confirm the probationary police officers; or
- Do not confirm the probationary police officers. If the Council chooses to not confirm the officers, it may direct any questions or concerns to the Police Chief and table the item until the next Council meeting.

**FINANCIAL IMPACT**

None.

**RECOMMENDATION**

Staff recommends that the City Council confirm Officers Zachary Wallis, Gabrielle DeNio, Matthew Widdekind, Robert Miller & Matthew Edwards as Billings Police Officers.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Sidewalk Easements within Falcon Ridge Estates Subdivision 2nd Filing

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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**PROBLEM/ISSUE STATEMENT**

Falcon Ridge Estates Subdivision, 2nd Filing, is currently being constructed. With the design of the subdivision, the sidewalk was moved further into the lots for 9 lots to improve drainage. Constructing the sidewalk further into the lots created a larger boulevard that was built up to protect the properties from large storm events.

**ALTERNATIVES ANALYZED**

The Council may:

- Accept the right of way easement allowing construction of boulevard sidewalk along 9 lots within Falcon Ridge 2nd Filing; or
- Do not accept the right of way easement. If an easement does not exist, the sidewalk would be located on private property without allowing public access to it.

**FINANCIAL IMPACT**

There is no financial impact because the property owner is donating the sidewalk easement.

**RECOMMENDATION**

Staff recommends that the City Council accept the easements for Falcon Ridge Estates Subdivision 2nd Filing.

**APPROVED BY CITY ADMINISTRATOR**

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Easement

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Return to:  
City Clerk  
City of Billings  
PO Box 1178  
Billings, MT 59103

## DECLARATION OF EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned owners:

AVIARA, INC.  
3671 Spalding Ave.  
Billings, MT 59106

RIMS DEVELOPMENT, LLC.  
2800 Central Ave., Ste. B  
Billings, MT 59102

X BAR S ENTERPRISE, LLC.  
4209 Julaura Ln.  
Billings, MT 59106

do, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, hereby grant to

THE CITY OF BILLINGS, MONTANA, a municipal corporation,  
P.O. Box 1178  
Billings, MT 59101

easements over, under, through and across certain real property located in the SE1/4 of Section 25, T.1 N., R. 24 E., P.M.M., in the City of Billings, Yellowstone County, Montana, being more particularly described as follows, to wit:

An 8.00 foot wide easement along a portion of the frontages Lots 6, 7, 8, 9, 10 and 11 in Block 2, Lot 15 in Block 3, and Lots 5 and 6 in Block 5 of Falcon Ridge Estates Subdivision, Second Filing, according to the official plat on file in the Office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3682227; said easements being as shown on the attached Exhibits A, B, C, and D.

The Owners do hereby create these easements for the purpose of constructing, reconstructing, maintaining, operating, repairing, improving, replacing, and using a public sidewalk and any necessary fixtures and appurtenances over, under, through, and across said real property, together with the right of free ingress and egress for said purposes.

These easements are created for the benefit of the Public and shall run with the real property and are binding on all parties having any right, title, or interest in the described property or any part thereof, their heirs, executors, successors, administrators, and assignees, and shall bind each owner thereof.







**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

The Mayor and City Council of the City of Billings, Montana acknowledges receipt and hereby accepts the interest conveyed through this instrument.

\_\_\_\_\_  
Mayor, City of Billings, Montana

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 of Billings, Montana, respectively, 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 hereinabove written.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_



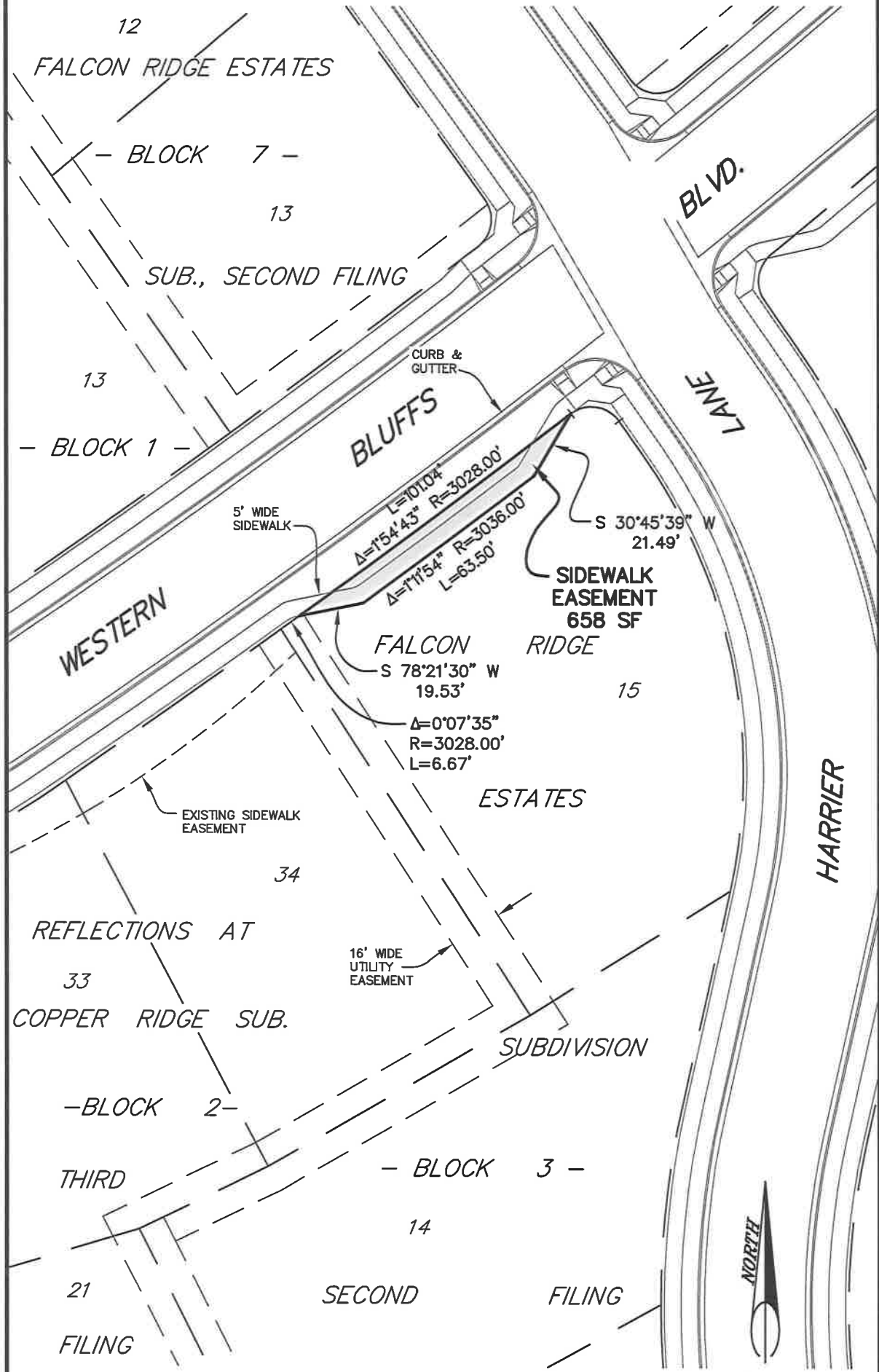


# EXHIBIT C

## SIDEWALK EASEMENT WITHIN LOT 15, BLOCK 3, FALCON RIDGE ESTATES SUBDIVISION, SECOND FILING

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



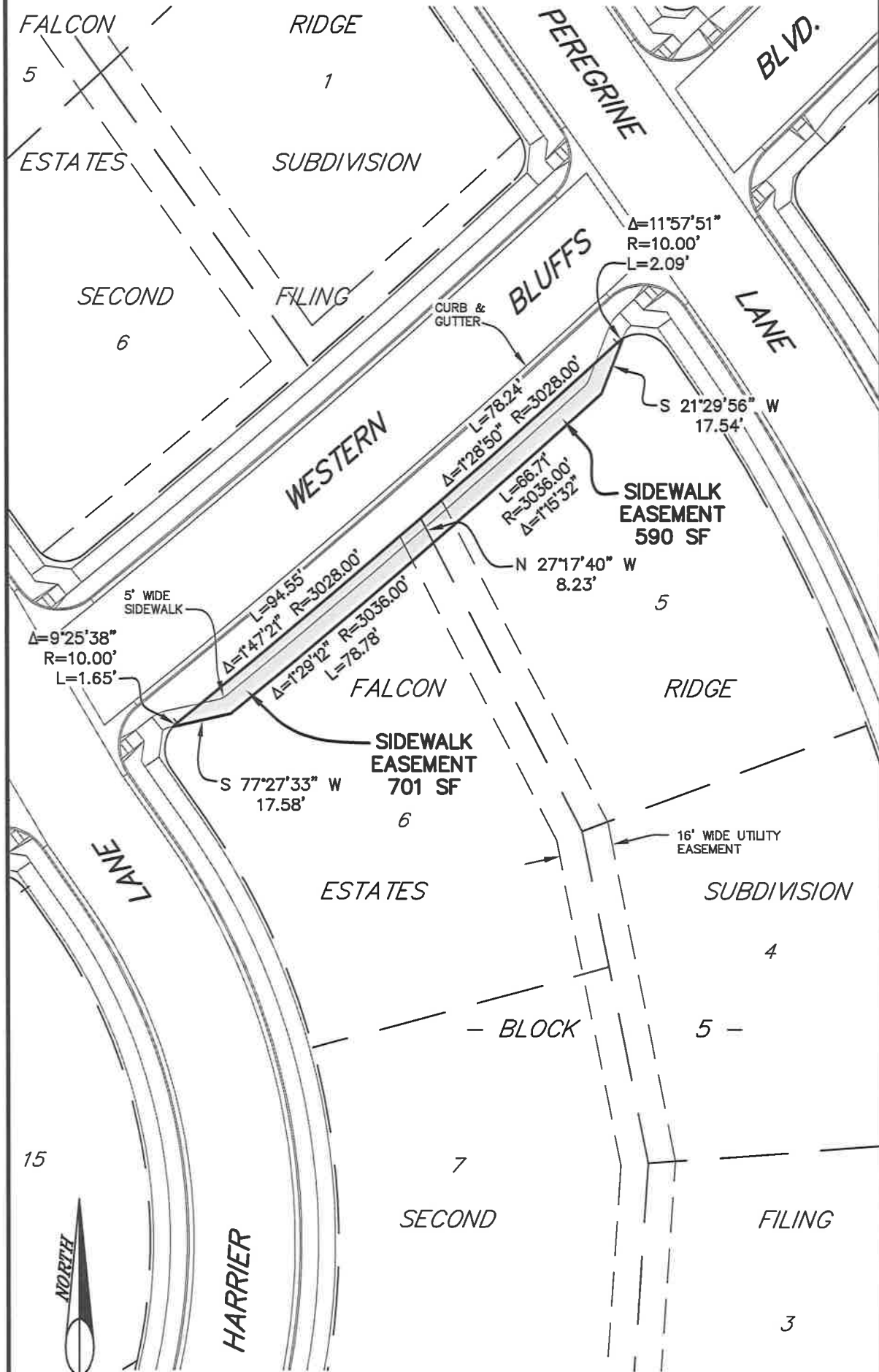
SCALE: 1"=40'

# EXHIBIT D

## SIDEWALK EASEMENTS WITHIN LOTS 5 & 6, BLOCK 5, FALCON RIDGE ESTATES SUBDIVISION, SECOND FILING

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



SCALE: 1"=40'

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Acceptance of a Donation in the Amount of \$500 to Billings Animal Control

**PRESENTED BY:** Rich St. John, Police Chief

**Department:** Police

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**PROBLEM/ISSUE STATEMENT**

On January 23, 2014 a donation of \$500 was received from EBMS of Billings in memory of Lisa Marie Frank. This donation will be placed in the Billings Animal Control Injured Animal Fund and will assist with cost for treatment of injured animals picked up by Animal Control Officers. Currently Billings Animal Control receives a budget of \$6,000 a year for emergency veterinarian services for injured/sick animals picked up as strays. The budget only allows for treatment of shock and pain for stray sick/injured animals, most often hit by cars. In many of these cases Animal Control is contacted by the Veterinarian asking that they be allowed to perform additional services in order to determine extent of injuries and treatment for injures that they feel could be life threatening. The donation will be used in cases where additional treatments or tests may be necessary in order to determine an injured/sick animals' extent of injuries or illness and provide treatment for life threatening situations.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve and accept the donation.
- Deny and return the donation.

**FINANCIAL IMPACT**

These donations will afford Billings Animal Control additional treatments or tests that are necessary in order to determine an injured/sick animals' extent of injuries or illness and provide treatment for life threatening situations.

**RECOMMENDATION**

Staff recommends that the City Council accept the donation from EBMS in the amount of \$500.

**APPROVED BY CITY ADMINISTRATOR**

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Letter of Recognition of Donors

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# CITY OF BILLINGS

## POLICE DEPARTMENT

P.O. Box 1554 • Billings, MT 59103  
220 N. 27th St. • Billings, MT 59101  
(406) 657-8460 • Fax (406) 657-8417 • Email [bpd@ci.billings.mt.us](mailto:bpd@ci.billings.mt.us)



March 24, 2014

On December 31, 2013 Lisa Marie Frank passed away peacefully at the age of 45. Because of Lisa's love for animals the family chose to have memorials donated to the City of Billings Injured Animal Fund. Lisa volunteered her time for approximately 10 years we believe from 2001 until about 2011. Lisa came to the Animal Shelter Monday – Friday right after getting off work at 5:00pm to update animal's pictures and information listed on the Billings Animal Shelter website, very rarely missing a day all those years. On January 23, 2014 a donation of \$500 was received from EBMS of Billings in memory of Lisa Marie Frank bringing their total donation to \$550. Attached you will find a list of people who have made donations in Lisa's memory now totaling over \$1000. These donations to be placed in the Billings Animal Control Injured Animal Fund will assist with cost for treatment of injured animals picked up by Animal Control Officers in the performance of their duties. The Billings Animal Control would like to thank the following donors for their generous donations.

**Sharon Vollmer – Billings, MT**  
**Arlene & Larry Riggs – Sidney, MT**  
**Michael & Stacy Potts – Sidney, MT**  
**Carol J. Lee – Sidney, MT**  
**Donald & Valerie Franz – Sidney, MT**  
**Libby & Randy Berndt – Sidney, MT**  
**Kathy & Kirk Johnson – Sidney, MT**  
**Margaret Romero – Billings, MT**  
**Fay Dennis – Sidney, MT**  
**Marilyn & Edward Bartlett – Billings, MT**  
**Marlene Skalsky – Polson, MT**  
**Elda Gabrielson – Sidney, MT**  
**Mary Ann & Joe Steinbeisser – Sidney, MT**

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Grant Acceptance on Behalf of the Mayor's Committee on Homelessness

**PRESENTED BY:** Candi Millar, Planning & Community Services Department Director

**Department:** Planning & Community Services

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**PROBLEM/ISSUE STATEMENT**

The Community Development Division is requesting approval to accept a grant in the amount of \$1,000 on behalf of the Mayor's Committee on Homelessness awarded from the Spare Change for Real Change program administered by the Downtown Billings Association. The Spare Change for Real Change Grant Committee awarded \$1,000 towards the venue rental for the 2015 Billings Community Connect. Billings Community Connect is facilitated annual by the Mayor's Committee on Homelessness and local service providers.

The Mayor's Committee on Homelessness was approved through resolution by the City Council on April 24, 2006. Twenty members were appointed by the Mayor and the City Council and the Committee has been meeting since June 2006. Welcome Home Billings, the City's Ten-Year Plan to impact homelessness was adopted by the City Council in October, 2009. To date over 50 local organizations and 600 individuals have been collectively working on implementing the plan to impact homelessness through programs and / or initiatives supported by the Mayor's Committee on Homelessness.

The Community Development Division would administer the account on a pass-through basis. As requested, funding will be utilized for venue rental for the next Billings Community Connect to be held January 2015.

**ALTERNATIVES ANALYZED**

Alternatives analyzed include either accepting the grant or not accepting the grant. If unable to accept the grant, the Mayor's Committee on Homelessness would not be able to receive funding to rent a venue for the 2015 Billings Community Connect.

**FINANCIAL IMPACT**

The City is not required to match this grant.

**RECOMMENDATION**

Staff recommends that the City Council accept the \$1,000 grant from Spare Change for Real Change on behalf of the Mayor's Committee on Homelessness.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** W.O. 14-02 Miscellaneous Program - Resolution of Intent to Construct Improvements and set a Public Hearing

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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**PROBLEM/ISSUE STATEMENT**

The proposed project will install curb, gutter, and sidewalk improvements at various locations in the City. This project is a continuation of the annual improvements project for dealing with tripping hazards, drainage problems, property owner requests, citizen complaints, and other miscellaneous concrete work brought to the attention of the City Engineer's Office. This program proposes a continuation of the Council policy of allocating gas tax funds for reconstruction of side street frontages on corner lots and to cover the cost of curb and gutter repair.

The proposed project also uses additional funding allocations to cover costs not normally assessed to property owners. Storm drain funds are used for repairing defective valley gutters, improperly graded curb and gutter, and substandard storm drain inlets. Water funds are used for minor adjustments of water lines.

These improvements have historically been constructed under the annual Miscellaneous Program. In order to construct this year's improvements, Council must pass a Resolution of Intent and set a Public Hearing for the project in order to allow adjacent property owners to be assessed for this work.

**ALTERNATIVES ANALYZED**

The Council may:

- Pass the Resolution of Intent and establish a Public Hearing date of April 28, 2014; or
- Do not pass the Resolution of Intent. If the Council does not adopt the Resolution, the property owners cannot be assessed and the work will not occur because there is no other source of financing for the replacement and new construction.

**FINANCIAL IMPACT**

The proposed project is funded through multiple sources, including direct property assessments, for a total budgeted amount of \$464,500.

FY 13 Budgeted Amounts	
Estimated Assessments	\$157,000
Storm Drain Funds	\$52,500
Gas Tax Funds	\$250,000
Water and Sewer Funds	\$5,000

Funding budgeted in FY 14 is sufficient for the proposed project.

**RECOMMENDATION**

Staff recommends that Council approve this Resolution of Intent for W.O. 14-02 and set a public hearing date of April 28, 2014.

**APPROVED BY CITY ADMINISTRATOR**

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Resolution of Intent

Exhibit A

Exhibit B

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RESOLUTION NO. 14-\_\_\_\_\_

A RESOLUTION RELATING TO W.O. 14-02, MISCELLANEOUS/DEVELOPER-RELATED IMPROVEMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$157,000.00 as described below:

Construction Costs	\$114,087.37
Design and Construction Administration	\$17,325.61
Engineering & Administration	\$9,420.00
Revolving Fund	\$7,850.00
Bond Discount	\$3,140.00
Issuance Costs	\$4,710.00
Bank Fees	\$100.00
Roundoff	\$367.02

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Total Assessed Costs	\$157,000.00
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Estimated unit costs for construction only, not including engineering, legal, administrative, and bond costs as follows:

<u>Removal of:</u>	<u>Unit Price:</u>
Flatwork Removal	\$12.00/SY
Curb and Gutter Removal	\$7.50/LF
 <u>New Construction:</u>	
Concrete Sidewalk	\$6.00/SF
Curb and Gutter	\$23.00/LF
New Drive Approach	\$6.75/SF
New Alley Approach	\$6.75/SF
Street Reconstruction	\$50.00/SY

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 49 separate lots, parcels, or tracts.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be \$3,180, with a high of \$16,694, low of \$0.00, and a median of \$2,670.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.

7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS.

The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$157,000 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$5,165,972. The average market value is \$105,428 with a high of \$855,368 and a low of \$56,745 and median value of \$84,664. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.

(b) Diversity of Property Ownership. For the 49 Tax codes in this project, there are 49 separate owners. It is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, four (4) parcels have an SID levied against them. Parcels A07750 and A07752 are being assessed under SID 2902, with payoff amounts of \$124.51 and \$98.00 and a payoff date of 2023; Parcel A01099 is being assessed under SID 2904 with a payoff amount of \$5,235.61 and a payoff date of 2025; Parcel A15270 is being assessed under SID 2701, with payoff amount of \$73.24, and a payoff date of 2021;

As noted in Section 4, the estimated average assessment levied by this project will be \$3,180. With an average market value of \$105,428, and an average yearly principal payment of \$265.00 (monthly principal of \$22.08) assuming 6% interest rate, the amount of assessment versus the value of the property would appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

(d) Delinquencies. For tax year 2012, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

- (e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Some of the parcels have been involved in recent construction or subdivision activity. Some of these parcels have undergone recent site developments, both residential and commercial, in which a permit was taken out, but the improvements were not constructed, or the developer has requested that the improvements be included and constructed under the proposed project. Developers generally make a request to be included in the proposed project to take advantage of the financing opportunity of the 12-year assessment. Some of these parcels are lots included in recently approved subdivisions. The improvements were required as part of the Subdivision Improvements Agreements, but were not installed by the subdivider/developer.

The remaining parcels represent a continuation of an annual improvement project for repairs of tripping hazards, deteriorated sidewalks, drainage problems, property owner requests and citizen complaints.

The project improvements are located in various Task Force areas, both commercial and residential, throughout the City.

## **8. REIMBURSEMENT EXPENDITURES.**

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.
- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be

reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$157,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

(e) Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

9. PUBLIC HEARING. On Monday, April 28<sup>th</sup>, 2013, at 6:30 p.m., in the Council Chambers located on the Second Floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on April 3 and 10, 2014, in the form and manner

prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 24<sup>th</sup> day of March, 2014.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel                      MAYOR

ATTEST:

\_\_\_\_\_  
Cari Martin                      CITY CLERK

**Exhibit A**  
Location of Work  
WO 14-02 Miscellaneous and Developer Related

1711 3RD AVE N, 2913 4TH AVE S, 2305 8TH AVE N, 803 N 24TH ST,  
819 N 23RD ST, 2007 ASH ST, 1002 TERRY AVE, 1648 LEWIS AVENUE,  
104 7TH ST W, 223 FAIR PARK DR, 327 S 24TH ST W, 601 PARKHILL DR,  
914 PRINCETON AVE, 1016 PRINCETON AVE, 1130 PRINCETON AVE,  
1003 PRINCETON AVE, 1027 PRINCETON AVE, 2620 COOK AVE, 2014  
AVENUE D, 421 GLEE PL, 501 GLEE PL, 2040 MILES AVE, 2631  
BROADWATER AVE, 2625 BROADWATER AVE, 2633 LEWIS AVE, 1648  
ALDERSON AVE, 529 AVENUE C, 535 AVENUE C, 1638 PARKHILL DR, 2428  
11TH ST W, 543 LEWIS AVE, 1016 PARKHILL DR, 1822 11TH ST W, 215 19TH  
ST W, 203 19TH ST W, 121 19TH ST W, 118 19TH ST W, PO BOX 772(19<sup>TH</sup>  
STREET WEST, 2032 COOK AVENUE, 111 21ST ST W, 1810 BELVEDERE  
DRIVE, 4623 STONE STREET, 633 COOK AVE, 748 COOK AVE,  
3295 PIPESTONE DR, 751 S 24TH ST W, 741 S 24TH ST W  
2935 LEWIS AVE, 604 31ST ST W, 1637 PARKHILL DRIVE  
934 POLY DR

## Exhibit B

### WO 14-02 Miscellaneous/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 10-27- Assessment (C)	A + B + C	Market Value
A00167		\$0.00	\$0.00	\$1,600.68		
A01099	2904	\$5,235.61	\$0.00	\$1,641.74		80079
A02093		\$0.00	\$0.00	\$0.00		1723210
A02101		\$0.00	\$0.00	\$4,423.93		56745
A02108		\$0.00	\$0.00	\$1,577.74		68481
A02976		\$0.00	\$0.00	\$4,858.92		94395
A03486		\$0.00	\$0.00	\$363.30		67140
A03712		\$0.00	\$0.00	\$2,423.73		61723
A04394		\$0.00	\$0.00	\$3,168.56		61964
A04499		\$0.00	\$0.00	\$3,462.37		89151
A04853		\$0.00	\$0.00	\$11,596.11		855368
A04944		\$0.00	\$0.00	\$4,329.68		82631
A05218		\$0.00	\$0.00	\$4,274.29		84664
A05240		\$0.00	\$0.00	\$3,418.57		89234
A05260		\$0.00	\$0.00	\$790.94		79013
A05315		\$0.00	\$0.00	\$411.30		85871
A05322		\$0.00	\$0.00	\$507.45		85942
A06330		\$0.00	\$0.00	\$8,314.06		81539
A07648		\$0.00	\$0.00	\$3,558.82		92119
A07750		\$0.00	\$0.00	\$0.00		92393
A07752		\$0.00	\$0.00	\$956.25		89978
A07861		\$0.00	\$0.00	\$1,094.49		87272
A10286		\$0.00	\$0.00	\$1,941.50		89104
A10287		\$0.00	\$0.00	\$7,905.92		68091
A10498		\$0.00	\$0.00	\$5,901.99		80694
A10643		\$0.00	\$0.00	\$2,669.71		64752
A11009		\$0.00	\$0.00	\$2,377.97		63874
A11010		\$0.00	\$0.00	\$2,608.36		84120
A12697		\$0.00	\$0.00	\$2,422.01		77653
A12918		\$0.00	\$0.00	\$0.00		118606
A15270		\$0.00	\$0.00	\$0.00		85464
A16110		\$0.00	\$0.00	\$3,584.21		76446
A16237		\$0.00	\$0.00	\$557.91		
A16894		\$0.00	\$0.00	\$3,089.43		80888
A16896		\$0.00	\$0.00	\$2,573.04		96902
A16897		\$0.00	\$0.00	\$5,469.99		85653
A16924		\$0.00	\$0.00	\$3,540.40		90213
A16937		\$0.00	\$0.00	\$2,675.90		77691

## Exhibit B

### WO 14-02 Miscellaneous/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 10-27- Assessment (C)	A + B + C	Market Value
A16967		\$0.00	\$0.00	\$4,208.13		90822
A16968		\$0.00	\$0.00	\$6,436.89		113894
A17070		\$0.00	\$0.00	\$2,700.91		74838
A17450		\$0.00	\$0.00	\$1,819.37		67568
A19214		\$0.00	\$0.00	\$2,741.27		58815
A19260		\$0.00	\$0.00	\$16,693.95		84383
A25089		\$0.00	\$0.00	\$2,228.19		113531
C01675		\$0.00	\$0.00	\$427.29		323038
C01676		\$0.00	\$0.00	\$1,115.82		178490
C02145B		\$0.00	\$0.00	\$2,963.86		85014
C02278		\$0.00	\$0.00	\$305.61		91742
D00567		\$0.00	\$0.00	\$0.00		
D05710		\$0.00	\$0.00	\$4,087.37		135216
Z 00789		\$0.00	\$0.00	\$0.00		
Z00288N		\$0.00	\$0.00	\$0.00		
Z00288S		\$0.00	\$0.00	\$0.00		

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** North Pointe Square Subdivision, 2nd Filing -- Preliminary Minor Plat

**PRESENTED BY:** Candi Millar, Planning & Community Services Department Director

**Department:** Planning & Community Services

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**PROBLEM/ISSUE STATEMENT**

On February 18, 2014, the Planning Division received an application for preliminary plat approval for North Pointe Square Subdivision, 2nd Filing. The plat contains 5 lots on approximately 4.8 acres of land on the west side of Highway 87 North, just north of the intersection with Highway 312 in the Heights. The vacant property is zoned Highway Commercial, and commercial/retail uses are proposed. This subdivision received preliminary approval for a similar proposal in October of 2008, but that approval has since expired. The owner is Vacant Land, LLC (Ernie Dutton, Managing Member), and the representing agent is Sanderson Stewart.

**ALTERNATIVES ANALYZED**

In accordance with state law, the City Council has 35 working days to act upon this preliminary minor plat; the 35 working day review period for the proposed plat ends on April 7, 2014. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35-day review period or a longer period as agreed to by the developer and City, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

**FINANCIAL IMPACT**

If the City Council approves the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

**BACKGROUND**

General location: Northwest corner of Highway 87 North, and Highway 312 in the Heights

Legal Description: Tract 2-A-1 of Certificate of Survey 1965, Amended

Owner/Subdivider: Vacant Land, LLC (Ernie Dutton, Managing Member)

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: Highway Commercial (HC)

Existing land use: Vacant

Proposed land use: Retail Commercial

Gross/net area: 4.8 acres/4.6 acres

Proposed number of lots: 5

Lot size: Max: 44,934 square feet

Min.: 35,341 square feet

Parkland requirements: Parkland is not required as this is a minor commercial subdivision.

## **STAKEHOLDERS**

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the meeting. The Planning Division has received no public comments or questions regarding the proposed subdivision.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with the Growth Policy, the Transportation Plan 2009 Update, the Billings Area Bikeway and Trail Master Plan are discussed within the Findings of Fact.

## **RECOMMENDATION**

Staff recommends that the City Council conditionally approve the preliminary minor plat of North Pointe Square Subdivision, 2nd Filing, and adopt the Findings of Fact as presented in the staff report.

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements, the subdivider shall provide utility easements on the final plat as requested by the private utility companies.
2. To minimize effects on public health and safety, a note shall be added to Section II. 'Conditions that Run with the Land' of the final Subdivision Improvements Agreement (SIA) stating: "A 12-inch high-pressure pipeline currently exists within a 14-foot wide easement on the east side of Lots 1, 2 & 3. Phillips 66 Pipeline, LLC constructs, repairs, operates and maintains its pipelines in compliance with current U.S. Department of Transportation regulations, and industry and company standards for safe operations. Lot owners will be required to follow the most current encroachment guidelines as published by Phillips 66 Pipeline, LLC when proposing any construction on the effected lots, and should consult with Phillips 66 Pipeline, LLC prior to construction."
3. To minimize effects on local services, the subdivider shall enter into a storm drain agreement allowing the City of Billings to drain storm water from North Pointe Drive into the private storm drain system in place for North Pointe Square Subdivision. The agreement shall specify maintenance responsibilities for the storm drain.
4. To minimize effects on local services, a note shall be added to Section III.E. of the final SIA requiring the subdivider shall obtain an approach permit for access onto Highway 87 North for North Pointe Drive from the Montana Department of Transportation prior to final plat approval.
5. To minimize effects on local services, the 35-foot half-width right-of-way dedication for North Pointe Drive shall be extended to the west property line of Lot 5, and shown as such

on the final plat. Additionally, a one-foot no-access strip shall be shown along the right-of-way line for the first 150 feet from its intersection with Highway 87.

6. To minimize effects on local services, Section III.A. of the final SIA shall include the requirement that the south half of North Pointe Drive, west of its intersection with North Pointe Square Drive shall be completed or financially guaranteed prior to the release of Lot 5 for sale or transfer.
7. To minimize effects on local services, phasing details shall be added to the final SIA, specifying the Phase II improvements. Also, a Declaration of Restrictions on Transfers and Conveyances shall be provided with the final documents for Lot 5.
8. To minimize effects on local services, Section III.B. of the final SIA shall be updated to require the construction of boulevard sidewalks along the Highway 87 frontage at the time of Phase I improvements. Additionally, a note shall be added stating: "Internal sidewalks meeting the requirements of Section 50-60-213, MCA, shall be constructed at the time of lot development. When complete these internal sidewalks shall connect building sites to the public sidewalks along North Pointe Drive and along Highway 87, and provide an exterior ADA accessible route connecting facilities and buildings within the subdivision to each other."
9. To minimize effects on the natural environment and public health and safety, a note shall be included in Section II.C. of the final SIA indicating that a project-specific geotechnical analysis will be required at the time of individual lot development.
10. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
11. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

## **APPROVED BY CITY ADMINISTRATOR**

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Preliminary Plat

Aerial photo

Findings of Fact

Mayor's letter

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# NORTH POINTE SQUARE SUBDIVISION, 2ND FILING

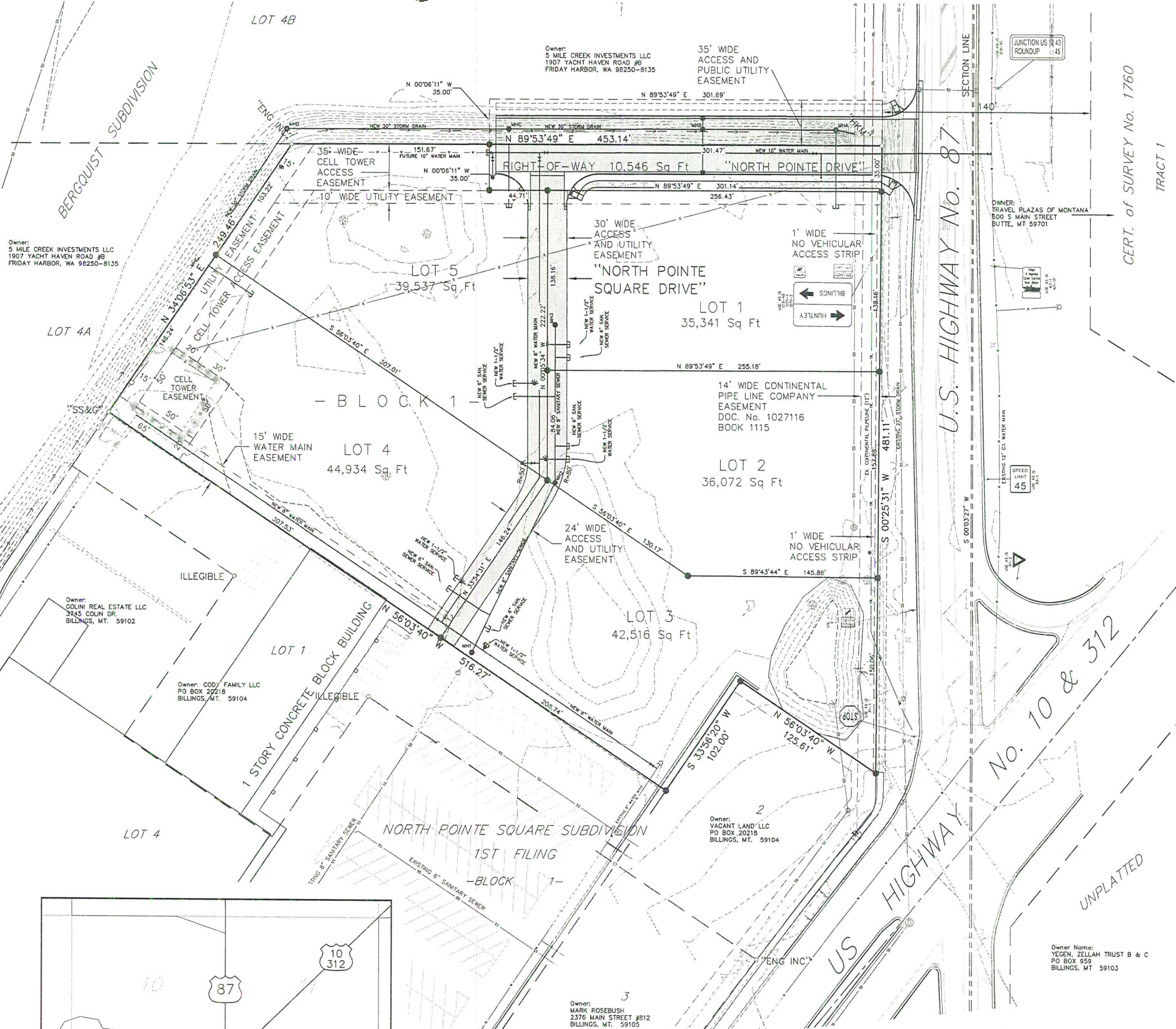
BEING TRACT 2-A-1 OF AMENDED TRACT 2-A OF AMENDED TRACTS 1 & 2 OF CERTIFICATE OF SURVEY No. 1965 SITUATED IN THE EAST 1/2, SOUTHEAST 1/4 OF SECTION 10, T. 1 N., R. 26 E., P.M.M. BILLINGS, MONTANA

PREPARED FOR : VACANT LAND, LLC.

JANUARY, 2014

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA

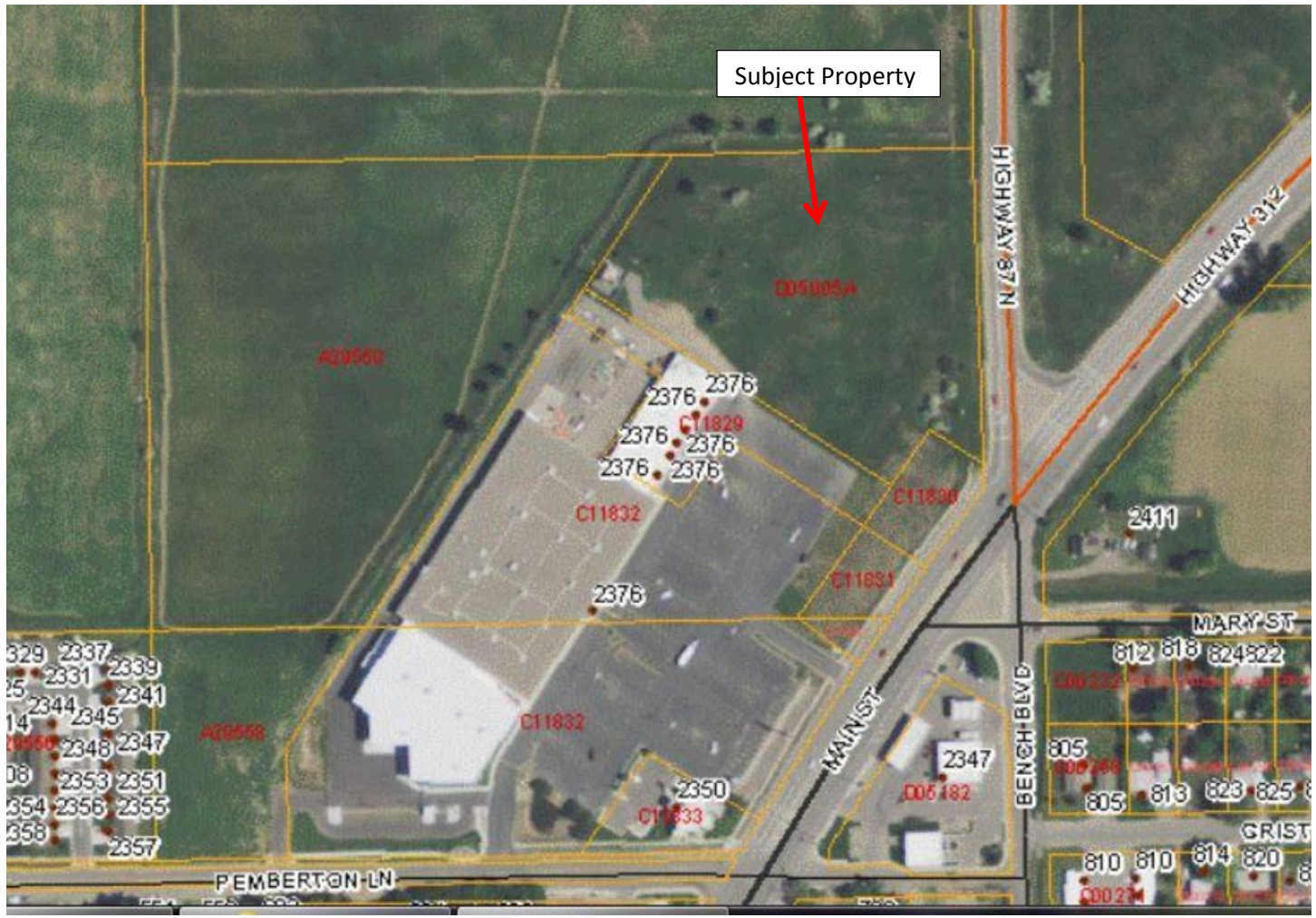


BASIS OF BEARING: (ORIGINAL PLAT/C.O.S.) OR DETERMINED BY GPS OBSERVATIONS USING SURVEY GRADE RECEIVERS. CONVERGENCE NOT APPLIED TO BEARINGS SHOWN. DISTANCES ARE GROUND DISTANCES.

- FOUND SURVEY MONUMENT, AS NOTED
- SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"
- SET INTERSECTION MONUMENT, 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

### PLAT DATA

GROSS AREA	=	4.7967 ACRES
NET AREA	=	4.5546 ACRES
NUMBER OF LOTS	=	5
MINIMUM LOT SIZE	=	35,341 S.F.
MAXIMUM LOT SIZE	=	44,934 S.F.
LINEAL FEET OF STREETS	=	± 320 L.F.
PARKLAND REQUIREMENT	=	N.A.
PARKLAND DEDICATION	=	N.A.
EXISTING ZONING	=	HIGHWAY COMMERCIAL
SURROUNDING ZONING:		
NORTH	=	COMMUNITY COMMERCIAL
SOUTH	=	HIGHWAY COMMERCIAL
EAST	=	COMMUNITY COMMERCIAL
WEST	=	COMMUNITY COMMERCIAL
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RETAIL / COMMERCIAL



Subject Property

D05005A

2376 2376

C11829

C11832

C11830

C11831

C11832

C11833

2350

D05182

2347

2411

MARY ST

812 818 824 822

805

805

813

823 825

GRIST

810 810

814 820

D0024

PEMBERTON LN

HIGHWAY 87 N

HIGHWAY 912

BENCH BLVD

MAIN ST

329 2337 2339  
25 2331 2341  
14 2344 2345  
08 2348 2347  
08 2353 2351  
354 2356 2355  
358 2357

**Findings of Fact**  
**North Pointe Square Subdivision, 2<sup>nd</sup> Filing**

Staff is forwarding the recommended Findings of Fact for North Pointe Square Subdivision, 2<sup>nd</sup> Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3)(a) and BMCC 23-303(H)(1)]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is not used for agriculture, and has no irrigation facilities serving it. It is currently a vacant lot that is adjacent to a commercial area of Billings. Overall, there is no anticipated effect on irrigation facilities or agriculture from this proposal.

**2. Effect on local services**

- a. **Utilities** – Water service for the proposed lots is provided by County Water District of Billings Heights (CWDBH). There are existing water mains in the adjacent property extended north from Pemberton Lane. These lines will be extended along the southern property boundaries. Also a public water main is adjacent in Main Street which will be extended within the new proposed internal streets, North Pointe Square Drive and North Pointe Drive. Lot owners will be responsible for extension of individual water services at the time of lot development.

Sewer services are to be provided by the City of Billings. The existing sewer collection lines and lift station in North Pointe Square Subdivision are privately owned and maintained as a common area described in the overall North Pointe Subdivision Declaration of Covenants and Restrictions, as amended in 2007. The private system will be extended to serve the new lots and shall be located within the North Pointe Square Drive access and utility easement. Lot owners will be responsible for connecting to the services at the time of lot development.

Private utilities such as electric and gas are available to the lots upon development. To ensure the proper utility easements are provided, it is recommended that the developer consult with the utility companies and place the requested easements on the final plat (**Condition #1**).

The other private utility potentially effected is a high pressure gas line owned and managed by Phillips66 that is located on the property's east side within a 14-foot easement along Highway 87 North. With the near-term reconstruction of the Highway 312/87 intersection planned with Montana Department of Transportation's (MDT) Bench Boulevard reconstruction project, Phillips66 has indicated concern that the pipeline may need to be moved. Phillips66 is currently reviewing the plans would like to reserve an

easement right for the pipeline if necessary. Also, Phillips66 would like to make future lot owners of Lots 1, 2, and 3 aware of its 'Encroachment Guidelines for Developers and Property Owners' which provide standards for development near the pipeline. It is recommended as a condition of approval that a note be added to the 'Conditions that Run with the Land' section of the SIA indicating the pipeline's presence and the need to follow the encroachment guidelines when developing the affected lots (**Condition #2**).

- b. **Storm water** –All drainage improvements shall comply with the provisions of the 2011 City of Billings Storm Water Management Manual. The subdivision currently directs its storm water to a private system of catch basins, inlets and piping that empties to a private storm drain outfall to Five Mile Creek to the north. This private system is part of the common areas for the overall development described in the private covenants and restrictions for all of North Pointe Subdivision. Because the privately owned and maintained storm sewer system is proposed to drain the public right-of-way for North Pointe Drive, City Engineering has requested that a development agreement document be provided with the final plat documents allowing the City to drain storm water into this private storm drain system, and describing the maintenance responsibility for the private storm drain system (**Condition #3**).
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – The subdivision connects to the adjacent retail complex to the south, and can be accessed through its private driveway network and the associated reciprocal easements that are described in the fore mentioned Declaration of Covenants and Restrictions for all of North Pointe Subdivision. The development to the south has one access onto Main Street and one onto Pemberton Lane.

With this subdivision, another access onto Highway 87 North is being proposed and will be reviewed and approved by MDT. It is the developer's responsibility to obtain the approach permit from MDT prior to final plat approval (**Condition #4**) and any construction permits prior to construction. This access will serve North Pointe Drive, a commercial local access street that will service both the subject property and properties to the north and west. With this subdivision a 35-foot half-width right-of-way will be dedicated, and an easement for the other 35 feet on the north side will be provided, as secured by the developer from the land owners to the north. At the time of development to the north, the remaining right-of-way will be required to be dedicated. The road will eventually serve as access to properties to the west, and therefore, in accordance with Section 23-406.A.1. of the City Subdivision Regulations, it is recommended as a condition of approval that the 35-foot half width right-of-way dedication be extended to the west property boundary of Lot 5 (**Condition #5**).

Construction of North Pointe Drive will be completed in multiple phases. With Phase I of this subdivision, the south half of North Pointe Drive will be constructed to its intersection with the interior private street 'North Pointe Square Drive'. This will include 30 feet of pavement, and curb, gutter and boulevard sidewalk on the south side of the

street. Once Lot 5 is proposed for development, Phase II improvements will be required, including extending the south half of North Pointe Drive to the western property boundary of Lot 5. As such, Lot 5 will need to be restricted from transfer until such time as those improvements are completed or financially secured. It is recommended as a condition of approval that these improvement specifications and timing be added to the Section III.A. of final SIA (**Condition #6**), and phasing details be added to the final SIA, and Restrictions on Transfers and Conveyances be provided for Lot 5 with the final documents (**Condition #7**).

In addition to the construction of the south half of North Point Drive to its intersection with North Pointe Square Drive with the first filing, boulevard sidewalks shall also be constructed along the Highway 87 frontage of Lots 1, 2 and 3. Section III.B. of the final SIA shall be updated to reflect this requirement (**Condition #8**). Also, as indicated in the SIA, a no-access strip shall be shown on the final plat along this frontage to indicate no further accesses will be permitted to Highway 87.

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest emergency service station is located at 1601 St. Andrews Drive (Station #6), the only station in the Billings Heights. The subdivision is located within the ambulance service area of American Medical Response.

The subdivider is installing water line extensions with hydrants to provide fire suppression for the subdivision.

- f. **Schools** –This commercial subdivision should have a minimal effect on schools.
- g. **Parks and Recreation** - Parkland dedication is not required for this subdivision, as it is a commercial subdivision.
- h. **Mail Delivery** - The United States Postal Service indicated that a Central Box Unit will be required. The size of the box will depend on the number of deliveries. The location of the Central Box Unit shall be reviewed and approved by the post office.

### **3. Effect on the natural environment**

The proposed subdivision should have only minor effects on the natural environment. There will be short term air and noise pollution associated with construction on the property. Storm water shall be managed in compliance with an approved plan and the property is outside of the flood plain. New development proposals will need to prepare and submit a project-specific geotechnical analysis to minimize any potential impacts from soil and groundwater conditions (**Condition #9**).

### **4. Effect on wildlife and wildlife habitat**

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property. However Montana Fish Wildlife and Parks stated that the area is known to have resident deer, wild turkeys and other wildlife presence, and a note

informing future land owners of this possibility is found in the ‘Conditions that Run with the Land’ section of the SIA.

### **5. Effect on the public health, safety and welfare**

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. A geotechnical survey will be required prior to construction to ensure appropriate foundation designs are installed based on the subsurface conditions (**Condition #9**). There are no obvious threats to public health, safety or welfare.

### **B. Was an Environmental Assessment required? [MCA 76-3-616 and BMCC 23-901]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA and 23-901, BMCC.

### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the 2006 Billings Heights Neighborhood Plan, the Urban Area Transportation Plan, 2009 Update, and the Billings Area Bikeway and Trails Master Plan? [BMCC 23-303(H)(3)]**

#### **1. Yellowstone County-City of Billings 2008 Growth Policy Update**

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. **Goal:** Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans (p. 6).
- b. **Goal:** New developments that are sensitive to and compatible with the character of adjacent city neighborhoods and County townsites (p.6).
- c. **Goal:** Contiguous development focused in and around existing population centers separated by open space (p. 6).
- d. **Goal:** More housing and business choices within each neighborhood (p. 6).

#### **2. Urban Area Transportation Plan Update 2009**

The proposed subdivision adheres to the goals and objectives of the 2009 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

#### **3. Billings Area Bikeway and Trail Master Plan**

The Billings Area Bikeway and Trail Master Plan identifies a proposed bike lane along Highway 87 North, adjacent to the subdivision. MDT is in the process of finalizing plans for the reconstruction of this intersection; it is unknown if a bike lane is proposed. No new improvements will be required with this subdivision to meet the Trail Plan recommendations.

#### **4. The Billings Heights Neighborhood Plan**

This proposed subdivision is in compliance with several of the goals and objectives of the Heights Neighborhood Plan including:

**Goal:** To revitalize Main Street to increase and retain the commercial core of the Heights. Encourage improvements such as access redesign, signage, and landscaping to functionally and aesthetically improve Main Street. Incorporate safe pedestrian walkways along Main Street.

**Goal:** To provide housing and commercial development compatible with existing development. To meet residents preferred vision of the Heights.

**Goal:** Increase business opportunities for the Heights as future bypass connections are constructed. Encourage high quality development guidelines to ensure organized growth and development of businesses.

**Goal:** Provide easier access to existing businesses on Main Street. Provide alternate routes for traffic that will lessen the intensity of the existing traffic on Main Street allowing smoother traffic operations to gain access to businesses.

**Goal:** To provide aesthetically appealing business and streetscape development in the Heights.

**Goal:** To prohibit dead-end water and sewer service lines.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3)(b), BMCC 23-303(H)(2)]**

The proposed subdivision, with the proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-303(H)(2)(e)]**

The subject property is located in Highway Commercial zoning. All development shall comply with the standards set forth in Section 27-308, BMCC. Final zoning compliance will be determined at the time of the building permit.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608(3)(c) and BMCC 23-303(H)(2)(b)]**

The plat provides easements for utilities throughout the proposed subdivision. It is recommended that the developer work with NWE and MDU to show the needed easements on the final plat (**Condition #1**).

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608(3)(d) and BMCC 23-303(H)(2)(c)]**

Access to the subdivision shall be from Highway 87 North via the new public street 'North Pointe Drive' and through the private road/driveways network shared with the adjacent development to the south. Existing reciprocal access agreements are in place within the Covenants and Restrictions documents. New easements shown on the plat and described in easement documents will be filed with the final plat.

**CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of North Pointe Square Subdivision, 2<sup>nd</sup> Filing, does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy, and the 2006 Billings Heights Neighborhood Plan, and does not conflict with the 2009 Transportation Plan Update or the Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, March 24, 2014.

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Thomas W. Hanel, Mayor

Mayor's Approval Letter—North Pointe Square Subdivision, 2<sup>nd</sup> Filing

March 25, 2014

Vacant Land, LLC  
Ernie Dutton, Managing Member  
P.O. Box 20218  
Billings, MT 59104

Dear Mr. Dutton:

On March 24, 2014, the Billings City Council conditionally approved the preliminary plat of North Pointe Square Subdivision, 2<sup>nd</sup> Filing, subject to the following conditions of approval:

1. To ensure the provision of easements, the subdivider shall provide utility easements on the final plat as requested by the private utility companies.
2. To minimize effects on public health and safety, a note shall be added to Section II. 'Conditions that Run with the Land' of the final Subdivision Improvements Agreement (SIA) stating: "A 12-inch high-pressure pipeline currently exists within a 14-foot wide easement on the east side of Lots 1, 2 & 3. Phillips 66 Pipeline, LLC constructs, repairs, operates and maintains its pipelines in compliance with current U.S. Department of Transportation regulations, and industry and company standards for safe operations. Lot owners will be required to follow the most current encroachment guidelines as published by Phillips 66 Pipeline, LLC when proposing any construction on the effected lots, and should consult with Phillips 66 Pipeline, LLC prior to construction."
3. To minimize effects on local services, the subdivider shall enter into a storm drain agreement allowing the City of Billings to drain storm water from North Pointe Drive into the private storm drain system in place for North Pointe Square Subdivision. The agreement shall specify maintenance responsibilities for the storm drain.
4. To minimize effects on local services, a note shall be added to Section III.E. of the final SIA requiring the subdivider shall obtain an approach permit for access onto Highway 87 North for North Pointe Drive from the Montana Department of Transportation prior to final plat approval.
5. To minimize effects on local services, the 35-foot half-width right-of-way dedication for North Pointe Drive shall be extended to the west property line of Lot 5, and shown as such on the final plat. Additionally, a one-foot no-access strip shall be shown along the right-of-way line for the first 150 feet from its intersection with Highway 87.

6. To minimize effects on local services, Section III.A. of the final SIA shall include the requirement that the south half of North Pointe Drive, west of its intersection with North Pointe Square Drive shall be completed or financially guaranteed prior to the release of Lot 5 for sale or transfer.
7. To minimize effects on local services, phasing details shall be added to the final SIA, specifying the Phase II improvements. Also, a Declaration of Restrictions on Transfers and Conveyances shall be provided with the final documents for Lot 5.
8. To minimize effects on local services, Section III.B. of the final SIA shall be updated to require the construction of boulevard sidewalks along the Highway 87 frontage at the time of Phase I improvements. Additionally, a note shall be added stating: "Internal sidewalks meeting the requirements of Section 50-60-213, MCA, shall be constructed at the time of lot development. When complete these internal sidewalks shall connect building sites to the public sidewalks along North Pointe Drive and along Highway 87, and provide an exterior ADA accessible route connecting facilities and buildings within the subdivision to each other."
9. To minimize effects on the natural environment and public health and safety, a note shall be included in Section II.C. of the final SIA indicating that a project-specific geotechnical analysis will be required at the time of individual lot development.
10. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
11. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact the Juliet Spalding at (406) 247-8684 or by email at [spaldingi@ci.billings.mt.us](mailto:spaldingi@ci.billings.mt.us) .

Sincerely,

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Thomas W. Hanel, Mayor

Pc: Bryan Alexander, PE, Sanderson Stewart

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Payment of Claims February 24, 2014

**PRESENTED BY:** Patrick M. Weber, Finance Director

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$1,326,192.36 have been audited and are presented for City Council payment approval. A complete listing of the claims dated February 24, 2014 is available in the Finance Department.

**ALTERNATIVES ANALYZED**

No other alternatives were analyzed.

**FINANCIAL IMPACT**

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

**RECOMMENDATION**

Staff recommends that Council approve the Payment of Claims.

**APPROVED BY CITY ADMINISTRATOR**

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Council Report 2-24

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Check Date	Check	Name	Amount	Account	Item Desc
02/24/2014	773009	Acuity Brands Lighting Inc	\$3,600.00	2110-00000-141318	STREET LIGHTS PO NUM 294775
02/24/2014	773009	Acuity Brands Lighting Inc	\$1,038.95	2110-00000-141318	STREET LIGHTS PO NUM 294792
02/24/2014	773021	Billings Depot Inc	\$5,366.67	6600-31100-405310	rent
02/24/2014	773021	Billings Depot Inc	\$8,050.00	6700-31410-405310	rent
02/24/2014	773025	Bozeman Police Department	\$6,313.82	2510-21270-403560	Overtime and Supplies.
02/24/2014	773025	Bozeman Police Department	\$127.50	2510-21270-403822	Travel and Training.
02/24/2014	773027	Brenntag Pacific Inc	\$5,855.30	2110-31320-404720	Hicohaw liquid deicer
02/24/2014	773027	Brenntag Pacific Inc	\$3,991.70	2110-31320-404721	ice slicer for melting snow on streets
02/24/2014	773027	Brenntag Pacific Inc	\$4,028.96	2110-31320-404721	ice slicer used to melt snow on streets
02/24/2014	773027	Brenntag Pacific Inc	\$5,846.45	2110-31320-404720	hicothaw liquid deicer
02/24/2014	773027	Brenntag Pacific Inc	\$5,990.00	2110-31320-404720	Hicohaw liquid deicer
02/24/2014	773027	Brenntag Pacific Inc	\$4,861.10	2110-31320-404721	ice slicer for melting snow in streets
02/24/2014	773027	Brenntag Pacific Inc	\$3,935.12	2110-31320-404721	ice slicer for melting snow in streets
02/24/2014	773027	Brenntag Pacific Inc	\$2,358.50	5120-84000-402220	Silicone antifoam
02/24/2014	773030	Brown And Caldwell	\$11,571.39	5030-75910-409340	WO 08-25 ZONE 3 RESERVOIR
02/24/2014	773031	Business Tax Section	\$1,882.41	4250-31840-409310	WO 10-19 Shiloh Conservation Area; CO#1 01/17/14
02/24/2014	773031	Business Tax Section	\$428.72	5030-00000-201100	WO 11-11 WTP Rapid Mixer System
02/24/2014	773031	Business Tax Section	\$99.00	5030-75910-409340	PBD014 Temporary water service
02/24/2014	773031	Business Tax Section	\$98.75	5030-75910-409340	PBD014 Temporary water service; Change Order #1 2/10/14
02/24/2014	773031	Business Tax Section	\$2,383.78	5030-74910-409390	WO 12-42 WTP Laboratory Renovation
02/24/2014	773039	Cmg Construction, Inc.	\$186,358.34	4250-31840-409310	WO 10-19 Shiloh Conservation Area; CO #1 01/17/14
02/24/2014	773042	Cop Construction Co	\$42,444.03	5030-00000-201100	WO 11-11 WTP Rapid Mixer System
02/24/2014	773043	Corona Insights	\$6,620.00	7730-51670-403590	Final payment on survey.
02/24/2014	773045	Curb Box Specialists Inc.	\$9,801.00	5030-75910-409340	PBD014 Temporary water service
02/24/2014	773045	Curb Box Specialists Inc.	\$9,776.25	5030-75910-409340	PBD014 Temporary water service; Change Order #1 2/10/14
02/24/2014	773049	Data Imaging System, Inc.	\$4,884.21	2090-44510-403590	I14-016990 2006 Commercial Building Plans
02/24/2014	773051	Dept Of Justice Dci	\$11,333.26	2510-21270-403560	Reimbursement of ICAC expenses for qtr ending 12/31/13.
02/24/2014	773052	Dex Media West	\$1,764.00	2600-55120-403450	DEX Billing Library
02/24/2014	773052	Dex Media West	\$996.00	5710-71460-403370	DEX Billing MET
02/24/2014	773052	Dex Media West	\$216.00	0100-51210-403450	DEX Billing Recreation Division
02/24/2014	773052	Dex Media West	\$432.00	5410-31210-403450	DEX Billing Solid Waste
02/24/2014	773052	Dex Media West	\$186.00	0100-51100-403450	DEX Billing Parks & Recreation
02/24/2014	773052	Dex Media West	\$186.00	1500-21110-403450	DEX Billing Police
02/24/2014	773052	Dex Media West	\$186.00	5610-71100-403450	DEX Billing Airport
02/24/2014	773053	Dick Anderson Construction Inc	\$235,994.10	5030-74910-409390	WO 12-42 WTP Laboratory Renovation
02/24/2014	773054	Dowl Hkm	\$16,347.50	8400-31840-409310	WO 10-19 Shiloh Conservation Area Amendment #1
02/24/2014	773055	Ebms	\$1,630.00	6270-17520-403511	March 2014 Breakdown
02/24/2014	773055	Ebms	\$23,050.00	6270-17520-403512	March 2014 Breakdown
02/24/2014	773055	Ebms	\$43,161.60	6270-17520-403515	March 2014 Breakdown
02/24/2014	773055	Ebms	\$574.00	6270-17520-403517	March 2014 Breakdown
02/24/2014	773055	Ebms	\$3,346.00	6270-17520-405161	March 2014 Breakdown
02/24/2014	773064	Galles Filter Service	\$43.40	5710-71440-402320	299241
02/24/2014	773064	Galles Filter Service	\$20.58	5120-84000-402450	Air element for Headworks blower
02/24/2014	773064	Galles Filter Service	\$6.87	6010-00000-141000	298928 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$142.34	6010-00000-141714	298995 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$581.32	6010-00000-141000	298996 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$190.15	6010-00000-141000	299188 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$152.60	5710-71470-402320	298539
02/24/2014	773064	Galles Filter Service	\$56.70	5710-71440-402320	298995
02/24/2014	773064	Galles Filter Service	\$1.73	5710-71440-402320	298995
02/24/2014	773064	Galles Filter Service	\$89.18	5710-71440-402320	299007
02/24/2014	773064	Galles Filter Service	\$22.97	2110-31320-402320	299044
02/24/2014	773064	Galles Filter Service	\$53.76	1500-22260-402320	299125
02/24/2014	773064	Galles Filter Service	\$170.07	6010-00000-141714	297131 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$245.83	6010-00000-141000	297132 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$87.23	6010-00000-141000	297432 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$23.58	6010-00000-141714	297435 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$9.16	6010-00000-141000	2974711 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$147.53	6010-00000-141000	297642 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$110.23	6010-00000-141714	297986 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$30.22	5710-71440-402320	297131
02/24/2014	773064	Galles Filter Service	\$3.46	5710-71440-402320	297131
02/24/2014	773064	Galles Filter Service	\$3.19	2110-31320-402320	297226
02/24/2014	773064	Galles Filter Service	\$10.30	2110-31320-402320	297298
02/24/2014	773064	Galles Filter Service	\$61.15	5410-31220-402320	297397
02/24/2014	773064	Galles Filter Service	\$16.28	5410-31220-402320	297463
02/24/2014	773064	Galles Filter Service	\$17.94	5020-75000-402320	297473
02/24/2014	773064	Galles Filter Service	\$25.52	1500-22260-402320	297746
02/24/2014	773064	Galles Filter Service	\$58.02	5710-71440-402320	297986
02/24/2014	773064	Galles Filter Service	\$19.66	2110-31320-402320	298284
02/24/2014	773064	Galles Filter Service	\$27.94	5410-31220-402320	298362
02/24/2014	773064	Galles Filter Service	\$42.58	1500-22310-402320	298364
02/24/2014	773064	Galles Filter Service	\$194.83	6010-00000-141000	297987 PO NUM 294377

Check Date	Check	Name	Amount	Account	Item Desc
02/24/2014	773064	Galles Filter Service	\$204.69	6010-00000-141000	298200 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$141.13	6010-00000-141000	298508 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$142.60	6010-00000-141714	298511 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$285.10	6010-00000-141000	298705 PO NUM 294377
02/24/2014	773064	Galles Filter Service	\$99.60	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 294594
02/24/2014	773064	Galles Filter Service	\$8.20	1500-21120-402320	298705
02/24/2014	773064	Galles Filter Service	\$35.74	2110-31320-402320	298705
02/24/2014	773070	Graphic Imprints Inc.	\$4,610.46	0100-51250-402250	City League shirts.
02/24/2014	773070	Graphic Imprints Inc.	\$668.76	0100-51250-402250	Staff shirts.
02/24/2014	773070	Graphic Imprints Inc.	\$1,000.00	0100-51250-402250	Staff shirts.
02/24/2014	773070	Graphic Imprints Inc.	\$1,000.00	0100-51260-402262	Staff shirts.
02/24/2014	773071	Great Falls Police Department	\$3,930.63	2510-21270-403560	Overtime and Supplies.
02/24/2014	773071	Great Falls Police Department	\$161.47	2510-21270-403822	Travel and Training.
02/24/2014	773076	HDR, Inc.	\$3,286.48	5020-72110-403540	DRINKING WATER SOURCE STU DY
02/24/2014	773081	Iaff	\$4,403.05	9000-00000-209920	Payroll Summary
02/24/2014	773096	Labor Ready Northwest, Inc.	\$2,552.00	5410-31230-403581	contract workers at landfill 1/27/1/28
02/24/2014	773107	Miller Trois LLC	\$1,766.00	0100-43210-405311	114-016936 March 2014 Rent for Planning & Community Services
02/24/2014	773107	Miller Trois LLC	\$5,792.00	2090-44510-405311	114-016936 March 2014 Rent for Planning & Community Services
02/24/2014	773107	Miller Trois LLC	\$3,842.00	2400-43010-405311	114-016936 March 2014 Rent for Planning & Community Services
02/24/2014	773107	Miller Trois LLC	\$3,366.00	2740-67800-405310	114-016936 March 2014 Rent for Planning & Community Services
02/24/2014	773107	Miller Trois LLC	\$1,192.00	2990-65010-405310	114-016936 March 2014 Rent for Planning & Community Services
02/24/2014	773110	Montana CSED	\$3,469.16	9000-00000-209926	Payroll Summary
02/24/2014	773111	Montana Dakota Utilities	\$5,147.52	4210-85930-409340	WO 12-05 Five Mile Lift Station - New utility gas line
02/24/2014	773117	Montana State Fireman's Assoc	\$3,302.43	9000-00000-209924	Payroll Summary
02/24/2014	773118	Morrison Maierle Inc	\$33,532.10	8400-31840-409310	WO 12-31 East End Industrial Storm Drain
02/24/2014	773118	Morrison Maierle Inc	\$43,474.39	5130-85910-409340	WO 14-01 2014 Water & Sewer Replacement - Sch 2 Sewer
02/24/2014	773118	Morrison Maierle Inc	\$44,690.60	5130-85910-409340	WO 14-01 2014 Water & Sewer Replacement - Sch 2 Sewer
02/24/2014	773124	New World Systems	\$1,595.00	6200-19120-403870	New World Aegis 2014 Customer Conference
02/24/2014	773124	New World Systems	\$163,750.00	0100-14120-409481	New World MSP Upgrade and Yellowstone County MOU
02/24/2014	773128	NorthWestern Energy	\$7.40	8720-51980-403410	07238405
02/24/2014	773128	NorthWestern Energy	\$945.43	1500-22210-403410	08715468
02/24/2014	773128	NorthWestern Energy	\$88.65	0100-51120-403410	09254962
02/24/2014	773128	NorthWestern Energy	\$538.27	6500-15660-403410	09758087
02/24/2014	773128	NorthWestern Energy	\$42.45	0100-51270-403410	07123870
02/24/2014	773128	NorthWestern Energy	\$202.18	0100-51220-403410	07125362
02/24/2014	773128	NorthWestern Energy	\$62.34	0100-51220-403410	07208184
02/24/2014	773128	NorthWestern Energy	\$53.36	0100-51260-403410	07208218
02/24/2014	773128	NorthWestern Energy	\$2,168.58	5020-74000-403410	07222649
02/24/2014	773128	NorthWestern Energy	\$9.25	0100-51120-403410	07222870
02/24/2014	773128	NorthWestern Energy	\$2,054.90	5020-74000-403410	07230402
02/24/2014	773128	NorthWestern Energy	\$29.70	0100-51120-403410	07230444
02/24/2014	773128	NorthWestern Energy	\$52.93	0100-51120-403410	07230451
02/24/2014	773128	NorthWestern Energy	\$7.40	5020-74000-403410	07230592
02/24/2014	773128	NorthWestern Energy	\$2,623.57	5610-71130-403410	0100483-7. Runway Lights. February 2014
02/24/2014	773128	NorthWestern Energy	\$1,808.07	5610-71130-403410	0100484-5. ARFF Facility. February 2014
02/24/2014	773128	NorthWestern Energy	\$119.19	5610-71170-403410	1138926-9. Aero Interiors. February 2014
02/24/2014	773128	NorthWestern Energy	\$9.25	5610-71170-403410	1264299-7. Old Hertz Car Wash. February 2014
02/24/2014	773128	NorthWestern Energy	\$108.54	5610-71170-403410	1341288-7. Old Nat/Alamo Car Wash. February 2014
02/24/2014	773128	NorthWestern Energy	\$7.83	5610-71170-403410	1341289-5. Old Thrifty/Dollar Car Wash. February 2014
02/24/2014	773128	NorthWestern Energy	\$368.45	5610-71170-403410	1341291-1. Old Enterprise Car Wash (Big Sky Ground). February 2014
02/24/2014	773128	NorthWestern Energy	\$583.02	5610-71170-403410	1341295-2. Big Sky Ground. February 2014
02/24/2014	773128	NorthWestern Energy	\$571.73	5610-71170-403410	1669567-8. TSA Building. February 2014
02/24/2014	773128	NorthWestern Energy	\$1,161.18	5610-71190-403410	1993430-6. QTA Car Wash. February 2014
02/24/2014	773128	NorthWestern Energy	\$488.88	5610-71190-403410	2001846-1. QTA Mud Wash. February 2014
02/24/2014	773128	NorthWestern Energy	\$206.45	5610-71190-403410	2001848-7. Detail Bay 1 Hertz. February 2014
02/24/2014	773128	NorthWestern Energy	\$266.91	5610-71190-403410	2001855-2. Detail Bay 2 Nat/Alamo. February 2014
02/24/2014	773128	NorthWestern Energy	\$118.97	5610-71190-403410	2001862-8. Detail Bay 3 Enterprise. February 2014
02/24/2014	773128	NorthWestern Energy	\$177.03	5610-71190-403410	2001865-1. Detail Bay 4 Avis/Budget. February 2014
02/24/2014	773128	NorthWestern Energy	\$154.04	5610-71190-403410	2001867-7. Detail Bay 5 Thrifty/Dollar. February 2014
02/24/2014	773128	NorthWestern Energy	\$500.12	5020-74000-403410	11164522
02/24/2014	773128	NorthWestern Energy	\$176.59	5020-74000-403410	11422532
02/24/2014	773128	NorthWestern Energy	\$844.28	6500-15660-403410	11608023
02/24/2014	773128	NorthWestern Energy	\$2,366.77	6500-15660-403410	11608049
02/24/2014	773128	NorthWestern Energy	\$17.88	0100-51120-403410	11914041
02/24/2014	773128	NorthWestern Energy	\$3,545.58	6500-15660-403410	12693917
02/24/2014	773128	NorthWestern Energy	\$7.40	2110-31320-403410	17403577
02/24/2014	773128	NorthWestern Energy	\$7.82	2110-31320-403410	17488966
02/24/2014	773128	NorthWestern Energy	\$34.82	0100-51120-403410	18366666

Check Date	Check	Name	Amount	Account	Item Desc
02/24/2014	773128	NorthWestern Energy	\$9.87	8720-51980-403410	20413621
02/24/2014	773128	NorthWestern Energy	\$174.62	5120-85000-403410	822 Shiloh Crossing
02/24/2014	773128	NorthWestern Energy	\$3,402.17	5020-74000-403410	5809 Canyonwoods Dr
02/24/2014	773127	NorthWestern Energy	\$9,421.61	2110-31320-403410	Signal Bills
02/24/2014	773127	NorthWestern Energy	\$477.92	8100-31830-403410	SILMD 008 ACCT# 0712544-6
02/24/2014	773127	NorthWestern Energy	\$490.34	8100-31830-403410	SILMD 009 ACCT# 0712545-3
02/24/2014	773127	NorthWestern Energy	\$1,347.62	8100-31830-403410	SILMD 010 ACCT# 0712546-1
02/24/2014	773127	NorthWestern Energy	\$3,983.98	8100-31830-403410	SILMD 013 ACCT# 0721276-4
02/24/2014	773127	NorthWestern Energy	\$1,945.39	8100-31830-403410	SILMD 014 ACCT# 0721277-2
02/24/2014	773127	NorthWestern Energy	\$1,182.31	8100-31830-403410	SILMD 017 ACCT# 0712553-7
02/24/2014	773127	NorthWestern Energy	\$91.43	8100-31830-403410	SILMD 018 ACCT# 0712554-5
02/24/2014	773127	NorthWestern Energy	\$450.75	8100-31830-403410	SILMD 095 ACCT# 0712556-0
02/24/2014	773127	NorthWestern Energy	\$12,745.27	8100-31830-403410	SILMD 097 ACCT# 0712557-8
02/24/2014	773127	NorthWestern Energy	\$1,551.55	8100-31830-403410	SILMD 099 ACCT# 0712558-6
02/24/2014	773127	NorthWestern Energy	\$2,540.42	8100-31830-403410	SILMD 100 ACCT# 0712559-4
02/24/2014	773127	NorthWestern Energy	\$1,683.73	8100-31830-403410	SILMD 107 ACCT# 0712560-2
02/24/2014	773127	NorthWestern Energy	\$4,222.68	8100-31830-403410	SILMD 109 ACCT# 0712561-0
02/24/2014	773127	NorthWestern Energy	\$172.76	8100-31830-403410	SILMD 113 ACCT# 0712562-8
02/24/2014	773127	NorthWestern Energy	\$908.68	8100-31830-403410	SILMD 114 ACCT# 0712563-6
02/24/2014	773127	NorthWestern Energy	\$213.80	8100-31830-403410	SILMD 115 ACCT# 0712564-4
02/24/2014	773127	NorthWestern Energy	\$561.25	8100-31830-403410	SILMD 116 ACCT# 0712565-1
02/24/2014	773127	NorthWestern Energy	\$3,097.74	8100-31830-403410	SILMD 117 ACCT# 0712566-9
02/24/2014	773127	NorthWestern Energy	\$223.72	8100-31830-403410	SILMD 118 ACCT# 0712567-7
02/24/2014	773127	NorthWestern Energy	\$147.34	8100-31830-403410	SILMD 119 ACCT# 0712568-5
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02/24/2014	773127	NorthWestern Energy	\$320.70	8100-31830-403410	SILMD 123 ACCT# 0712572-7
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02/24/2014	773127	NorthWestern Energy	\$374.15	8100-31830-403410	SILMD 125 ACCT# 0712574-3
02/24/2014	773127	NorthWestern Energy	\$187.08	8100-31830-403410	SILMD 126 ACCT# 0712575-0
02/24/2014	773127	NorthWestern Energy	\$685.37	8100-31830-403410	SILMD 127 ACCT# 0712576-8
02/24/2014	773127	NorthWestern Energy	\$479.76	8100-31830-403410	SILMD 128 ACCT# 0712577-6
02/24/2014	773127	NorthWestern Energy	\$320.70	8100-31830-403410	SILMD 129 ACCT# 0712578-4
02/24/2014	773127	NorthWestern Energy	\$121.34	8100-31830-403410	SILMD 130 ACCT# 0712579-2
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02/24/2014	773127	NorthWestern Energy	\$520.07	8100-31830-403410	SILMD 134 ACCT# 0712582-6
02/24/2014	773127	NorthWestern Energy	\$502.60	8100-31830-403410	SILMD 135 ACCT# 0712583-4
02/24/2014	773127	NorthWestern Energy	\$444.96	8100-31830-403410	SILMD 136 ACCT# 0712584-2
02/24/2014	773127	NorthWestern Energy	\$359.69	8100-31830-403410	SILMD 137 ACCT# 0712585-9
02/24/2014	773127	NorthWestern Energy	\$721.60	8100-31830-403410	SILMD 138 ACCT# 0712586-7
02/24/2014	773127	NorthWestern Energy	\$240.54	8100-31830-403410	SILMD 139 ACCT# 0712587-5
02/24/2014	773127	NorthWestern Energy	\$559.47	8100-31830-403410	SILMD 143 ACCT# 0712588-3
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02/24/2014	773127	NorthWestern Energy	\$347.45	8100-31830-403410	SILMD 146 ACCT# 0712591-7
02/24/2014	773127	NorthWestern Energy	\$450.03	8100-31830-403410	SILMD 147 ACCT# 0712592-5
02/24/2014	773127	NorthWestern Energy	\$1,394.61	8100-31830-403410	SILMD 149 ACCT# 0712593-3
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02/24/2014	773127	NorthWestern Energy	\$525.45	8100-31830-403410	SILMD 153 ACCT# 0712597-4
02/24/2014	773127	NorthWestern Energy	\$1,187.96	8100-31830-403410	SILMD 154 ACCT# 0712598-2
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02/24/2014	773127	NorthWestern Energy	\$890.98	8100-31830-403410	SILMD 157 ACCT# 0712600-6
02/24/2014	773127	NorthWestern Energy	\$775.06	8100-31830-403410	SILMD 158 ACCT# 0712601-4
02/24/2014	773127	NorthWestern Energy	\$1,054.04	8100-31830-403410	SILMD 159 ACCT# 0712602-2
02/24/2014	773127	NorthWestern Energy	\$694.87	8100-31830-403410	SILMD 160 ACCT# 0712603-0
02/24/2014	773127	NorthWestern Energy	\$1,028.05	8100-31830-403410	SILMD 161 ACCT# 0712604-8
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02/24/2014	773127	NorthWestern Energy	\$855.24	8100-31830-403410	SILMD 165 ACCT# 0712608-9
02/24/2014	773127	NorthWestern Energy	\$228.46	8100-31830-403410	SILMD 167 ACCT# 0712609-7
02/24/2014	773127	NorthWestern Energy	\$548.30	8100-31830-403410	SILMD 171 ACCT# 0712610-5
02/24/2014	773127	NorthWestern Energy	\$520.07	8100-31830-403410	SILMD 172 ACCT# 0712611-3
02/24/2014	773127	NorthWestern Energy	\$1,142.28	8100-31830-403410	SILMD 173 ACCT# 0712612-1
02/24/2014	773127	NorthWestern Energy	\$959.51	8100-31830-403410	SILMD 174 ACCT# 0712613-9
02/24/2014	773127	NorthWestern Energy	\$319.83	8100-31830-403410	SILMD 175 ACCT# 0712614-7
02/24/2014	773127	NorthWestern Energy	\$41.77	8100-31830-403410	SILMD 176 ACCT# 0712615-4
02/24/2014	773127	NorthWestern Energy	\$251.31	8100-31830-403410	SILMD 178 ACCT# 0712616-2
02/24/2014	773127	NorthWestern Energy	\$502.60	8100-31830-403410	SILMD 179 ACCT# 0712617-0
02/24/2014	773127	NorthWestern Energy	\$342.69	8100-31830-403410	SILMD 180 ACCT# 0712618-8
02/24/2014	773127	NorthWestern Energy	\$1,630.28	8100-31830-403410	SILMD 181 ACCT# 0712619-6
02/24/2014	773127	NorthWestern Energy	\$571.14	8100-31830-403410	SILMD 182 ACCT# 0712620-4
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02/24/2014	773127	NorthWestern Energy	\$589.30	8100-31830-403410	SILMD 186 ACCT# 0712624-6
02/24/2014	773127	NorthWestern Energy	\$228.46	8100-31830-403410	SILMD 187 ACCT# 0712625-3
02/24/2014	773127	NorthWestern Energy	\$274.14	8100-31830-403410	SILMD 188 ACCT# 0712626-1
02/24/2014	773127	NorthWestern Energy	\$228.46	8100-31830-403410	SILMD 189 ACCT# 0712627-9
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02/24/2014	773127	NorthWestern Energy	\$297.01	8100-31830-403410	SILMD 192 ACCT# 0712630-3
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02/24/2014	773127	NorthWestern Energy	\$243.84	8100-31830-403410	SILMD 194 ACCT# 0712632-9
02/24/2014	773127	NorthWestern Energy	\$203.19	8100-31830-403410	SILMD 195 ACCT# 0712633-7
02/24/2014	773127	NorthWestern Energy	\$65.32	8100-31830-403410	SILMD 196 ACCT# 0712634-5
02/24/2014	773127	NorthWestern Energy	\$65.32	8100-31830-403410	SILMD 197 ACCT# 0712635-2
02/24/2014	773127	NorthWestern Energy	\$114.23	8100-31830-403410	SILMD 198 ACCT# 0712636-0
02/24/2014	773127	NorthWestern Energy	\$69.67	8100-31830-403410	SILMD 200 ACCT# 0712637-8
02/24/2014	773127	NorthWestern Energy	\$479.76	8100-31830-403410	SILMD 201 ACCT# 0712638-6
02/24/2014	773127	NorthWestern Energy	\$750.09	8100-31830-403410	SILMD 202 INV# 0712639-4
02/24/2014	773127	NorthWestern Energy	\$17.42	8100-31830-403410	SILMD 203 ACCT# 0712640-2
02/24/2014	773127	NorthWestern Energy	\$406.73	8100-31830-403410	SILMD 204 ACCT# 0712641-0
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02/24/2014	773127	NorthWestern Energy	\$91.38	8100-31830-403410	SILMD 239 ACCT# 0712673-3
02/24/2014	773127	NorthWestern Energy	\$365.78	8100-31830-403410	SILMD 240 ACCT# 0712674-1
02/24/2014	773127	NorthWestern Energy	\$598.43	8100-31830-403410	SILMD 241 ACCT# 0712675-8
02/24/2014	773127	NorthWestern Energy	\$80.17	8100-31830-403410	SILMD 242 ACCT# 0712676-6
02/24/2014	773127	NorthWestern Energy	\$106.91	8100-31830-403410	SILMD 244 ACCT# 0712677-4
02/24/2014	773127	NorthWestern Energy	\$83.00	8100-31830-403410	SILMD 245 ACCT# 0712678-2
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02/24/2014	773127	NorthWestern Energy	\$2,366.01	8100-31830-403410	SILMD 248 ACCT# 0712681-6
02/24/2014	773127	NorthWestern Energy	\$2,645.87	8100-31830-403410	SILMD 249 ACCT# 0718734-7
02/24/2014	773127	NorthWestern Energy	\$10.14	8100-31830-403410	SILMD 250 ACCT# 1301786-8
02/24/2014	773127	NorthWestern Energy	\$185.31	8100-31830-403410	SILMD 250 ACCT# 0719001-00
02/24/2014	773127	NorthWestern Energy	\$3,797.47	8100-31830-403410	SILMD 251 ACCT# 0718801-4
02/24/2014	773127	NorthWestern Energy	\$534.53	8100-31830-403410	SILMD 252 ACCT# 0719162-0
02/24/2014	773127	NorthWestern Energy	\$1,868.43	8100-31830-403410	SILMD 253 ACCT# 0719644-7
02/24/2014	773127	NorthWestern Energy	\$137.64	8100-31830-403410	SILMD 254 ACCT# 0719763-5
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02/24/2014	773127	NorthWestern Energy	\$802.33	8100-31830-403410	SILMD 257 ACCT# 0720360-7
02/24/2014	773127	NorthWestern Energy	\$2,520.86	8100-31830-403410	SILMD 258 ACCT# 0720606-3
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02/24/2014	773127	NorthWestern Energy	\$3,033.56	8100-31830-403410	SILMD 262 ACCT# 0720937-2
02/24/2014	773127	NorthWestern Energy	\$882.83	8100-31830-403410	SILMD 263 ACCT# 0720716-0
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02/24/2014	773127	NorthWestern Energy	\$400.37	8100-31830-403410	SILMD 270 ACCT# 0906944-4
02/24/2014	773127	NorthWestern Energy	\$964.38	8100-31830-403410	SILMD 271 ACCT# 0995095-7
02/24/2014	773127	NorthWestern Energy	\$2,715.76	8100-31830-403410	SILMD 272 ACCT# 0905005-5
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02/24/2014	773127	NorthWestern Energy	\$213.37	8100-31830-403410	SILMD 278 ACCT# 1087619-1
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02/24/2014	773127	NorthWestern Energy	\$327.08	8100-31830-403410	SILMD 285 ACCT# 1206985-2
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02/24/2014	773127	NorthWestern Energy	\$132.27	8100-31830-403410	SILMD 287 ACCT# 1246537-3
02/24/2014	773127	NorthWestern Energy	\$1,725.66	8100-31830-403410	SILMD 288 ACCT# 1303978-9
02/24/2014	773127	NorthWestern Energy	\$320.57	8100-31830-403410	SILMD 289 ACCT# 1685375-6
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02/24/2014	773127	NorthWestern Energy	\$228.46	8100-31830-403410	SILMD 293 ACCT# 1481534-4
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02/24/2014	773127	NorthWestern Energy	\$205.62	8100-31830-403410	SILMD 297 ACCT# 1481539-3
02/24/2014	773127	NorthWestern Energy	\$182.76	8100-31830-403410	SILMD 298 ACCT# 1481540-1
02/24/2014	773127	NorthWestern Energy	\$389.22	8100-31830-403410	SILMD 300 ACCT# 1662840-6
02/24/2014	773127	NorthWestern Energy	\$1,722.49	8100-31830-403410	SILMD 301 ACCT# 1687005-7
02/24/2014	773127	NorthWestern Energy	\$283.74	8100-31830-403410	SILMD 302 ACCT# 1607534-3
02/24/2014	773127	NorthWestern Energy	\$934.25	8100-31830-403410	SILMD 305 ACCT# 1695873-8
02/24/2014	773127	NorthWestern Energy	\$244.65	8100-31830-403410	SILMD 306 ACCT# 1740353-6
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02/24/2014	773127	NorthWestern Energy	\$255.46	8100-31830-403410	SILMD 308 ACCT# 2072459-7
02/24/2014	773127	NorthWestern Energy	\$384.36	8100-31830-403410	SILMD 309 ACCT# 2001311-6
02/24/2014	773127	NorthWestern Energy	\$388.40	8100-31830-403410	SILMD 310 ACCT# 2060519-2
02/24/2014	773127	NorthWestern Energy	\$302.67	8100-31830-403410	SILMD 311 ACCT# 3014475-2
02/24/2014	773127	NorthWestern Energy	\$50.45	8100-31830-403410	SILMD 320 ACCT# 0712569-3
02/24/2014	773129	NPC Research	\$7,142.47	7380-12640-403510	NPC January
02/24/2014	773138	Rimrock Foundation	\$3,764.61	7380-12640-403590	IOP Counselor
02/24/2014	773138	Rimrock Foundation	\$2,587.23	7380-12640-401110	Case Manager
02/24/2014	773138	Rimrock Foundation	\$3,941.68	2480-12620-403560	Treatment Counselor
02/24/2014	773138	Rimrock Foundation	\$3,940.60	7380-12640-403590	IOP Counselor
02/24/2014	773138	Rimrock Foundation	\$4,298.21	7380-12640-403590	IOP Counselor
02/24/2014	773138	Rimrock Foundation	\$4,273.70	2460-12530-403590	Rimrock State Drug Court
02/24/2014	773149	St Vincent Occupational Health	\$1,450.00	0100-17500-403572	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$70.00	0100-51120-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$40.00	1500-21120-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$40.00	1500-22250-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$140.00	2110-31320-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$280.00	5410-31220-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$70.00	5410-31230-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$70.00	5610-71130-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$180.00	5710-71420-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$70.00	5710-71470-403510	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773149	St Vincent Occupational Health	\$565.00	6270-17520-405160	Inv. 41094 Drug Testing/On-Site Nursing/DOT Physicals, Audiograms,Hep B shots
02/24/2014	773161	Town & Country Supply Association	\$809.01	1500-22260-402310	115890: FIRE1 UNLEADED FUEL DELIVERED 2/13/2014
02/24/2014	773161	Town & Country Supply Association	\$824.75	1500-22260-402310	115891: FIRE1 - BLENDED DIESEL FUEL DELIVERED 2/13/2014 (125 GALLONS #2 AND 125 GALLONS #1)
02/24/2014	773161	Town & Country Supply Association	\$409.09	1500-22260-402310	115892: FIRE 6 - BLENDED DIESEL 2/13/2014
02/24/2014	773161	Town & Country Supply Association	\$719.18	1500-22260-402310	115893 FIRE 5 - BLENDED DIESEL 2/13/2014
02/24/2014	773161	Town & Country Supply Association	\$0.02	1500-22260-402310	DECIMAL POINT CORRECTION - FUEL DELIVERED 2/13/2014

Check Date	Check	Name	Amount	Account	Item Desc
02/24/2014	773161	Town & Country Supply Association	\$23,051.36	5610-71180-402313	Invoice #114300. QTA Car Rental Fuel
02/24/2014	773161	Town & Country Supply Association	\$5,355.28	6010-00000-141714	BUS MET PO NUM 294774
02/24/2014	773161	Town & Country Supply Association	\$20,663.81	6010-00000-141000	112027 PO NUM 294791
02/24/2014	773161	Town & Country Supply Association	\$7,713.11	6010-00000-141000	112028 PO NUM 294791
02/24/2014	773176	Yellowstone County Finance Dpt	\$3,655.00	1500-21110-403590	Prisoner Billings for Month Ending January 2014

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public Hearing to Vacate a portion of Henesta Drive

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

---

**PROBLEM/ISSUE STATEMENT**

David and Barbara Hawkins have petitioned to vacate and purchase the east 21.6 feet of Henesta Drive right of way in front of their property, Justiss Subdivision, Lot 10, Block 2. Henesta Drive south of Rosebud Drive exists within 60 feet of right of way except in front of this property where it is 81.6 feet. When the city expanded South 24th Street West, it became necessary to purchase a couple of parcels for the necessary right of way. After carving the right of way for South 24th Street West, the city re-platted the remaining parcels and sold them. Due to the unique shape of the parcel being platted, Henesta Drive ended up with 81.6 feet of right of way near Rosebud Drive. It is only necessary to have 60 feet of right of way for Henesta Drive. The area of the street proposed to be vacated is 2,713 square feet.

**ALTERNATIVES ANALYZED**

The Council may:

- After holding a public hearing, approve the vacation of the above-mentioned right-of-way and allow the purchase by David and Barbara Hawkins or
- Do not approve the vacation of the above-mentioned right-of-way.

**FINANCIAL IMPACT**

The petitioners did provide a comparative market analysis performed by Forrester Group Real Estate for the right of way. The value of the right of way is estimated at \$3,700.00.

**RECOMMENDATION**

Staff recommends City Council approve the vacation of a portion of Henesta Drive.

**APPROVED BY CITY ADMINISTRATOR**

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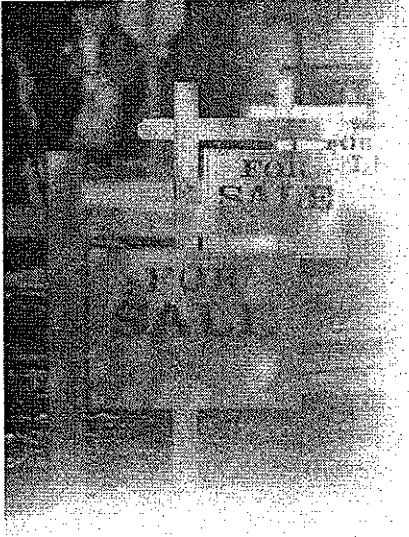
Exhibit

Comparative Market Analysis

Resolution to Vacate

---





# Comparative Market Analysis

Prepared for  
City of Billings

For property at  
0000 HENESTA & ROSEBUD



**Damian Forrester**  
Keller Williams - Forrester Group Real Est  
301 S. 24th Street West, Unit C  
Billings, MT 59102  
Phone: 406-697-3282  
Cell: 406-697-3282  
Fax: 877-464-3998  
Email: [damian@forrestergrouprealestate.com](mailto:damian@forrestergrouprealestate.com)  
[www.ForresterGroupRealEstate.com](http://www.ForresterGroupRealEstate.com)





February 6, 2014

City of Billings

Dear City of,

I appreciate the opportunity to provide you with a Comparative Market Analysis for your property. Prepared exclusively for you, this analysis contains a summary of the recent real estate transactions in your area for properties that are similar to yours. While none of the properties included in this analysis is exactly like yours, they do provide a good basis by which to compare your property with the 'competition'.

The following pages contain descriptions of each property whether it is currently available for sale, recently sold, or was listed but did not sell. A short description of each property is provided, followed by a summary table of each property's key features, which allows you to easily compare the features of your property with others in your area.

Your property may have special features or improvements that could substantially affect the price range in which it should be listed. We will discuss pricing in more detail after you have had a chance to review the enclosed information.

Please give me a call if you have any questions or would like any additional information. I look forward to working with you and selling your property quickly.

Sincerely,

**Damian Forrester**  
**Keller Williams - Forrester Group Real Estate**  
321 South 24th West  
BILLINGS, MT 59102  
Cell: 406-697-3282  
Fax: 877-464-3998  
[damian@forrestergrouprealestate.com](mailto:damian@forrestergrouprealestate.com)  
Web Site: [www.ForresterGroupRealEstate.com](http://www.ForresterGroupRealEstate.com)



**Premier Brokers**

Our company has been offering highly respected professional services in your community for years. You can feel confident that the sale of your property will be handled by competent professionals with many years of experience.

Our services include:

- \* Real Estate Sales
- \* Free Market Evaluations
- \* Property Rentals and Leases
- \* Property Management Services
- \* Relocation Services

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**Damian Forrester, Keller Williams - Forrester Group Real Estate**  
321 South 24th West, BILLINGS, MT 59102  
Office: 406-697-3282 | Cell: 406-697-3282 | Fax: 877-464-3998

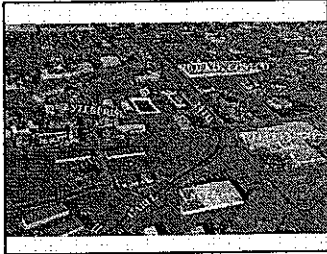
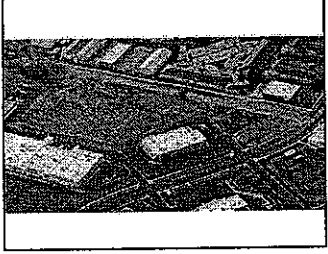
## Comparative Summary

Ref #	Lot SqFt	Acres	# Lots	Type	List Price	Sale Price
	2,000					
0000 HENESTA & ROSEBUD		<b>Lot Desc:</b>			<b>DOM:</b>	
195130	63,688	1.460	1	Commercial	\$ 335,000	\$ 295,000
2449 ENTERPRISE		<b>Lot Desc:</b>		Interior	<b>DOM:</b> 166	Closed
224207	60,897	1.398	1	Commercial	↓ \$ 681,500	\$ 590,000
971 S. 29TH ST. WEST		<b>Lot Desc:</b>		Corner	<b>DOM:</b> 226	Closed
234862	43,560	1.000	1	Commercial	\$ 435,000	
0 S 29TH STREET WEST		<b>Lot Desc:</b>		Interior	<b>DOM:</b>	Active
224208	209,959	4.820	1	Commercial	\$ 1,500,000	
991 S 29TH ST. WEST		<b>Lot Desc:</b>		Corner	<b>DOM:</b>	Active

<b>Total Listings: 0</b>				
	<b>Square Footage</b>	<b>List Price</b>	<b>Sale Price</b>	<b>DOM</b>
<b>Average</b>	76,021	\$ 737,875	\$ 442,500	196
<b>Minimum</b>	2,000	\$ 335,000	\$ 295,000	166
<b>Maximum</b>	209,959	\$ 1,500,000	\$ 590,000	226
<b>Median</b>	60,897	\$ 558,250	\$ 442,500	196

These properties are your competition. A potential purchaser will compare your property to properties similar to these when trying to decide which to buy. Take a look at these properties, if only on paper. Try to be objective and ask yourself, "Which property is the best value?" Is it yours? If not, these other properties may sell before yours. But don't forget the "List Prices" of these properties represent what the sellers WANT for their property, not necessarily what they are really going to get if they sell their property. So when setting the price of your property, don't simply look at the LIST PRICE of the other comparable properties, look at the SALE PRICE of properties comparable to yours which actually SOLD!

## Comparative Properties

	No Photo Available		
	0000 HENESTA & ROSEBUD	2449 ENTERPRISE	971 S. 29TH ST. WEST
Ref #		195130	224207
Status		Closed	Closed
City		Billings	Billings
Subdivision		CLAIMSTAKE	Midland Sub
Type		Commercial	Commercial
Zoning		Controlled Industrial	Controlled Industrial
Lot #		2	1
#Lots		1	60,897
Lot SqFt	2,000	63,688	1.40
Acres		1.46	
Cost Per Acre			
Lot Description		Interior, Level	Corner, Level
Topography		Level	Cleared, Level
Road Frontage		210	0
Street Surface		Asphalt	Asphalt
Manufact Homes		N	n
Mobile Homes		N	n
Modular Homes		N	n
Septic Tank		N	n
Curb/Gutter		Y	y
Sanitary Rest		Y	Y
Subordinate		N	n
Elementary		Elysian	Other
Junior High		Elysian	Other
High School		West	West
Electricity		Available	Available
Sewer		Available	Stubbed In
Gas		Available	Available
Water		Available	Stubbed In
Phone		Available	Available
Contract Date		03/31/10	05/15/13
Sold Date		06/01/10	07/17/13
List Price		\$ 335,000	↓ \$ 681,500
Sold Price		\$ 295,000	\$ 590,000
List Price/SqFt	\$ 0	\$ 5	↓ \$ 11
Sale Price/SqFt			
SP/LP Ratio		1%	1%

**Comparative Properties**

**Ref #**  
**Status**  
**City**  
**Subdivision**  


---

**Type**  
**Zoning**  
**Lot #**  
**#Lots**  
**Lot SqFt**  
**Acres**  
**Cost Per Acre**  


---

**Lot Description**  
  
**Topography**  
  
**Road Frontage**  
**Street Surface**  
**Manufact Homes**  
**Mobile Homes**  
**Modular Homes**  
**Septic Tank**  
**Curb/Gutter**  
**Sanitary Rest**  
**Subordinate**  


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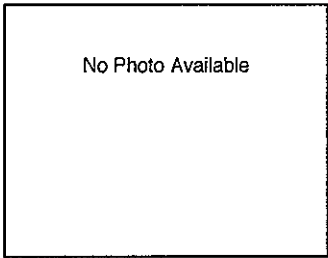
**Elementary**  
**Junior High**  
**High School**  


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**Electricity**  
  
**Sewer**  
  
**Gas**  
  
**Water**  
  
**Phone**  


---

**Contract Date**  
**Sold Date**  
**List Price**  
**Sold Price**  
**List Price/SqFt**  
**Sale Price/SqFt**  
**SP/LP Ratio**



**0 S 29TH STREET WEST**  
 234862  
 Active  
 Billings  
 Parkco Industrial Subdivision

Commercial  
 Controlled Industrial  
 2  
 1  
 43,560  
 1.00

Interior

Level

1  
 Asphalt

y  
 U  
 n

Elysian  
 Elysian  
 West

Available

Available, Buyer To Verify

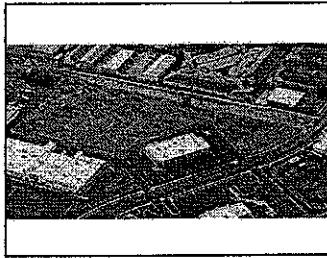
Available, Buyer To Verify

Available, Buyer To Verify

Available, Buyer To Verify

\$ 435,000

\$ 10



**991 S 29TH ST. WEST**  
 224208  
 Active  
 Billings  
 Midland Sub

Commercial  
 Controlled Industrial

1  
 209,959  
 4.82

Corner, Interior

Cleared, Level

0  
 Dirt  
 n  
 n  
 n  
 n  
 Y  
 n

Other  
 Other  
 West

Available

Stubbed In

Available

Stubbed In

Available

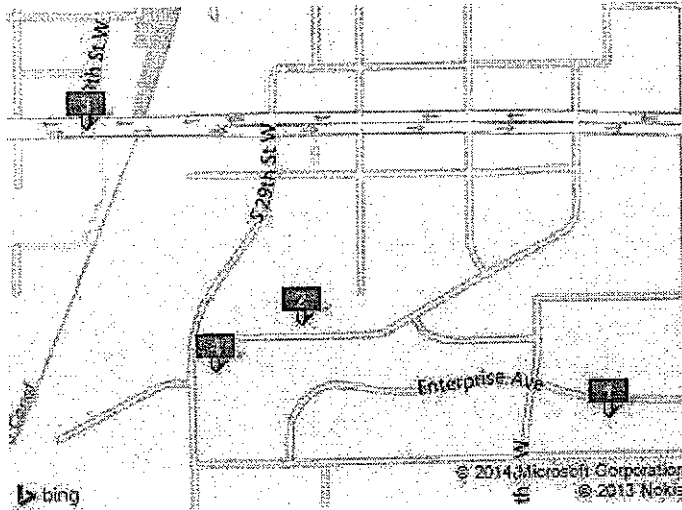
\$ 1,500,000

\$ 7



  
**Com Keller Williams**  
**REALTY**

Prepared for City of Billings



Comparable Address	# Beds	SqFt	Days on Market	List Price	Sale Price
2449 ENTERPRISE			166	\$335,000	\$295,000
971 S. 29TH ST. WEST			226	↓ \$681,500	\$590,000
0 S 29TH STREET WEST				\$435,000	
991 S 29TH ST. WEST				\$1,500,000	

**Damian Forrester, Keller Williams - Forrester Group Real Estate**  
 321 South 24th West, BILLINGS, MT 59102  
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**KELLER WILLIAMS**  
 R E A L T Y

Prepared for City of Billings

	<u>0000 HENESTA &amp; ROSI</u>	<u>2449 ENTERPRISE</u>	<u>971 S. 29TH ST. WEST</u>	<u>0 S 29TH STREET WEST</u>
<b>Address:</b>	0000 HENESTA & ROSI	2449 ENTERPRISE	971 S. 29TH ST. WEST	0 S 29TH STREET WEST
<b>Status:</b>		Closed	Closed	Active
<b>List Price:</b>		\$335,000	\$681,500	\$435,000
<b>Sale Price:</b>		\$295,000	\$590,000	
<b>Bedrooms:</b>				
<b>Square Ft:</b>				
<b>LP/SqFt:</b>				
<b>SP/SqFt:</b>				
<b>Adjustment 1:</b>	2000	63688 Lot SqFt	60897 Lot SqFt	43560 Lot SqFt
<b>+/- Amount:</b>		\$-443,798	\$-423,719	\$-298,993
<b>Adjustment 2:</b>		Utilities \$2568	Utilities \$2568	Utilities \$2568
<b>+/- Amount:</b>		\$-2,568	\$-2,568	\$-2,568
<b>Adjustment 3:</b>		Development Fees \$24:	Development Fees \$24:	Development Fees \$24:
<b>+/- Amount:</b>		\$-2,427	\$-2,427	\$-2,427
<b>Adjustment 4:</b>				
<b>+/- Amount:</b>				
<b>Adjustment 5:</b>				
<b>+/- Amount:</b>				
<b>Adjustment 6:</b>				
<b>+/- Amount:</b>				
<b>Adjustment 7:</b>				
<b>+/- Amount:</b>				
<b>Adjustment 8:</b>				
<b>+/- Amount:</b>				
<b>Total:</b>	\$0	\$-448,793	\$-428,714	\$-303,988
<b>Adjusted List Pr:</b>		\$-113,793	\$252,786	\$131,012
<b>Adjusted Sale Pr:</b>		\$-153,793	\$161,286	
<b>Notes:</b>				

Information provided is reliable but not guaranteed.



  
**KELLER WILLIAMS**  
R E A L T Y

Prepared for City of Billings

**Address:** 991 S 29TH ST. WEST  
**Status:** Active  
**List Price:** \$1,500,000  
**Sale Price:** \_\_\_\_\_  
**Bedrooms:** \_\_\_\_\_  
**Square Ft:** \_\_\_\_\_  
**LP/SqFt:** \_\_\_\_\_  
**SP/SqFt:** \_\_\_\_\_

**Adjustment 1:** 209959 Lot SqFt  
**+/- Amount:** \$-1,230,527

**Adjustment 2:** Utilities \$2568  
**+/- Amount:** \$-2,568

**Adjustment 3:** Development Fees \$24;  
**+/- Amount:** \$-2,427

**Adjustment 4:** \_\_\_\_\_  
**+/- Amount:** \_\_\_\_\_

**Adjustment 5:** \_\_\_\_\_  
**+/- Amount:** \_\_\_\_\_

**Adjustment 6:** \_\_\_\_\_  
**+/- Amount:** \_\_\_\_\_

**Adjustment 7:** \_\_\_\_\_  
**+/- Amount:** \_\_\_\_\_

**Adjustment 8:** \_\_\_\_\_  
**+/- Amount:** \_\_\_\_\_

**Total:** \$-1,235,522

**Adjusted List Pr:** \$264,478

**Adjusted Sale Pr:** \_\_\_\_\_

**Notes:**

Information provided is reliable but not guaranteed.



Prepared for City of Billings

### General Facts About Pricing...

There are certain factors that are within our control and some factors beyond our control when it comes to setting the price. Those factors within our control are: the appearance of the property, how aggressively we market the property and the price. Factors outside our control are: location of property, size and local amenities. It's important to accept those factors that are beyond our control and focus on the pricing and preparation.

A property priced at market value will attract more buyers than a home priced above market value. Consider that a competitively priced property will also attract a greater number of potential buyers and increase your opportunity for a quick sale.

### Market Statistics...

<u>Sell Price Statistics</u>	<u>Sell Price Per Sq. Ft. Statistics</u>	
Average Price: \$3,700	Average Price/Sq Ft: \$0.12 x 2,000	\$200
High Price: \$161,300	High Price/Sq Ft: \$2.65 x 2,000	\$5,300
Median Price: \$3,700	Median Price/Sq Ft: \$0.12 x 2,000	\$200
Low Price: \$-153,800	Low Price/Sq Ft: \$-2.41 x 2,000	\$-4,800

Figures are based on selling price after adjustments, and rounded to the nearest \$100.

### Summary...

Analysis of the selected comparable properties suggest similar properties are selling in the price range of: **\$-153,800 to \$161,300**

**Recommend Price: \$3,700**

**Damian Forrester, Keller Williams - Forrester Group Real Estate**  
321 South 24th West, BILLINGS, MT 59102  
Office: 406-697-3282 | Cell: 406-697-3282 | Fax: 877-464-3998



  
 Estimated Seller's Proceeds  
**RELLER WILLIAMS**  
 REALTY

Prepared for City of Billings

Address: 0000 HENESTA & ROSEBUD

February 6, 2014

<b>Estimated Sale Price:</b>	<b>\$3,700</b>	
<b>1st Mortgage Balance:</b>		
<b>2nd Mortgage Balance:</b>		<b>Buyer's Downpayment:</b>
<b>Total Seller's Mortgage:</b>		<b>Buyer's Total Mortgage:</b>

Seller's Expenses

Figures are estimates only, not a guarantee, and are subject to change.

<b>Total Estimated Seller Expenses:</b>	<u>\$0</u>
<b>Estimated Sale Price:</b>	<b>\$3,700</b>
<b>Less Estimated Seller Expenses:</b>	<b>\$0</b>
<b>Less Sellers Mortgage:</b>	
<b>Estimated Net Proceeds:</b>	<u><b>\$3,700</b></u>

Seller: \_\_\_\_\_ Date: \_\_\_\_\_ Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Agent: \_\_\_\_\_ Date: \_\_\_\_\_

RESOLUTION NO. 14-\_\_\_\_\_

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING **a portion of Right of Way along Henesta Drive.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **a portion of Right of Way along Henesta Drive** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **a portion of Right of Way along Henesta Drive** more particularly described as follows:

The eastern 21.6 feet of Henesta Drive right of way adjacent to the western boundary of Lot 10, Block 2 of Justiss Subdivision, First Amendment, Recorded September 26, 1996, under Document No. 1847081, Records of Yellowstone County.

Said described vacation having an area of 2,720 square feet more or less and being more described on the Right-of-Way Exhibit, attached.

Is hereby discontinued, abandoned and vacated and shall revert to adjacent property owner of Justiss Subdivision, Lot 10, Block 2.

2. **PUBLIC INTEREST.** The discontinuance, vacation and abandonment of the above described **a portion of Right of Way along Henesta Drive**

is in the best interest of the public and can be done without any public detriment.

2014. PASSED by the City Council and APPROVED this 24<sup>th</sup> day of March

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel                      MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin                                      CITY CLERK



**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public Hearing: Sale of Parkland at Rehberg Ranch

**PRESENTED BY:** Mike Whitaker, Parks, Recreation & Public Lands Director

**Department:** Parks/Rec/Public Lands

---

**PROBLEM/ISSUE STATEMENT**

In 2002 Rehberg Ranch Estates Subdivision, First Filing, was approved by Council. With that approval, the developer's parkland dedication was deeded to the City. At the north end of Pa Hollow Trail cul-d-sac there exists a 20 foot wide strip of parkland between Lots 7 and 8 in Block 4. (See attachment A) The property owner of Lots 7 and 8 is interested in combining these 2 lots to provide a more suitable building site. The current location of the parkland was reviewed by staff and was determined that due to terrain, size and location issues, it had limited value as parkland or as an access way to other parkland behind these lots. A proposal was made to relocate the parkland strip to the south property line of lot 8. After reviewing this option it was determined there would be no advantage gained in terms of location and access and would pose additional issues with stormwater runoff. Staff believes it is in the best interest of the City to sell this parcel and recommends approving the resolution. This is also consistent with Council's directive to evaluate parkland for potential disposal. A Comparative Market Analysis (CMA) was done on this property and the suggested value is \$10,500. If Council approves the sale of this parcel, it is further recommended that the CMA value be the minimum opening bid.

**ALTERNATIVES ANALYZED**

Council may:

1. Approve the resolution directing Staff to sell the parkland strip,
2. Not approve the resolution and provide additional direction to staff.

**FINANCIAL IMPACT**

The City will receive additional revenue from the sale of this parkland, which will be used for other park land acquisition or park development that benefits this subdivision. Also, this sale will likely return this parcel to the tax rolls and the City will receive modest tax revenue.

**RECOMMENDATION**

Staff recommends that the City Council approve the resolution directing staff to sell this parkland and that the minimum opening bid be set at the CMA suggested value of \$10,500.

**APPROVED BY CITY ADMINISTRATOR**

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Pa Hollow Park Exhibit 85x11

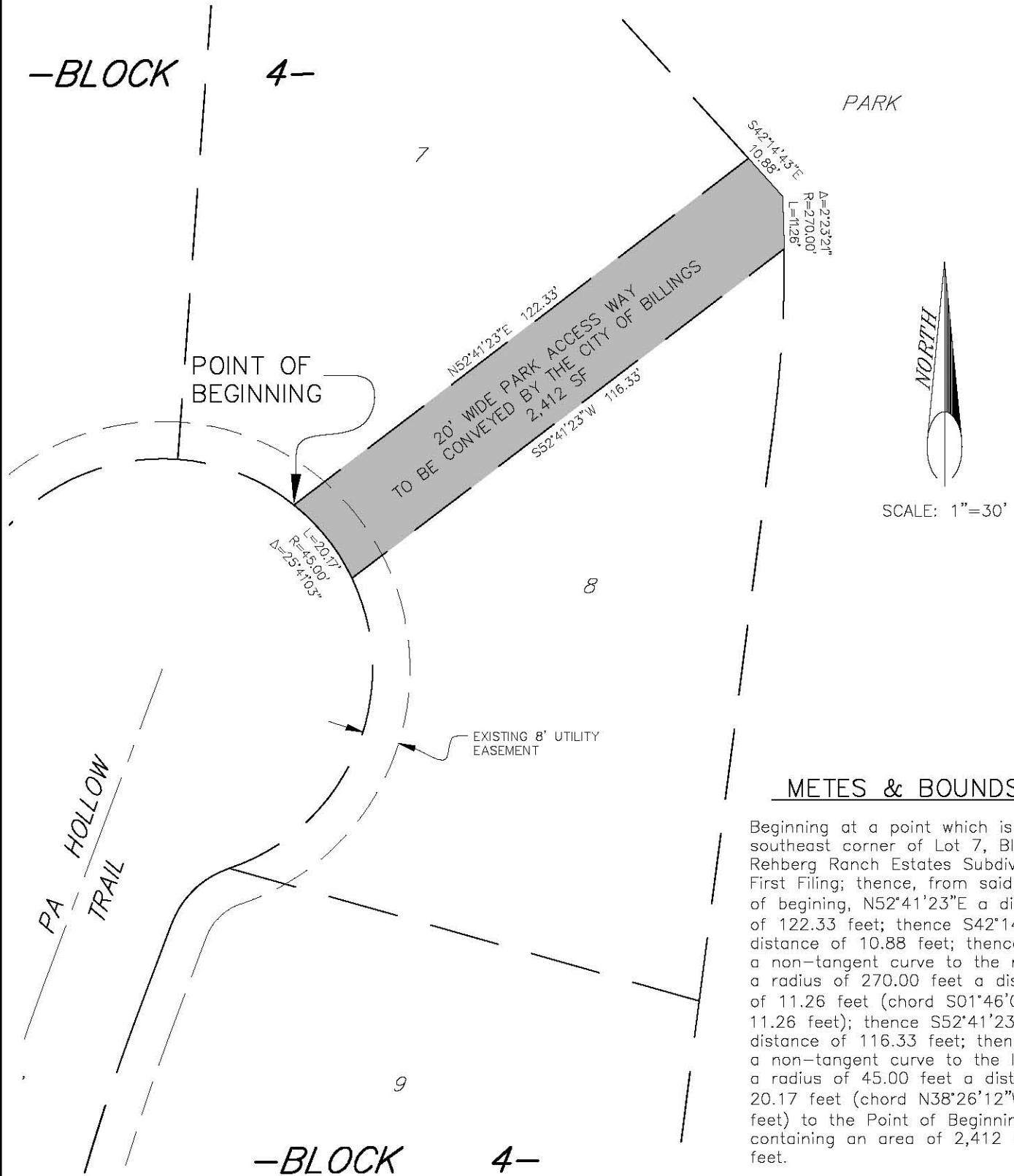
RRE Resolution 3-24-14

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PARKLAND EXHIBIT  
FOR  
LOTS 7 & 8, BLOCK 4 AND THE ADJACENT PARKLAND IN  
REHBERG RANCH ESTATES SUBDIVISION, FIRST FILING

PREPARED FOR : THE CITY OF BILLINGS, MT  
PREPARED BY : SANDERSON STEWART

FEBRUARY 2014  
BILLINGS, MONTANA



METES & BOUNDS

Beginning at a point which is the southeast corner of Lot 7, Block 4, Rehberg Ranch Estates Subdivision, First Filing; thence, from said point of beginning, N52°41'23"E a distance of 122.33 feet; thence S42°14'43"E a distance of 10.88 feet; thence along a non-tangent curve to the right with a radius of 270.00 feet a distance of 11.26 feet (chord S01°46'02"E, 11.26 feet); thence S52°41'23"W a distance of 116.33 feet; thence along a non-tangent curve to the left with a radius of 45.00 feet a distance of 20.17 feet (chord N38°26'12"W, 20.00 feet) to the Point of Beginning; containing an area of 2,412 square feet.

**RESOLUTION 14-\_\_\_\_\_**

**A RESOLUTION PURSUANT TO BILLINGS, MONTANA CITY CODE, ARTICLE 22-900; SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY, DESCRIBING THE PROPERTY TO BE DISPOSED, DECLARING THE INTENT OF THE CITY TO DISPOSE OF THE PROPERTY AND AUTHORIZING CITY OFFICIALS TO PROCEED.**

WHEREAS, the City of Billings finds it necessary or desirable to dispose of a single property it currently owns, located within the Rehberg Ranch Estates Subdivision, Billings, Yellowstone County, Montana, and herein described.

WHEREAS, the notice required by Section 22-902 of the Billings Montana City Code has been duly published and mailed; and

WHEREAS, the public hearing required by Section 22-902 of the Billings Montana City Code was duly held on the 24th day of March 2014;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS MONTANA AS FOLLOWS:

That the City staff is authorized to proceed with disposal of the properties described as follows under the requirements of Section 22-902 of the Billings Montana City Code:

**Description:**

See map attached as Exhibit A.

APPROVED AND PASSED by the City Council of the City of Billings this 24th day of March 2014.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk



**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public Hearing & Resolution for Tree Removal

**PRESENTED BY:** Pat Weber

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

City Code Section 25-209 allows the City to remove dangerous or unsafe trees and charge the property owner. The City Forrester, in the course of his regular daily duties, noticed a particular tree that appeared to have Dutch Elm disease located at 1046 Harvard Avenue. The forrester notified Code Enforcement. Code Enforcement inspected the tree on July 10, 2013 and sent out a code violation notice on July 11, 2013 giving the property owner 10 days to correct the violation. The property owner did not take action within the time allowed, therefore the City paid to have the tree removed in August.

**ALTERNATIVES ANALYZED**

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution, in which case the property owner will not be assessed, and the General Fund will pay for the tree removal.

**FINANCIAL IMPACT**

The assessment totals \$700 and when collected, it will reimburse the General Fund.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

**APPROVED BY CITY ADMINISTRATOR**

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Resolution Tree Removal

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RESOLUTION NO. 14 \_\_\_\_\_

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF REMOVAL OF DANGEROUS OR UNSAFE TREES.

WHEREAS, Billings, Montana City Code, Section 25-209, provides that the City Clerk shall prepare and present a resolution containing a list of the parcel of land in the City, if any part or the whole of any tree growing on private premises, streets, alleys, boulevards, or other public ways shall be found after inspection to be dangerous or unsafe or to otherwise constitute a public hazard or nuisance, the city may declare such tree or portion thereof a public nuisance, order the property owner to abate the nuisance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of abatement of the tree, there is hereby levied and assessed a special tax upon the owner and the lots or parcel described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes. Each lot and parcel assessed and the owner thereof is hereinafter described:

Tax Code /Owner Name /Legal Description	Assessment Amount
A05170 Bruhaug, Rhom & Anja COLLEGE SUBD 1ST FILING, S31, T01 N, R26 E, BLOCK 3, Lot 25 – 26	\$700.00

3. DISPOSITION OF COLLECTIONS. All monies collected from taxes shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On **Monday, March 24<sup>th</sup>, 2014**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on March 6<sup>th</sup> and March 13<sup>th</sup>, 2014 in the Billings Times.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **24<sup>th</sup>** day of **March, 2014**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public hearing and tax incentive for Big Horn Resort

**PRESENTED BY:** Bruce McCandless, Assistant City Administrator

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

The City of Billings operates tax incentive programs under state law authority found in MCA 15-24-1401, 1501, 1502 and 1601. Billings Ventures, LP, dba Big Horn Resort, located at 1801 Majestic Lane, applied for tax exemption under MCA 15-24-1501 and City Resolution No. 05-18377. This program encourages existing building remodeling, reconstruction or expansion by exempting 100% of the new improvements' value from city and local school property tax for five (5) years. In the fifth and subsequent years, the improvements are fully taxable. Minimum requirements are that the construction cost at least \$500,000, it adds at least 2.5% to the property's taxable value, property tax payments are current and that the applicant identify the number and type of jobs that the investment will create.

Big Horn Resort submitted an application to abate taxes on a 2012, \$1,000,000 building expansion to expand its conference center and outdoor patio. After making this investment, the company added 14 part time employees. Zoning is appropriate and taxes are current. The City Council must conduct a public hearing before considering adopting the attached resolution that grants the tax incentive.

**ALTERNATIVES ANALYZED**

The City Council may approve or disapprove the Big Horn Resort tax incentive application.

**FINANCIAL IMPACT**

The business pays about \$166,000 in state, school, county and city taxes, plus about \$30,000 in assessments. The investment will have a taxable value of about \$20,000, so the applicant may save an estimated \$3,600/year in City property tax. Local school taxes are also abated by this action but staff did not attempt to calculate the dollar amount. Assessments are generally not affected by these tax incentives.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and adopt the resolution granting a tax exemption for the Big Horn Resort.

**APPROVED BY CITY ADMINISTRATOR**

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Resolution

Big Horn Resort application

photos

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**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,  
MONTANA, APPROVING TAX BENEFITS FOR BILLINGS VENTURES, LP,  
DBA BIG HORN RESORT

WHEREAS, Resolution 05-18377 provides for granting tax incentives for remodeling, reconstructing and expanding existing commercial buildings pursuant to Section 15-24-1501, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, Billings Ventures, LP, dba Big Horn Resort, has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of Big Horn Resort and has determined that said application meets all qualifications for the tax incentive and should be approved

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

That the application for tax benefits made by Billings Ventures, LP, dba Big Horn Resort is APPROVED. The tax benefits approved are those provided in Resolution 05-18377. The property receiving the tax benefits is described as follows:

Tax Code #A30687; Broso Valley Park Subdivision, Block 1, Lot 10A

PASSED AND APPROVED by the City Council this 24<sup>th</sup> day of March, 2014

CITY OF BILLINGS

By:

\_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk

**APPLICATION FORM FOR TAX REDUCTION  
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 02-66, City Council Resolutions 05-18377 and 05-18378 and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: Billings Ventures L.P. - DBA: Big Horn Resort

2. \_\_\_\_\_ Building Remodel or Reconstruction: Start of construction (date) \_\_\_\_\_  
End of construction (date) \_\_\_\_\_

3. X Building Expansion: Start of construction (date) 7/2/12  
End of construction (date) 11/30/12

4. Address of business: 1801 Majestic Ln., Billings, MT  
Actual location of business: 1801 Majestic Ln., Billings, MT  
Tax Code: A30687

Within city limits of Billings  YES  NO

5. Person representing business and responsible for application:  
Name: Gabe Brosovich Title: President  
Address: 1801 Majestic Ln. Telephone: 406-839-9300

6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 1,000,000. (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).

7. Approximate market value of building prior to remodel, reconstruction, or expansion:  
\$ 13,500,000.


8. Explain business activity - what business does: Hotel, Convention, Waterpark  
Hospitality

9. How long has this business been located in Billings and/or Yellowstone County?  
2007

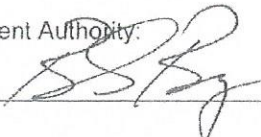
10. As of the date of this application, how many employees does the business have:  
11 Full-time 69 Part-time

11. How many employees will the applicant have within 2 years after completion of construction:  
13 Full-time 79 Part-time


12. Describe job skills required for all new employees both full and part-time: Customer service, banquet set-up, decorating, cleaning
13. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): \$8.50 - \$10.50
14. Other Economic impacts of capital investment: Bringing large meeting to area which impacts shopping, gas, restaurants.
15. Planned hiring schedule: December 2012 to January 2013
16. List other property tax benefits business currently receives or has applied for: none
17. Building permit (attach copy or explain absence): \_\_\_\_\_
18. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.
19. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32<sup>nd</sup> Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearings.
20. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.
21. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.
22. If application is approved, applicant will comply with the following provisions. Failure to comply may lead to the previously approved tax abatement being rescinded:
- i. Provide copy of Occupancy Certificate and/or Certificate of Substantial Completion
  - ii. Annual Survey to be completed and returned to Big Sky EDA by June 30 of each year
  - iii. Remain current on all property taxes on the subject property
  - iv. Notify Big Sky EDA of any ownership changes or change of use of the facility
  - v. Comply with any other provisions set by the Board of County Commissioners and/or City Council
23. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.

24. Signature of applicant/representative: 
25. Date of application: 7/2/12
26. County Commissioner's Public hearing held (date): \_\_\_\_\_
27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

Approve     Deny    Signature:     Date: 8/1/12

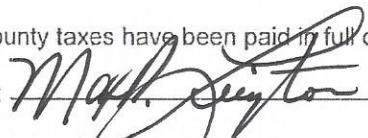
Yellowstone  
County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations:

Signature:     Date: 5/1/13

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

Signature: \_\_\_\_\_    Date: \_\_\_\_\_

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

Signature:     Date: 7/23/14

City Finance office certifies that the business has applied for the appropriate City business license:

Signature: \_\_\_\_\_    Date: \_\_\_\_\_

**Action by Board of County Commissioners:**

Date: \_\_\_\_\_

Approve     Deny    Chair: \_\_\_\_\_    Date: \_\_\_\_\_

Member: \_\_\_\_\_    Date: \_\_\_\_\_

Member: \_\_\_\_\_    Date: \_\_\_\_\_

**Action by Billings City Council (if applicable – project within City limits):**

Approve     Deny

Date: \_\_\_\_\_

CITY OF BILLINGS

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

APPLICATION TO THE DEPARTMENT OF REVENUE  
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION  
(Title 15- Chapter 24 – Part 14 MCA)

To: Assessor  
Yellowstone County

Name of Applicant: Billings Ventures LP. - DBA: Big Horn Resort

Mailing Address: 1801 Majestic Ln., Billings, MT

Legal description of affected property: Section 23, Town of S, Range 25 E  
Lot 10A, Block 1, Broso Valley Park Sub, S23, T01S, R25E

Date construction permit issued: 6/25/12

(If no permit is required, specify the date when certificate in lieu of building permit was issued).  
This application covers the (expansion/new) construction of the Convention plant.  
A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the  
Yellowstone County Courthouse at \_\_\_\_\_ (am/pm) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this  
application. \_\_\_\_\_ Yes \_\_\_\_\_ No

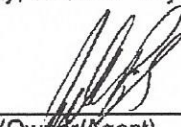
The statutory \$500,000 investment requirement for expansion or modernization has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 2.5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The qualifying property consists of the following: \_\_\_\_\_  
(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by  
the Commissioners of Yellowstone County, on the 9<sup>th</sup> day of August 2002. A copy of the same is  
attached.

  
\_\_\_\_\_  
(Owner/Agent)

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We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for  
\_\_\_\_\_. We find that it (does/does not) conform to the criteria  
as set forth in the resolution adopted by this Board on the 9<sup>th</sup> day of August 2002.

_____ Name	_____ Title
_____ Name	_____ Title
_____ Name	_____ Title



**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public hearing and tax incentive for Roscoe Steel / True North Steel

**PRESENTED BY:** Bruce McCandless, Assistant City Administrator

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

The City of Billings operates tax incentive programs under state law authority found in MCA 15-24-1401, 1501, 1502 and 1601. Roscoe Steel, Inc., dba True North Steel, located at 1501 S. 30th Street West, applied for tax exemption under MCA 15-24-1501 and City Resolution No. 05-18377. This program encourages existing building remodeling, reconstruction or expansion by exempting 100% of the new improvements' value from city and local school property tax for five (5) years. In the fifth and subsequent years, the improvements are fully taxable. Minimum requirements are that the construction cost at least \$500,000, it adds at least 2.5% to the property's taxable value, property tax payments are current and that the applicant identify the number and type of jobs that the investment will create.

True North Steel submitted an application to abate taxes on a 2012, \$1,000,000 building expansion to increase its capacity to build steel storage tanks for the petroleum industry. After making this investment, the company added 12 full time employees. Zoning is appropriate and taxes are current. The City Council must conduct a public hearing before considering adopting the attached resolution that grants the tax exemption.

**ALTERNATIVES ANALYZED**

The City Council may approve or disapprove the tax exemption application.

**FINANCIAL IMPACT**

The company presently pays about \$55,000/year in city, county, state and school property taxes, plus \$21,000 of City assessments. The estimated \$1,000,000 investment will have a taxable value of approximately \$20,000, so the company's estimated City tax savings on this investment may be \$3,600 per year. Local school taxes will also be abated for the five year period but staff did not attempt to calculate the dollar amount. Most assessments are not affected by this tax exemption.

**RECOMMENDATION**

Staff recommends that the City Council conduct the public hearing and approve the resolution granting a tax exemption to True North Steel.

**APPROVED BY CITY ADMINISTRATOR**

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Resolution

TrueNorth application

photos

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**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,  
MONTANA, APPROVING TAX BENEFITS FOR ROSCOE STEEL, INC.,  
DBA TRUENORTH STEEL

WHEREAS, Resolution 05-18377 provides for granting tax incentives for remodeling, reconstructing and expanding existing commercial buildings pursuant to Section 15-24-1501, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, Roscoe Steel, Inc., dba TrueNorth Steel, has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of TrueNorth Steel and has determined that said application meets all qualifications for the tax incentive and should be approved

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

That the application for tax benefits made by Roscoe Steel, Inc, dba TrueNorth Steel is APPROVED. The tax benefits approved are those provided in Resolution 05-18377. The property receiving the tax benefits is described as follows:

Tax Code #D00563; Parcel 1, Certificate of Survey 3401

PASSED AND APPROVED by the City Council this 24<sup>th</sup> day of March, 2014

CITY OF BILLINGS

By:

\_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk

**APPLICATION FORM FOR TAX REDUCTION  
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**  
(As allowed under Yellowstone County Resolution 02-66, City Council Resolutions 05-18377  
and 05-18378 and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: ROSCOE STEEL INC dba TRUENORTH STEEL
2. \_\_\_\_\_ Building Remodel or Reconstruction: Start of construction (date) \_\_\_\_\_  
End of construction (date) \_\_\_\_\_
3. X Building Expansion: Start of construction (date) 2/1/2012  
End of construction (date) 7/1/2012
4. Address of business: 1501 S 30<sup>th</sup> ST. W. BILLINGS, MT  
2847 Hesper Road  
Actual location of business: SAME  
Tax Code: D005630 - D00563 -  
Within city limits of Billings  YES  NO
5. Person representing business and responsible for application:  
Name: ALAN SHERBO Title: V. PRES - STEEL DIV.  
SEAN WATERS Title: V. PRES. - CORRUGATING DIV.  
Address: SAME Telephone: 406-869-2622
6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 1,000,000 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).
7. Approximate market value of building prior to remodel, reconstruction, or expansion:  
\$ 2,389,012
8. Explain business activity - what business does: STEEL FABRICATION &  
CULVERT MANUFACTURING, TANK MANUFACTURING
9. How long has this business been located in Billings and/or Yellowstone County?  
SINCE 1954 (FORMERLY ROSCOE STEEL & CULVERT) NEW OWNERSHIP 2011
10. As of the date of this application, how many employees does the business have:  
95 Full-time \_\_\_\_\_ Part-time
11. How many employees will the applicant have within 2 years after completion of construction:  
10 Full-time \_\_\_\_\_ Part-time

12. Describe job skills required for all new employees both full and part-time: \_\_\_\_\_  
 \_\_\_\_\_  
WELDERS, LABORERS, MACHINE OPERATORS
13. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): 20.<sup>00</sup> - 22.50 INCL. BENEFITS
14. Other Economic impacts of capital investment: SET UP A NEW TANK PRODUCTION EQUIPMENT  
TO INCREASE SALES IN OIL & GAS INDUSTRY
15. Planned hiring schedule: 4-6 2012  
5-7 2013
16. List other property tax benefits business currently receives or has applied for: NONE
17. Building permit (attach copy or explain absence): ATTACHED
18. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.
19. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32<sup>nd</sup> Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearings.
20. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.
21. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.
22. If application is approved, applicant will comply with the following provisions. Failure to comply may lead to the previously approved tax abatement being rescinded:
- i. Provide copy of Occupancy Certificate and/or Certificate of Substantial Completion
  - ii. Annual Survey to be completed and returned to Big Sky EDA by June 30 of each year
  - iii. Remain current on all property taxes on the subject property
  - iv. Notify Big Sky EDA of any ownership changes or change of use of the facility
  - v. Comply with any other provisions set by the Board of County Commissioners and/or City Council
23. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.

24. Signature of applicant/representative: Alan W. Shuba
25. Date of application: 7/18/2012
26. County Commissioner's Public hearing held (date): \_\_\_\_\_
27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

Approve       Deny      Signature: [Signature]      Date: 8/1/12

Yellowstone  
 County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations: 5/1/13  
 The new storage building complies with zoning regulations for use. However, the overall site is non-conforming for landscaping regulations. Future development on the site may trigger compliance.

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:  
 Signature: [Signature]      Date: 1/23/14

City Finance office certifies that the business has applied for the appropriate City business license:  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Action by Board of County Commissioners:  
 Date: \_\_\_\_\_  
 Approve     Deny      Chair: \_\_\_\_\_ Date: \_\_\_\_\_  
 Member: \_\_\_\_\_ Date: \_\_\_\_\_  
 Member: \_\_\_\_\_ Date: \_\_\_\_\_

Action by Billings City Council (if applicable – project within City limits):  
 Approve     Deny  
 Date: \_\_\_\_\_ CITY OF BILLINGS  
 By: \_\_\_\_\_  
 ATTEST:  
 By: \_\_\_\_\_

APPLICATION TO THE DEPARTMENT OF REVENUE  
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION  
(Title 15- Chapter 24 – Part 14 MCA)

To: Assessor  
Yellowstone County

Name of Applicant: ROMMESMA FAMILY LTD PARTNERSHIP

Mailing Address: 702 13 AVE E WEST FARGO, ND 58078

Legal description of affected property: S13, T01, R25E, C.O.S. 3401, PARCEL 001, T&L  
COS 3401 & LTI ROSCOE SUB (01)

Date construction permit issued: 1/6/2012  
(If no permit is required, specify the date when certificate in lieu of building permit was issued).

This application covers the (expansion/new) construction of the EXPANSION plant.

A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the  
Yellowstone County Courthouse at \_\_\_\_\_ (am/pm) on the \_\_\_\_\_ day of \_\_\_\_\_, 20

Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this  
application. \_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory \$500,000 investment requirement for expansion or modernization has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 2.5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The qualifying property consists of the following: \_\_\_\_\_  
(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by  
the Commissioners of Yellowstone County, on the 9<sup>th</sup> day of August 2002. A copy of the same is  
attached.

*Alan W. Steinhilber*  
(Owner/Agent)

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We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for  
\_\_\_\_\_. We find that it (does/does not) conform to the criteria  
as set forth in the resolution adopted by this Board on the 9<sup>th</sup> day of August 2002.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title



**Regular City Council Meeting**

**Meeting Date:** 03/24/2014

**TITLE:** Public Hearing and Tax Incentive for 360 Office Solutions

**PRESENTED BY:** Bruce McCandless, Assistant City Administrator

**Department:** City Hall Administration

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**PROBLEM/ISSUE STATEMENT**

The City of Billings operates tax incentive programs under state law authority found in MCA 15-24-1401, 1501, 1502 and 1601. FKCD LLP/360 Office Solutions Inc., located at 3723 Pierce Parkway, applied for a tax incentive under MCA 15-24-1501 and City Resolution No. 05-18377. This program encourages existing building remodeling, reconstruction or expansion by exempting 100% of the new improvements' value from city and local school property taxes for five (5) years. In the fifth and subsequent years, the improvements are fully taxable. Minimum requirements are that the construction cost at least \$500,000, it adds at least 2.5% to the property's taxable value, property tax payments are current, zoning is correct and that the applicant identify the number and type of jobs that the investment will create.

360 Office Solutions submitted an application to abate taxes on \$836,549 of building remodeling expenses that were completed in 2013. This is the former Sportsman's Warehouse building that closed in February, 2010. After making this investment, the company plans to add 30-38 full time employees over the next two (2) years. Zoning is appropriate and taxes are current. The City Council must conduct a public hearing before considering adopting the attached resolution that grants the tax exemption.

**ALTERNATIVES ANALYZED**

The City Council may approve or disapprove the application.

**FINANCIAL IMPACT**

The property owner paid \$40,000 in county, city, school and state property tax and about \$7,600 of assessments/fees in 2013. The 2014 value isn't available from the Montana Dept. of Revenue until later in the year, but the property value should increase since the building is occupied and generating income and due to the property improvements that are the subject of this incentive. The property improvements could have a taxable value of about \$16,400, so the owner could save an estimated \$2,900 per year in City taxes. Local school taxes are also abated if Council approves the incentive, but staff did not attempt to estimate the amount of tax. Assessments are generally not affected by this tax incentive.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and approve the resolution granting the tax incentive for 360 Office Solutions.

**APPROVED BY CITY ADMINISTRATOR**

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Resolution

Photos

360 Office application

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**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, APPROVING TAX BENEFITS FOR FKCD, LLP / 360 OFFICE SOLUTIONS, INC

WHEREAS, Resolution 05-18377 provides for granting tax incentives for remodeling, reconstructing and expanding existing commercial buildings pursuant to Section 15-24-1501, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, FKCD, LLP / 360 Office Solutions Inc. has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of FKCD, LLP and has determined that said application meets all qualifications for the tax incentive and should be approved

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

That the application for tax benefits made by FKCD, LLP / 360 Office Solutions, Inc. is APPROVED. The tax benefits approved are those provided in Resolution 05-18377. The property receiving the tax benefits is described as follows:

Tax Code #C13943, Block 1, Lot 4 B 1, William D Pierce Subdivision

PASSED AND APPROVED by the City Council this 24<sup>th</sup> day of March, 2014

CITY OF BILLINGS

By:

\_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk



**APPLICATION FORM FOR TAX REDUCTION  
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 02-66, City Council Resolutions 05-18377  
and 05-18378 and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: FKCD, LLP / 360 Office Solutions, Inc.
  
2.  Building Remodel or Reconstruction: Start of construction (date) 8/2013  
End of construction (date) 11/2013
  
3.  Building Expansion: Start of construction (date) \_\_\_\_\_  
End of construction (date) \_\_\_\_\_
  
4. Address of business: 3723 Pierce Parkway, Billings, MT  
Actual location of business: 3723 Pierce Parkway, Billings, MT  
Tax Code: C13943  
Within city limits of Billings  YES  NO
  
5. Person representing business and responsible for application:  
Name: Craig Bartholomew Title: Managing Partner  
Address: 3723 Pierce Parkway Telephone: 406-869-0425
  
6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 836,549 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).
  
7. Approximate market value of building prior to remodel, reconstruction, or expansion:  
\$ 3,089,000
  
8. Explain business activity – what business does: We sell office products, office furniture,  
and business machines (copiers and printers).
  
9. How long has this business been located in Billings and/or Yellowstone County?  
Since 1946 (Started as Reporter Printing)
  
10. As of the date of this application, how many employees does the business have:  
82 Full-time 2 Part-time
  
11. How many employees will the applicant have within 2 years after completion of construction:  
112-120 Full-time 2 Part-time

12. Describe job skills required for all new employees both full and part-time: \_\_\_\_\_

We will need employees with sales skills (selling of office products, furniture, machines), furniture installation, delivery drivers and machine techs, warehouse employees and furniture layout designers, and two management level and an IT person.

13. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): Salary range is \$24,000 – \$75,000 depending on the position.

14. Other Economic impacts of capital investment: Taking a vacant building and placing a large scale, successful operation within the building that has been a part of the community for many years.

15. Planned hiring schedule: Periodically over the next 2 years.

16. List other property tax benefits business currently receives or has applied for: None.

17. Building permit (attach copy or explain absence): \_\_\_\_\_

18. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.

19. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32<sup>nd</sup> Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearings.

20. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.

21. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.

22. If application is approved, applicant will comply with the following provisions. Failure to comply may lead to the previously approved tax abatement being rescinded:

- i. Provide copy of Occupancy Certificate and/or Certificate of Substantial Completion
- ii. Annual Survey to be completed and returned to Big Sky EDA by June 30 of each year
- iii. Remain current on all property taxes on the subject property
- iv. Notify Big Sky EDA of any ownership changes or change of use of the facility
- v. Comply with any other provisions set by the Board of County Commissioners and/or City Council

23. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.

24. Signature of applicant/representative: \_\_\_\_\_
25. Date of application: \_\_\_\_\_
26. County Commissioner's Public hearing held (date): \_\_\_\_\_
27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

\_\_\_ Approve \_\_\_ Deny Signature: \_\_\_\_\_ Date: \_\_\_\_\_

County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations: *Allowed use in*

*Enterprise Light Industrial Zoning* Signature: *[Signature]* Date: *2/28/14*

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

City Finance office certifies that the business has applied for the appropriate City business license:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Action by Board of County Commissioners:

Date: \_\_\_\_\_

\_\_\_ Approve \_\_\_ Deny Chair: \_\_\_\_\_ Date: \_\_\_\_\_

Member: \_\_\_\_\_ Date: \_\_\_\_\_

Member: \_\_\_\_\_ Date: \_\_\_\_\_

Action by Billings City Council (if applicable – project within City limits):

\_\_\_ Approve \_\_\_ Deny

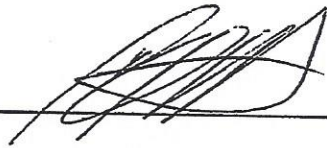
Date: \_\_\_\_\_

CITY OF BILLINGS

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

24. Signature of applicant/representative: 
25. Date of application: \_\_\_\_\_
26. County Commissioner's Public hearing held (date): \_\_\_\_\_
27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

Approve       Deny      Signature: \_\_\_\_\_      Date: \_\_\_\_\_

County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations:

Signature: \_\_\_\_\_      Date: \_\_\_\_\_

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

Signature: \_\_\_\_\_      Date: \_\_\_\_\_

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

Signature:       Date: 2/27/14

City Finance office certifies that the business has applied for the appropriate City business license:

Signature: \_\_\_\_\_      Date: \_\_\_\_\_

**Action by Board of County Commissioners:**

Date: \_\_\_\_\_

Approve       Deny      Chair: \_\_\_\_\_      Date: \_\_\_\_\_

Member: \_\_\_\_\_      Date: \_\_\_\_\_

Member: \_\_\_\_\_      Date: \_\_\_\_\_

**Action by Billings City Council (if applicable – project within City limits):**

Approve       Deny

Date: \_\_\_\_\_

CITY OF BILLINGS

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

APPLICATION TO THE DEPARTMENT OF REVENUE  
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION  
(Title 15- Chapter 24 – Part 14 MCA)

To: Assessor  
Yellowstone County

Name of Applicant: FKCD, LLP

Mailing Address: PO Box 30598, Billings, MT 59107-0598

Legal description of affected property: William D Pierce Subd, S23, T01 S, R25 E, Block 1, Lot 4B1

Date construction permit issued: \_\_\_\_\_  
(If no permit is required, specify the date when certificate in lieu of building permit was issued).  
This application covers the (expansion/new) construction of the \_\_\_\_\_ plant.  
A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the  
Yellowstone County Courthouse at \_\_\_\_\_ (am/pm) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this  
application. \_\_\_\_\_ Yes \_\_\_\_\_ No

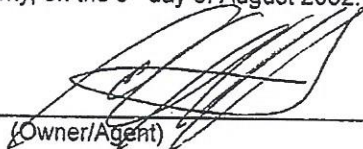
The statutory \$500,000 investment requirement for expansion or modernization has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 2.5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The statutory 5% increase in value requirement for new improvements has been met.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

The qualifying property consists of the following: See attached contractor bid and equipment quotes  
(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by  
the Commissioners of Yellowstone County, on the 9<sup>th</sup> day of August 2002. A copy of the same is  
attached.

  
\_\_\_\_\_  
(Owner/Agent)

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We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for \_\_\_\_\_  
\_\_\_\_\_ We find that it (does/does not) conform to the criteria  
as set forth in the resolution adopted by this Board on the 9<sup>th</sup> day of August 2002.

_____ Name	_____ Title
_____ Name	_____ Title
_____ Name	_____ Title