

RIGHT OF WAY AGREEMENT

STATE OF MONTANA §
 §
COUNTY OF YELLOWSTONE §

FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, PHILLIPS 66 PIPELINE LLC, a Delaware Limited Liability Company, (hereinafter referred to as "Grantor"), does hereby grant unto CITY OF BILLINGS, a municipality (hereinafter referred to as "Grantee"), its successors and assigns, a nonexclusive fifty-four to eighty-two foot (54-82') wide easement ("Easement") to, as applicable, lay, maintain, inspect, alter, repair, operate, protect, replace, relay, and remove or abandon in place, in Grantor's sole option, one permanent storm water drain and culvert system for the transportation of storm water (all rights granted herein being collectively referred to as the "Purpose"), upon, through and under the following described land, situated in Yellowstone County, State of Montana (the "Property"), to wit:

A permanent storm water drain and culvert system easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as Document No. 1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Clerk and Recorder as document No.1167950; thence N33°00'44"E along the line common to said Tract 2-B and Tract 3, Certificate of Survey 960 Amended, recorded in the office of the Yellowstone County Clerk and Recorder as document No. 734668, a distance of 189.85 feet; thence continuing N 33°00'43"E, a distance of 3.12 feet; thence N53°44'35"E, a distance of 237.34 feet; thence N60°22'10"E, a distance of 70.26 feet; thence N45°05'46"E, a distance of 165.77 feet; thence N27°13'22"E, a distance of 22.23 feet; thence N15°39'39"E, a distance of 56.06 feet to a point on the line common to said Tract 2-B and Tract 1-B, Amended Tract 1 of Certificate of Survey No. 1037 recorded in the office of the Clerk and Recorder as document No.1575272; thence N48°55'41"E along said line a distance of 406.51 feet; thence continuing N48°55'41"E along the line common to said Tract 2-B and Tract 1-A of said Amended Tract 1, Certificate of Survey No. 1037, a distance of 38.90 feet; thence N89°31'41"E along the line common to said Tract 2-B and Tract 1-A, a distance of 81.47 feet; thence S42°01'35"W, a distance of 8.54 feet; thence S50°27'52"W, a distance of 112.93 feet; thence S48°55'41"W, a distance of 365.34 feet; thence S15°39'39"W, a distance of 50.86 feet; thence S27°13'22"W, a distance of 36.19 feet; thence S45°05'46"W, a distance of 181.50 feet; thence S60°22'10"W, a distance of 22.52 feet; thence S54°50'34"W, a distance of 50.91 feet; thence S50°47'50"W, a distance of 96.87 feet; thence S54°41'20"W, a distance of 120.19 feet; thence S36°12'12"W, a distance of 185.43 feet to a point on the line common to said Tract 2-B and Tract 1, Certificate of Survey No. 2000; thence N59°46'05"W along the line

common to said Tract 2-B and said Tract 1, Certificate of Survey No. 2000, a distance of 54.07 feet to the Point of Beginning, containing 67,058.81 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure 1) attached hereto.

The sidelines of said permanent easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System NAD83.

THE STORM WATER DRAIN AND CULVERT SYSTEM SHALL BE LAID IN ACCORDANCE WITH THE METES AND BOUNDS DESCRIPTION DESCRIBED AS EXHIBIT "B" AND THE PLAT DESCRIBED AS EXHIBIT "A", BOTH OF WHICH ARE ATTACHED HERETO AND MADE A PART HEREOF.

In addition to the fifty-four to eight-two foot (54-82') wide Easement described above, during the initial construction of the storm water drain and culvert system only, and in no event longer than one (1) year from the Effective Date of this Agreement, Grantee shall have the temporary right to use those portions of Grantor's property specifically described below as Temporary Construction Easements A through C as may be reasonably necessary as temporary construction work space (collectively, the "Temporary Construction Easements"), but, if and only if, no pipelines, facilities or other improvements of Grantor or any third parties located thereon are disturbed or interfered with by Grantee. Upon completion of the initial construction of the storm water drain and culvert system or one (1) year from the Effective Date of this Agreement, whichever occurs first, the right to use all or any portion of the Temporary Construction Easements shall automatically terminate.

Legal Description – Temporary Construction Easement
Lot 2-B, Amended Tract 2 of Certificate of Survey No. 2000
September, 2014

Temporary Construction Easement A

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405 , Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1167950; thence S59°46'05"E along the line common to said Tract 2-

B and Tract 1, Certificate of Survey 2000, a distance of 54.07 feet to the Point of Beginning of Temporary Construction Easement "A"; thence N36°12'12"E, a distance of 185.43 feet; thence N54°41'20"E, a distance of 120.19 feet; thence N50°47'50"E, a distance of 96.87 feet; thence N54°50'34"E, a distance of 50.91 feet; thence N60°22'10"E, a distance of 22.52 feet; thence N45°05'46"E, a distance of 181.50 feet; thence N27°13'22"E a distance of 36.19 feet; thence N15°39'39"E, a distance of 50.86 feet; thence N48°55'41"E, a distance of 18.48 feet; thence S00°29'42"E, a distance of 35.45 feet; thence S15°39'39"W, a distance of 34.29 feet; thence S27°13'22"W, a distance of 41.36 feet; thence S45°05'46"W, a distance of 187.333 feet; thence S60°35'54"W, a distance of 23.38; thence S54°50'34"W, a distance of 50.21 feet; thence S50°47'50"W, a distance of 96.85 feet; thence S54°41'20"W, a distance of 117.61 feet; thence S36°13'49"W, a distance of 180.09 feet to a point on the line common to said Tract 2-B and Tract 1, Certificate of Survey No. 2000; thence N59°46'05"W along said line and distance of 20.02 feet to the Point of Beginning of Temporary Construction Easement 'A', containing 15,003.14 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

Temporary Construction Easement B

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Clerk and Recorder as document No.1167950; thence N33°00'44"E along the line common to said Tract 2-B and Tract 3, Certificate of Survey 960 Amended, recorded in the office of the Yellowstone County Clerk and Recorder as document No. 734668, a distance of 189.85 feet to the Point of Beginning of Temporary Construction Easement 'B'; thence N29°06'12"W along the line common to said Tract 2-B and Tract 3, a distance of 59.03 feet; thence N60°53'43"E, a distance of 46.40 feet; thence S36°15'25"E, a distance of 31.69 feet; thence N53°44'35"E, a distance of 188.04 feet; thence S32°56'38"E, a distance of 20.03 feet; thence S53°44'35"W, a distance of 237.34 feet; thence S33°00'43"W, a distance 3.12 feet to the Point of Beginning of Temporary Construction Easement 'B', containing 6,474.23

square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

Temporary Construction Easement C

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the corner common to said Tract 2-B and Tracts 1-A and 1-B of Amended Tract 1, Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No. 1575272; thence along the line common to said Tract 1-A and Tract 2-B, N48°55'41"E, a distance of 38.90 feet and N89°31'41"E, a distance of 81.47 feet to the Point of Beginning of Temporary Construction Easement 'C'; thence N89°31'41"E, a distance of 27.13 feet; thence S42°01'35"W, a distance of 28.19 feet; thence S50°27'52"W, a distance of 114.13 feet; thence S48°55'41"W, a distance of 9.61 feet; thence N42°43'33"W, a distance of 20.01 feet; thence N48°55'41"E, a distance of 10.45 feet; thence N50°27'52"E, a distance of 112.93; thence N42°01'35"E, a distance of 8.54 feet to the Point of Beginning of Temporary Construction Easement 'C', containing 2,915.17 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary construction easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

Grantee shall also have the rights of ingress and egress to and from said Easement over and across existing roads on the Property for the Purpose. Any existing roads damaged by Grantee shall be repaired and left in the same condition as before use including, but not limited to, grade, drainage, gravel base, fence and gate conditions. Grantor shall have the right to fully

use and enjoy the Property unless it unreasonably interferes with the rights granted herein.

This grant is subject to all grants, easements, leases, mineral leases or rights, reservations, rights and rights-of-way heretofore reserved or granted and/or now existing on the Property and is further made without warranty of title, express or implied.

Grantor shall not construct any house, structures or permanent obstructions in the Easement that unreasonably interfere with the construction, maintenance or operation of Grantee's storm water drain and culvert system constructed hereunder.

The Easement herein granted is subject to the following terms and conditions:

1. Grantee shall pay for damages to the fences, roads, premises, or improvements of Grantor or third party(ies) on the Property caused by the exercise of Grantee's rights under this Agreement.

2. Grantee agrees to construct its storm water drain and culvert system as shown on Plat B, and to restore any existing access roads to their same condition prior to Grantee's use. Grantee shall place water bars on all access road slopes to protect against erosion.

3. Grantee shall provide Grantor with an as built centerline survey of Grantee's storm water drain and culvert system across the Easement.

4. There shall be no above-ground installations or structures on the Easement, , without the express written consent of Grantor.

5. After completion of construction, and whenever repair or maintenance is made on its storm water drain and culvert system, Grantee shall restore the ground disturbed thereby as nearly as practical to the condition thereof prior to the disturbance. Grantee shall not store or dispose of any materials, substances or debris on the Easement, including without limitation, any rocks, brush, branches, or trees which Grantee may have cleared.

6. Grantee shall notify Grantor on or before the seventh (7th) day preceding any entry onto the Property for any non-emergency operations by Grantee, its agents or contractors. In the event an emergency requires that Grantee, its agents or contractors immediately enter the Property, Grantee shall make all reasonable efforts to notify Grantor of such entry. In either case, such notification shall include notification of the time of entry, the anticipated duration of entry, the location or locations of operations, the type and number of equipment involved and the routes to be used from public roads to the location or locations of the operations. Grantee shall comply with any reasonable request of Grantor to alter the routes to be used from public roads to the location or locations of the operations.

7. TO THE MAXIMUM EXTENT ALLOWED BY LAW, GRANTEE COVENANTS AND AGREES TO FULLY PROTECT, RELEASE, INDEMNIFY, DEFEND AND FOREVER HOLD GRANTOR, ITS PARENT, SUBSIDIARIES AND AFFILIATES, PARTNERS COVENTURERS, CONTRACTORS, SUBCONTRACTORS, AND THEIR SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, FINES, PENALTIES, DAMAGES, LOSSES, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES, COSTS OF LITIGATION AND/OR INVESTIGATION), AND LIABILITIES, OF EVERY KIND, (COLLECTIVELY REFERRED TO HEREAFTER AS "CLAIMS"), INCLUDING WITHOUT

LIMITATION THOSE RELATING TO INJURY OR DEATH OF ANY PERSONS WHOMSOEVER, AND/OR DAMAGE (INCLUDING ENVIRONMENTAL DAMAGE) TO, LOSS OF, OR CONTAMINATION OR POLLUTION OF, ANY PROPERTY OR RESOURCE, THAT MAY BE MADE OR COME AGAINST THE INDEMNIFIED PARTIES BY REASON OF, RESULTING FROM, OR IN ANY WAY ARISING OUT OF, THE PURPOSE, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION WHETHER THE SAME IS CAUSED BY OR CONTRIBUTED TO BY THE INDEMNIFIED PARTIES' JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE) OR STRICT LIABILITY, EXCEPT TO THE EXTENT SUCH CLAIMS ARE CAUSED BY THE INDEMNIFIED PARTIES' SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.

8. In the event Grantee abandons the rights granted herein, all rights granted herein shall terminate and Grantee shall, at the written request of Grantor, execute a proper recordable instrument evidencing such termination. The rights herein granted shall be deemed abandoned if: (a) Grantee does not construct its storm water drain and culvert system within one (1) year from the Effective Date of this Agreement; or (b) after completion of construction, Grantee's storm water drain and culvert system is not used for the Purpose herein granted at any time for a continuous period of one (1) year. Upon termination of the rights herein granted, at Grantor's sole option, Grantee shall either remove its storm water drain and culvert system from the Easement or abandon it in place.

9. No waiver of the provisions hereof shall be effective unless it is in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver or waiver in respect of any subsequent breach or default, either of a similar or dissimilar nature, unless expressly so stated in writing.

10. This Agreement is intended solely for the benefit of the parties hereto and shall not create any rights, including without limitation any third party beneficiary rights, in any third party. Grantee shall not have the right to assign this Agreement or any of its rights hereunder, in whole or in part, by operation of law or otherwise, without the prior written consent of Grantor, which consent shall not be unreasonably withheld. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana, without regard to conflicts of law principles that might apply the law of another jurisdiction.

12. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the full extent permitted by law.

13. Any notice, request, instruction or other document to be given hereunder by either party to the other shall be in writing, and delivered personally, by facsimile, by messenger or overnight delivery service, or by certified mail, postage prepaid, return receipt requested, as follows:

If to Grantor, addressed to:

PHILLIPS 66 PIPELINE LLC
Bill A. Hallett
Attorney-In-Fact

3010 Briarpark Drive
PWC-01-1360-19
Houston, TX 77042
Phone: (832-765-2539)
Fax: (832-765-0124)

If to Grantee, addressed to:

CITY OF BILLINGS
210 N. 27TH Street
Billings, MT 59101
Phone: (406) 657-8433
Fax: (406) 237-6291

Either party may change its representative or the address to which notice shall be directed by appropriate written notice to the other party in the manner described above.

15. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties and supersedes any prior understandings, covenants, promises, agreements, conditions or representations by or between the parties, whether written or oral, related in any way to the subject matter hereof. No subsequent alteration, amendment, change, modification or addition to this Agreement shall be binding upon Grantor or Grantee unless reduced to writing and signed by authorized representatives of both parties.

EXECUTED on the dates set forth in the acknowledgments, but effective for all purposes as of the ____ day of _____, 2015 (the "Effective Date").

GRANTOR

PHILLIPS 66 PIPELINE LLC:

By: _____

Printed Name: _____

Title: Attorney-in-Fact

GRANTEE

CITY OF BILLINGS:

By: _____

Printed Name: _____

Title: Mayor

STATE OF _____ §
 §
COUNTY OF _____ §

On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-in-Fact, of PHILLIPS 66 PIPELINE LLC, and acknowledged that he/she, as such Attorney-in-Fact, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said PHILLIPS 66 PIPELINE LLC by himself/herself as Attorney-in-Fact.

NOTARY PUBLIC

Notary Public in and for _____
County

My commission expires: _____

STATE OF MONTANA §
 §
COUNTY OF YELLOWSTONE §

On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as Mayor, of CITY OF BILLINGS, MONTANA and acknowledged that he/she, as such Mayor, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said CITY OF BILLINGS, MONTANA by himself/herself as Mayor.

NOTARY PUBLIC

Notary Public in and for _____
County

My commission expires: _____