

CITY OF BILLINGS
C.O.S. 678, Parcel 4B2, Amend Track 4B

CONSTRUCTION AND MAINTENANCE EASEMENT

The current **Owner, Sandra A. Rietz, and any subsequent Owner(s) of C.O.S. 678, Parcel 4B2 (Grantor)**, for and in consideration of: One (1) and No/100 Dollar(s) and Other Valuable Consideration (\$1.00 and OVC) paid by **City of Billings (Grantee)**, the receipt whereof is hereby acknowledged, as agreed, hereby grants and conveys to **Grantee, a Construction Easement and a Maintenance Easement (Easement)** on the following described property:

A **Construction and Maintenance Easement** for an area of Pond D Storm Drain Improvements located in Tract 4B2, Tract 4B Amended, Certificate of Survey 678, in the NW 1/4 of Section 29, T. 1 N, R. 26. E, 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 Northwest Corner of said Section 29; thence S 89°30'45" E, along the north line of said NW 1/4, a distance of 1,596.65 feet to the Northwest Corner of said Tract 4B2; thence S 20°48'01" W, along the west line of said Tract 4B2, a distance of 15.61 feet to the Point of Beginning; thence S 89°31'13" E a distance of 327.04 feet; thence N 00°28'47" E a distance of 14.59 feet to the north line of said NW 1/4 being also the north line of said Tract 4B2; thence S 89°30'45" E, along the north line of said NW 1/4, a distance of 194.10 feet; thence S 21°42'43" W a distance of 16.27 feet; thence S 75°19'51" W a distance of 94.86 feet; thence S 46°04'34" W a distance of 20.46 feet; thence S 75°19'51" W a distance of 39.41 feet; thence N 89°31'13" W a distance of 43.99 feet; thence N 00°28'47" E a distance of 10.00 feet; thence N 89°31'13" W a distance of 341.86 feet to the west line of said Tract 4B2; thence N 20°48'01" E, along the west line of said Tract 4B2, a distance of 42.65 feet to the Point of Beginning, containing 0.499 acres more or less, and subject to easements either of record or apparent on the ground, and all according to Exhibit A attached hereto.

This **Easement** to **Grantee** is for the purpose of constructing the Pond D Storm Drain Improvement as described in Exhibit A attached and located on the above described property, together with the right of free ingress and egress over and across said property for the above stated purpose. However, the **Grantor** reserves the right to occupy and/or use the property in question at all times for all purposes not inconsistent with the rights herein granted.

Construction and Maintenance Description Area (See attached Exhibit A):

It is understood and agreed that:

1. All pipe improvements located within this **Easement** shall be constructed as per plans and situated as required by the **Grantor**.
2. **Grantee** shall construct the pipe improvements and restore the property to a condition satisfactory to the **Grantor**.
3. To allow travel over and across the property by the **Grantee**, linear portions of the Pond D Storm Drain Improvement construction shall be forty-four (44) feet in width on the north entrance (sufficient to allow access to necessary equipment for installation and maintenance purposes).
4. Appropriate measures, as approved by the **Grantor**, shall be implemented to protect the driveway and facilities in the vicinity of the construction of the Pond Improvements and installation of the storm drain pipe. The area will be topsoiled and reseeded in natural grass. The concrete driveway will be repaved to the existing design standards to match the existing concrete driveway, for the first 50 feet.
5. **Grantee** shall maintain the Pond Storm Drain Improvements in such a manner as to preserve the design and aesthetics of the structure.
6. This **Easement** is not assignable, except with the express written permission of the **Grantor**, which permission shall not be unreasonably withheld. If this **Easement** is assigned by **Grantee** after permission from **Grantor**, use of this **Easement** is expressly limited to the same uses made by the **Grantee** for only the purposes set forth herein.
7. The **Grantor** shall be notified in advance of any scheduled construction to be made in the **Easement** area. The **Grantor** shall also be notified after the completion of the Pond Improvements of any significant maintenance required in the **Easement** area
8. This **Easement** shall continue to be in force and effect so long as the **Grantee** uses the dominant estate for the constructing, operating, maintaining of the Pond D Outfall Improvement as shown in Exhibit A. The **Easement** shall terminate on the date **Grantee** ceases to use the property for the purposes for which the **Easement** has been created. Upon termination of the **Easement**, **Grantee** shall remove all the property and equipment it has installed from the **Easement** property unless **Grantor** has given its permission for such property and equipment to remain in place at no cost to the **Grantor**. The Rights, Restrictions, Covenants, and Hold Harmless Agreement herein contained shall attach to and run with the land and shall bind the parties and their successors in interest hereto and all persons claiming thereunder.
9. **Grantee** shall indemnify, defend and hold the **Grantor** harmless from any and all claims, lawsuits, liabilities, judgments, litigation expenses or other costs, including attorneys' fees incurred by **Grantor** for any injury or damages of any kind or nature to persons or property resulting from the utility or the operations and activities of the **Grantee** on this property pursuant to this **Easement**.

10. The parties agree that this **Easement** is governed in all respects by the laws of the State of Montana and the parties expressly agree that any legal venue will be in the Thirteenth Judicial District Court, Yellowstone County, Montana, and no other venue.
11. The provisions of this **Easement** are for the exclusive benefit of **Grantor** and **Grantee**, and not for the benefit of any third person or entity, nor shall this **Easement** be deemed to have conferred any rights, express or implied, upon any third person or entity.
12. This **Easement** document constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise, or representation not herein expressed, and this **Easement** document, once executed and delivered, shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

Dated this _____ day of _____ 20____

GRANTEE: CITY OF BILLINGS

By: _____
Mayor, City of Billings

Attest:

By: _____
City Clerk

Approved As To Form:

By: _____
City Attorney

STATE OF MONTANA
County of Yellowstone

On this _____ day of _____ 20____, before me personally appeared _____ and _____, the Mayor and City Clerk of the City of Billings, Montana, who executed the above and foregoing instrument and acknowledged to me that they executed the same.

Notary Signature

Printed Name

Notary Public for the State of Montana

Residing at: _____

My Commission Expires: _____
(MM/DD/YYYY)

GRANTOR: SANDRA A. RIETZ

By: _____
Sandra A. Rietz

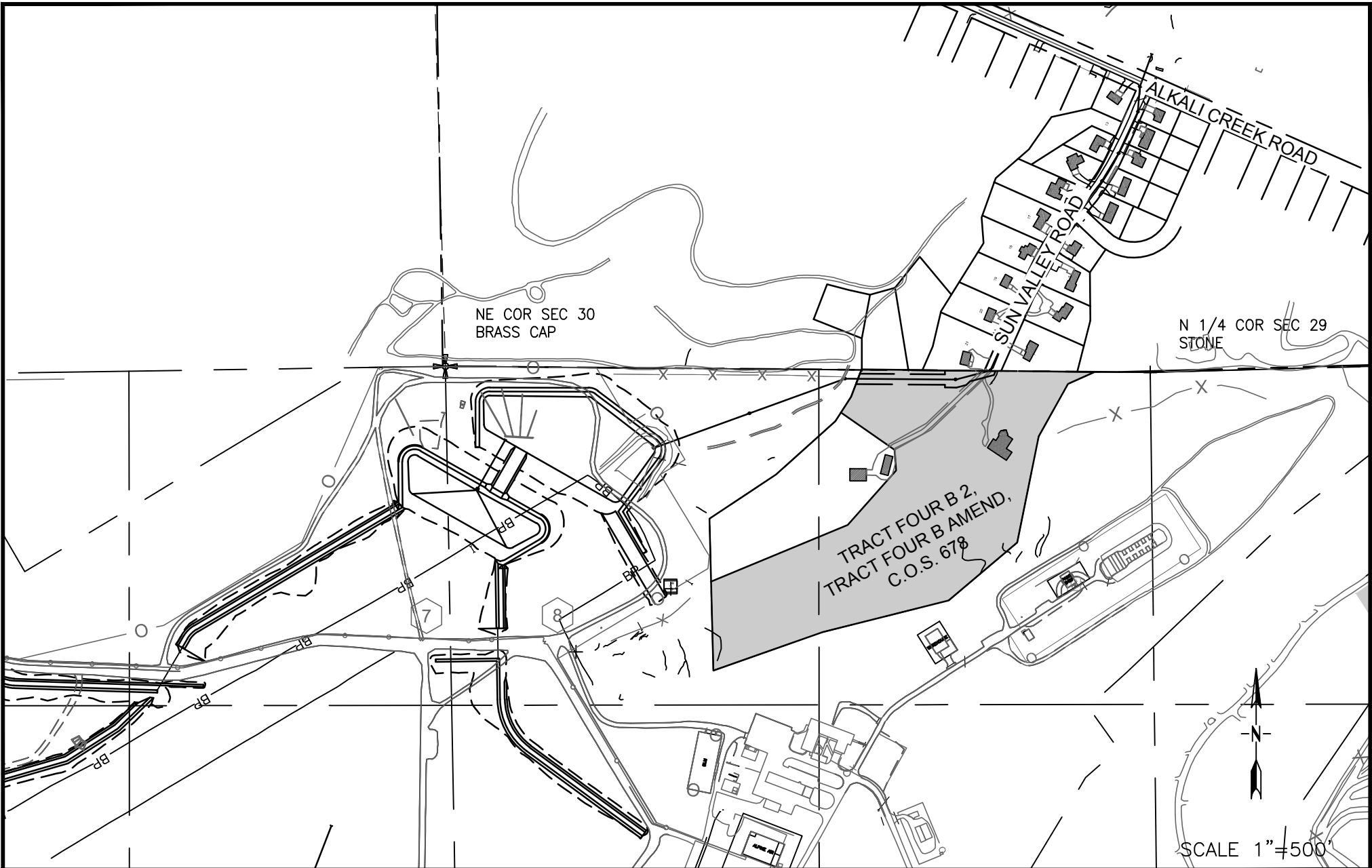
STATE OF MONTANA
County of Yellowstone

On this _____ day of _____ 20____, before me personally appeared _____, who executed the above and foregoing instrument and acknowledged to me that she executed the same.

Notary Signature

Printed Name

Notary Public for the State of Montana
Residing at: _____
My Commission Expires: _____
(MM/DD/YYYY)



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DRAWN BY: KDK
DSGN BY: HMS
APPR. BY: HMS
DATE: 1/2016

BILLINGS

EXHIBIT A
AVIATION AND TRANSIT DEPARTMENT - CITY OF BILLINGS

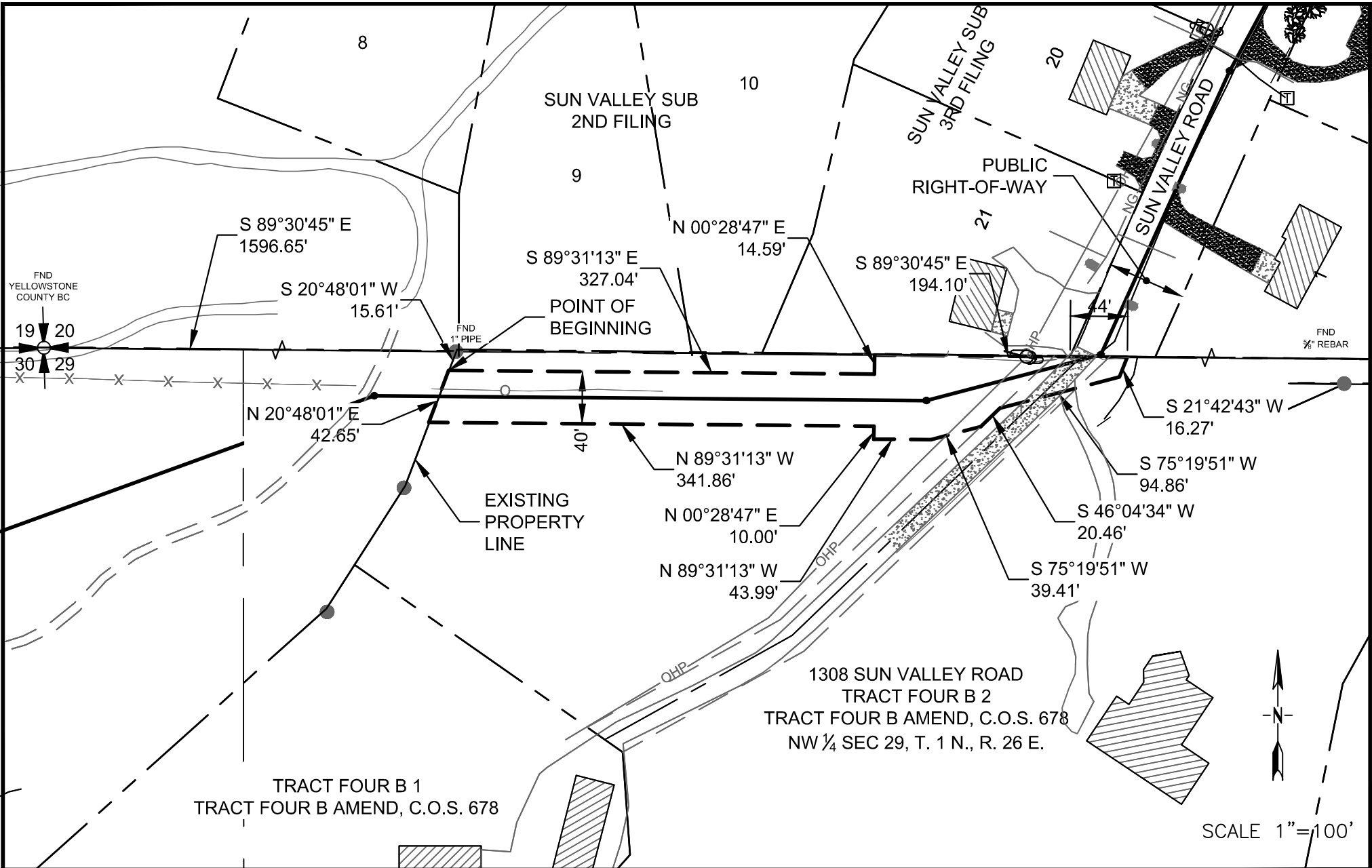
MONTANA

PROJECT NO.
2447.110

CONSTRUCTION AND MAINTENANCE EASEMENT
FOR TRACT FOUR B 2, TRACT FOUR B AMEND, C.O.S. 678

FIGURE NUMBER

1 of 2



Morrison Maierle
 engineers • surveyors • planners • scientists

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BILLINGS

EXHIBIT A
 AVIATION AND TRANSIT DEPARTMENT - CITY OF BILLINGS

MONTANA

CONSTRUCTION AND MAINTENANCE EASEMENT
 FOR TRACT FOUR B 2, TRACT FOUR B AMEND, C.O.S. 678

PROJECT NO.
 2447.110

FIGURE NUMBER
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