

CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

Project: WO 16-12

County: Yellowstone

Designation: 4th Avenue North & Division Street Capacity Improvements

RIGHT OF WAY PURCHASE AGREEMENT

Parcel from Station-To-Station Subdivision Section Township Range:

A tract of land situated in Lots 13 – 17, Block 50 of Billings Original Townsite, Document No. 16312, of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana.

List Names & Addresses of the Grantors:

Judith J. Wallinder Revocable Trust
3330 4th Avenue North
Billings, MT 59101

DB Squared, LLC
2047 Broadwater Avenue, Suite 1
Billings, MT 59102

THIS AGREEMENT, is made this _____ day of _____, 2017, between City of Billings, a political subdivision of the State of Montana, 210 North 27th Street, Billings, MT, 59103, by its authorized representatives, herein called "CITY," its successors and assigns, and Judith J. Wallinder Revocable Trust, 3330 4th Avenue North, Billings, MT 59101; and DB Squared LLC, 2047 Broadwater Avenue, Suite 1, Billings, MT 59102, herein called "GRANTORS."

The parties agree as follows:

1. CITY shall pay GRANTORS such sums of monies as set out below. GRANTORS agree to pay all taxes and assessments due and owing, including those for year 2017. GRANTORS shall execute and deliver to CITY a notarized instrument of conveyance corresponding to the interest being acquired.
2. This agreement shall not be binding unless and until approved of and accepted by the CITY's authorized representative.
3. The parties have, herein, set out the whole of their agreement, the performance of which constitutes the entire consideration for the grant of said right of way and shall relieve the CITY of all future claims or obligations on that account or on account of the location, and construction of the proposed road improvements. GRANTORS represent

that to the best of their knowledge no hazardous materials have been stored or spilled on the subject property during their ownership or during previous ownerships at least insofar as their has observed or has been informed. In the alternative, if GRANTORS have knowledge of storage or spill of hazardous materials on the subject property, that information is set out below. This sale is conditional upon full disclosure of any such information.

4. CITY shall pay GRANTORS for 348 square feet of fee ownership as follows:

348 square feet by deed \$4,200.00

5. CITY shall make payment to GRANTORS by a check in the amount of \$4,199.00, to be made payable to DB Squared, LLC and mailed to 2047 Broadwater Avenue, Suite 1, Billings, MT 59102; and a check in the amount of \$1.00 to Judith J. Wallinder Revocable Trust and mailed to 3330 4th Avenue North, Billings, MT 59101.
6. It is understood and agreed that CITY is acquiring this right-of-way to construct the 4th Avenue North & Division Street Improvements which will consist of widening, curb and gutter, sidewalk, storm drain, reconstruction of the existing traffic signal, and two new storm drain inlets along the curb line. These Improvements shall be of no cost or expense to GRANTORS and shall be maintained according to CITY's policy in effect at such time maintenance is necessary. CITY further agrees that any future modifications to the existing property necessary to reasonably match these Improvements shall be at no cost or expense to GRANTORS; any future modifications to 4th Avenue North and Division Street to accommodate development of the property shall be at the expense of the developer(s).
7. This agreement, upon execution by an agent of CITY and presentation to GRANTORS so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by GRANTORS.

WITNESS WHEREOF, the parties hereto have executed this agreement the day and year as written below.

RECOMMENDED FOR APPROVAL

GRANTORS

Project Coordinator For City of Billings (Date)

Grantor (Date)

Grantor (Date)

**APPROVED OF AND ACCEPTED FOR ON BEHALF OF
THE CITY OF BILLINGS:**

BY: _____
Thomas W. Hanel , MAYOR (Date)

ATTEST:

BY: _____
Denise Bohlman, CITY CLERK (Date)

APPROVED AS TO FORM:

By: _____
Brent Brooks, City Attorney (Date)