

**CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT**

Project: WO 16-09

County: Yellowstone

Designation: Grand Avenue – 52nd Street West to 58th Street West

RIGHT OF WAY AGREEMENT

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

A Tract of land situated in Tract 3, Certificate Of Survey No. 2298 as recorded in Document No. 1336053, in the N1/2 of Section 4, T. 1 S., R. 25 E., P.M.M., Yellowstone County, Montana.

List Names & Addresses of the Grantor, Con. Purchaser & Lessee:

Hope Evangelical Church
5554 Grand Avenue
Billings, MT 59106

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 Hope Evangelical Church, 5554 Grand Avenue, Billings, Montana 59106, herein called "GRANTOR", and it's assessors and assigns.

The parties agree as follows:

1. GRANTOR agrees to convey existing 30 foot road easement on both 56th Street West and Grand Avenue to CITY. GRANTOR also agrees to convey additional 30 foot width of right of way along Grand Avenue, south of existing road easement. All areas shown and described on warranty deed to be created by CITY.
2. GRANTOR agrees to pay all taxes and assessments due and owing, including those for year 2016. GRANTOR shall execute and deliver to CITY the warranty deed corresponding to the interest being acquired.
3. This agreement shall not be binding unless and until approved of and accepted by the CITY's authorized representative.

4. 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. GRANTOR represents that to the best of his/her knowledge no hazardous materials have been stored or spilled on the subject property during his/her ownership or during previous ownerships at least insofar as he/she has observed or has been informed. In the alternative, if GRANTOR has knowledge of storage or spill of hazardous materials on the subject property, that information is set out below. This agreement is conditional upon full disclosure of any such information.
5. It is understood and agreed that CITY is acquiring this right of way to construct the Grand Avenue Improvements which includes widening of Grand Avenue from 52nd Street West to 58th Street West, construction of a multi-use path, and the relocation of the power poles and lines on the south side of Grand Avenue. These Improvements as specifically defined in item 6 below shall be of no cost or expense to GRANTOR and shall be maintained according to CITY's policy in effect at such time maintenance is necessary and irrigation company requirements. GRANTOR agrees to grant CITY a 10 foot wide temporary easement to construct improvements for a period of one year along north property line. CITY shall clear temporary easement of any debris after construction and left in a good, workmanlike condition that is satisfactory to the property owner.
6. CITY agrees to construct improvements along property line on both 56th Street West and Grand Avenue in an amount roughly equal to the value of the right of way which was determined to be \$31,388. The improvements are anticipated to include:
 - a. Piping of irrigation ditch on Grand Avenue for full length of property frontage. (One half of cost will be counted toward value of right of way improvements.)
 - b. Construction of multiuse path to be located within the 30 foot right of way. If GRANTOR moves sign, the path will be located at back of right of way where feasible between corner of 56th/Grand and west side of drive approach. If GRANTOR does not move sign, path will be located further to north within right of way. (Cost equivalent to 5 foot sidewalk will be counted toward value right of way improvements.)
 - c. Associated landscaping for drainage, boulevard installation and construction restoration. Trees on east side of property will not be removed. Grassy areas will be seeded unless sod is requested by GRANTOR. Rock landscaping will be reconstructed as needed and through discussion with GRANTOR. Irrigation system modifications to be completed by GRANTOR unless requested during project.
 - d. Piping of irrigation ditch on 56th Street West starting from north end and moving south for as far as can be accomplished with funds and as approved by irrigation company. GRANTOR to grant CITY construction easement for irrigation ditch area for a period of one year.
 - e. If additional funds remain after the aforementioned improvements, sidewalk may be added along 56th Street West frontage starting from north end and moving south for as far as can be accomplished with funds and as approved by

GRANTOR. GRANTOR to grant sidewalk easement or dedicate right of way to CITY if work for area where sidewalk is installed.


- f. Improvements do not include moving of sign. If sign work is requested by GRANTOR and performed by CITY or their contractor, associated cost will be counted toward the value of the right of way improvements.
 - g. Value of right of way improvements will be determined based on bid prices and overhead associated costs (determined on a percentage of total project basis) including mobilization/demobilization, taxes, bonds, insurance, traffic control, engineering, construction management.
7. CITY will provide initial improvement plan based on construction bid. CITY will provide updates to GRANTOR during project if project costs change. Neither CITY nor GRANTOR will owe the other entity funds at the end of the project if the total value of improvements is above appraised land value of \$31,388 or the improvements defined in items 6a through 6e, above, are completed. Items 6a through 6c will be completed at a minimum, even if cost is above appraised land value. Additional work can be done and funded by GRANTOR if agreed upon by both parties in writing.
8. CITY will not pursue assessment for 56th/Grand Intersection improvements from GRANTOR as long as property remains at current use. If property redevelops or expands to a level that requires a traffic impact study (TIS), contribution could be requested in accordance with results of TIS and site development policy in place at the time of redevelopment.
9. CITY will provide requirements for sign relocation to GRANTOR to ensure sign is moved to location meeting CITY code and is not adjusted to a non-compliant installation.


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

RECOMMENDED FOR APPROVAL


Project Coordinator For City of Billings (Date) 3/15/17

GRANTOR(S)


Grantor (Date) 3-9-2017


Grantor (Date) 3-9-2017

**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)