

**REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
CITY OF BILLINGS**

Right-of-Way to be vacated:

a portion of Lake Heights Drive and Ditton Drive within
Lake Hills Subdivision 25th Filing, within W1/2SE1/4 of
Section 9, T01N, R26E, Yellowstone County, Montana
as shown on Attachment No. 1

We, being all the abutting property owners, request of the City Council the vacation of the above described:

Street Alley Other R/W

<u>SIGNATURE</u>	<u>DATE</u>	<u>PROPERTY OWNERSHIP</u>
<u>See Attachment No. 2</u>		

(Additional signatures, if needed, can be on additional sheets.)

WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.

	<u>Approved By/Date</u>	<u>Disapproved By/Date</u>
City Public Works Heights Water	<u>Wade Nielsen 12-11-18</u>	
Montana Dakota Utilities Northwestern Energy Charter CenturyLink	<u>Blair Bryant Pealby 1/29/18</u>	
Yellowstone Valley Electric	<u>Ray Hart 12/12/18</u>	
City/Co. Planning Board	<u>Maell 1/24/19</u>	

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

Petitioner's Interest in vacating the public right-of-way: The petitioners will be developing the area into approximately 59 building pads with water, sewer, and street improvements, as shown on Attachment No. 3. The building pads will be sold for future construction of patio homes.

The petitioner acknowledges and understands that the City will appoint an appraiser to estimate the value of the real property being vacated, and the petitioner agrees that the fee for the appraiser will be borne by the petitioner(s).

ATTACHMENTS:

- X Title Report(s)
- X Comments from all Utilities
- X Map of R/W to be Vacated – ATTACHMENT NO. 1
- N/A Traffic Accessibility Study (When required by the City)

AN APPLICATION FEE OF \$200 MUST ACCOMPANY THIS PETITION.

Fee Received By: _____ Date: _____
City Engineers Office

A DEPOSIT FOR AN APPRAISAL MUST ALSO ACCOMPANY THIS REQUEST.

Deposit Amount: _____

Received By: _____ Date: _____
City Clerk

Copies of City of Billings Ordinance No. 80-4269 and 90-4822, establishing the procedure and compensation to the City of Billings for Discontinuance and Vacation of City Streets, Alleys, and Rights-of-Way, are attached for reference.

The application fee, as stated in BMC 22-602, will be set by the City Administrator after review by the staff. The City Clerk will advertise the public hearing at least one week before the petition is acted upon by the City Council.

This petition is to be returned to the City Clerk, PO Box 1178, Billings, MT 59103. (First Floor, City Hall)

This petition must be accompanied by the statements and reports as listed in BMC 22-601 (a), (b), (c), (d), (e), and (f). (Copy attached)

CONTACT PERSON FOR PETITION:

Greg Reid, WWC Engineering

Telephone No.: 406-894-2210

Mailing Address: 51 N 15th St., Ste1

Billings, MT 59101

Date: November 26, 2018

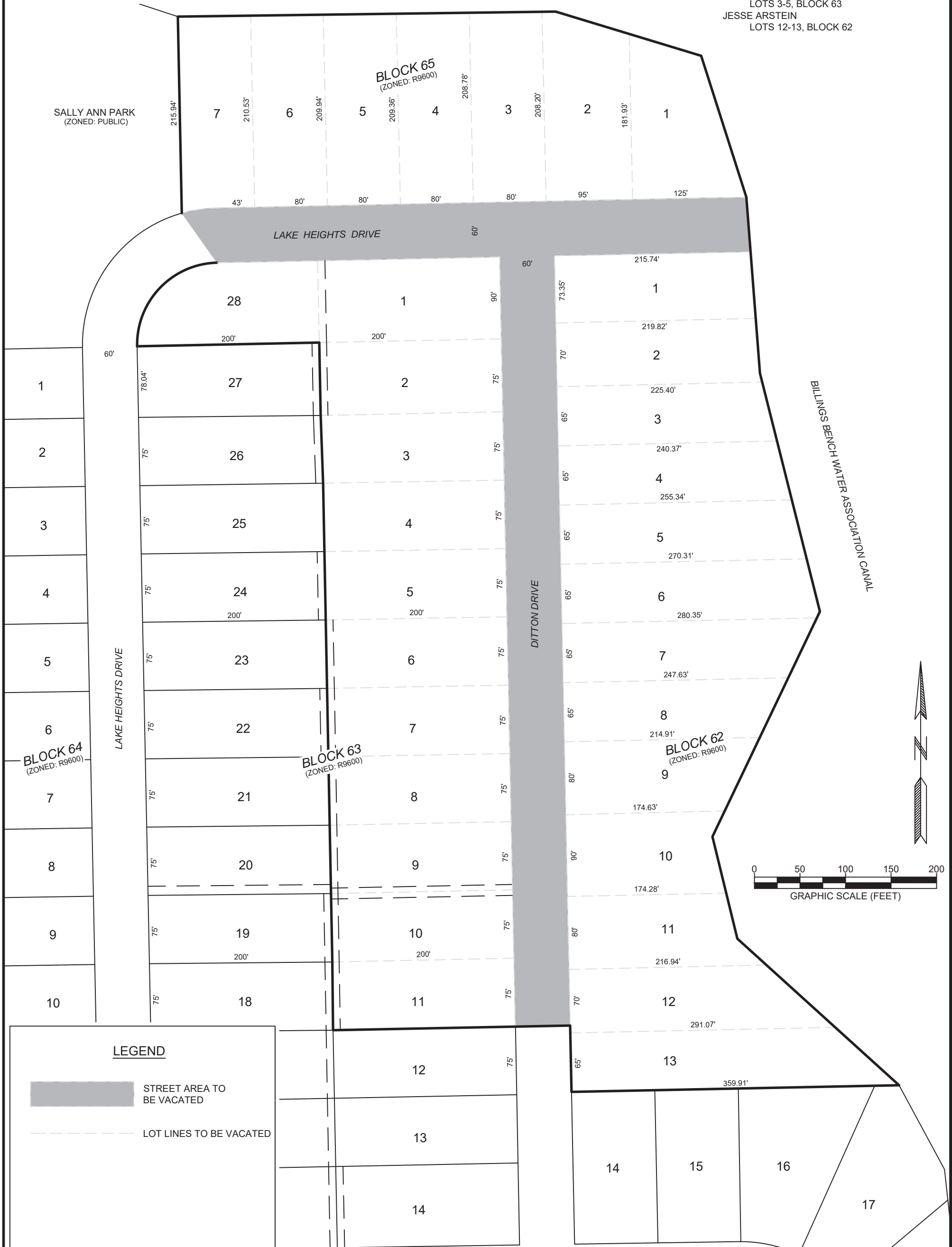
CITY COUNCIL ACTION: _____

DATE: _____

COMPLETED FORM WITH ATTACHMENTS IS TO BE RETURNED TO BE FILED WITH THE CITY CLERK

**VACATION REQUEST
A PORTION OF LAKE HEIGHTS DRIVE AND DITTON DRIVE WITHIN
LAKE HILLS SUBDIVISION 25TH FILING
WITHIN W1/2SE1/4 OF SECTION 9, T01N, R26E
YELLOWSTONE COUNTY, MONTANA**

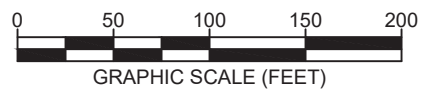
LANDOWNERS:
SUSAN B. LOVELY, INC. & LAURE TAYLOR, INC.
LOTS 1-11, BLOCK 62
LOTS 1-11 & 28, BLOCK 63
LOTS 1-3 & 7, BLOCK 65
JULIA LAWRENCE
LOTS 4-6, BLOCK 65
KEN E. ROLL
LOTS 3-5, BLOCK 63
JESSE ARSTEIN
LOTS 12-13, BLOCK 62



LEGEND

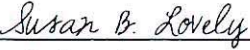

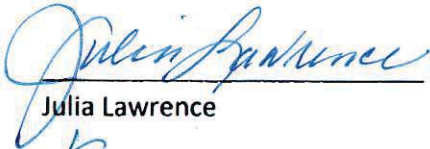

STREET AREA TO BE VACATED

LOT LINES TO BE VACATED



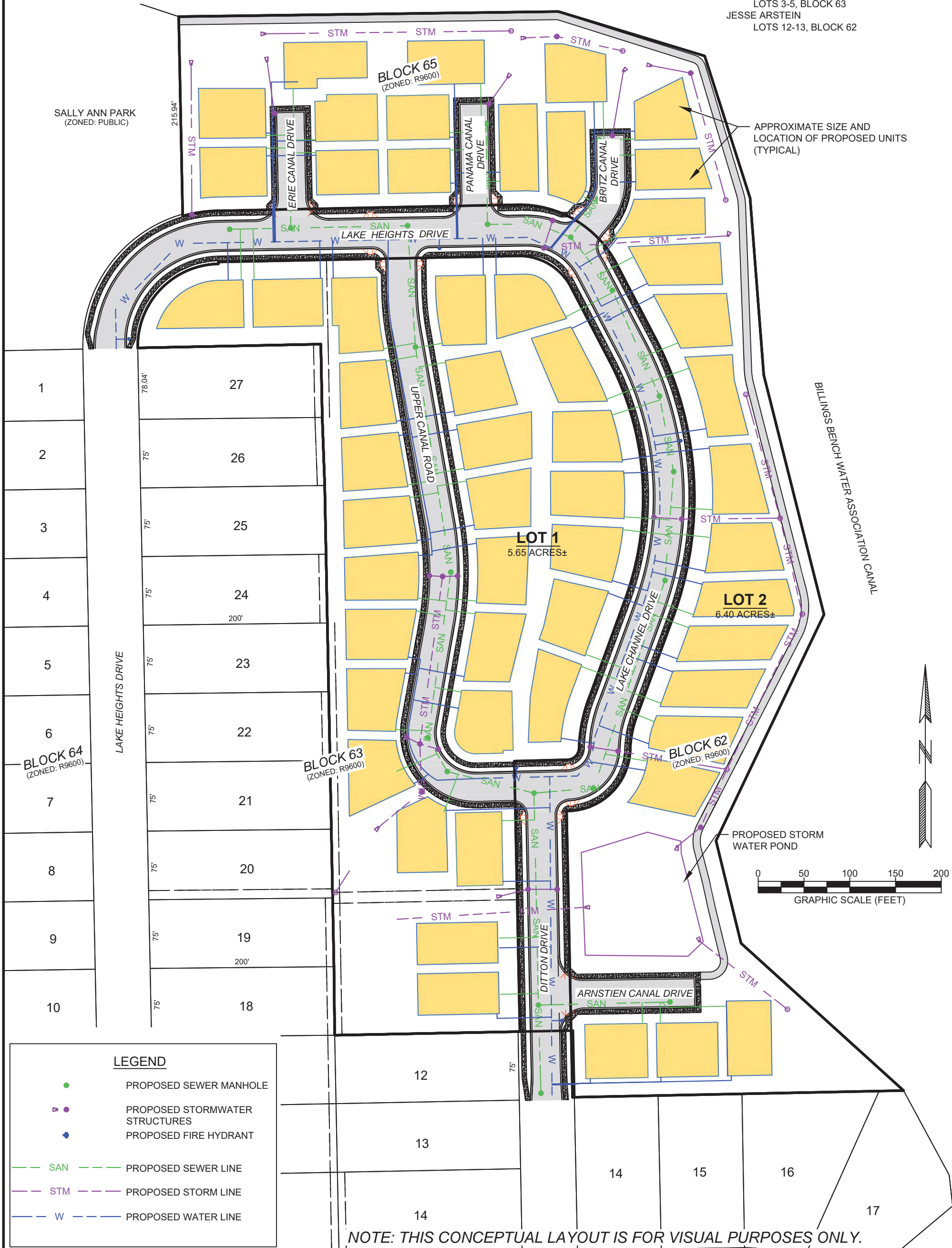
<p>T SHEET NO. OF 2</p>	<p>CANAL VISTA VACATION REQUEST</p>	<table border="1"> <tr> <th>DSGN</th> <th>DATE</th> <th>CKD</th> </tr> <tr> <td>AMR</td> <td>11/08/18</td> <td>GTR</td> </tr> <tr> <th>REV</th> <th>DATE</th> <th>CKD</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DSGN	DATE	CKD	AMR	11/08/18	GTR	REV	DATE	CKD										<p>PREPARED FOR: CANAL VISTA OWNERSHIP GROUP</p>	<p>WWC ENGINEERING 51 N 15TH STREET, SUITE 1 BILLINGS, MT 59101 (406) 894-2210</p>	<p>COPYRIGHT 2018 WWC ENGINEERING, HEREBY RESERVES OUR COMMON LAW COPYRIGHT IN THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN AS AN INSTRUMENT OF PROFESSIONAL SERVICE WHICH SHALL NOT BE USED IN WHOLE OR PART FOR ANY PROJECTS OR OTHER USE WITHOUT OUR EXPRESS WRITTEN AUTHORIZATION.</p>
		DSGN	DATE	CKD																			
AMR	11/08/18	GTR																					
REV	DATE	CKD																					
<p>JOB # 18147</p>	<p>PLOT STYLE: WWC COLOR.ctb 17/01/2019 FILE PATH: K:\Billings\SL\18147\CADD\SURVEY\Canal Vista Road Vacation 2.dwg</p>																						

Request to Vacate Public Right-of-Way Signatures

<u>Signature</u>	<u>Date</u>	<u>Property Ownership</u>
 Susan B. Lovely, Inc.	11-21-2018	Lots 1-11, Block 62, Lots 1-11 Block 63 Lots 1-3 & 7, Block 65
 Laure Taylor Inc.	11-15-2018	Lots 1-11, Block 62, Lots 1-11 Block 63 Lots 1-3 & 7, Block 65
 Julia Lawrence	11-21-18	Lots 4-6, Block 65
 Ken E. Roll	11-20-18	Lots 3-5, Block 63
 Jesse Arstein	11-20-18	Lots 12-13, Block 62

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JULIA LAWRENCE
LOTS 4-6, BLOCK 65
KEN E. ROLL
LOTS 3-5, BLOCK 63
JESSE ARSTEIN
LOTS 12-13, BLOCK 62



1	78.04'	27
2	75'	26
3	75'	25
4	75'	24
5	75'	23
6	75'	22
7	75'	21
8	75'	20
9	75'	19
10	75'	18

LEGEND

- PROPOSED SEWER MANHOLE
- ◻ PROPOSED STORMWATER STRUCTURES
- ◆ PROPOSED FIRE HYDRANT
- SAN --- PROPOSED SEWER LINE
- STM --- PROPOSED STORM LINE
- W --- PROPOSED WATER LINE

T
SHEET NO.
2
OF 2

**CANAL VISTA
VACATION REQUEST**

DSGN	DATE	CKD
AMR	11/08/18	GTR
REV	DATE	CKD

JOB # 18147

PREPARED FOR:
CANAL VISTA OWNERSHIP
GROUP

WVC ENGINEERING
51 N 15TH STREET, SUITE 1
BILLINGS, MT 59101
(406) 894-2210

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PLOT STYLE: WVC COLOR.ctb
17/01/2019
FILE PATH: K:\Billings\SL\18147\CADD\SURVEY\Canal Vista Road Vacation 2.dwg

Aaron Redland

From: Duke Nieskens <cwdbh@hotmail.com>
Sent: Tuesday, November 13, 2018 9:57 AM
To: Aaron Redland
Subject: RE: Canal Vista Right-of-way Vacate

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Aaron,

The County Water District of Billings Heights has no comments on the proposed vacate of a portion of Lake Heights Drive and Ditton Drive.

Thanks,

Duke Nieskens
Manager
County Water District of Billings Heights



From: Aaron Redland [mailto:aredland@wwcengineering.com]
Sent: Monday, November 12, 2018 1:50 PM
To: cwdbh@hotmail.com; bkoch@YVEC.com; dale.nafts@mdu.com; Gary.Goodale@charter.com
Cc: Greg Reid <greid@wwcengineering.com>; HertzC@ci.billings.mt.us
Subject: Canal Vista Right-of-way Vacate

Good afternoon all,

The purpose of this email is to request comments and approval from utility companies that will be included with our request to the City of Billings to vacate a portion of Lake Heights Drive and Ditton Drive, in addition to the adjacent parcels; as shown on the attached Vacation Request Exhibit. Please note, several dry utilities exist at the back of the lots on the west side of Ditton Drive, which will be required to maintain easements through the platting process.

I have also attached the preliminary layout of the future development of the property which will consist of potentially 59 building pads with water, sewer, and street improvements. The building pads will be sold for construction of patio homes. The remaining property will be owned by an established Limited Liability Corporation for maintaining.

Please reply to all with comments by November 26, 2018 for completion of our Request to Vacate Public Right-of Way application. If there are any questions or additional information is required, please contact myself or Greg Reid.

Thanks,



Aaron Redland | CADD Designer

51 N 15th St., Ste. 1 | Billings, MT 59101

Tel 406-894-2210 | Fax 307-674-4265

www.wwcengineering.com

Aaron Redland

From: Aaron Redland
Sent: Tuesday, November 13, 2018 3:11 PM
To: 'Goodale, Gary L'
Cc: Greg Reid
Subject: RE: Canal Vista Right-of-way Vacate

Thank you for the prompt response, Gary. At this time, we do not foresee any need for your current facilities to be relocated.



Aaron Redland | CADD Designer
51 N 15th St., Ste. 1 | Billings, MT 59101
Tel 406-894-2210 | Fax 307-674-4265
www.wwcengineering.com

From: Goodale, Gary L <Gary.Goodale@charter.com>
Sent: Monday, November 12, 2018 4:12 PM
To: Aaron Redland <aredland@wwcengineering.com>
Subject: RE: Canal Vista Right-of-way Vacate

Good afternoon Aaron,

I am attaching for reference our system map, and one of your maps. The area I have marked in blue is our current facilities. My question to you is if this will require to be relocated, who will be paying for this to be done. We also as you can see we have a span that runs approximately 231 feet north from Greenbriar Rd. up Ditton Dr.

Thanks,



Gary Goodale | Construction Supervisor
Office: 406.200.7707 ext. 14707 | Mobile: 406.672.0531
1860 Monad Rd. | Billings, MT 59102

From: Aaron Redland [<mailto:aredland@wwcengineering.com>]
Sent: Monday, November 12, 2018 1:50 PM
To: cwdbh@hotmail.com; bkoch@YVEC.com; dale.nafts@mdu.com; Goodale, Gary L
Cc: Greg Reid; HertzC@ci.billings.mt.us
Subject: Canal Vista Right-of-way Vacate

Good afternoon all,

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Please reply to all with comments by November 26, 2018 for completion of our Request to Vacate Public Right-of Way application. If there are any questions or additional information is required, please contact myself or Greg Reid.

Thanks,



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Guarantee

SG 08009957
File No. B1809616T

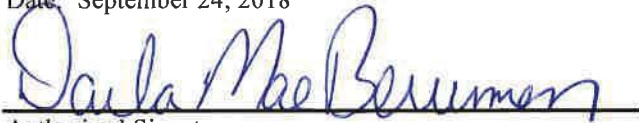
SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, AND SUBJECT TO THE FURTHER EXCLUSION AND LIMITATION THAT NO GUARANTEE IS GIVEN NOR LIABILITY ASSUMED WITH RESPECT TO THE IDENTITY OF ANY PARTY NAMED OR REFERRED TO IN SCHEDULE A OR WITH RESPECT TO THE VALIDITY, LEGAL EFFECT OR PRIORITY OF ANY MATTER SHOWN THEREIN. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Minnesota corporation, herein called the Company GUARANTEES the Assured named in Schedule A, against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

IN WITNESS WHEREOF, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Guarantee to become valid when countersigned on Schedule A by an authorized officer or agent of the Company.

Issued through the Office of:

FMT of Billings LLC

Date: September 24, 2018


Authorized Signature

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

By  President
Attest  Secretary

GUARANTEE CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. Exclusions from Coverage of this Guarantee.

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water: whether or not the matters excluded by (1), (2) or (3) are shown by the public records.
- (c) Assurances to title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A)(C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, alleys, lanes, ways or waterways in which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
- (d) (1) Defects, liens, encumbrances, or adverse claims against the title, if assurances are provided as to such title, and as limited by such assurances.

(2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records, and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of assurances provided.

3. Notice of Claim to be Given by Assured Claimant.

An Assured shall notify the Company promptly in writing in case any knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which such prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by such failure and then only to the extent of the prejudice.

4. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

5. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 4 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 5(a) the Company shall have the rights to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, the Assured hereunder shall secure to the Company the right to prosecute or provide defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

6. Proof of Loss or Damage.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within 90 days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

7. Options to Pay or Otherwise Settle Claims: Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase the indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5, and the Guarantee shall be surrendered to the Company for cancellation.

- (b) **To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.**
To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligations to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5.

8. Determination and Extent of Liability.

This Guarantee is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the exclusions stated in Paragraph 2.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- (a) the amount of liability stated in Schedule A;
- (b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 7 of these Conditions and Stipulations or as reduced under Section 10 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
- (c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to the defect, lien or encumbrance assured against by this Guarantee.

9. Limitation of Liability.

- (a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
- (c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

10. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 5 shall reduce the amount of liability pro tanto.

11. Payment of Loss.

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

12. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

13. Arbitration.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the Amount of Liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

14. Liability Limited to this Guarantee; Guarantee Entire Contract.

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

15. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to: Old Republic National Title Insurance Company, 400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111.

Subdivision Guarantee

Issued by

Old Republic Title Insurance Company

Liability: \$5,000.00

Premium: \$150.00

Effective Date: September 13, 2018, at 05:00 PM

Guarantee No: SG 08009957

1. Assured: WWC Engineering

2. The estate or interest in the land described or referred to in this Commitment is **Fee Simple**

3. Title to the **Fee Simple** estate or interest in the land is at the Effective Date vested in:
Parcel I: Susan B. Lovely, Inc., a Montana Corporation, Laure Taylor, Inc., a Montana Corporation
Parcel II: Julia Lawrence
Parcel III: Ken E. Roll
Parcel IV: Jesse Arstein

4. The land referred to in this Commitment is described as follows:
SEE ATTACHED EXHIBIT "A"

Countersigned
FMT of Billings LLC

By *Darla Mae Berumen*
Authorized Signatory

EXHIBIT "A"

Parcel I:

Block 62: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11;

Block 63: Lots 1, 2, 6, 7, 8, 9, 10, 11 and 28;

Block 65: Lots 1, 2, 3 and 7;

All in Lake Hills Subdivision, Twenty Fifth Filing, in Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 688241.

Parcel II:

Lots 4, 5 and 6 in Block 65 of Lake Hills Subdivision, Twenty Fifth Filing, in Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 688241.

Parcel III:

Lots 3, 4 and 5 in Block 63 of Lake Hills Subdivision, Twenty Fifth Filing, in Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 688241.

Parcel IV:

Lots 12 and 13 in Block 62 of Lake Hills Subdivision, Twenty Fifth Filing, in Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 688241.

SCHEDULE B - PART 1

Defects, liens encumbrances or other matters affecting title:

1. **Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. Proceedings by a public agency, which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by Public Record. No liability is assumed for errors, omissions or changes of assessed valuations or amount of taxes assessed by any state, county, city or federal taxing or assessing authority.**
2. **Any facts, rights, interest or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.**
3. **Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.**
4. **Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete survey of the Land and not shown by the Public Records.**
5. **(a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, ditch rights; (d) any right, title or interest in any sand and gravel and/or minerals including access to and from to extract minerals, mineral rights, or related matters, including, but not limited to oil, gas, coal, and other hydrocarbons; whether or not the matters excepted under (a), (b), (c) or (d) are shown by the Public Records.**
6. **Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.**
7. **Any service, installation or connection charge for any and all utilities, including, but not limited to sewer, gas, water or electricity.**
8. **County road rights-of-way, not recorded and indexed as a conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A., including, but not limited to any rights of the Public and the County of Yellowstone to use and occupy those certain roads and trails.**
9. **No liability is assumed for errors, omissions or changes of assessed valuations or amount of taxes assessed by any state, county, city or federal taxing or assessing authority.**

10. General and special taxes, and assessments for the year 2018, which are a lien, but not yet computed or payable. Tax Code No. C08227, C08228, C08229, C08230, C08231, C08232, C08233, C08234, C08235, C08236, C08237, C08246, C08247, C08251, C08252, C08253, C08254, C08255, C08256, C08273, C08288, C08289, C08290, C08294.

NOTE: Parcel I taxes

NOTE: General and special taxes and assessments for the year 2017 which are paid in full in the amount of \$8,393.21.

11. General and special taxes, and assessments for the year 2018, which are a lien, but not yet computed or payable. Tax Code No. C08291, C08292 and C08293.

NOTE: Parcel II

NOTE: General and special taxes and assessments for the year 2017 which are paid in full in the amount of \$1,088.12.

12. General and special taxes, and assessments for the year 2018, which are a lien, but not yet computed or payable. Tax Code No. C08248, C08249 and C08250.

NOTE: Parcel III

NOTE: General and special taxes and assessments for the year 2017 which are paid in full in the amount of \$994.71.

13. General and special taxes, and assessments for the year 2018, which are a lien, but not yet computed or payable. Tax Code No. C08238 and C08239.

NOTE: Parcel IV

NOTE: General and special taxes and assessments for the year 2017 which are paid in full in the amount of \$819.99.

14. Easement dated August 17, 1937, granted by Florence Lane Morgan and J.A. Morgan, her husband, to Yellowstone Valley Electrification Association, a Corporation; recorded May 6, 1938, at 9:32 A.M., in Book 206 Deeds, page 48, records of Yellowstone County, Montana. to erect, construct, operate, replace, repair, and maintain an electric transmission and distribution system, including the right to trim any trees so as to keep the wires cleared at least 10 feet.

15. All easements for utilities, services, ditches, roads or trails, or any limitation to access, across the subject property, depicted and referenced in plats or surveys of said property, or apparent from physical examination and inspection of the premises.

16. Reservations and exceptions contained in patents issued by the United States or the State of Montana.

17. Sanitary Restrictions dated July 17, 1962, by George Lambrecht and Elizabeth Lambrecht et al, recorded July 17, 1962, under Document No. 688242.

18. Declaration of Restrictions for Lake Hills Subdivision 25th Filing dated July 17, 1962, by George Lambrecht and Elizabeth Lambrecht et al, recorded July 17, 1962, in Book 737, page 417, under Document No. 688243; Amendment to Declaration of Restrictions of Lake Hills Subdivision 25th Filing, recorded April 2, 1981, under Document No. 1194110; Second Amendment recorded April 23, 2003, under Document No. 3173600.
19. Petition and Agreement Running with the Land dated May 17, 1978 executed by Monty Kimble, recorded May 24, 1978, under Document No. 1090609.
20. Notice of Sewer Easement to the Yellowstone County Sewer District, recorded February 8, 1977, under Document No. 1041544. Notice of Amendment recorded March 8, 1983, under Document No. 1256971.
21. Restriction contained in Warranty Deed, dated October 20, 1999, executed by Lakewood Properties, Inc., a Montana corporation; recorded October 20, 1999, under Document No. 3070423.
22. Conveyance of Easement for Right of Way dated June 13, 1941, executed by George Lambrecht, to Yellowstone Valley Electric Cooperative, Inc., a corporation; recorded June 21, 2001, under Document No. 3134419.
23. Waiver of Right to Protest the formation of one or more Park Improvement and Maintenance Districts, dated October 15, 2002, executed by Jack Sprague et al, recorded October 28, 2002, under Document No. 3198024.
24. Conveyance of Easement for Right of Way dated July 30, 2002, executed by Susan B. Lovely and Laure Taylor, Inc. granted to Yellowstone Valley Electric Co-operative Inc., Montana Dakota Utilities, Qwest and AT&T Cable, recorded December 11, 2002, under Document No. 3205007.
25. Easement for Storm Drainage, dated February 22, 2005, granted to City of Billings, recorded March 16, 2005, under Document No. 3325664.
26. Easement for Right-of-Way, dated May 28, 2004, granted to Yellowstone Valley Electric Co-Operative, Inc., Montana-Dakota Utilities, Qwest Communications, Inc. and Bresnan Communications, LLC, recorded December 04, 2008, under Document No. 3488303.
27. A Mortgage to secure an indebtedness of \$30,000.00; recorded July 18, 2007, under Document No. 3430779, of Official Records.
Dated: June 28, 2007
Mortgagor: Laure Taylor, Inc., a Montana corporation and Susan B. Lovely, Inc., a Montana corporation Mortgagee: Stockman Bank of Montana
(Affects Parcel I)

Modification of Mortgage, dated July 1, 2008, executed by and between Laure Taylor, Inc., a Montana Corporation and Susan B. Lovely, Inc., a Montana Corporation and Stockman Bank of Montana, recorded July 15, 2008, under Document No. 3472900.

Modification of Mortgage, dated July 17, 2009, executed by and between Laure Taylor, Inc., a Montana Corporation and Susan B. Lovely, Inc., a Montana Corporation and Stockman Bank of Montana, recorded July 24, 2009, under Document No. 3517564.

Modification of Mortgage, dated August 4, 2010, executed by and between Laure Taylor Inc and Susan B Lovely Inc and Stockman Bank of Montana, recorded August 11, 2010, under Document No. 3559041.

Modification of Mortgage, dated September 15, 2011, executed by and between Laure Taylor Inc and Susan B Lovely Inc and Stockman Bank of Montana, recorded September 19, 2011, under Document No. 3599667.

- 28. A Mortgage (With Future Advance Clause) to secure an indebtedness of \$20,000.00; recorded July 15, 2008, under Document No. 3472968, of Official Records.**

Dated: June 19, 2008

Mortgagor: Susan B. Lovely, Inc., a Montana corporation and Laure Taylor, Inc., a Montana corporation

**Mortgagee: Stockman Bank of Montana
(Affects Parcel I)**

Modification of Mortgage, dated July 17, 2009, executed by and between Laure Taylor, Inc. a Montana Corporation and Susan B. Lovely, Inc., a Montana Corporation and Stockma Bank of Montana, recorded July 28, 2009, under Document No. 3517849.

Modification of Mortgage, dated August 4, 2010, executed by and between Laure Taylor, Inc. a Montana Corporation and Susan B. Lovely, Inc., a Montana Corporation and Stockman Bank of Montana, recorded August 11, 2010, under Document No. 3559040.

Modification of Mortgage, dated September 15, 2011, executed by and between Laure Taylor, Inc. a Montana Corporation and Susan B. Lovely, Inc., a Montana Corporation and Stockman Bank of Montana, recorded September 19, 2011, under Document No. 3599668.

- 29. A Deed of Trust to secure an indebtedness of \$5,407.00; recorded April 20, 2015, under Document No. 3737516, of Official Records.**

Dated: April 09, 2015

Grantor: Laure Taylor Inc and Susan B Lovely Inc

Trustee: American Title and Escrow

**Beneficiary: Stockman Bank of Montana
(Affects Parcel I)**

Modification of Deed of Trust, dated May 02, 2016, executed by and between Laure Taylor Inc and Susan B Lovely Inc and Stockman Bank of Montana, recorded May 06, 2016, under Document No. 3776206

- 30. A Deed of Trust to secure an indebtedness of \$30,000.00; recorded July 03, 2018, under Document No. 3853659, of Official Records.**
Dated: June 27, 2018
Grantor: Susan B. Lovely Inc. and Laure Taylor Inc.
Trustee: American Title and Escrow
Beneficiary: Stockman Bank of Montana
(Affects Parcel I)
- 31. A Mortgage to secure an original indebtedness of \$217,000.00, and any other amounts or obligations secured thereby, recorded August 05, 2008, under Document No. 3475268.**
Dated: July 28, 2008
Mortgagor: Laure Taylor, Inc. and Susan B, Lovely, Inc.
Mortgagee: Stockman Bank of Montana
(Affects a portion of Parcel I)
- 32. A Mortgage to secure an original indebtedness of \$200,000.00, and any other amounts or obligations secured thereby, recorded October 31, 2008, under Document No. 3485041.**
Dated: October 30, 2008
Mortgagor: Laure Taylor, Inc. and Susan B. Lovely, Inc.
Mortgagee: Stockman Bank of Montana
(Affects a portion of Parcel I and other real property)
- 33. A Deed of Trust to secure an indebtedness of \$36,602.95; recorded May 19, 2015, under Document No. 3751828, of Official Records.**
Dated: August 19, 2015
Grantor: Ken E. Roll
Trustee: American Title & Escrow
Beneficiary: Rocky Mountain Bank
(Affects Parcel III)

End of Schedule B