

## PERPETUAL RIGHT-OF-WAY EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the undersigned,

Gene J. Klamert and Ronna J. Klamert

of the address of 2100 South 44th Street West Billings, MT 59106, hereinafter called "Grantors", hereby grant and convey unto THE CITY OF BILLINGS, a municipal corporation and political subdivision of the State of Montana, of the address of City Hall, Billings, Montana 59101, hereinafter called "Grantee", a perpetual easement and right-of-way over, across, under and through the following described tracts of real property in Yellowstone County Montana (ATTACH drawing of property describing easement):

Proposed 50' wide pipe line and road access easement description:

Beginning at the most northwest corner of Tract 2B of Proposed Certificate Of Survey 3505, Amending Tract 2; Thence N 49°17'32" E for a distance of 417.57 feet to a point on the north line of Section 4, T. 2 S., R. 25 E., P.M.M., Yellowstone County, Montana; Thence N 89°46'25" E along said section line for a distance of 77.02 feet; Thence S 49°17'32" W and leaving said section line for a distance of 417.57 feet; Thence S 89°46'25" W for a distance of 77.02 feet the Point of Beginning. Said easement tract of land containing a Gross and Net area of 0.476 Acres, more or less.

This Perpetual easement to Grantee is for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing water, sewer and/or electrical ducts/pipes over, across, under and through the said real property, together with the right of free ingress and egress at all times for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing said water, sewer and/or electrical ducts/pipes and appurtenances, and adding additional water, sewer and/or electrical ducts/pipes.

Grantors shall continue to have the right to use and enjoy the above-described property, except as to the rights herein granted, subject to the following restrictions:

1. Grantors and their successors agree not to construct, nor cause to be constructed, within the easement right-of-way, any type of building or structure, such as, but not limited to, houses, garages, sheds, kennels, fences, nor any other fixed objects of any kind, shape or form, except as many be licensed by Grantee.
2. Grantors agree not to plant, nor cause to be planted within the easement right-of-way, any trees, bushes, shrubs, hedges nor any other plantings of a similar nature, except as may be licensed by Grantee.

3. Grantors agree that authorized representatives of the City of Billings can freely travel within the easement right-of-way with their equipment in the performance of their duties at any time, day or night, regardless of outside weather conditions.
4. Grantors agree to obtain the permission of the Public Works Department or Grantee prior to placing or removing any fill dirt within the easement right-of-way and, in addition, in the event such permission is granted, the Grantors agree to perform any work necessary to modify the existing water, sewer and/or electrical ducts/pipes and appurtenances, which work may be required prior to placing or removing any fill dirt within the easement right-of-way and all such work shall be done at the Grantor's expense and without expense to the City.
5. Grantors agree that the sole responsibility of the City of Billings for any surface restoration due to any construction, replacement, repair or service work to the water, sewer and/or electrical ducts/pipes by the City of Billings, shall be limited to trench backfill compaction and placement of backfill material to existing grade by the City of Billings.
6. HOLD HARMLESS AGREEMENT:
  - Grantors agree that the owner or owners of the above described property shall at all times fully relieve and save harmless the City of Billings and its authorized representatives for any and all damages of property that may be caused within said easement right-of-way, such as, but not limited to, ruts or deep tracks in lawns, gardens, or flower beds, broken or crushed shrubs, bushes, hedges, trees or any other type of plantings; crushed, cracked split or otherwise damaged, irrigation piping and appurtenances; and, any other damage to any other type of object, material or equipment located within the easement right-of-way which cannot, with a minimum of human effort and within a few minutes time period, be removed from easement right-of-way by authorized representatives of the City of Billings in exercise of any of their rights under this easement right-of-way.
  - Grantors agree the owners of the above described real property shall reimburse the City of Billings for any and all damage claims paid by the City for damages of any type or nature to any and all persons and entities in the event such damage results from or was caused to happen by such owner's failure to comply with any portion of the rights, restrictions, obligations or responsibilities contained in this agreement.
7. The restrictions, Covenants and Hold Harmless Agreements herein contained shall attach to and run with the land and shall bind the parties hereto and all persons claiming thereunder.

Grantors warrant and covenant that there are no liens or other encumbrances on the described tract or tracts.


STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ to me known to be the \_\_\_\_\_ of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Printed name of Notary

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ to me known to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Printed name of Notary

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ to me known to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

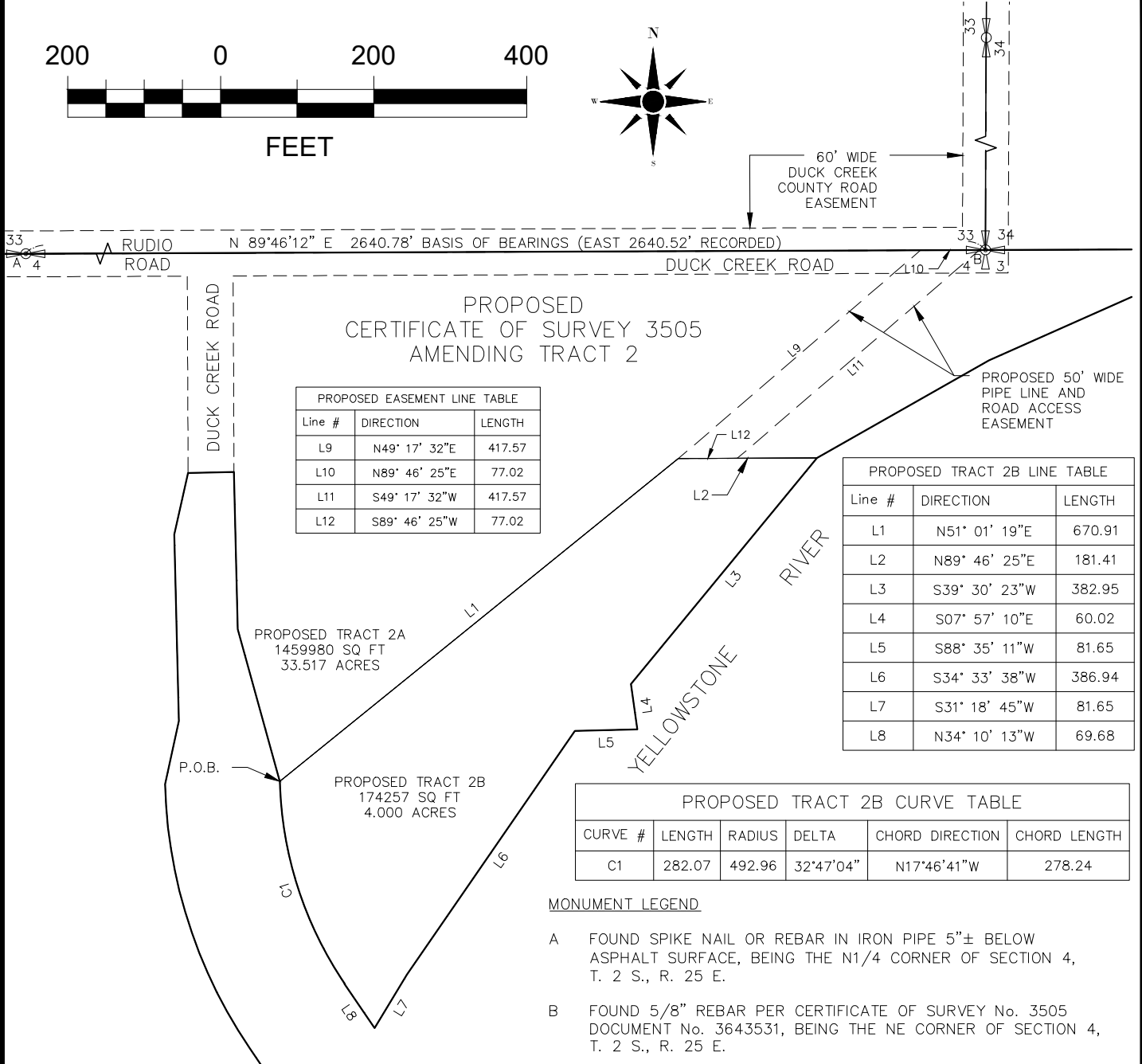
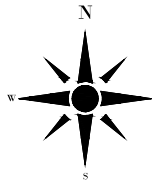
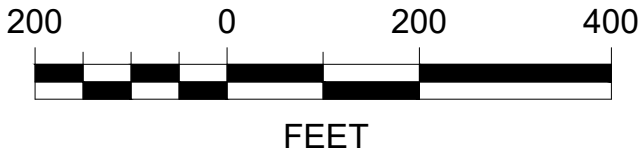
\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Printed name of Notary

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_

# EXHIBIT "A"

WARRANTY DEED / AGREEMENT WITHIN TRACT 2 OF CERTIFICATE OF SURVEY 3505  
 RECORD IN THE OFFICE OF THE YELLOWSTONE COUNTY CLERK AND RECORDERS OFFICE,  
 RECORDED OCTOBER 25th, 2012, UNDER DOCUMENT NO. 3643531  
 YELLOWSTONE COUNTY, MONTANA



PROPOSED EASEMENT LINE TABLE		
Line #	DIRECTION	LENGTH
L9	N49° 17' 32"E	417.57
L10	N89° 46' 25"E	77.02
L11	S49° 17' 32"W	417.57
L12	S89° 46' 25"W	77.02

PROPOSED TRACT 2B LINE TABLE		
Line #	DIRECTION	LENGTH
L1	N51° 01' 19"E	670.91
L2	N89° 46' 25"E	181.41
L3	S39° 30' 23"W	382.95
L4	S07° 57' 10"E	60.02
L5	S88° 35' 11"W	81.65
L6	S34° 33' 38"W	386.94
L7	S31° 18' 45"W	81.65
L8	N34° 10' 13"W	69.68

PROPOSED TRACT 2B CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	282.07	492.96	32°47'04"	N17°46'41"W	278.24

**MONUMENT LEGEND**

- A FOUND SPIKE NAIL OR REBAR IN IRON PIPE 5"± BELOW ASPHALT SURFACE, BEING THE N1/4 CORNER OF SECTION 4, T. 2 S., R. 25 E.
- B FOUND 5/8" REBAR PER CERTIFICATE OF SURVEY No. 3505 DOCUMENT No. 3643531, BEING THE NE CORNER OF SECTION 4, T. 2 S., R. 25 E.

A tract of land situated in Tract 2 of Certificate Of Survey 3505 on file and of record under Document No. 3643531, at the Yellowstone County Clerk and Recorders office, Billings, Yellowstone County, Montana. Basis of Bearings being GPS observation of the north line of said Certificate of Survey 3505, (N 89°46'25" E)

Said tract being more particularly described as follows:

Beginning at the P.T. on the East R-O-W of Duck Creek per said Certificate of Survey 3505; Thence N 51°01'19" E and leaving said R-O-W for a distance of 670.91 feet; Thence N 89°46'25" E for a distance of 181.41 feet to a point on the Low Water Mark, December 2011 per said Certificate of Survey 3505; Thence S 39°30'23" W and along said Low Water Mark for a distance of 382.95 feet; Thence S 07°57'10" E for a distance of 60.02 feet; Thence S 88°35'11" W for a distance of 81.65 feet; Thence S 34°33'38" W for a distance of 386.94 feet; Thence S 31°18'45" W for a distance of 81.65 feet to a point on the East R-O-W line of said Duck Creek; Thence N 34°10'13" W and along said R-O-W and leaving said Low Water Mark for a distance of 69.68 feet to the beginning of a non-tangent curve to the right; Thence along the curve to the right with a radius of 492.96 feet, an arc length of 282.07 feet with a delta angle of 32°47'04" (chord bearing N 17° 46' 41" W chord length of 278.24 feet to the Point of Beginning.

Said tract of land containing a Gross and Net area of 4.000 Acres, more or less.

Proposed 50' wide pipe line and road access easement description:

Beginning at the most northwest corner of Tract 2B of Proposed Certificate Of Survey 3505, Amending Tract 2; Thence N 49°17'32" E for a distance of 417.57 feet to a point on the north line of Section 4, T. 2 S., R. 25 E., P.M.M., Yellowstone County, Montana; Thence N 89°46'25" E along said section line for a distance of 77.02 feet; Thence S 49°17'32" W and leaving said section line for a distance of 417.57 feet; Thence S 89°46'25" W for a distance of 77.02 feet the Point of Beginning.

Said easement tract of land containing a Gross and Net area of 0.476 Acres, more or less.