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May 7, 2021

City of Billings
Attn: Billings City Clerk/Denise Bohlman
PO Box 1178
Billings, MT 59103

RE: Request to Vacate
Our File No.: 92421.001

Dear Ms. Bohlman:

This firm represents Apex Billings, LLC ("Petitioner"). This letter is attached to a Request to Vacate Public Right-of-Way and sets forth the reasons for the request.

Petitioner is the owner of the Western Towers apartment complex located at 429 N 33rd St Billings, MT 59101. There is a stockade fence on a concrete wall running along what was thought to be the south boundary of the property. However, when Petitioner purchased the property it discovered there was encroachment onto the city alley as depicted on the attached survey labeled Exhibit A-1.

In order to avoid future difficulties in connection with financing or transactions involving the property Petitioner desires to have the encroachment area vacated.

In lieu of compensating the City of Billings for the land area being vacated Petitioner is proposing that the approval of the vacation of the encroachment area be made contingent upon Petitioner acquiring from Young Men's Christian Association ("YMCA") an equivalent area of land along the north boundary of the YMCA property in the same configuration as the area being vacated. It is the intent of this proposal that the alley dimension remains the same over all with the 1 foot lost on the north replaced by the 1 foot on the south. As such, there should be no impact on traffic or accessibility as a result of granting the Request to Vacate.

As evidenced by the signature of the YMCA, Petitioner has obtained the approval of YMCA for Petitioner to purchase the area of land being vacated and to perform all of the necessary surveying services to have the substitute area properly surveyed and rendered into a tract to be dedicated to the City of Billings. The Petitioner is proposing that the City of Billings waive the requirement of an appraisal for the reason it will be

compensated with an equivalent area of land as opposed to a cash payment.

As required by BMC22-601, the following documents are either to the Request to Vacate, or, for the reasons set forth below, Petitioner requests that the required documents be waived:

1. Title Report—see attached;
2. Comments from private and public utilities—see signatures indicating consent;
3. Petitioner's indication of the nature and interest in the property—the above letter explains the interest;
4. Statement acknowledging the City will appoint an appraiser—Petitioner requests this requirement be waived;
5. The effect of traffic movement—Petitioner requests this requirement be waived for the reason there will be no impact on traffic movement for the reason the dimensions of the alley will not change as a result of the dedication of a one foot strip on the south side of the alley;
6. The effect on accessibility—see Item 5 above.

Sincerely,



Tim Filz

Enclosure

TAF/no

cc: Apex Billings, LLC