

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

Description of Right-of-Way to be vacated:

The entirety of Will Way. Portions of Rich Lane between Block 5 and Block 3 and 4, and Portions of Camp Lane between Block 3 and 4 and Block 2 within Legacy Subdivision, within 1/4 of Section 4, T01S, R25E, 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:

| | | |
|-----------------------------|-------------|---------------------------|
| <u>X</u> 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 | <u>Chris Noel 3/18/22</u> | |
| Heights Water | N/A | N/A |
| Montana Dakota Utilities | See Exhibit A | |
| Northwestern Energy | N/A | |
| Charter | See Exhibit D | |
| CenturyLink | See Exhibit C | |
| YVEC | See Exhibit B | |
| City/Co. Planning Board |  <small>Marisa Pletcher, ACP, Planning Division Manager</small> | |

(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 re-platting the area into approximately 27 lots with water, sewer, and street improvements, as shown on Attachment No. 3.

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)

- Comments from all Utilities
- 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: Swan Miller
City Engineers Office

Date: 5/19/22

A DEPOSIT FOR AN APPRAISAL MUST ALSO ACCOMPANY THIS REQUEST.

Deposit Amount: _____

Received By: _____
City Clerk

Date: _____

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: 550 S. 24th St. W., Ste201
Billings, MT 59102

Date: March 7, 2022

CITY COUNCIL ACTION: _____

DATE: _____

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

AMENDED PLAT OF LEGACY SUBDIVISION

Attachment 1

BEING A VACATION OF
LOTS 6 THROUGH 9 INCLUSIVE OF BLOCK 2, LOTS 1 THROUGH 10 INCLUSIVE OF BLOCK 3, LOTS 2 THROUGH 4 INCLUSIVE OF BLOCK 4, LOTS 2 THROUGH 8 INCLUSIVE OF BLOCK 5, THE ENTIRETY OF WILL WAY, PORTIONS OF RICH LANE AND CAMP LANE SITUATED IN THE NW1/4, SECTION 4, T.1S., R.25E., P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: LEGACY, LLC
PURPOSE OF SURVEY: VACATE LOTS, BLOCKS, AND STREETS
DATE SURVEYED: FEBRUARY 2022
PREPARED BY: WWC ENGINEERING

LEGAL DESCRIPTION AND PROPERTY OWNER CERTIFICATIONS

STATE OF MONTANA)
County of Yellowstone)

A tract of land being all of Lots 6 through 9, inclusive of Block 2, Lots 1 through 10, inclusive of Block 3, Lots 2 through 4, inclusive of Block 4, Lots 2 through 8, inclusive of Block 5, and all of Will Way, portions of Rich Lane and Camp Lane of Legacy Subdivision as recorded in the Yellowstone County, Montana, Clerk and Recorder's Office as document number 3371148, said parcel also being located in a portion of the NW1/4 of Section 4, Township 1 South, Range 25 East, Principal Meridian of Montana, City of Billings, Yellowstone County, Montana, being more particularly described by as follows:

Beginning at the northeast corner of Lot 8, Block 5 of Legacy Subdivision; thence along Westerly Right-of-Way of 52nd Street West, S01°02'44"E a distance of 790.01 feet to the corner of Lot 5 and 6, Block 2 of Legacy Subdivision; thence on the line between said Lots 5 and 6, Block 2 of Legacy Subdivision, S89°22'54"W a distance of 101.05 feet to the corner of Lots 4, 5, 6, and 7, Block 2 of Legacy Subdivision; thence on the line between Lots 4 and 7, Block 2 of Legacy Subdivision, S82°47'42"W a distance of 101.75 feet to the corner of Lots 3, 4, 7, and 8, Block 2 of Legacy Subdivision; thence on the line between Lots 3 and 8, Block 2 of Legacy Subdivision, S69°22'58"W a distance of 101.68 feet to the corner common to Lots 2, 3, 8, and 9, Block 2 of Legacy Subdivision; thence on the line between Lots 2 and 9, Block 2 of Legacy Subdivision, S76°03'57"W a distance of 98.80 feet to the corner of Lots 1, 2, 9, and 10, Block 2 of Legacy Subdivision; thence along the line between Lots 9 and 10, Block 2 of Legacy Subdivision, N19°22'36"W a distance of 92.87 feet to the corner common to Lots 9 and 10 on the southerly right-of-way of Camp Lane; thence on the southerly right-of-way line of Camp Lane, S70°36'10"W a distance of 11.94 feet; thence N19°23'50"W a distance of 50.00 feet to the corner of Lots 1 and 2, Block 4 of Legacy Subdivision on the northerly right-of-way of Camp Lane; thence along the line between Lots 1, 2, and 3, Block 4 of Legacy Subdivision, N18°42'33"W a distance of 129.35 feet to the corner of Lots 1, 3, and 5, Block 4 of Legacy Subdivision; thence along the line between Lots 3, 4, and 5, Block 4 of Legacy Subdivision, N52°11'49"W a distance of 107.11 feet to the corner of Lots 4 and 5 on the southerly right-of-way of Rich Lane; thence on the southerly right-of-way of Rich Lane, S41°40'18"W a distance of 11.31 feet; thence N48°19'42"W a distance of 50.00 feet to the northerly right-of-way of Rich Lane and the corner of Lots 1 and 2, Block 5 of Legacy Subdivision; thence along the line between Lots 1 and 2, Block 5 of Legacy Subdivision, N48°20'04"W a distance of 116.58 feet to the corner of Lots 1 and 2 on the northerly line of Block 5 of Legacy Subdivision; thence along northerly line of said Block 5 of Legacy Subdivision, N41°41'39"E a distance of 141.64 feet; thence along the northerly line of said Block 5 of Legacy Subdivision, N59°33'49"E a distance of 651.34 feet; thence along the northerly line of Block 5 of Legacy Subdivision, N80°53'56"E a distance of 40.10 feet to the northeast corner of Lot 8, Block 5 of Legacy Subdivision which is also the Point of Beginning.

Said tract shall be known and designated as "AMENDED PLAT OF LEGACY SUBDIVISION" and contains 8.51 acres, more or less, and is subject to all easements, rights-of-ways, reservations and encumbrances that have been legally acquired.

We hereby certify that the purpose of this survey is to vacate a portion of Legacy Subdivision pursuant M.C.A. 76-3-305; any plat prepared and recorded as provided in this part may be vacated either in whole or in part as provided by 7-5-2501, 7-5-2502, 7-14-2616(1), and (2), 7-14-4114(1) and (2), and 7-14-4115. Upon vacation, the governing body or the district court, as provided in 7-5-2502, shall determine to which properties the title to the streets and alleys of the vacated portions must revert. The governing body or the district court, as provided in 7-5-2502, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

Legacy, LLC
Title

STATE OF MONTANA)
County of Yellowstone)

on this _____ day of _____, 2022, before me, the undersigned a notary public for the State of Montana personally appeared _____ as _____ of Legacy, LLC known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

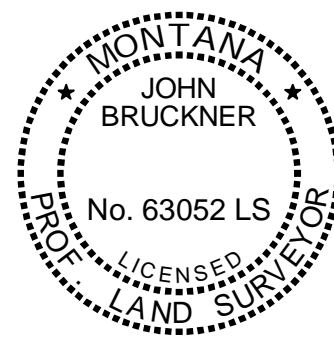
Notary Public for the State of _____

CERTIFICATE OF SURVEYOR

I, John Bruckner, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of February 2022, a survey was performed under my supervision of a tract of land to be known as AMENDED PLAT OF LEGACY SUBDIVISION, in accordance with the request of the owner thereof and in conformance with Montana Subdivision and Platting Act; said subdivision being in accordance with the Landowner's Certificate and as shown on the plat; that the monuments found and set are of the character and occupy the positions hereon.

Dated the _____ day of _____, 2022

John Bruckner
Registration Number 63052 LS



CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/76-3-207(3), M.C.A.

County Treasurer or Authorized Representative
Yellowstone County Treasurer's Office

Date

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that the annexed and forgoing plat conforms with Section 74-4-252(d), M.C.A. for the removal of sanitary restriction since the plat is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

City Engineer's Office

Date

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City of Billings Attorney's Office and is acceptable as to form.

Attorney or Authorized Representative
City of Billings Attorney's Office

Date

NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone)

This plat has been approved for filing by the City of Billings/Yellowstone County Board of Planning and conforms to the recommendations of this board.

President Date

Executive Secretary Date

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
County of Yellowstone)

We do hereby certify that we have examined the plat of AMENDED PLAT OF LEGACY SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana and that the requirements for park donation have been met to the satisfaction of the Yellowstone County Board of Planning. It is therefore approved and the dedication to the public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of City of Billings, Montana, this _____ day of _____, 20____.

CITY OF BILLINGS, MONTANA

BY: _____

Mayor

ATTEST: _____

City Clerk

CERTIFICATE OF FILING BY CLERK AND RECORDER

ROAD VACATION

Resolution Number: _____

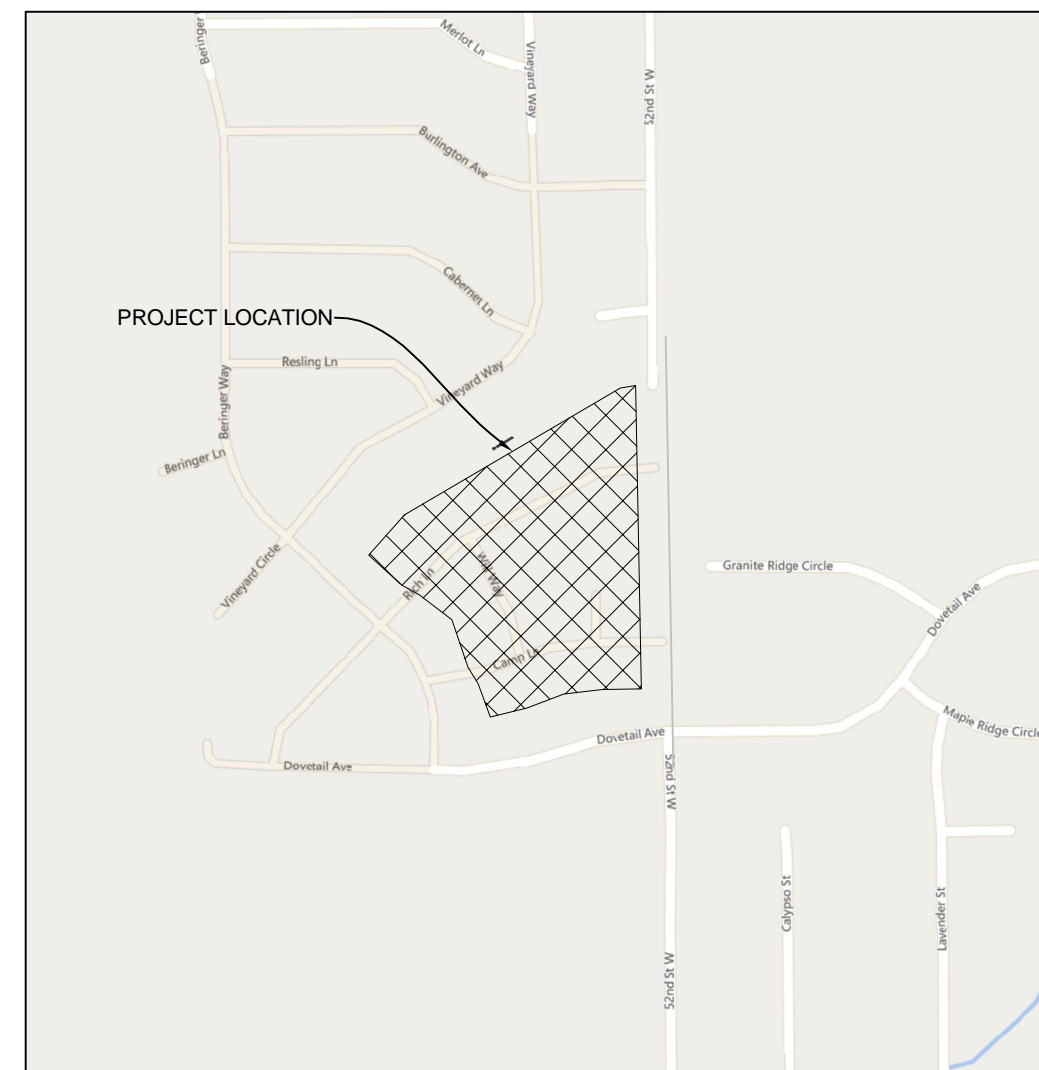
Date: _____

BASIS OF BEARING

NAD83(2011) MONTANA STATE
PLANE COORDINATE SYSTEM, GRID
DISTANCES: GROUND, INTERNATIONAL FOOT

LEGEND

- FOUND YELLOW PLASTIC SURVEY CAP
- FOUND REBAR AND PLASTIC CAP (LS63052)
- ROAD TO BE VACATED
- LOTS TO BE VACATED
- EASEMENTS TO BE VACATED
- SUBDIVISION BOUNDARY



AMENDED PLAT OF LEGACY SUBDIVISION
NW1/4, SECTION 4, T.1S., R.25E. P.M.M.

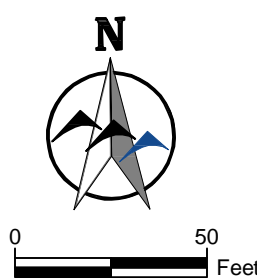
PREPARED FOR: LEGACY, LLC

PREPARED BY: WWC ENGINEERING
550 S. 24TH ST. W., SUITE 201
BILLINGS, MT 59101
(406) 894-2210
www.wwcengineering.com

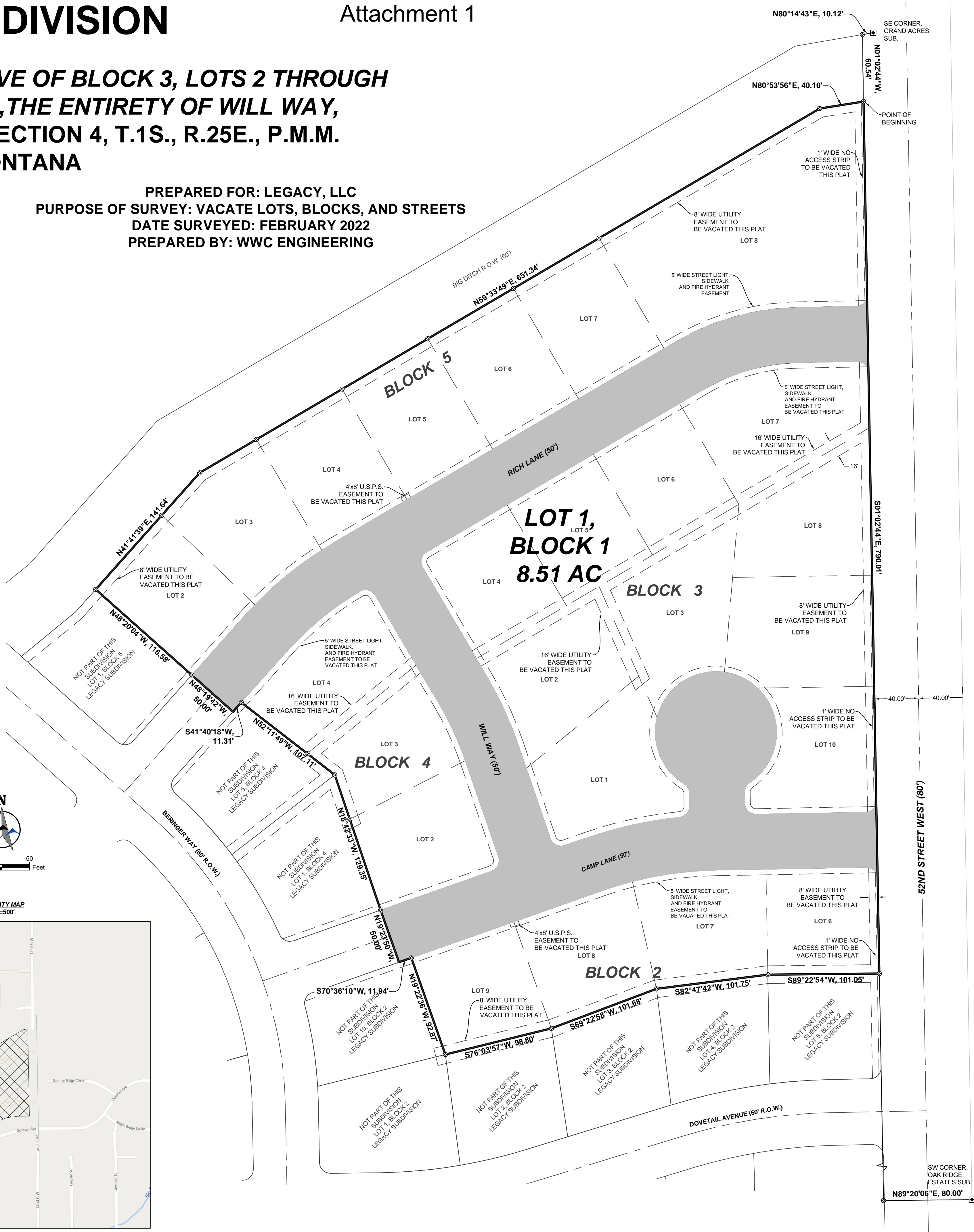
| NO. | REVISION | BY | DATE | DESIGNED BY: WWC |
|-----|----------|----|------|------------------|
| | | | | DRAWN BY: JAZ |
| | | | | CHECKED BY: JPB |
| | | | | DATE: 2/9/2022 |

SHEET
1 OF 1

PROJECT NO.: 2021472

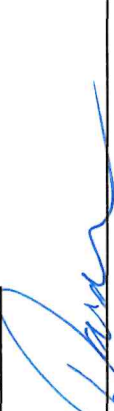


VICINITY MAP
1"=50'



Request to Vacate Public Right-of-Way Signatures

Signature



Legacy LLC,
A Fort Belknap Indian
Community Limited Liability

Date

4/17/22

Property Ownership

Lots 2-8 of Block 5, Lots 2-4 of Block 4,
Lots 1-10 of Block 3, and Lots 6-9 of Block 2

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.

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CONTACT PERSON FOR PETITION:

Greg Reid, WWC Engineering

Telephone No.: 406-894-2210

Mailing Address: 550 S. 24th St. W., Ste201

Billings, MT 59102

Date: March 7, 2022

CITY COUNCIL ACTION: _____

DATE: _____

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CITY OF BILLINGS

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

X Street Alley Other R/W

SIGNATURE DATE PROPERTY OWNERSHIP

See Attachment No. 2

(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.

| | Approved By/Date | Disapproved By/Date |
|---|--|-------------------------------|
| City Public Works | <u> </u> | <u> </u> |
| Heights Water | <u> N/A </u> | <u> N/A </u> |
| Montana Dakota Utilities | <u> </u> | <u> </u> |
| Northwestern Energy | <u> </u> | <u> </u> |
| Charter | <u> </u> | <u> </u> |
| CenturyLink | <u> </u> | <u> </u> |
| YELLOWSTONE VALLEY ELECTRIC COOP. City/Co. Planning Board | <u>  BRENT KOLTZ </u> | <u> 4/22/22 </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 re-platting the area into approximately 27 lots with water, sewer, and street improvements, as shown on Attachment No. 3.

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ATTACHMENTS:

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X Map of R/W to be Vacated – ATTACHMENT NO. 1
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CONTACT PERSON FOR PETITION:

Greg Reid, WWC Engineering

Telephone No.: 406-894-2210

Mailing Address: 550 S. 24th St. W., Ste201

Billings, MT 59102

Date: March 7, 2022

CITY COUNCIL ACTION: _____

DATE: _____

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

Exhibit C

Greg Jones

From: Williams, Christopher <Christopher.Williams1@lumen.com>
Sent: Friday, May 6, 2022 7:58 AM
To: Greg Reid; Sterr, Julie
Cc: Greg Jones
Subject: RE: Request to Vacate

WARNING: This email originated from an external sender. Please use caution when clicking links or opening attachments.

Greg,
The request for easement vacation is acceptable to Lumen. I apologize for the delay in getting back to you.
Thanks,



Chris Williams

Network Implementation Engineer II - MT
219 Calhoun Ln, Billings, MT 59101
Cell: 406-598-8554
Christopher.Williams1@Lumen.com

From: Greg Reid <gtrei@wwcengineering.com>
Sent: Thursday, May 5, 2022 6:01 PM
To: Williams, Christopher <Christopher.Williams1@lumen.com>; Sterr, Julie <Julie.Sterr1@lumen.com>
Cc: Greg Jones <gjones@wwcengineering.com>
Subject: RE: Request to Vacate

Chris and Julie,
We have not received any response back regarding this as of yet, to my knowledge. We need to move forward with this and would appreciate a response from Lumen. The rest of the dry utility companies have confirmed it is acceptable to them and Lumen is the only one that has not responded. If we do not receive a response from Lumen we will consider it acceptance of the vacation, as the other utilities have confirmed, and move forward.
Greg



Greg Reid, P.E. | Billings Branch Manager
550 S 24th St. W, Ste. 201 | Billings, MT 59102
Tel 406-894-2210 | Cell 406-799-1415
www.wwcengineering.com

From: Greg Reid
Sent: Monday, April 25, 2022 8:51 AM
To: Williams, Christopher <Christopher.Williams1@lumen.com>; Sterr, Julie <Julie.Sterr1@lumen.com>
Cc: Greg Jones <gjones@wwcengineering.com>
Subject: RE: Request to Vacate

Thanks Chris,
Please push this along as we need to move this project forward. The only utility that has not responded to date is Lumen, which is holding our submittal up.

Greg Jones

From: Barham, Danny L <Danny.Barham@charter.com>
Sent: Thursday, April 21, 2022 3:59 PM
To: Greg Reid; Christopher.Williams1@centurylink.com; Julie.Sterr1@lumen.com; lisab2256@charter.net; elaine.castillo@lumen.com
Cc: Greg Jones; Lind, Jeremy; Cole, Matthew; Fitzgerald, Eric
Subject: RE: Legacy Subdivision Public Right-of-Way Vacation Petition

WARNING: This email originated from an external sender. Please use caution when clicking links or opening attachments.

This vacation is ok with Charter

From: Greg Reid [mailto:greid@wwcengineering.com]
Sent: Thursday, April 21, 2022 3:18 PM
To: Barham, Danny L <Danny.Barham@charter.com>; Christopher.Williams1@centurylink.com; Julie.Sterr1@lumen.com; lisab2256@charter.net; elaine.castillo@lumen.com
Cc: Greg Jones <gjones@wwcengineering.com>
Subject: [EXTERNAL] RE: Legacy Subdivision Public Right-of-Way Vacation Petition

CAUTION: The e-mail below is from an external source. Please exercise caution before opening attachments, clicking links, or following guidance.

All,
I spoke with the City regarding the requested road and utility easement vacation. In lieu of signing the form and returning it, it would suffice if you would reply to this email saying that the vacation is acceptable.
Thanks,
Greg


Greg Reid, P.E. | Billings Branch Manager
550 S 24th St. W, Ste. 201 | Billings, MT 59102
Tel 406-894-2210 | Cell 406-799-1415
www.wwcengineering.com

From: Greg Jones <gjones@wwcengineering.com>
Sent: Monday, April 11, 2022 4:15 PM
To: [Danny.Barham@charter.com](mailto:Barham.Danny@charter.com); Christopher.Williams1@centurylink.com; Julie.Sterr1@lumen.com
Cc: Greg Reid <greid@wwcengineering.com>
Subject: FW: Legacy Subdivision Public Right-of-Way Vacation Petition

All,
I am following up on this request as the Owner is moving forward with the ROW vacation. Please sign and return with approval/disapproval and reasoning (if applicable).

Thanks,
Greg





First Montana Title
2737 Montana Avenue
Billings, MT 59101
Phone (406) 248-3000
Fax (406) 248-9928
Trina@firstmontanatitle.com

May 12, 2022

Dear Greg Reid;

As requested, we have prepared an ownership report on the following legal description(s):

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

Of Legacy Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 3371148.

As of **May 02, 2002, 5:00 PM**, we find ownership as follows on the attached page(s).

This report is limited to verification of the ownership of the above described property, and the liability for this report will not exceed the amount paid for said report. No search has been made for easements, restrictions, liens, judgments or other encumbrances.

Thank you for choosing First Montana Title.

FMT of Billings, LLC

By: _____
Title Officer

Tax Information:

General and special taxes and assessments for the year 2022, which are a lien but not yet computed or payable. Tax Codes: A33312, A33313, A33314, A33315, A33317, A33318, A33319, A33320, A33321, A33322, A33323, A33324, A33325, A33326, A33328, A33329, A33330, A33333, A33334, A33335, A33336, A33337, A33338, A33339.

Legal Description:

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

Of Legacy Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 3371148.

Vested: Legacy LLC, A Fort Belknap Indian Community Limited Liability

Deed Reference: Quit Claim Deed recorded December 20, 2021, under Document No. 4001839.

Mailing Address (If different than Property Address):

PO Box 470
Hays, MT 59527-0470