

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

Description of Right-of-Way to be vacated:

The portion of Marillac Street fronting Lots 3-8 of Block 2 and lots 6-8 of Block 3 within St. Vincent Healthcare Subdivision.

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>
See Exhibit C		
_____	_____	_____
_____	_____	_____

(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	_____	_____
Heights Water	N/A	_____
Montana Dakota Utilities	See Exhibit D	_____
Northwestern Energy	See Exhibit E	_____
Charter	See Exhibit F	_____
CenturyLink	See Exhibit G	_____
City/Co. Planning	See Exhibit H	_____

(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: _____
Petitioner requests vacation of Marillac right-of-way for the purpose of re-aligning of said right-of-way and re-plating of adjacent lots.

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) See Exhibit B
- none Comments from all Utilities
- X Map of R/W to be Vacated See Exhibit A
- n/a Traffic Accessibility Study (When required by the City)

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

Fee Received By: Chris Hertz Date: 6/25/22
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:

Rick Leuthold

Telephone No.: (406) 656-5255

Mailing Address: 1300 N. Transtech Way
Billings, MT 59102

Date: 7/5/22

CITY COUNCIL ACTION: _____

DATE: _____

Exhibit B: Title

SUBDIVISION

Issued By:



CHICAGO TITLE
INSURANCE COMPANY

Guarantee/Certificate Number:

3523220485

CHICAGO TITLE INSURANCE COMPANY
a corporation, herein called the Company

GUARANTEES

Sanderson Stewart

herein called the Assured, against actual loss 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.

LIABILITY EXCLUSIONS AND LIMITATIONS

1. 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.
2. The Company's liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company's liability exceed the liability amount set forth in Schedule A.

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the Company for further information as to the availability and cost.

Chicago Title Company, LLC
1575 Shiloh Rd, Suite J
Billings, MT 59106

Countersigned By:

Joyce Bondurant
Authorized Officer or Agent



Chicago Title Insurance Company

By:

Michael J. Nolan, President

Attest:

Marjorie Nemzura, Secretary

ISSUING OFFICE:

Title Officer: Joyce Bondurant
 Chicago Title Company, LLC
 1575 Shiloh Rd, Suite J
 Billings, MT 59106
 Phone: 406-869-3742 Fax: 406-245-5094
 Main Phone: (406)245-3064
 Email: Joyce.Bondurant@ctt.com

SCHEDULE A

Liability	Premium	Tax
\$10,000.00	\$150.00	\$0.00

Effective Date: May 27, 2022 at 08:00 AM

The assurances referred to on the face page are:

That, according to those public records which, under the recording laws, impart constructive notice of matter relative to the following described property:

Lots 3, 4, 5, 6, 7, 8, Block 2

and

Lots 2, 3, 4, 5, 6, 7, 8, Block 3

and

Lot 1, Block 4, of St. Vincent Healthcare Subdivision, in the City of Billings, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 3707746.

Lot 1A, Block 2, of Amended Plat of Lots 1 and 2, Block 2, St. Vincent Healthcare Subdivision in the City of Billings, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 3845745.

Lot 2A-1, Block 4 of Amended Plat of Lot 2A of Amended Plat of Lots 2 and 3, Block 4 of St. Vincent Healthcare Subdivision, in the City of Billings, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 4017536.

Title to said real property is vested in:

[The Sisters of Charity of Leavenworth Health System, Inc.](#)

subject to the matters shown below under Exceptions, which Exceptions are not necessarily shown in the order of their priority.

END OF SCHEDULE A

SCHEDULE B

- a. Rights or claims of parties in possession not shown by the Public Records.
- b. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Land including, but not limited to, insufficient or impaired access and matters contradictory to any survey plat shown by the Public Records.
- c. Easements, or claims of easements, not shown by the Public Records.
- d. 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.
- e. (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, whether or not the matters accepted under (a), (b), (c) are shown by the Public Records.
- f. Taxes to special 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 the Public Records.
- g. 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 MCA, including, but not limited to any right of the public to use and occupy those certain roads and trails.
- h. Mineral rights, claims or title to minerals in or under said land, including but not limited to metals, oil, gas, coal, or other hydrocarbons, sand, gravel, or stone, and geothermal energy rights, and easement or other rights or matters relating thereto, whether express or implied, recorded, or unrecorded.

SPECIAL EXCEPTIONS:

1. General County Taxes for the year 2022 and subsequent years, which are a lien but not yet due or payable.

General Taxes for the year 2021

1st Half: \$5,362.08 PAID
2nd Half: \$5,362.08 PAID
Tax ID No.: [A31925](#)

General Taxes for the year 2021

1st Half: \$5,691.38 PAID
2nd Half: \$5,691.36 PAID
Tax ID No.: [A31926](#)

General Taxes for the year 2021

1st Half: \$3,198.76 PAID
2nd Half: \$3,198.74 PAID
Tax ID No.: [A31927](#)

SCHEDULE B

(continued)

General Taxes for the year 2021

1st Half: \$3,196.60 PAID
2nd Half: \$3,196.59 PAID
Tax ID No.: [A31928](#)

General Taxes for the year 2021

1st Half: \$4,206.24 PAID
2nd Half: \$4,206.23 PAID
Tax ID No.: [A31929](#)

General Taxes for the year 2021

1st Half: \$3,853.76 PAID
2nd Half: \$3,853.75 PAID
Tax ID No.: [A35420](#)

General Taxes for the year 2021

1st Half: \$19,947.20 PAID
2nd Half: \$19,947.19 PAID
Tax ID No.: [A31931](#)

General Taxes for the year 2021

1st Half: \$6,463.56 PAID
2nd Half: \$6,463.55 PAID
Tax ID No.: [A31932](#)

General Taxes for the year 2021

1st Half: \$9,280.41 PAID
2nd Half: \$9,280.40 PAID
Tax ID No.: [A31923](#)

General Taxes for the year 2021

1st Half: \$9,025.05 PAID
2nd Half: \$9,205.05 PAID
Tax ID No.: [A31933](#)

General Taxes for the year 2021

1st Half: \$6,867.77 PAID
2nd Half: \$6,867.76 PAID
Tax ID No.: [A31934](#)

SCHEDULE B

(continued)

General Taxes for the year 2021

1st Half: \$11,527.38 PAID
2nd Half: \$11,527.37 PAID
Tax ID No.: [A31935](#)

General Taxes for the year 2021

1st Half: \$10,623.14 PAID
2nd Half: \$10,623.13 PAID
Tax ID No.: [A31936](#)

General Taxes for the year 2021

1st Half: \$9,749.38 PAID
2nd Half: \$9,749.38 PAID
Tax ID No.: [A31937](#)

General Taxes for the year 2021

1st Half: \$2,348.97 PAID
2nd Half: \$2,348.96 PAID
Tax ID No.: [A31945](#)

General Taxes for the year 2021

1st Half: \$6,259.21 PAID
2nd Half: \$6,259.20 PAID
Tax ID No.: [A31946](#)

2. Terms and Provisions included in the Resolution Designation of Controlled Access Highway and Facility

Recording Date: June 4, 2007
Document No.: [3425016](#)

3. Annexation Agreement

Recording Date: January 14, 2004
Document No.: [3271676](#)

4. Subdivision Improvements Agreement and Waiver

Recording Date: March 4, 2005
Document No.: [3324331](#)

SCHEDULE B

(continued)

5. Easements reserved in State of Montana Department of Transportation Quit Claim Deed

Recording Date: March 20, 2009

Recording No.: [3499550](#)

6. Recitals, notes, dedications, easements, certificates and covenants as contained on the plat of St. Vincent Healthcare Subdivision. Reference is hereby made to the plat for more particulars.

Document No. [3707746](#)

7. Grant contained in the Certificate of Dedication of St. Vincent Healthcare Subdivision, which provides as follows:

"The undersigned hereby grants unto all public utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, and repair and removal of their lines over, under and across the areas designated on this plat as "Utility Easement" to have and hold forever.

Document No. [3707746](#)

8. Recitals, notes, dedications, easements, certificates and covenants as contained on the plat of Amended Plat of Lots 1 and 2, Block 2 St. Vincent Healthcare Subdivision. Reference is hereby made to the plat for more particulars.

Recording No.: [3845745](#)

9. Recitals, notes, dedications, easements, certificates and covenants as contained on the plat of Amended Plat of Lot 2A of Amended Plat of Lots 2 and 3, Block 4, St. Vincent Healthcare Subdivision. Reference is hereby made to the plat for more particulars.

Recording No.: [4017536](#)

10. Planned Development Agreement for St. Vincent Healthcare Subdivision

By and Between: St. Vincent Healthcare Foundation, Inc. and The City of Billings.

Recording Date: June 12, 2014

Recording No.: [3707747](#)

Consent to Minor Modification of Planned Development Agreement

Recording Date: November 21, 2014

Recording No.: [3724597](#)

Second Consent to Minor Modification of Planned Development Agreement

Recording Date: February 27, 2015

Recording No.: [3732703](#)

SCHEDULE B

(continued)

11. Subdivision Improvements Agreement and Waiver

Recording Date: June 12, 2014

Recording No.: [3707749](#)

12. Declaration of Restrictions on Transfers and Conveyances

Recording Date: June 12, 2014

Recording No.: [3707750](#)

13. Covenants, conditions and restrictions and reciprocal easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: June 12, 2014

Recording No.: [3707751](#)

Modification(s) of said covenants, conditions and restrictions

Recording Date: June 4, 2015

Recording No.: [3742196](#)

Memorandum of Supplemental Agreement

Recording Date: August 7, 2019

Recording No.: [3891488](#)

14. Reciprocal Access Agreement and rights incidental thereto as set forth in a document:

In favor of: Owners of Tract 2A and Tract 6B of Certificate of Survey 3125 and owners of Amended Tract 6 of Certificate of Survey 2064 and Certificate of Survey 1400

Recording Date: June 12, 2014

Recording No.: [3707752](#)

15. Development and Maintenance Agreement

By and Between: Foundational Missions, LLC and The City of Billings

Recording Date: June 12, 2014

Recording No.: [3707756](#)

16. Declaration of Use Restrictions

Recording Date: June 4, 2021

Recording No.: [3974983](#)

SCHEDULE B

(continued)

17. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Short Form of Ground Lease
Lessor: Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation
Lessee: PMB Billings, LLC, a Delaware limited liability company
Recording Date: April 29, 2022
Recording No: [4015530](#)

18. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$20,723,820.00
Dated: April 29, 2022
Trustor/Grantor: PMB Billings LLC, a Delaware limited liability company
Trustee: Chicago Title Company, LLC
Beneficiary: First Horizon Bank, a Tennessee state bank
Recording Date: April 29, 2022
Recording No.: [4015531](#)

19. Subordination, Non-Disturbance and Attornment Agreement

Recording Date: April 29, 2022
Recording No.: [4015532](#)

20. Subordination, Non-Disturbance and Attornment Agreement

Recording Date: April 29, 2022
Recording No.: [4015533](#)

Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.

Note: The Company has searched the records of the Clerk and Recorder and the Clerk of Court for Yellowstone County, Montana and find no judgments or liens affecting the Land, other than as excepted in Schedule B.

END OF SCHEDULE B

Exhibit C: abutting property owner signature

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

Description of Right-of-Way to be vacated:

The portion of Marillac Street fronting Lots 3-8 of Block 2 and lots 6-8 of Block 3 within St. Vincent Healthcare Subdivision.

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

Street Alley Other R/W

SIGNATURE

DATE

PROPERTY OWNERSHIP

(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	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	_____	_____
Northwestern Energy	_____	_____
Charter	_____	_____
CenturyLink	_____	_____
City/Co. Planning	_____	_____

(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: _____
Petitioner requests vacation of Marillac right-of-way for the purpose of re-aligning of said right-of-way and re-platting of adjacent lots.

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:

- Title Report(s)
- Comments from all Utilities
- Map of R/W to be Vacated
- Traffic Accessibility Study (When required by the City)

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

Exhibit D: Montana Dakota Signature

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

Description of Right-of-Way to be vacated:

The portion of Marillac Street fronting Lots 3-8 of Block 2 and lots 6-8 of Block 3 within St. Vincent Healthcare Subdivision.

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

_____ Street

_____ Alley

_____ Other R/W

SIGNATURE

DATE

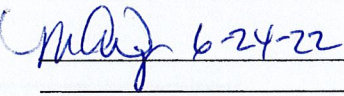
PROPERTY OWNERSHIP

Bruce Fong

Digitally signed by Bruce Fong
Date: 2022.06.08 14:48:45 -06'00'

(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	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	 6-24-22	_____
Northwestern Energy	_____	_____
Charter	_____	_____
CenturyLink	_____	_____
City/Co. Planning	_____	_____

(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: _____

Petitioner requests vacation of Marillac right-of-way for the purpose of re-aligning of said right-of-way and re-platting of adjacent lots.

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:

- _____ Title Report(s)
- _____ Comments from all Utilities
- _____ Map of R/W to be Vacated
- _____ Traffic Accessibility Study (When required by the City)

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

Exhibit E: NorthWestern Energy Signature

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

Description of Right-of-Way to be vacated:

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

_____ Street

_____ Alley

_____ Other R/W

SIGNATURE

DATE

PROPERTY OWNERSHIP

Bruce Fong

Digitally signed by Bruce Fong
Date: 2022.06.08 14:48:45 -06'00'

(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	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	_____	_____
Northwestern Energy	See Attached Letter	_____
Charter	_____	_____
CenturyLink	_____	_____
City/Co. Planning	_____	_____

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

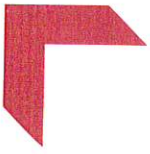
Petitioner's interest in vacating the public right-of-way: _____

The 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:

- _____ Title Report(s)
- _____ Comments from all Utilities
- _____ Map of R/W to be Vacated
- _____ Traffic Accessibility Study (When required by the City)

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



June 28, 2022

Mr. John Halverson
Sanderson Stewart
Billings, MT

Dear Mr. Halverson,

Tim Morton has recently send me this request to vacate a right-of-way along Marillac Street in the St. Vincent Healthcare Subdivision. I have reviewed it and will approve with one condition.

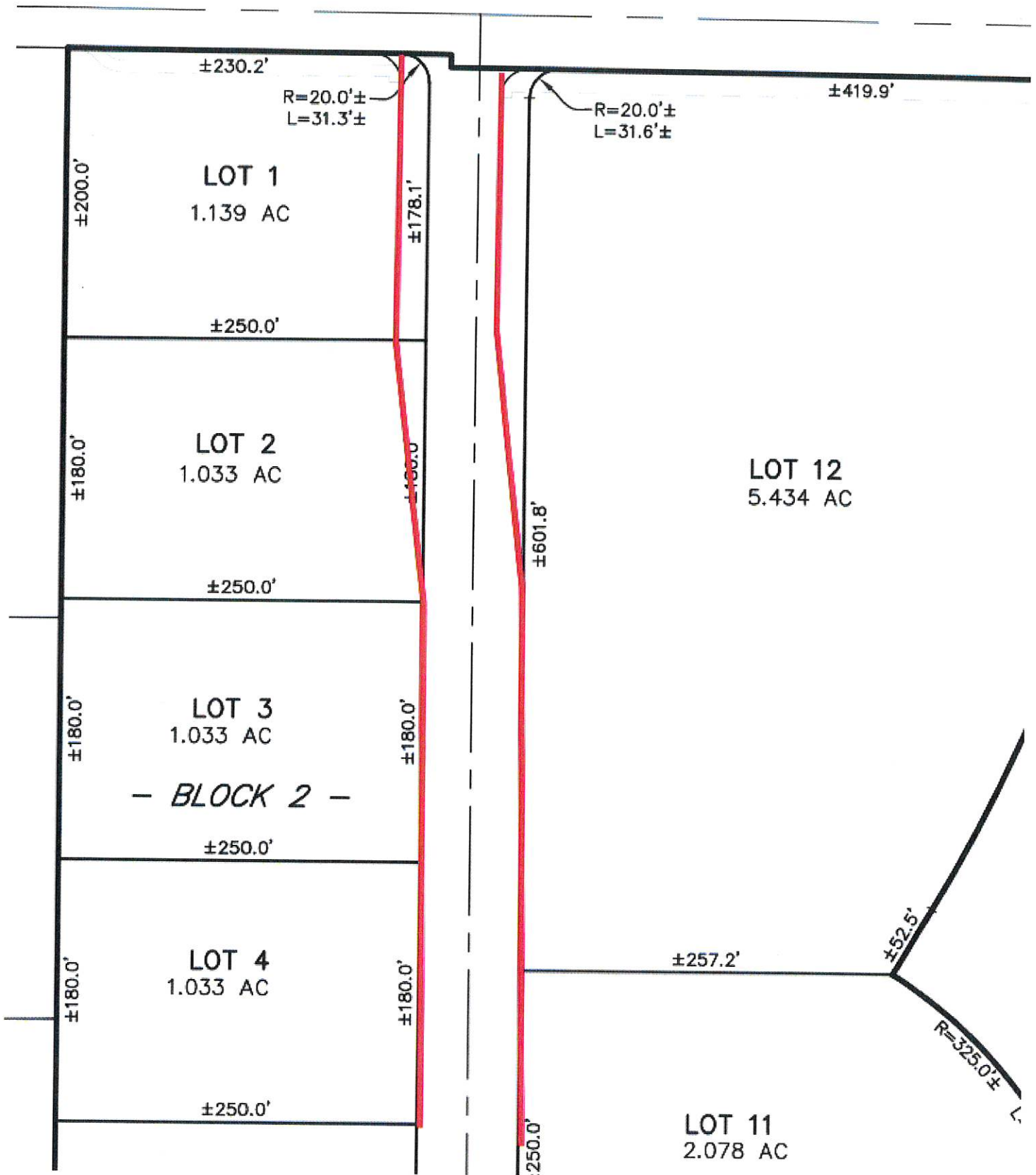
NorthWestern Energy has some junction cans on the south side of Monad Road right near the proposed Marillac St. With those junction cans there, that is how we are going to feed those southern lots. Those junction cans are also an essential tie that we have going east and west along Monad Rd. to tie two of our circuit feeders together. NorthWestern Energy does not want to relocate what was already placed there in the last couple of years. The drawing, labeled Exhibit A, is a drawing of a red line that would show Marillac St. making an alignment adjustment at the southern side of the intersection of Marillac St. and Monad Rd. to make the existing junction cans work.

So with that, I approve of this vacated portion of the public right-of-way for Marillac Street with the red line drawing that is attached labeled Exhibit A.

Please let me know if you are needing anything else on this request.

Sincerely,

Cody Lux
Construction Superintendent
cody.lux@northwestern.com
O 406-655-2540
C 406-570-8768



John Halverson
 Planner

Exhibit F: Charter Signature

REQUEST TO VACATE PUBLIC RIGHT -OF-WAY 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:

Street Alley Other RW

SIGNATURE

DATE

PROPERTY OWNERSHIP

Bruce Fong

Digitally signed by Bruce Fong
Date: 2022.06.08 14:48:45 -06'00'

(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	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	_____	_____
Northwestern Energy	_____	_____
Charter	<i>[Signature]</i>	_____
CenturyLink	_____	_____
City/Co. Planning	_____	_____

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

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- _____ Map of R/W to be Vacated
- _____ Traffic Accessibility Study (When required by the City)

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Exhibit G: CenturyLink Signature

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____ Street	____ Alley	____ Other R/W
<u>SIGNATURE</u>	<u>DATE</u>	<u>PROPERTY OWNERSHIP</u>
Bruce Fong	Digitally signed by Bruce Fong Date: 2022.06.08 14:48:45 -06'00'	
_____	_____	_____
_____	_____	_____

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

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City Public Works	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	_____	_____
Northwestern Energy	_____	_____
Charter	_____	_____
CenturyLink	 7/5/22	_____
City/Co. Planning	_____	_____

ABONDING IS CONTINGENT ON A NEW EASEMENT AND ALL ASSOCIATED COSTS WILL BE THE OWNERS

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

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Exhibit H: City/County Planning Signature

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____ Street	____ Alley	____ Other R/W
<u>SIGNATURE</u>	<u>DATE</u>	<u>PROPERTY OWNERSHIP</u>

<u>Bruce Fong</u>	<small>Digitally signed by Bruce Fong Date: 2022.06.08 14:48:45 -06'00'</small>	
_____	_____	_____
_____	_____	_____

(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	_____	_____
Heights Water	_____	_____
Montana Dakota Utilities	_____	_____
Northwestern Energy	_____	_____
Charter	_____	_____
CenturyLink	_____	_____
City/Co. Planning	<u>Marian Plecker 6/2/22</u> <u>Planning Div. Mgr</u>	_____

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

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