

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20____ between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the “CITY”, and TKJ Development, LLC, P.O. Box 1555, Billings, MT 59101, hereinafter referred to as “DEVELOPER”.

W I T N E S S E T H

WHEREAS, the CITY’S Rules and Regulations Governing Water and Wastewater Service outlines the procedure and criteria the CITY uses in approving extensions of the public water and wastewater systems; and

WHEREAS, the CITY’S Rules and Regulations Governing Water and Wastewater Service outlines how the CITY participates in construction of various water and wastewater facilities and applies water and wastewater construction fees and system development fees to developments; and

WHEREAS, no person, developer, customer or applicant shall acquire any vested rights under the terms and provisions of this agreement; and

WHEREAS, DEVELOPER has agreed to extend or replace water and/or wastewater facilities for the purpose of providing service through plans and specifications to be reviewed and approved by the City. Said plans and specifications generally provide for the construction of water and/or wastewater facilities which are specifically described in Exhibit 1, attached hereto; and

WHEREAS, DEVELOPER is desirous of obtaining compensation for a portion of the water and/or wastewater facilities hereafter described; and

WHEREAS, the CITY is desirous of compensating the DEVELOPER for a portion of such water and/or wastewater facilities.

NOW, THEREFORE, CITY and DEVELOPER, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

1. The water and/or wastewater facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.

2. With respect to DEVELOPER’S entitlement to compensation, the CITY and DEVELOPER agree that the conditions set forth hereinafter, must be met before DEVELOPER is entitled to or will receive any compensation. Said conditions are:

- (a) The extent, timing, and manner of the CITY’S participation in a water and/or wastewater facilities extension or replacement is determined in conformance

with the CITY'S Rules and Regulations Governing Water and Wastewater Service and the DEVELOPER'S compliance with city, state and federal laws, rules, and regulations. These policies require necessary funds to be included in the current, approved Capital Improvements Projects (CIP) budget in order to be eligible for compensation back to the DEVELOPER. The DEVELOPER may choose to proceed with an extension or replacement project without waiting for funds to be made available in the CIP budget; in this case, the DEVELOPER is responsible for paying the entire cost of the construction. Extensions or replacements not eligible for compensation according to these CITY policies and practices must be constructed by the DEVELOPER at his expense.

- (b) DEVELOPER shall provide to the CITY sufficient verifiable cost data to determine the appropriate amount of compensation within thirty (30) days of final inspection of the water and/or wastewater facilities and approval and acceptance by the CITY that all construction was completed according to the approved plans and specifications.
- (c) Extension of the water and sanitary sewer mains shall be reviewed and approved by the City of Billings.
- (d) DEVELOPER shall enter into a compensation agreement with the CITY at the time the CITY approves the DEVELOPER'S application for extension of water and/or wastewater facilities or, in the case of a replacement project, prior to submittal of preliminary plans and specifications by the DEVELOPER.
- (e) Upon completion of the extension or replacement of the water and/or wastewater facilities, the DEVELOPER must convey all right, title and interest in the facilities to the CITY.
- (f) DEVELOPER shall, at all times, provide to the CITY a current address for purposes of mailing compensation to DEVELOPER.
- (g) Extension or replacement of water and/or wastewater facilities must be done in compliance with all rules, regulations, resolutions and ordinances of the CITY, including but not limited to standards for design and construction of the facilities, competitive bidding and contract requirements for cities, prevailing wage rates, non-discrimination requirements, etc.

DEVELOPER agrees that it will not be entitled to any compensation whatsoever until the above conditions have been completely satisfied. DEVELOPER'S violation of any of the conditions set forth herein may, at the option of the CITY, result in denial of any and all compensation to the DEVELOPER.

3. In addition, it is expressly agreed that any compensation is conditioned upon the following:

- (a) Compensation is limited to costs attributable to water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the CITY. In no event will compensation exceed the actual cost to the DEVELOPER of extending or replacing the water and/or wastewater facilities.
- (b) Compensation shall not include any interest charges.

Acceptance of the water and/or wastewater facilities for purposes of compensation as set forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the CITY and directed to the DEVELOPER at the address set forth in the first paragraph of this agreement.

4. The CITY, by this agreement, is not guaranteeing that full compensation by the CITY to the DEVELOPER will be made. The CITY is only agreeing that it will develop a plan under its CITY's Rules and Regulations Governing Water and Wastewater Service that will recommend that compensation for water and/or wastewater facilities which have been extended or replaced at the DEVELOPER'S expense will be made as set forth herein. Compensation does not apply to

additional extensions or replacements of the water and/or wastewater facilities. Compensation shall be based upon the final total project costs.

5. The address for mailing compensation to the DEVELOPER shall be that address specified in the first paragraph of this agreement. Any change in address of the DEVELOPER shall be sent to the Public Works Director of the City of Billings at P.O. Box 1178, Billings, MT 59103. The designation of a new address shall be accompanied by a copy of this agreement.

6. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20__.

DEVELOPER

By _____

CITY OF BILLINGS

By _____
Mayor

ATTEST:

City Clerk

P772 King Avenue West Water Improvements

Compensation Agreement Calculations for oversized water main over 12"

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Price	12" vs 24" Difference
201	24" Dia. PVC Water Pipe	284	LF	\$206.00	\$58,504.00	\$45,440.00
202	12" Dia. PVC Water Pipe	284	LF	\$46.00	\$13,064.00	
204	24" Butterfly Valve	1	EA	\$6,980.00	\$6,980.00	\$4,550.00
206	12" Gate Valve	1	EA	\$2,430.00	\$2,430.00	
207	24" X 24" Tee	1	EA	\$1,700.00	\$1,700.00	\$965.00
209	12" X 12" Tee	1	EA	\$735.00	\$735.00	
Total Compensation Estimate						\$50,955.00

P-772: King Avenue West Water Improvements

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
Overhead and General Site Work					
100	Mobilization / Demobilization	1	LS	6,150 ⁰⁰	6,150 ⁰⁰
101	Taxes, Bonds, Insurance	1	LS	2,650 ⁰⁰	2,650 ⁰⁰
102	Traffic Control Plan	1	LS	6,500 ⁰⁰	6,500 ⁰⁰
103	Topsoil Removal & Haul Off	1	LS	2,800 ⁰⁰	2,800 ⁰⁰
104	Vegetative Restoration	1	LS	1,500 ⁰⁰	1,500 ⁰⁰
105	Roadway Restoration	1	LS	12,600 ⁰⁰	12,600 ⁰⁰
106	Unclassified Excavation & Haul Off	1	LS	∅	∅
107	Underground Utility Crossing	1	EA	500 ⁰⁰	500 ⁰⁰
Water System					
200	Connect to Existing 24" Water Main	1	EA	5,500 ⁰⁰	5,500 ⁰⁰
201	24" Dia. PVC Water Pipe	284	LF	315 ⁰⁰	89,460 ⁰⁰
202	12" Dia. PVC Water Pipe	116	LF	95 ⁰⁰	11,020 ⁰⁰
203	6" Dia. PVC Water Pipe	25	LF	58 ⁰⁰	1,450 ⁰⁰
204	24" Butterfly Valve & Box	1	EA	10,250 ⁰⁰	10,250 ⁰⁰
205	6" Gate Valve & Box	2	EA	1,865 ⁰⁰	3,730 ⁰⁰
206	12" Gate Valve & Box	2	EA	4,365 ⁰⁰	8,730 ⁰⁰
207	24" x 24" x 12" Tee	1	EA	4,250 ⁰⁰	4,250 ⁰⁰
208	24" x 24" x 6" Tee	1	EA	3,930 ⁰⁰	3,930 ⁰⁰
209	12" x 12" x 6" Tee	1	EA	1,400 ⁰⁰	1,400 ⁰⁰
210	24" Water Main End Cap Assembly	1	EA	2,400 ⁰⁰	2,400 ⁰⁰
211	12" Water Main End Cap Assembly	1	EA	1,055 ⁰⁰	1,055 ⁰⁰
212	Fire Hydrant Assembly	2	EA	4,480 ⁰⁰	8,960 ⁰⁰

TOTAL BID
PRICE \$

\$184,835⁰⁰
(figures)

TOTAL BID
PRICE

One hundred eighty four thousand eight hundred thirty five⁰⁰ / 100
(words)

A. Unit Prices have been computed in accordance with paragraph 11.03.B. of the General Conditions.

B. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

Affidavit of Publication

STATE OF MONTANA

County of Yellowstone

Jonathan McNiven

Being duly sworn, deposes and says:

That he is the Legal Advertising Clerk of Yellowstone County News, a newspaper of general circulation published weekly in the town of Huntley, in the County of Yellowstone, State of Montana, and that the (3) folio Legal **Invitation to Bid**, a true copy of which is hereto **Included**, was published in said newspaper on the following dates:

June 10, 2022; June 17, 2022

making in all (2) publication(s).


STATE OF MONTANA

County of Yellowstone

On this 17th day of June 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jonathan McNiven, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal that day and year first above written.


Tana McNiven

NOTARY PUBLIC for the State of Montana, residing at Huntley, MT.

My commission expires: August 23, 2024

INVITATION TO BID

Sealed bids will be received up to and including **2:00 P.M. local time on June 21st, 2022** in the office of Performance Engineering at 608 North 29th Street, Billings, MT 59101. Sealed bids will be **opened and read** aloud in the conference room of **Performance Engineering** for the **Private Contract No. 772** project. The project generally consists of the construction of approximately 285 lineal feet of 24-inch and 100 lineal feet of 12-inch water main along King Avenue West in Billings, MT.

Bids shall be submitted on the form provided within the Contract Documents. Contract documents may be secured at www.montanabid.com and/or the office of:

Performance Engineering
608 North 29th Street
Billings, MT 59101
406-384-0080

A non-refundable deposit of \$75.00 is required for each set.

No bidder may withdraw their bid for at least SIXTY (60) calendar days after the scheduled time for receipt of bids except as noted in the Instruction to Bidders.

The Owner reserves the right to reject any or all bids and to waive any and all irregularities or informalities and the right to determine what constitutes any and all irregularities or informalities.

TKJ Development, LLC

Owner

Published June 10 and June 17, 2022.

06/10, 06/17 2022
MNAXLP

