

After Recording Return To:  
Squirrels' Real Estate, LLC  
203 S. First St.  
Lufkin, TX 75901

**4023546 WD**

07/22/2022 12:53 PM Page 1 of 2 Fees: \$16.00  
eRecorded For Yellowstone County, MT  
Jeff Martin, Clerk & Recorder

1030820

**WARRANTY DEED**

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, the undersigned,

Billings Properties, LLC, a Montana limited liability company, with a mailing address of 3000 King Avenue West, Billings, Montana, 59102, as Grantor,

hereby grants to

Squirrels' Real Estate, LLC, a limited liability company, with a mailing address of 203 S. First Street, Lufkin, Texas, 75901, as Grantee,

real property, described as follows ("Property"):

Lot 3A-1, of Amended Plat of Lot 3A, Studer Acreage Tracts 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 #3707588.

TO HAVE AND TO HOLD unto the Grantee, and the Grantee's successors and assigns, forever, SUBJECT TO THE FOLLOWING:

- (a) All matters, reservations, exceptions, waivers, covenants, conditions and restrictions in patents from the United States and the State of Montana.
- (b) Existing easements, rights-of-way and other non-monetary encumbrances of record or apparent.
- (c) Mineral and royalty reservations and conveyances of record.
- (d) Building, use, zoning, sanitary and environmental restrictions.
- (e) Agreement between Billings Bench Water Association and Bannister Drainage District, recorded January 17, 1929, in Book/Roll 127, Page 515, under Document #233450



Ted P. Godwin  
2706 County Lane  
Big Ma 59106



3294397  
Page: 1 of 2  
06/30/2004 11:04A

## DECLARATION OF RECIPROCAL EASEMENTS

On this 3<sup>rd</sup> day of June, 2004, the undersigned, **TED P. GODWIN TRUST**, hereinafter called "Declarant", does hereby convey as written below reciprocal easements across, under and through the following described tracts of real property in Yellowstone County, Montana:

Lots 3A, 3B, 3C, and 3D, Amended Plat of Lot 3, Studer Acreage Tracts Subdivision, on file in the office of the Clerk and Recorder of said County under Document Number 3294395.

These easements are for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing improvements over, across, under, and through the said real property, together with the right of free ingress and egress at all times for the purposes herein written.

**Section 1, Ingress, Egress and Parking.** The Declarant does hereby create, for the benefit of itself, and its respective successors, assigns, tenants, employees, agents, customers, and invitees, and for the customers, employees, and invitees of such tenants, and for the benefit of each lot, reciprocal and mutual non-exclusive easements for ingress and egress by vehicular and pedestrian traffic and for loading and unloading commercial and other vehicles upon, over, and across the said real property.

**Section 2, Utility Lines.** The Declarant does hereby create, for the benefit of itself, and for the future owners of the lots, and for the benefit of each lot and tract, mutual and non-exclusive easements under, through, and across the said real property for water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones or electrical conduits or systems, gas mains, other public utilities, and service easements. All systems, structures, mains, sewers, conduits, lines, and other public utilities shall be installed and maintained below ground level of the said real property. If it is necessary for a party to cause the installation of a storm drain, utility line, or sewer across the said real property of another lot after initial paving and improvements have been completed, the party owning that lot shall not unreasonably withhold the granting of additional easements; provided, however, that (i) any construction and the use of these easements shall not unreasonably interfere with the normal operation of any business in the development; (ii) the party requesting use of the easement shall bear all construction and other costs; and (iii) the requesting party shall repair to original specifications any damage to the said real property resulting from such use. At any time and from time to time an owner shall have the right to relocate, on the lot it owns, any utility line or facility installed under these easements which is then located on that lot, provided that any such relocation (i) shall be performed only after giving fifteen (15) days' written notice to each owner owning a lot served by or subject to the utility line or facility of that party's intention to undertake the relocation; (ii) shall not unreasonably interfere with or diminish utility service to the lots served by the lines or facility; (iii) shall not reduce or unreasonably impair the usefulness or function of



the line or facility; (iv) shall be performed without cost or expense to any other owner or any occupant of any lot served by the line or facility; and (v) the original and relocated area shall be restored to the original specifications.

“DECLARANT”

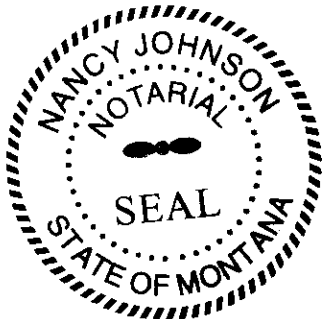
TED P. GODWIN TRUST

By:

*Ted P. Godwin*

STATE OF MONTANA )  
: ss.  
County of Yellowstone )

On this 3rd day of June 2004, before me, a Notary Public in and for the State of Montana, personally appeared Ted P. Godwin of the TED P. GODWIN TRUST, known to me to be the person who signed the foregoing instrument and acknowledged to me that he executed the same. Witness my hand and seal the day and year herein above written.



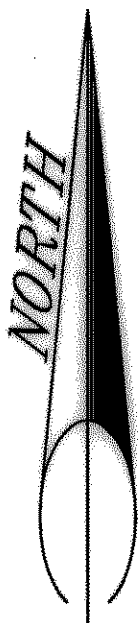
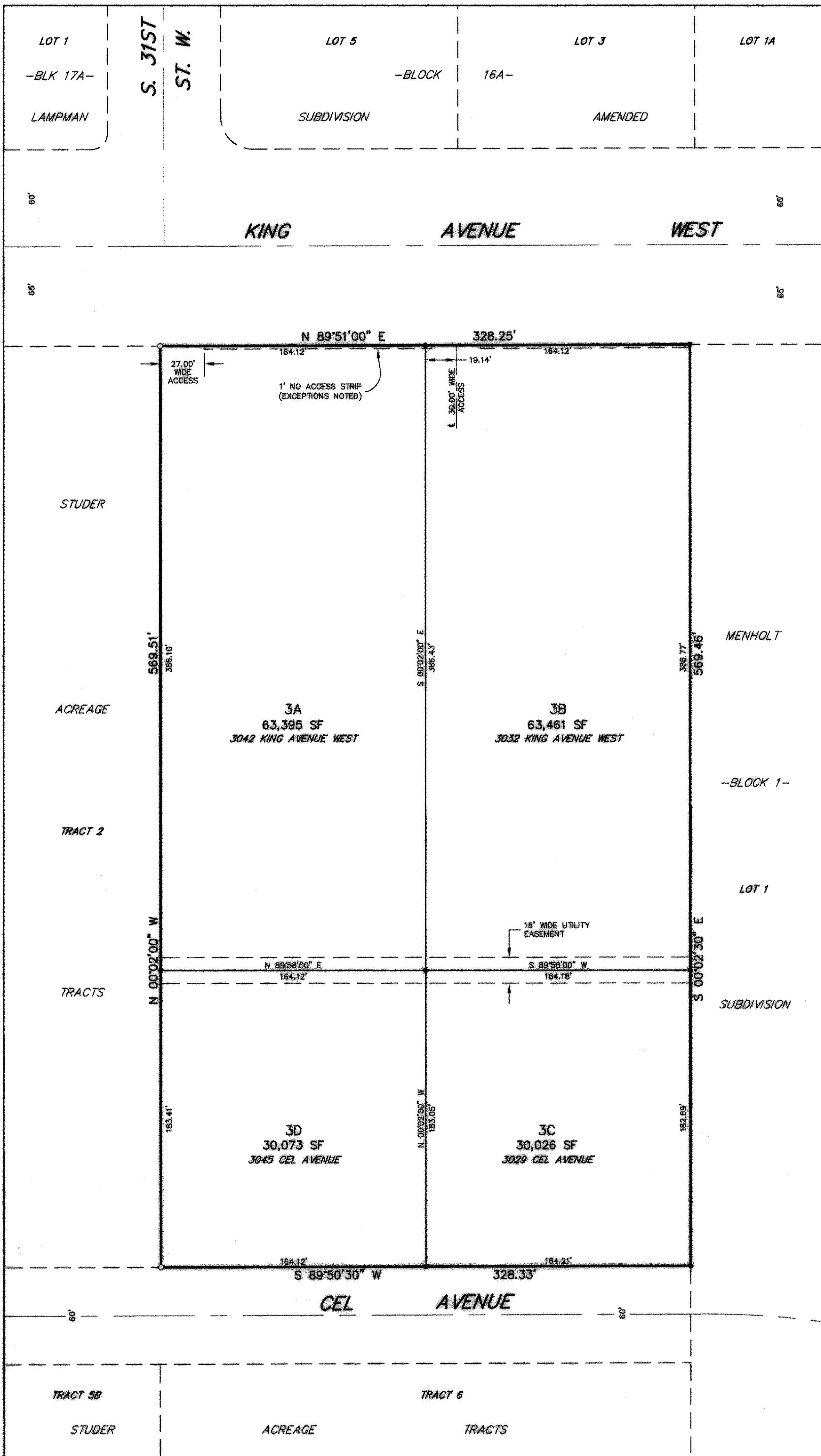
*Nancy Johnson*  
Notary Public in and for the State of Montana  
Printed name: NANCY JOHNSON  
Residing in Billings, Montana  
My commission expires: 5 Sep 2004

# AMENDED PLAT OF LOT 3, STUDER ACREAGE TRACTS SUBDIVISION

SITUATED IN THE NW 1/4 OF SECTION 13, T. 1 S., R. 25 E., P.M.M.  
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : TED P. GODWIN TRUST  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1"=40'

MAY, 2004  
BILLINGS, MONTANA

**BASIS OF BEARING:** PLAT OF STUDER ACREAGE TRACTS SUBDIVISION

- = FOUND SURVEY MONUMENT MARKED "ENGINEERING INC"
- = SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"

**NOTICE OF APPROVAL**

STATE OF MONTANA )  
County of Yellowstone ) SS

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

Date: June 4, 2004  
President: [Signature]  
Executive Secretary: [Signature]



**CERTIFICATE OF CITY ENGINEER'S OFFICE**

I hereby certify that annexed and foregoing plat conforms with Section 76-4-125(2)(c), M.C.A., for the removal of sanitary restrictions 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.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this 28 day of JUNE, 2004.

[Signature]  
City Engineer's Office

**ERRORS AND OMISSIONS REVIEW**

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana, and that said plat conforms to the adjoining additions and plats of the City of Billings already platted as nearly as circumstances will permit.

[Signature]  
Examining Land Surveyor

Date: 6-7-04

**CERTIFICATE OF CITY ATTORNEY**

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

DATED: 6-10-04

Reviewed by: [Signature]

**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.

Date: 6/29/04

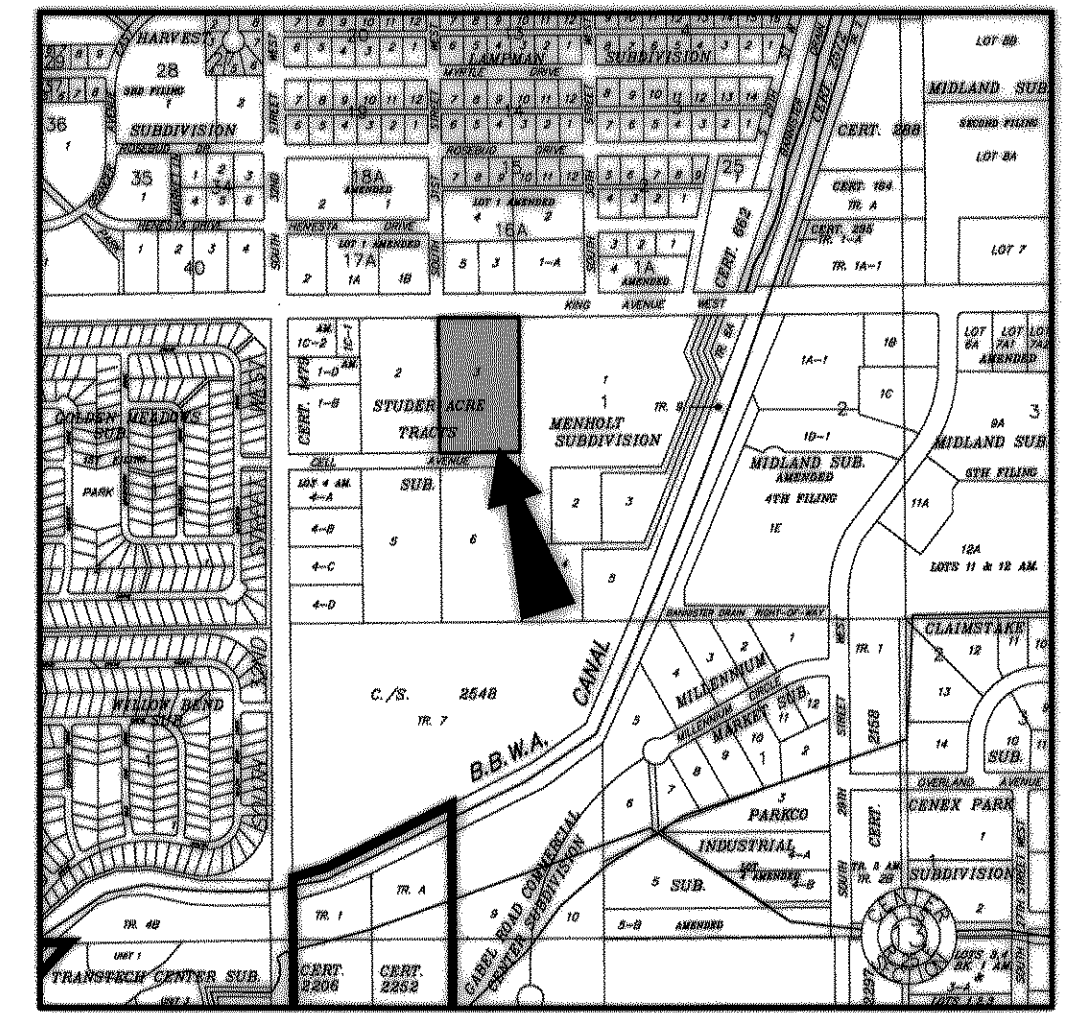
Yellowstone County Treasurer:  
By: [Signature]  
Deputy

**SUBDIVISION IMPROVEMENT AGREEMENT**

Document No. 3294396

**DECLARATION OF RECIPROCAL EASEMENTS**

Document No. 3294397



**CERTIFICATE OF CITY COUNCIL APPROVAL**

STATE OF MONTANA )  
County of Yellowstone ) SS

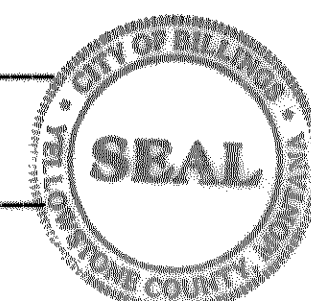
We hereby certify that we have examined the annexed and foregoing AMENDED PLAT OF LOT 3, STUDER ACREAGE TRACTS SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved and the dedication to 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 the CITY OF BILLINGS, MONTANA, this 3rd day of June, 2004.

CITY OF BILLINGS, MONTANA

By: [Signature]  
Mayor Deputy Mayor in the absence of the Mayor

Attest: [Signature]  
City Clerk



**CONSENT TO PLATTING**

The undersigned hereby consents to the platting of the tract of land herein described and included in a mortgage to the undersigned, and hereby release and reconvey from said mortgage all portions of the tract dedicated to the public.

IN WITNESS WHEREOF, the undersigned has caused this consent and release to be executed and acknowledged. This consent is made pursuant to Section 76-3-612(1), M.C.A.

Rocky Mountain Bank

By: [Signature]

Title: VP

STATE OF MONTANA )  
County of Yellowstone ) SS

On this 3 day of June, 2004, before me, a Notary Public in and for the State of Montana, personally appeared Ted P. Godwin, known to me to be the person who signed the foregoing instrument as Vice President of Rocky Mountain Bank, and who acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

[Signature]  
Notary Public in and for the State of Montana  
Printed Name: Nancy Johnson  
Residing at: Billings  
My commission expires: 4/7/2008

**CERTIFICATE OF DEDICATION**

STATE OF MONTANA )  
County of Yellowstone ) SS

KNOW ALL MEN BY THESE PRESENTS: That TED P. GODWIN TRUST, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the NW1/4 of Section 13, T. 1 S., R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Lot 3 of Studer Acreage Tracts Subdivision, 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. 715485, containing a gross and net area of 4.2919 acres.

Pursuant to Section 76-3-621(3)(c), M.C.A. there is no park requirement for this non-residential subdivision.

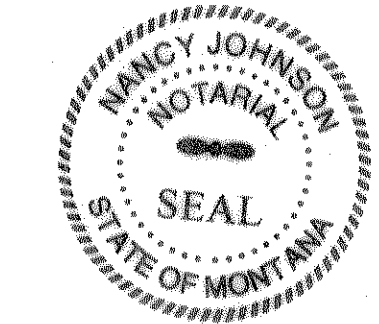
The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as AMENDED PLAT OF LOT 3, STUDER ACREAGE TRACTS SUBDIVISION. There is no public land dedication with this plat.

TED P. GODWIN TRUST  
By: [Signature]  
Title: TRUSTEE

STATE OF MONTANA )  
County of Yellowstone ) SS

On this 3rd day of June, 2004, before me the undersigned Notary Public for the State of Montana personally appeared Ted P. Godwin, known to me to be the persons who signed the foregoing instrument as Trustee of TED P. GODWIN TRUST, and acknowledged to me that said trust executed the same. Witness my hand and seal the day and year herein above written.

[Signature]  
Notary Public in and for the State of Montana  
Printed Name: Nancy Johnson  
Residing at: Billings MT  
My commission expires: 5 Sep 2008



**CERTIFICATE OF SURVEYOR**

STATE OF MONTANA )  
County of Yellowstone ) SS

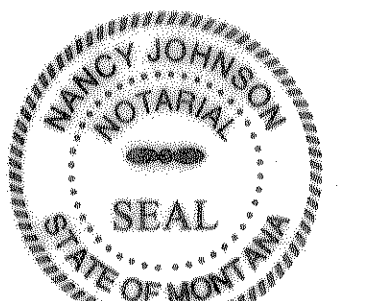
The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of May, 2004, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF LOT 3, STUDER ACREAGE TRACTS SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown thereon and that the gross and the net area is 4.2919 acres (186,955 SF).

ENGINEERING, INC.  
By: [Signature]  
Montana Registration No. 83773



Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this 3rd day of June, 2004.

[Signature]  
Notary Public in and for the State of Montana  
Printed Name: Nancy Johnson  
Residing at: Billings, Montana  
My commission expires: 5 Sep 2008



 3294395  
Page: 1 of 1  
Yellowstone County SP 7.00 05/30/2004 11:04AM



## SUBDIVISION IMPROVEMENTS AGREEMENT

### AMENDED PLAT OF LOT 3 STUDER ACREAGE TRACTS SUBDIVISION

**THIS AGREEMENT** is made and entered into this 20 day of June, 2004, by and between **TED P. GODWIN TRUST**, whose address for the purpose of this Agreement is 2706 Country Lane, Billings, Montana 59106, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

#### WITNESSETH

**WHEREAS**, the Amended Plat of Lot 3 Studer Acreage Tracts Subdivision, located in the City of Billings, Yellowstone County, Montana, was submitted to the Planning Department, which recommended its approval to the City Council of the City of Billings; and

**WHEREAS**, at a regular meeting held on the 26th day of April, 2004, the City Council approved, subject to certain conditions of the Board and the City Council, a preliminary plat of the Subdivision; and

**WHEREAS**, on the 31st day of January, 1992, the Public Works Department approved, subject to certain recommendations and conditions, an application for extension of water and sanitary sewer services to Lot 3 of Studer Acreage Tracts Subdivision; and

**WHEREAS**, a Subdivision Improvements Agreement is required prior to approval of the final plat by the City; and

**WHEREAS**, Lot 3 of Studer Acreage Tracts Subdivision has participated in Special Improvements District No. 1356 and all of the public improvements required for the King Avenue West frontage of Lot 3 have heretofore been constructed and installed by SID 1356, and no further improvements for King Avenue West are required as a result of the Amended Plat of Lot 3.

**NOW, THEREFORE**, the parties to this Agreement, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

1. Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations:
  - A. Variance from the provisions of Section 23-602 of the City's Subdivision Ordinance requiring platting of alleys in a commercial area.



- B. Variance from the provisions of Section 23-605(d) of the City's Subdivision Ordinance for the no-access requirements on King Avenue West to permit the existing 49-foot-wide shared access from South 31st Street West, 27 feet of which is on Lot 3A and 22 feet on Lot 2 of Studer Acreage Tracts; and to permit the existing 30-foot-wide right-in/right-out access into Lot 3B centered 68 feet east of the property line between Lots 3A and 3B.
  - C. Variance from the provisions of Section 23-601(k) of the City's Subdivision Ordinance requiring a 35-foot half right-of-way for a local commercial street to allow for the existing 30-foot half right-of-way on Cel Avenue.
2. Subdivider agrees to construct the following improvements as required and in conformance with the Billings Subdivision Regulations:

A. **STREETS**

(1) *Street Construction.*

All private internal access roads and site improvements within the Subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

Subdivider and City agree that the required street improvements are as follows:

Standard curb and gutter will be installed on the north side of Cel Avenue adjacent to Lots 3C and 3D. This curb will extend west from the existing curb on Menholt Subdivision and will continue the 37-foot street width. If participation cannot be obtained from the south side property owner, the Subdivider will install asphalt pavement a minimum of 30 feet wide adjacent to Lots 3C and 3D

The design thickness of the street improvements shall be determined from actual field tests conducted by a responsible testing laboratory. The design section shall be submitted to, reviewed by, and approved by the City Engineer.

(2) *Street Signs.*

Street name signs shall be furnished and installed as required by the City Engineer.



(3) *Storm Drainage.*

Storm drainage for the lots in the Subdivision shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains in the parking lots and internal drives, and then to the existing storm drain stub located at the north side of the Subdivision. All development within the lots of the Subdivision will meet the criteria of the City of Billings *Stormwater Management Manual*. Site drainage requirements will be described in the storm drain study provided for each lot at the time of development and will be subject to review and approval by the Engineering Department in conformance with the *Stormwater Management Manual*.

Storm drainage for King Avenue West was previously provided by SID 1356. Storm drainage for Cel Avenue will eventually be provided by a storm drain lateral extended east from a future storm main in South 32nd Street West. As an interim facility to handle street drainage for Cel Avenue adjacent to the Subdivision, Subdivider will install inlets in the curb line at the west edge of Lot 3D and necessary interim piping to a boulder pit on Lot 3D. The boulder pit will be maintained by the Subdivider and/or the subsequent lot owner of Lot 3D until such time as the storm drain lateral is extended from South 32nd Street West to intercept the inlet drainage. The sizing and design of the interim boulder pit will be addressed in the storm drain study and report provided by the Subdivider at the time of Cel Avenue construction adjacent to Lots 3C and 3D.

(4) *Sidewalks.*

Sidewalk will be installed on the north side of Cel Avenue at the time of development of Lots 3C or 3D. Sidewalk shall be 5-foot-wide boulevard walk or 5-foot-wide curb walk.

(5) *Traffic Control Devices.*

Subdivider will furnish necessary traffic control devices within or adjacent to the Subdivision. Traffic control devices shall also include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction. An extensive traffic accessibility study was done for the improvements on King Avenue West, in conjunction with the development of the adjacent lots, at the time SID 1356 was created and design and



construction was completed. Improvements outlined in that traffic accessibility study were completed on King Avenue West under SID 1356. No changes in the previously projected uses are contemplated at this time for Amended Lot 3.

Any change of anticipated use of any lot from that estimated in the original traffic accessibility study will require an update of the traffic analysis and recommendations.

(6) *Access.*

Access to the Subdivision from King Avenue West will be through the existing 49-foot wide shared approach on Lot 2 of Studer Acreage Tracts and Lot 3A. The access opening matches the centerline of South 31st Street West on the north side of King Avenue, and 27 feet of the opening is on Lot 3A. A full service intersection was constructed on King Avenue West at South 31st Street West with a raised median across Lot 3 and a westbound left-turn bay. Access to the Subdivision is also provided by the existing 30-foot wide right-in/right-out approach into Lot 3B. A Declaration of Reciprocal Easements providing for joint use of these access points by all lots will be filed with the final plat for this Subdivision.

Cel Avenue adjacent to the south frontage of Lots 3C and 3D will also provide access to the Subdivision. Specific approach locations for Lots 3C and 3D will be per the approved site plans for these lots at the time of individual lot development.

(7) *Street Lighting.*

Street lights were installed on King Avenue West adjacent to Lot 3 under SID 1356. No street lights will be installed on Cel Avenue at this time but could be installed under a future lighting district and

accompanying light maintenance district with participation by the other property owners fronting the street.

(8) *Landscaping.*

Landscaping inside the Subdivision will meet the requirements of the Unified Zoning Regulations, Section 27-1006. Maintenance of all site landscaping, including that in the public right-of-way, shall be the responsibility of the lot owner.



B. UTILITIES

(1) *Water.*

A 12-inch water main exists in King Avenue West along the frontage of the Subdivision, and a 12-inch water main exists in the Cel Avenue at the southeast corner of the Subdivision. A new 12-inch main will be extended west in Cel Avenue adjacent to the Subdivision. Service stubs for Lots 3C and 3D and a fire hydrant at the southwest corner of the Subdivision will be installed. The existing 4-inch service on King Avenue will be used for Lot 3B. A new water service will be installed off King Avenue at the time of development of Lot 3A.

(2) *Sanitary Sewer.*

An existing 8-inch lateral sanitary sewer is located in the boulevard of King Avenue adjacent to Lot 3A with the 6-inch stub to the property line. There is no sanitary sewer in Cel Avenue; however, a stub exists in the line in South 32nd Street West for future extension on Cel Avenue. Lots 3A and 3B will be served from the existing sewer lateral on King Avenue. Lots 3C and 3D will receive sanitary sewer service from the future main in Cel Avenue.

(3) *Storm Drain.*

Storm drainage improvements for King Avenue West with a service stub for Lot 3 were previously installed under SID 1356. No available storm drain exists in Cel Avenue at this time. Until such time as storm drain is available, Subdivider will provide interim drainage facilities for the street adjacent to Lots 3C and 3D. An easement will be provided on Lot 3D for the interim boulder pit or retention basin.

(4) *Standards.*

The water, sewer, and storm drain lines shall be sized and installed in conformance with City design standards and specifications and the rules and regulations of the City of Billings.



(5) *Power, Telephone, Gas, and Cable Television.*

All power, telephone, gas, and cable television lines within the Subdivision shall be installed underground. All required sleeves and conduits shall be installed at all crossings prior to street paving. Appropriate utility easements will be provided across the Subdivision lots for service to the proposed development.

(6) *Water and Sanitary Sewer Extension and Fees.*

Water and sewer extension applications for Lot 3 of Studer Acreage Tracts Subdivision, which encompassed all of Amended Lot 3, were approved on January 31, 2002. Lot 3 participated in SID 1356, and water and sewer mains were extended along the King Avenue West frontage of Lot 3, with a 6-inch sewer service and a 4-inch water service to the property line.

The Subdivision Improvements Agreement does not constitute an approval of extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water and sanitary sewer to the Public Works Department. The extension/connection to water and sanitary sewer is subject to the approval of the applications and the conditions of approval. Applications will need to be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The property is subject to water and wastewater system development fees in effect at the time of obtaining said services.

C. SURVEY MONUMENTS

Survey monuments shall be installed as required by City Ordinance and the rules and regulations of the State of Montana.

3. Subdivider agrees to provide for any adjustment or alteration of existing improvements which are necessary and limited to those improvements required to make the improvements contemplated by this Agreement without cost to the City. The water and sewer mains, storm drains, and streets shall be sized, designed, and installed in conformance with City design standards and with the provisions of the Montana Public Works Standard Specifications.



4. Subdivider agrees to notify the City Engineer of the date and hour construction is anticipated to begin on the required improvements and to keep the City Engineer informed of the progress of construction. If the construction is stopped for any other reason than overnight, holidays and weekends, the Subdivider agrees to notify the City Engineer of stoppage. Further, Subdivider agrees to notify the City Engineer not less than four (4) hours before construction is scheduled to resume.
5. Except as otherwise provided, Subdivider shall install and construct said required improvements utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Public Works Department Engineer.
6. The City and Subdivider agree that the required improvements, to be constructed in one phase, are as follows:
  - A. With south side owner participation, full-width local commercial street improvements (37 feet back to back) on Cel Avenue from the existing pavement on Cel Avenue west to the west line of the Subdivision. Without south side owner participation, street improvement will include curb and gutter on the north side and a minimum pavement width of 30 feet.
  - B. Extension of a 12-inch water main in Cel Avenue from the existing main at the east line of the Subdivision to the west line on Lot 3D.
  - C. Water services will be installed for Lots 3C and 3D. Installation of a storm drain stub and inlets in Cel Avenue and construction of an interim drainage facility for street drainage only on an easement in Lot 3D.
  - D. Installation of a fire hydrant at the west end of the 12-inch water main extension on Cel Avenue.
  - E. Signing, striping, and traffic control devices for the safe operation of Cel Avenue adjacent to the Subdivision.
7. As described, the improvements referred to herein shall be installed by utilizing the mechanics of special improvement districts and/or by using private contracts, which shall be secured by cash in escrow, letter of credit, or a letter of commitment to lend funds from a commercial lender in accordance with the City of Billings Subdivision



Regulations. In the event Subdivider fails to install or construct such improvements or fails to finance in another satisfactory manner at the time performance is due, the City may initiate the creation of a special improvement district or districts and shall be entitled to rely on the Waiver in connection with creation of said districts.

Subdivider desires to file the subdivision plat and commence development immediately on Lot 3A, for which all street improvements and utility services are in place. The Subdivider and City agree that the final plat may be filed but that no building permits shall be issued for Lots 3C and 3D until a private contract, as required above, has been executed, or satisfactorily secured, to install or construct the improvements required on Cel Avenue. Occupancy permits shall not be issued for Lots 3C or 3D until water and sewer mains and services and street improvements have been approved and accepted by the City.

8. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the development described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
9. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings by a requirement that the contractor must guarantee improvements for a period of one year after final acceptance by the City.
10. The owners of the properties involved in this proposed Subdivision by signature subscribed hereinbelow agree, consent, and shall be bound by the provisions of this Agreement.
11. The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.
12. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.







**WHEN RECORDED MAIL TO:**

Panda Express, Inc.  
Attn: Real Estate Legal Department  
1683 Walnut Grove Ave.,  
Rosemead, CA 91770

---

*Space Above This Line for Recorder's Use*

**STORM DRAIN SYSTEM ACCESS EASEMENT AGREEMENT**

17 This STORMWATER INLET ACCESS EASEMENT AGREEMENT (this "Agreement"), dated as of the day of May 2023 ("Effective Date"), is entered into between CFT NV DEVELOPMENTS, LLC, a Nevada limited liability company (the "Grantor"), and Squirrels' Real Estate, LLC, a Texas limited liability company (the "Grantee").

**RECITALS**

- A. Grantor owns that certain real property located in the City of Billings, County of Yellowstone, Montana, commonly known as 3032 King Ave. W. Billings, Montana (the "Property") and identified as Yellowstone County Assessor Parcel No. 03-0926-13-2-10-20-0000 and more particularly described in the legal description set forth on **Exhibit A** attached hereto and a made part hereof.
- B. Grantee owns that certain real property located in the City of Billings, County of Yellowstone, Montana, commonly known as 3042 King Ave. W. Billings, Montana (the "Neighbor Property") and identified as Yellowstone County Assessor Parcel No. 03-0926-13-2-10-18-0000 and more particularly described in the legal description set forth on **Exhibit B** attached hereto and a made part hereof.
- C. Grantee owns an existing storm drain system that connects to a certain storm main located adjacent to the Property located on the public street commonly known as King Ave. W. (the "Existing Storm Drain System") and Grantee is responsible for the maintenance, repair, and operation of the Existing Storm Drain System, as further depicted on **Exhibit C** attached hereto and made a part hereof.
- D. Two storm water inlets that tie into the Existing Storm Drain System for the purpose of conveying storm water to the storm main are located on the Property (the "Inlets"). Both Inlets, the northern Inlet on the Property (the "North Inlet") and southern Inlet on the Property (the "South Inlet") are more particularly depicted on **Exhibit D** attached hereto and made a part hereof.

- E. Grantor desires to grant Grantee an easement to allow Grantee access to the Inlets over such portion of the Property (the "Easement Area"), more particularly described in the legal description on Exhibit E attached hereto and made a part hereof, and depicted on Exhibit F attached hereto and made a part hereof.
- F. Grantee desires to grant Grantor the right to tie into the Existing Storm Drain System through the South Inlet, making that a shared inlet between Grantor and Grantee on the Property. The parties acknowledge that the City of Billings only allows one connection after the detention. The Grantee is choosing to connect to the South Inlet.
- G. The parties wish to set forth the terms and conditions of the easement and the right to tie into the Existing Storm Drain System in this Agreement.

### AGREEMENT

THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee, its heirs, successors, and assigns, and to any future owners of the Neighbor Property, a perpetual, non-exclusive easement, and right-of-way (the "Easement") in, under, upon, about, over, and through the Easement Area, for the benefit of the Neighbor Property, for the purpose of accessing, inspecting, repairing, and maintaining the Inlets and the Existing Storm Drain System within the Easement Area.

2. **Use of Easement Area.** Grantee may use the Easement Area solely for the purpose of accessing, inspecting, repairing, and maintaining the Inlets and the Existing Storm Drain System, including any associated pipes or channels, and any other infrastructure necessary for storm water management owned by Grantee and located on the Property within the Easement Area.

3. **Grantor's Obligations.** Grantor will keep the surface of the Inlets free and clear of leaves and debris and will remove such debris from time to time as may be reasonably necessary to facilitate the operation of the Existing Storm Drain System. Grantor will use reasonably commercial efforts when tying into the Existing Storm Drain System to prevent damage to it.

4. **Grantee's Obligations.** Except as otherwise provided in section 4.1, Grantee will be solely responsible, at its cost and expense, for the installation, maintenance, inspection, repair, and replacement of the Existing Storm Drain System installed by Grantee within the Easement Area. Grantee hereby agrees to keep the Existing Storm Drain System in good working order and free and clear of any debris that might impede the flow of water. If Grantee fails to perform any obligations set forth herein, and fails to cure its nonperformance within five (5) business days following written notice thereof from Grantor (unless, with respect to any such breach the nature of which cannot reasonably be cured within such five (5) business-day period), Grantee commences such cure within such five (5) business-day period and thereafter diligently prosecutes such cure to completion, which completion must occur not later than ten business (10) days after the date of the notice), Grantor may cure Grantee's nonperformance. In the event of such

cure by Grantor, Grantee hereby agrees to pay, within twenty (20) days of written demand, to Grantor an amount equal to one hundred twenty five percent (125%) of the total of all costs commercially reasonably incurred by Grantor in the completion of such cure, including reasonable labor and material costs related to Grantor's employees. Notwithstanding the foregoing, the five (5) business day notice required above shall not be required if Grantor must act to prevent imminent harm to the Grantor Property; in such instances, Grantor shall give such notice as is reasonable under the circumstances. Grantee shall keep the Easement Area clean and free from debris and shall restore the Easement Area at its sole cost and expense to its original condition following any construction, repair, or maintenance activities. Without limiting Grantor's obligations under Section 3, Grantee will have the right to enter onto the Easement Area at any time and from time to time as reasonably determined by Grantee for the purpose of inspecting the Existing Storm Drain System and removing leaves and other debris from the Inlets. Notwithstanding the foregoing, each party will be solely responsible for any repair or replacement of the Existing Storm Drain System required as a result of damage caused by that party or its contractors or invitees.

5. **Right to Tie into Existing Storm Drain System.** Grantee hereby grants Grantor the right to tie into the Existing Storm Drain System through the South Inlet for purposes of conveying stormwater from a portion of the Property to the storm main.

6. **No Modification of Inlets.** The parties shall not modify or obstruct the Inlets in any way that would prevent either party from accessing the storm main.

7. **Indemnification.** Except for the negligence or willful misconduct of Grantor and its agents, employees, or contractors, Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor from and against any and all claims, damages, losses, liabilities (including strict liability), injuries, liens (including mechanic's liens and materialman's liens), expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered, in connection with any damage or liability to persons or property that might arise directly or indirectly during Grantee's use of the Easement Area and such facilities contained therein.

8. **Insurance.** The parties shall maintain, or cause to be maintained, in full force and effect throughout the term of this Agreement, a comprehensive commercial general liability policy covering use of the Inlets, Existing Storm Drain System, and the Easement Area in an amount of not less than One Million and no/100 Dollars (\$1,000,000.00) combined single limit for bodily injury and property damage per occurrence and an aggregate of not less than Two Million and no/100 Dollars (\$2,000,000.00). Grantor and Grantee shall be named as an additional insured on such policies, as appropriate, and a certificate evidencing such coverage shall be furnished annually not less than thirty (30) days prior to the expiration of such coverage.

9. **No Other Interest.** Grantee acknowledges and agrees except for the Easement, Grantee claims no right, title or interest in or to any portion of the Property.

10. **Permits; Compliance with Laws.** The parties shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for the purposes under this Agreement. The parties shall comply with all applicable federal, state and local laws, rules, regulations,

statutes, codes, orders and ordinances, including but not limited to, those governing the prevention, abatement and elimination of pollution or protection of the environment.

**11. No Liens.** Grantee shall keep the Property free and clear of all mortgages, liens and encumbrances, including, but not limited to, mechanic's and materialmen's liens created by or through Grantee and/or Grantee's contractors, agents or others. If, because of any act or omission (or alleged act or omission) of Grantee, any mortgage, lien, encumbrance, mechanics', materialmen's or other lien, charge or order for the payment of money shall be filed or recorded against the Property, or against other property of Grantor (whether or not such lien, charge or order is valid or enforceable as such), Grantee shall, at its own expense, cause the same to be canceled or discharged of record (or bonded over) within ten (10) days after Grantee shall have received written notice of the filing thereof, or Grantee may, within such ten (10) day period, furnish to Grantor, a bond reasonably satisfactory to Grantor against the lien, charge or order, in which case Grantee shall have the right to contest, in good faith, the validity or amount thereof.

**12. No Parking, No Barriers.** Grantee shall keep the Property clear at all times and not obstruct or restrict access by Grantor to the Property, except temporary closures for construction, maintenance and repair of the Existing Storm Drain System and Inlets, as provided herein. No parking of any vehicles at any time by Grantee or related parties shall be permitted on the Property. Notwithstanding the foregoing, upon prior written notice to Grantor, the temporary parking of vehicles, including commercial trucks, for construction and/or emergency repairs to the Existing Storm Drain System, shall be permitted. Grantee shall not install any barrier, gate, structure, or fencing on any portion of the Property without the prior written approval of Grantor, which may be granted or denied in Grantor's sole and absolute discretion.

**13. Term.** This Agreement is effective upon the date of recordation in the official records of the County Recorder of Yellowstone County, Montana, and the easements granted herein shall continue in perpetuity, unless this Agreement is sooner terminated or amended in accordance with the provisions herein.

**14. Amendment or Termination.** This Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of the record owners of the Property and Neighbor Property, evidenced by a document that has been fully executed and acknowledged by all such parties and recorded in the official records of the County Recorder of Yellowstone County, Montana.

**15. Not a Public Dedication.** Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of the Property to or for the general public or for any public purpose whatsoever, and this Agreement shall be strictly limited to and for the purposes expressed herein.

**16. Running of Benefits and Burdens.** All provisions of this Agreement, including the benefits and burdens, run with the land and are binding upon and inure to Grantor, Grantee and their respective successors and assigns.

**17. Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

**18. Severability.** Invalidation of any of the provisions contained in this Easement Agreement, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any person and the same shall remain in full force and effect.

**19. Attorney's Fees.** If any action is commenced to enforce any provision of this Agreement, the prevailing party as determined by a final court judgment shall be entitled to recover from the other party such reasonable attorneys' fees and costs incurred in the action as the court may award.

**20. Applicable Law; Venue.** This Easement Agreement shall be governed by the laws of the State of Montana and suit pertaining to this Easement Agreement may be brought only in courts in Yellowstone County, Montana.

**21. Counterparts.** This Easement Agreement may be executed in counterparts, all of which are identical, each of which shall be deemed an original, and all of which counterparts, when executed, taken together shall constitute one and the same instrument.

**22. Recitals.** The recitals in this introductory paragraph and the exhibits referred to in and attached to this Agreement are incorporated in and made a part of this Agreement.

**23. Authority.** Grantor represents and warrants that as of the Effective Date of this Agreement, Grantor has the right, power, and authority to grant the Easement and enter into this Agreement.

**24. Entire Agreement.** This instrument contains the entire agreement between the parties relating to the subject matter hereof. Any oral representations or modifications concerning this instrument shall be of no force or effect, excepting a subsequent recorded modification, signed by Grantor and Grantee or their respective successors or assigns.

*Remainder of Page Intentionally Left Blank*

*Signatures Appear Next Pages*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

**GRANTOR:**

CFT NV DEVELOPMENTS, LLC,  
a Nevada limited liability company

By: [Signature]  
Name: CHARLES SHEN  
Its: Manager

*Approved as to form*  
*by* [Signature]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

*See Attached*

I hereby certify that the foregoing Agreement was subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_.

WITNESS my official hand and seal.

\_\_\_\_\_  
Notary Public

[SEAL]

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

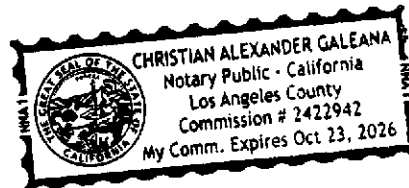
County of Los Angeles }

On May 26, 2023 before me, Christian Alexander Galeana (Notary Public),  
(Here insert name and title of the officer)

personally appeared Charlie Shen  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[Signature]  
Notary Public Signature (Notary Public Seal)

### ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT  
\_\_\_\_\_  
(Title or description of attached document)  
\_\_\_\_\_  
(Title or description of attached document continued)  
Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

CAPACITY CLAIMED BY THE SIGNER  
 Individual (s)  
 Corporate Officer  
\_\_\_\_\_  
(Title)  
 Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple



Squirrels' Real Estate, LLC, a Texas limited liability company


By: 

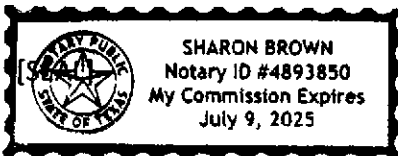
Benjamin D. Winston, Manager

STATE OF Texas )  
 )  
COUNTY OF Angelina )

I hereby certify that the foregoing Agreement was subscribed and sworn to before me on this 17th day of May, 2023, by Benjamin D. Winston, Manager of Squirrels' Real Estate, LLC, a Texas limited liability company.

WITNESS my official hand and seal.

  
Notary Public

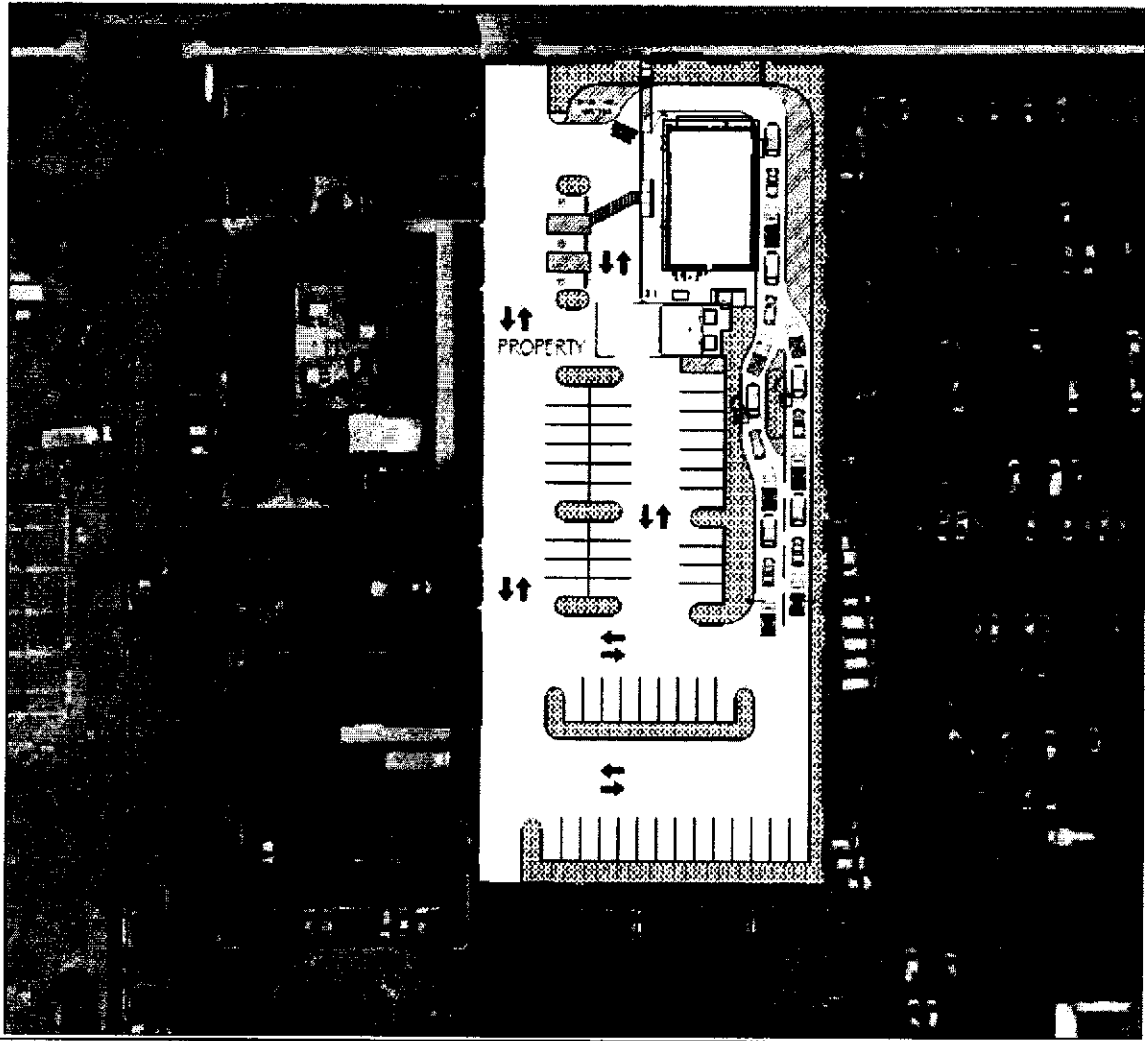


**EXHIBIT A**

**GRANTOR PROPERTY**

LOT 3B, of Amended Plot 3, Studer Acreage Tracts Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk Recorded of said County, under Document #3294395.

Assessor Parcel No.: 03-0926-13-2-10-20-0000

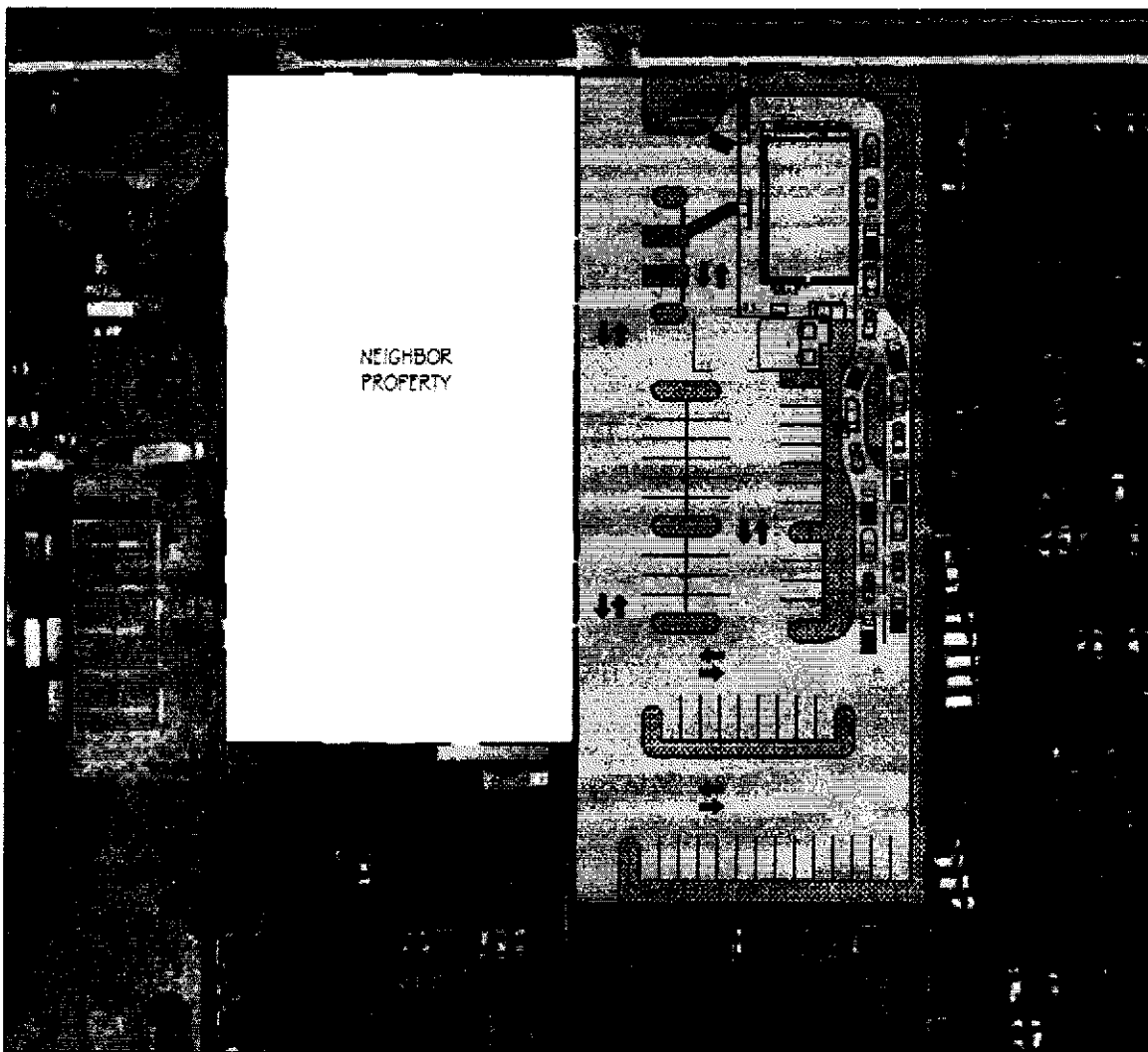


**EXHIBIT B**

**NEIGHBOR PROPERTY**

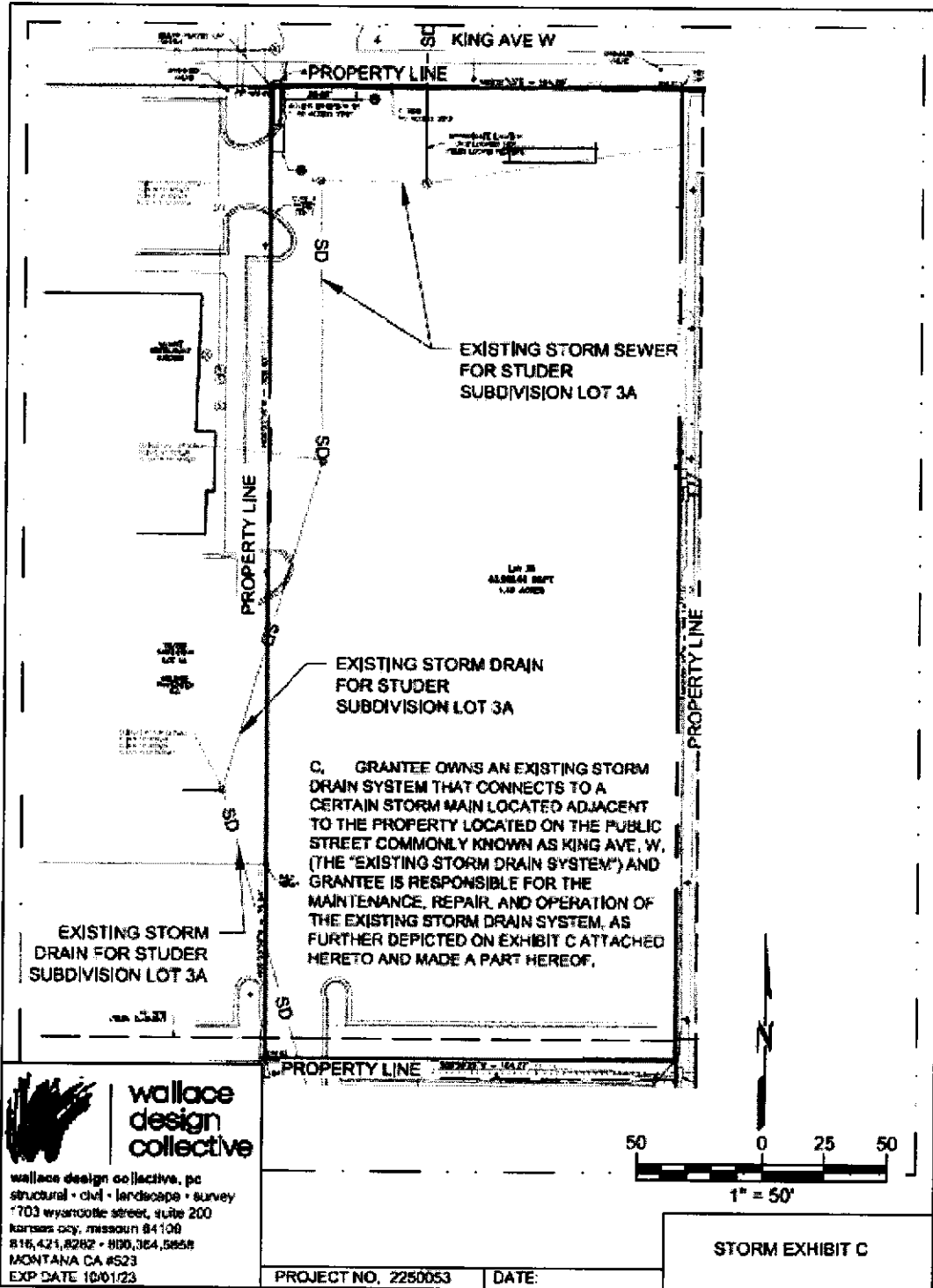
Lot 3A-1, of Amended Plat of Lot 3A, Student Acreage Tracts Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #3707588.

Assessor Parcel No.: 03-0926-13-2-10-18-0000

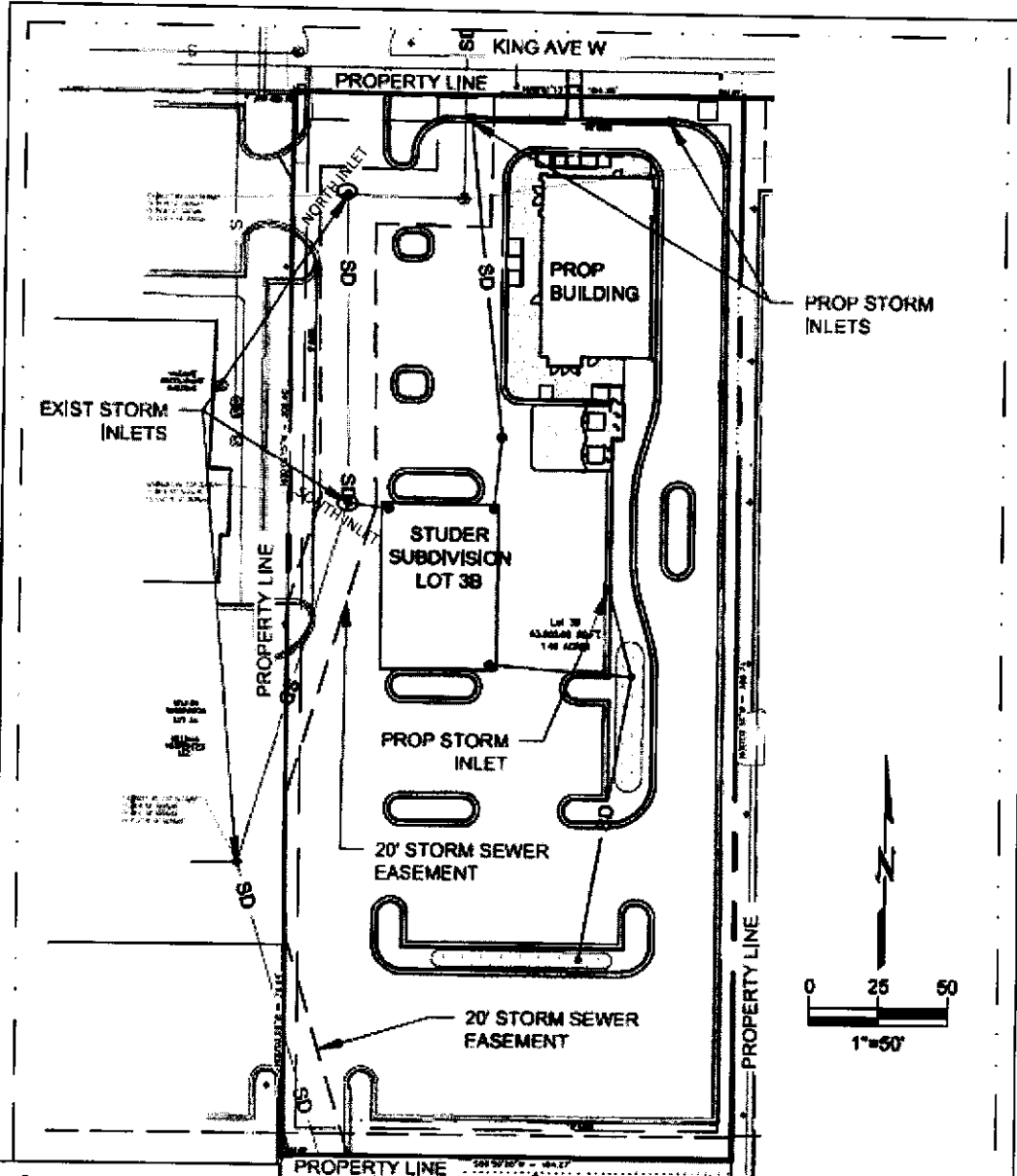


**EXHIBIT C**

**DEPICTION OF EXISTING STORM DRAIN SYSTEM**



**EXHIBIT D**  
**DEPICTION OF INLETS**



**wallace design collective**  
 wallace design collective, pc  
 structural - civil - landscape - survey  
 1703 wyandotte street, suite 200  
 kansas city, missouri 64108  
 816.421.8282 - 400.364.6866  
 MONTANA CA #523  
 EXP DATE 10/01/23

D. TWO STORM WATER INLETS THAT TIE INTO THE EXISTING STORM DRAIN SYSTEM FOR THE PURPOSE OF CONVEYING STORM WATER TO THE STORM MAIN ARE LOCATED ON THE PROPERTY (THE 'INLETS'). BOTH INLETS, THE NORTHERN INLET ON THE PROPERTY (THE 'NORTH INLET') AND SOUTHERN INLET ON THE PROPERTY (THE 'SOUTH INLET') ARE MORE PARTICULARLY DEPICTED ON EXHIBIT D ATTACHED HERETO AND MADE A PART THEREOF.

PROJECT NO. 2250053 | DATE:

STORM EXHIBIT D

**EXHIBIT E**

**LEGAL DESCRIPTION OF EASEMENT AREA**

**DESCRIPTION FOR STORM SEWER EASEMENT**

**EASEMENT A:**

A TRACT OF LAND LYING WITHIN LOT 3B, STUDER SUBDIVISION A SUBDIVISION WITHIN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF TRACT 3B, STUDER SUBDIVISION CONTINUING N 89° 51' 13" E ALONG THE NORTH LINE OF SAID LOT 3B AND ALSO BEING THE SOUTH RIGHT-OF-WAY LINE FOR N KING AVE W, A DISTANCE OF 62.35 FT TO THE POINT OF BEGINNING OF A 20 FT WIDE EASEMENT LYING 10 FT ON EITHER SIDE OF THE FOLLOWING DESCRIBED LINE. CONTINUING S 0° 02' 33" E A DISTANCE OF 38.21 FT THENCE N 89° 06' 13.18" W A DISTANCE OF 42.41 FT, THENCE S 0° 49' 48.03" E A DISTANCE OF 111.43 FT, THENCE S 16° 36' 30.19" W A DISTANCE OF 75.51 FT TO A POINT ON THE EAST LINE OF LOT 3B AND THE POINT OF TERMINATION OF EASEMENT A.

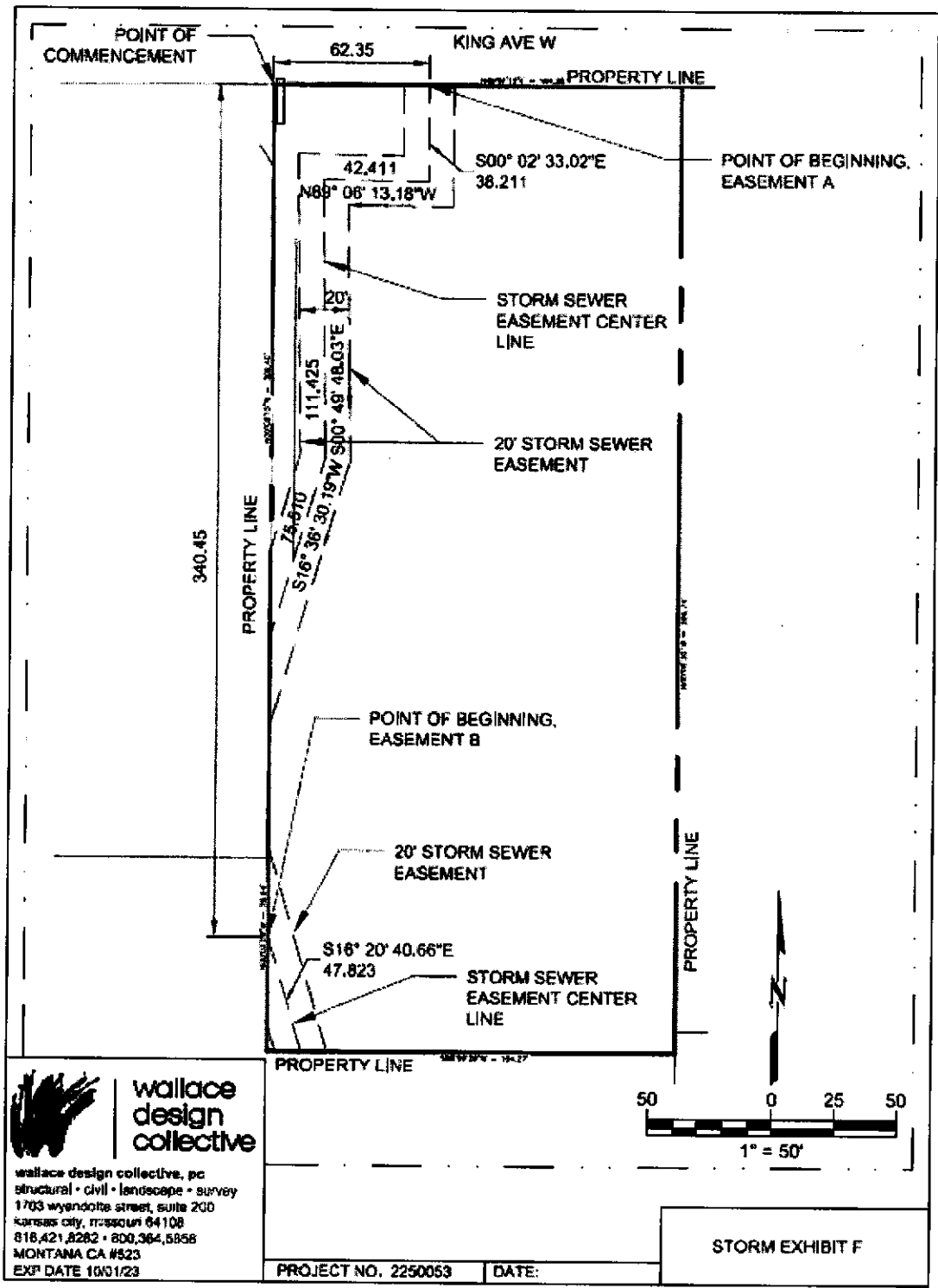
**EASEMENT B:**

A TRACT OF LAND LYING WITHIN LOT 3B, STUDER SUBDIVISION A SUBDIVISION WITHIN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF TRACT 3B, STUDER SUBDIVISION CONTINUING S 0° 02' 15" W ALONG THE EAST LINE OF SAID LOT 3B A DISTANCE OF 340.45 FT TO THE POINT OF BEGINNING OF A 20 FT WIDE EASEMENT LYING 10 FT ON EITHER SIDE OF THE FOLLOWING DESCRIBED LINE; CONTINUING S 16° 20' 40.66" E A DISTANCE OF 47.82 FT TO A POINT ON THE SOUTH LINE OF LOT 3B AND THE POINT OF TERMINATION OF EASEMENT B

EXHIBIT F

DEPICTION OF EASEMENT AREA



Ted Godwin  
3040 King Ave West  
Billings MT 59102



3403173  
Page: 1 of 3  
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# DECLARATION OF RECIPROCAL EASEMENTS

## LOT 3A STUDER ACREAGE TRACTS

This Reciprocal Easement Declaration is made this 7 day of DEC by JOHNNY CARINAS a Montana corporation, hereinafter referred to as "Declarant".

### WITNESSETH:

**WHEREAS**, the Declarant is the owner of Lot 3A inclusive, of the plat of Studer Acreage Tract in the City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County; and,

**WHEREAS**, the Declarant desires to create certain reciprocal easements and covenants hereafter described, which said easements shall run with the land, and shall be binding upon the Declarant, the present owner of said lots, their heirs and assigns, including the Declarant, its heirs and assigns.

**NOW THEREFORE**, in consideration of the premises, the Declarant does hereby declare the following easements over, on, and across the following described land:

Lot 3A of the plat of Studer Acreage Tracts, in the City of Billings, Yellowstone County, Montana, according to the plat thereof on file of record in the office of the Clerk and Recorder of said County, under Document No. 3294395

Said easements shall be for the benefit of each of said lots and the owners thereof, their heirs and assigns, and each of said lots shall be servient to the easements hereby created, and said easements shall be deemed appurtenant to the lot on which each easement exists, as follows:

1. An easement common to said lots for a right-of-way for ingress and egress by the owners of each of said lots, their employees, invitees and licensees; provided, however, that the owners of said lots shall have the right to locate one or more buildings on each of said lots so long as the right of access between public streets and other lots is not completely blocked; and further provided that the undersigned owners may at any time by further declaration lay out and design driveways and parking lots for the benefit of said lots, and may thereby limit and control access to the driveways so designated, so long as access is provided thereby from public streets to each of said lots.

**3403173**Page: 2 of 3  
12/07/2006 02:12P

2. An easement common to said lots for the construction, operation, maintenance, and replacement of surface and underground drainage facilities serving a common storm drain system.
3. An easement common to said lots for the construction, operation, maintenance, and replacement of underground water and sewer service lines.

The costs of installing and maintaining the utilities and other improvements installed within the foregoing easements shall be borne as follows:

1. All costs of constructing, maintaining, repairing, and replacing the utility lines and/or water and sewer services that serve only one of said lots, including surface restoration, shall be borne by the owners of the lot which the utility line is serving.
2. The cost of maintaining, repairing, or replacing underground storm drain, electrical power, telephone, gas, and cable TV lines serving both lots shall be divided equally among the lots being served thereby and the owner of each lot shall be obligated to pay such proportionate share.
3. The costs of using or consuming water, sewer, or other utility services shall be apportioned on the basis of usage as determined from the meters measuring the amount of such service, and each owner shall be obligated to pay the amount of such usage.
4. The costs of constructing, maintaining, repairing, and replacing common driveways, parking lots, and appurtenances shall be the obligation of the owner of the lot on which said improvements are located.

The above easements for ingress and egress, drainage, and utilities shall inure for the benefit, reciprocally, of the lots described, and shall be deemed to run with the land, and shall further inure for the benefit of the present and future owners of said lots, and all of said future owners, their heirs and assigns, shall be subject to the aforesaid easements. Said easements shall and may be used in common by the owners of the lots, their invitees and licensees, without any segregation of said easements because same are located over and on any particular lot, and all owners, invitees and licensees of all owners, shall have the right to ingress and egress, drainage, and utilities on the lands designated, regardless of whether or not such owner, his invitees or licensees, are using such easements on land owned by such owner or on lands owned by any other owners.

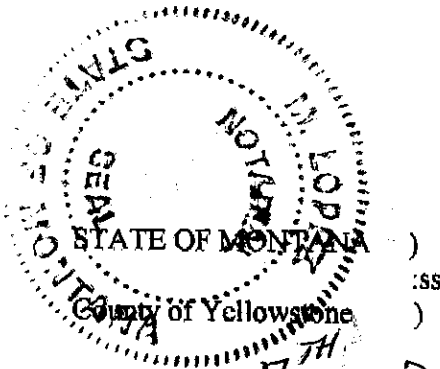


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Page: 3 of 3  
12/07/2006 02:12P

IN WITNESS WHEREOF, the parties hcreto have set their hands and official seals on the date first above written.

A Montana corporation  
Johnny Carino's

By Paul Ward  
Its me



On this 7 day of DEC, before me, a Notary Public for the State of Montana, personally appeared PAUL WARD, known to me to be the PRESIDENT of Johnny Carino's, a Montana corporation, which executed the foregoing instrument and acknowledged to me that he/she executed the same.

M. Lopez  
Notary Public for the State of Montana  
Printed Name: MARCOS LOPEZ  
Residing in Billings, Montana  
My commission expires 9/19/07

Miscellaneous Record No. 127, Yellowstone County, Montana

233450  
BILLINGS BENCH WATER ASSOCIATION  
TO  
BANNISTER DRAINAGE DISTRICT  
AGREEMENT

THIS AGREEMENT, made December 13, 1928, between Billings Bench Water Association, a Montana corporation, party of the first part, and Bannister Drainage District, organized, existing and doing business under the drainage laws of Montana, party of the second part, WITNESSETH:

That for and in consideration of the sum of one dollar paid to said first party said second party is hereby granted the right to carry the drainage water from Bannister Drainage District under the canal of said first party near the north line of section thirteen, in township one south of range twenty-five east, N. T.M., upon the following conditions:

1. Said second party shall install a good and sufficient concrete culvert under said canal at that point, under the supervision of the engineer of said first party, which concrete culvert shall be of ample capacity to carry all such drainage water.
2. Said second party will pay the entire cost and expense of installation of such concrete culvert and all cost and expense of maintenance of the same in the future.
3. Said first party shall not be responsible for any cost or expense in connection with the installation, construction or maintenance of said concrete culvert under such canal, and said second party will hold said first party harmless on account of any damages that may result from the construction of such concrete culvert.
4. Said second party is hereby granted the right in the excavation of its drainage ditch for a distance for approximately one-half mile from the point where such culvert will be installed, to the center of section twelve, said township and range, to deposit excavated material upon the right of way of said first party for its said canal adjacent to its upper bank, upon the condition that the materials so deposited on such right of way shall not be closer to the canal of said first party than the toe of its upper bank.

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be hereunto subscribed by their officers in that behalf duly authorized, with their corporate seals affixed, the day and year first above written.

E. E. Tiffany  
Sec'y of Billings  
Bench Water Assn.



Billings Bench Water Association  
By H. C. Drange  
Its President.

Attest: Harry A. Snyder  
Secretary of  
Bannister Drainage Dist.



Bannister Drainage District  
By Jacob Dahlstrom  
Its President.

STATE OF MONTANA, }  
County of Yellowstone) ss.

On this 20th day of December, 1928, before the undersigned, a Notary Public in and for the state of Montana, personally appeared H. C. Drange, known to me to be the President of Billings Bench Water Association, the corporation which executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereinto set my hand and affixed my Notarial Seal the day

STATE OF MONTANA, }  
County of Yellowstone) ss.

On this 20th day of December, 1928, before the undersigned, a Notary Public in and for the state of Montana, personally appeared H. C. Drange, known to me to be the president of Billings Bench Water Association, the corporation which executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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



R. E. Cooke

Notary Public for the state of Montana.  
Residing at Billings.  
My commission expires Feb. 25-1931.

516

### Miscellaneous Record No. 127, Yellowstone County, Montana

STATE OF MONTANA, }  
County of Yellowstone) ss.

On this 20th day of December, 1928, before the undersigned, a Notary Public in and for the state of Montana, personally appeared Jacob Dahlstrom, known to me to be the President of Bannister Drainage District, organized, existing and doing business under and by virtue of the drainage laws of Montana, the corporation which executed the foregoing instrument, and acknowledged to me that said Bannister Drainage District executed the same.

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



W. M. Johnston

Notary Public for the state of Montana.  
Residing at Billings  
My commission expires April 21, 1930.

Filed for record on this 17th day of January A. D. 1929 at 1:24 o'clock P. M.

John M. Brust, Deputy

Verne Johnson, County Recorder.

233518

O. T. SWARD  
TC  
JACOB BECKER

LEASE

This Article of Agreement, Made and entered into between O. T. Sward, of 522-27th St. Oakland Calif. party of the first part, Lessor, and Jacob Becker, Ballantine, Montana, party of the second part, Lessee, witnesseth, that the said party of the first part has this day leased unto said party of the second part, the following described premises situated in the County of Yellowstone and State of Montana to-wit: The North west Quarter of Section 17, in Township One, South of Range 25 east of the MPM. containing 160 acres more or less according to Government survey, together with all buildings and improvements on the same (except as hereinafter mentioned) for the term of One year commencing on the 1st day of March 1929, and ending the 1st day of March 1930, at the yearly rent of \$1000.00 cash taken off share of crop next fall 1929 subject to conditions in thirteenth clause hereof. and  $\frac{1}{4}$  of the Beets, one fourth of the beans, one third of the grain, and \$25.00 cash for pasture at least 30 acres of