

BOZEMAN^{MT}

THE CITY COMMISSION OF BOZEMAN, MONTANA

REGULAR MEETING AGENDA

Tuesday, February 1, 2022

This meeting will be held using Webex, an online videoconferencing system. You can join this meeting:

Via Webex:

<https://cityofbozeman.webex.com/cityofbozeman/onstage/g.php?MTID=e4ec160e2d2b5549b807e05aadee9fc44>

Click the Register link, enter the required information, and click submit.
Click Join Now to enter the meeting.

Via Phone: This is for listening only if you cannot watch the stream or channel 190

United States Toll

+1-650-479-3208

Access code: 2556 857 6890

If you are interested in commenting in writing on items on the agenda please send an email to agenda@bozeman.net prior to 12:00pm on the day of the meeting. You may also comment by visiting the [Commission's comment page](#).

You can also comment by joining the Webex meeting. If you do join the Webex meeting, we ask you please be patient in helping us work through this online meeting.

If you are not able to join the Webex meeting and would like to provide oral comment you may send a request to agenda@bozeman.net with your phone number, the item(s) you wish to comment on, and the City Clerk will call you during the meeting to provide comment.

You may also send the above information via text to 406-224-3967. As always, the meeting will be streamed through the [Commission's video page](#) and available in the City on cable channel 190.

A. Call to Order - 6:00 PM - WebEx Videoconference

B. Pledge of Allegiance and a Moment of Silence

C. Changes to the Agenda

D. FYI

E. Commission Disclosures

F. Approval of Minutes

F.1 [Approve the regular meeting minutes from: December 21, 2022 January 4, 2022 January 11, 2022 January 25, 2022\(Maas\)](#)

G. Consent

- G.1 Acknowledge Receipt of Petition to Abandon Redwing Drive and Direct Staff to Review the Petition(Lonsdale)
- G.2 Authorize the City Manager to Sign a Professional Services Agreement with DOWL to Provide Professional Engineering Design Services for the 2022 Sewer Lining Project(Gamradt)
- G.3 Authorize the City Manager to Sign a Public Street and Utility Easement, Sewer and Water Pipeline and Access Easement and Agreement with Canyon Gate Investors, LLC for The Canyon Gate Annex (21337)(Lehigh)
- G.4 Authorize the City Manager to Sign a Task Order Revision 1 for Fiscal Year 2022 Remediation Systems Oversight, Bozeman Landfill with Tetra Tech(Flammond)
- G.5 Authorize the City Manager to Sign Temporary Construction Permits and Right-of-Way Documents with Bozeman Industrial Park Owners' Association for the Griffin Drive and Manley Road Street and Stormwater Improvements Project(Lonsdale)
- G.6 Authorize the City Manager to Sign a Second Addendum to the Professional Services Agreement for Engineering Development Services with TD&H Engineering(Lehigh)
- G.7 Authorize the City Manager to Sign a Second Amendment to the Professional Services Agreement with Treasure State, Inc. for Services to Design and Construct the Bogert Park Court Renovation Project(Kline)
- G.8 Authorize the City Manager to Sign a Professional Services Agreement with SKIDATA for the Installation of New Gates in the Bridger Park Parking Garage(Veselik)

H. Public Comment

This is the time to comment on any matter falling within the scope of the Bozeman City Commission. There will also be time in conjunction with each agenda item for public comment relating to that item but you may only speak once. Please note, the City Commission cannot take action on any item which does not appear on the agenda. All persons addressing the City Commission shall speak in a civil and courteous manner and members of the audience shall be respectful of others. Please state your name and address in an audible tone of voice for the record and limit your comments to three minutes.

I. Special Presentation

- I.1 State of the City Address

J. Action Items

- J.1 South 3rd Avenue Annexation and Zone Map Amendment for the Establishment of a Zoning Designation of R-3 for a property Addressed at 2303 South 3rd Avenue and Generally Located One-quarter Mile South of the Kagy and Wilson, Application 21161(Rogers)
- J.2 Ordinance 2098 Provisionally Adopting an Update to the Department Titles of

Administrative Services and Public Works to Reflect the City's Current Department Titles,
and Creating the Departments of Economic Development and Strategic Services(Giuttari)

K. Work Session

K.1 [Downtown Bozeman Parking Supply and Demand Management Work Session](#) (Veselik)

L. FYI / Discussion

M. Adjournment

City Commission meetings are open to all members of the public. If you have a disability that requires assistance, please contact our ADA Coordinator, Mike Gray, at 582-3232 (TDD 582-2301). Commission meetings are televised live on cable channel 190 and streamed live at www.bozeman.net. City Commission meetings are re-aired on cable Channel 190 Wednesday night at 4 p.m., Thursday at noon, Friday at 10 a.m. and Sunday at 2 p.m.

In order for the City Commission to receive all relevant public comment in time for this City Commission meeting, please submit via www.bozeman.net or by emailing agenda@bozeman.net no later than 12:00 PM on the day of the meeting. Public comment may be made in person at the meeting as well.

Memorandum

REPORT TO: City Commission

FROM: Jesse DiTommaso, Deputy City Clerk
Mike Maas, City Clerk
Jeff Mihelich, City Manager

SUBJECT: **Approve the regular meeting minutes from:**
December 21, 2022
January 4, 2022
January 11, 2022
January 25, 2022

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Minutes

RECOMMENDATION: I move to approve the combined City Commission minutes as submitted.

STRATEGIC PLAN: 1.1 Outreach: Continue to strengthen and innovate in how we deliver information to the community and our partners.

BACKGROUND: In 2013, The Clerk’s Office identified goals related to the Commission’s priority of Improving Technology Utilization and Proficiency. Improvements included:

- Live streaming broadcast of the City Commission Meeting
- Meeting efficiency
- Better access of meeting information for staff and the public
- Time savings
- Streamlined approach to citizen involvement and public comment

From August of 2013 through December 2020, the City Commission Minutes have been linked with audio and video using AV Capture. In addition to the City Commission, many Citizen Advisory Boards utilize the system as well.

Beginning December 14, 2020 the City Commission and many Citizen Advisory Boards moved to our new Granicus Streaming Platform. Beginning January 5, 2021 meetings in the Granicus platform have been closed captioned. Those captions are searchable using the advanced search option on our video view page.

<https://www.bozeman.net/government/city-commission/city-commission-video>

Users are always welcome to contact the City Clerk’s Office at 582-2320 or

email agenda@bozeman.net for assistance.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: None.

Attachments:

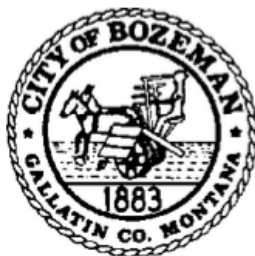
[12-21-21 FINAL MINUTES City Commission Meeting of Bozeman, Montana.pdf](#)

[01-04-22 City Commission Meeting Minutes.pdf](#)

[01-11-22 City Commission Meeting Minutes.pdf](#)

[01-25-22 City Commission Meeting Minutes.pdf](#)

Report compiled on: January 14, 2022



THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA

MINUTES

December 21, 2021

Present: Cyndy Andrus, Terry Cunningham, I-Ho Pomeroy, Jennifer Madgic, Christopher Coburn

Absent: None

Staff Present in the Webex: City Manager (CM) Jeff Mihelich, City Attorney (CA) Greg Sullivan, City Clerk (CC) Mike Maas

- A) 00:01:31 Call to Order - 6:00 PM - WebEx Videoconference
- B) 00:04:54 Pledge of Allegiance and a Moment of Silence
- C) 00:05:01 Changes to the Agenda
- D) 00:05:08 Public Service Announcements
 - D.1 City of Bozeman offices will be closed Fridays, December 24 and December 31 in observance of the Christmas and New Year's Holidays, respectively. There will be no City Commission meeting on Tuesday, December 28.
- E) 00:05:26 FYI
 - DM Cunningham noted the Montana State Bobcat Football victory to play in the National Championship.
- F) 00:06:26 Commission Disclosures
- G) 00:06:37 Consent
 - G.1 Accounts Payable Claims Review and Approval
 - G.2 Formal Cancellation of the December 28, 2021 Regular City Commission Meeting

- G.3 Approve Allison Phase 4A Major Subdivision Final Plat, Located East of S. 11th Avenue and on Either Side of Arnold Street, and Authorize Staff to Complete All Documents, Project 21022
 - [09282021 148-105 sheet 1.pdf](#)
 - [09282021 148-105 sheet 2.pdf](#)
 - [09282021 148-105 sheet 3.pdf](#)
 - [09282021 148-105 sheet 4.pdf](#)
 - [09282021 148-105 sheet 5.pdf](#)
 - [09282021 148-105 sheet 6.pdf](#)
 - [09282021 148-105 sheet 7.pdf](#)
 - [21022 Allison Phase 4A Final Plat Memo to City Atty.docx](#)
- G.4 Authorize the City Manager to Sign a Utility Easement with Wild Peach LLC for the Wildlands Development Project (21326)
 - [Utility Easement](#)
- G.5 Authorize the City Manager to Sign a Professional Services Agreement with Evan Brooks Associates for Grant Search and Grant Writing Services
 - [PSA Grant Writing Services Evan Brooks.docx](#)
- G.6 Authorize the City Manager to Sign on to National Opioid Settlement with Opioid Distributors and Manufacturer Janssen
 - [Notice of Opioid Settlement - Distributors and Janssen.pdf](#)
 - [2021_11_26 Distributors MT MOU.pdf](#)
- G.7 Resolution 5362 Amending the Metes and Bounds Description of the University Crossing Apartments Annexation, Resolution 5331 to Correct a Scrivener's Error, Application 21152
 - [Resolution 5362 Correction - University Crossing Apts Annx 21152.pdf](#)
 - [Affadavit of Scriveners Error.pdf](#)
- G.8 Resolution 5364 Certification of Delinquent City Assessments to the County
 - [Resolution 5364-Certification of Delinquent 1st half-FY 2022.docx](#)
 - [Delinquent Certification 120921.pdf](#)
- G.9 Resolution 5366 Calling a Public Hearing to Approve a Project in the Northeast Urban Renewal District, Known as Wildlands, as an Urban Renewal Project and Using Tax Increment Revenues to Reimburse Eligible Costs of Such Project
 - [Resolution of Intention.v1.docx](#)
- G.10 Resolution 5368 Adopting the Bozeman City Commission Priorities for 2022 and 2023
 - [Resolution 5368 Adopting Commission Priorities for 2022-23.docx](#)
- G.11 Resolution 5369 Appointing Special Counsel in the matter of Ethics Complaint of Daniel Zvoloski
 - [Resolution 5369 Appointing Special Counsel for Zvoloski Ethics Complaint.docx](#)
- G.12 Ordinance 2091 Final Adoption of Update to Accessory Dwelling Unit Standards Text Amendment to Revise the Bozeman Municipal Code to Amend the Requirement That Ground Floor Accessory Dwelling Units Must Have Alley Access by Requiring That Ground Floor Accessory Dwelling Units (ADUs) Must Either Have Alley Access or a

Pedestrian Connection to a Sidewalk or Adjacent Right of Way and Remove the Requirement to Provide Minimum Parking For ADUs. Revise Affected Sections to Implement the Revisions.

[Ordinance 2091 Update to Accessory Dwelling Unit \(ADU\) Standards Final Adoption Memo.pdf](#)

[Ordinance 2091 Update to ADU Standards Ordinance.pdf](#)

00:06:41 City Manager Introduction

- CM Mihelich provided the highlights of the Consent Agenda.

00:08:42 Public Comment

There were no public comments on the Consent Agenda.

00:11:30 Motion to approve Consent Items 1 – 12 as submitted.

Terry Cunningham: Motion

Jennifer Madgic: 2nd

00:11:32 Vote on the Motion to approve Consent Items 1-12 as submitted. **The Motion carried 5 – 0.**

Approve:

Cyndy Andrus

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Christopher Coburn

Disapprove:

None

H) 00:11:34 Public Comment

Mayor Andrus opened general public comments.

00:13:48 Jerry Pape, Public Comment

Jerry Pape commented on general zoning and his opinion that it should be a generational progress.

I) 00:18:55 Action Items

- I.1 00:19:12 Canyon Gate Annexation, Adoption of Resolution 5363, and Zone Map Amendment, Provisional Adoption of Ordinance 2099, to Annex Approximately 25.42 Acres and Establish Zoning Districts of R-3, R-5, REMU, and B-2M, Located at 980 Story Mill Road, Application 21337
[21337 Canyon Gate ANNEX ZMA CC SR.pdf](#)

[Hinds v. COB Decision.pdf](#)
[21337 Canyon Gate ANNEX Resolution 5363.pdf](#)
[A1DevelopmentReviewApplication_08112021.pdf](#)
[DRCMemoResponses_10272021.pdf](#)
[Canyon Gate Annexation Map 11-12-21.pdf](#)
[RevisionandCorrectionRC.pdf](#)
[Letter to City - Annexation Agreement.pdf](#)
[21337 Canyon Gate ZMA Ordinance 2099.pdf](#)
[Canyon Gate Annexation Meets and Bounds 11-12-21.docx](#)
[Canyon Gate ZMA 11-12-21.pdf](#)
[Canyon Gate Zoning Meets and Bounds 11-12-21.docx](#)
[SIDWaiver_10272021.pdf](#)
[ExistingOff-SiteGasPipelineEasementBk122Pg54_10272021.pdf](#)
[ExistingWaterMainEasementBk17Pg29_10272021.pdf](#)
[StoryMillRoadPublicStreetandUtilityEasement_10272021.pdf](#)
[WaterPipelineAccessEasement_10272021.pdf](#)
[21337 Canyon Gate Comment Tracking.xlsx](#)

00:19:16 **Staff Presentation**

Planner Jacob Miller presented the application, entering the staff report, attachments, application materials, and all of the public comments into the record. He outlined the procedure for the Action Item, the purpose of the hearing, the staff review, and the action to be taken. He presented the general property details and the neighboring vicinity, the Future Land Use Map (FLUM) designation, annexation history in the area, neighboring zoning, City infrastructure in the vicinity, Capital Improvement Projects (CIP) planned in the vicinity, and the proposed zoning districts. He presented the staff analysis of this portion of the development process: the 10 annexation goals and 18 annexation policies from Resolution 5076, additional terms of annexation proposed by the landowner for workforce housing and R-5 height limitation, the 11 zoning criteria from Montana Code Annotated (MCA), implementing zoning as it relates to the FLUM, the character of the district, similar areas of zoning, the definition of compatible urban growth, the variety of uses in the area, the three spot zoning criteria, an overview of the public comment, and that the protest threshold has been met. He presented the staff recommendation and the Zoning Commission recommendation.

00:50:17 **Questions of Staff**

01:33:17 **Applicant Presentation**

Christine Carlyle, Principal with SCB, presented on behalf of the applicant, presented the neighboring area, how the project comports with the Community Plan and its specific Story Mill Mixed Use District, the additional provisions of workforce housing and height restrictions, how the application matches the FLUM, the design approach goals. Bob Horne from Dodge Capital and Andy Holloran from HomeBase Partners were available for questions.

01:46:27 Questions of Applicant

02:38:37 Mayor Andrus called the meeting into recess.

02:38:50 Mayor Andrus called the meeting back to order.

02:38:43 Public Comments

Mayor Andrus opened this item for public comments.

02:43:39 Lisa Muir, Public Comment

Lisa Muir commented on train safety and the increase of higher density causing more issues for health and safety, the character of the district, and the need for more open space.

02:45:34 Don Jackson, Public Comment

Don Jackson commented in opposition to the project because new applications should be in balance with existing homes.

02:49:27 Kristin Fetterman, Public Comment

Kristin Fetterman commented as a Real Estate professional and the applicant is a client, commented on the need for higher density housing as method for attainable housing.

02:52:13 Dan Kaveney, Public Comment

Dan Kaveney commented in favor of annexation at lower density than requested and commented on transportation issues.

02:56:19 Triel Culver, Public Comment

Triel Culver commented in favor of annexation but at lower zoning, commented on the comparison of the development of Creekside subdivision and potential commercial sizes.

02:59:20 Denise Carr, Public Comment

Denise Carr commented in opposition to the zoning request.

03:00:03 Richard Bakker, Public Comment

Richard Bakker commented on safety issues of at-grade railroad crossings quoting from the Pole Yard Urban Renewal Plan and opposition to the proposal.

03:03:39 Daniel Gaugler, Public Comment

Daniel Gaugler commented in favor of annexation but in opposition to the requested zoning due to an abundance of commercial in the area and wants additional housing.

03:07:18 Sophia Vowell, Public Comment

Sophia Vowell commented in favor of the proposal for its workforce housing and

03:08:27 **Marcia Kaveney, Public Comment**

Marcia Kaveney commented in opposition to the project and its heavily commercial district and possible uses.

03:11:48 **Mary Wictor, Public Comment**

Mary Wictor commented in favor of annexation but not at the requested zoning, commented in increasing R-3 zoning and B-1 along Story Mill Dr. due to the height allowances in B-2M, R-5, and REMU zoning districts.

03:15:01 **Ben Nobel, Public comment**

Ben Nobel commented in favor of the project due to the access of additional services in the area, commented on the traffic issues created by not having enough local options that don't require driving.

03:16:20 **Pete Oliver, Public Comment**

Pete Oliver commented in opposition to the proposal on the concerns of emergency responses and the capabilities of Central Valley Fire.

03:17:44 **Carie Omland, Public comment**

Carie Omland commented in opposition to the high density requested, commented as not compatible with the area, and the abundance of commercial options available and the area does not require more, commented on the issue of traffic to R-5 within the interior of the project.

03:20:33 **Ben Davidson, Public Comment**

Ben Davidson commented in opposition to the requested zoning.

03:21:46 **Megan Sheufelt, Public Comment**

Megan Sheufelt commented in favor of the project as higher density housing is more climate friendly than lower density

03:23:53 **Caleigh Searle, Public Comment**

Caleigh Searle commented in opposition to the proposal as there is enough high value housing in the valley and commented on concerns of infrastructure.

03:24:58 **Bert Getz, Public Comment**

Bert Getz commented in favor of the project citing the Community Plan's aim for density to prevent sprawl.

03:27:43 **Shawna Wade, Public Comment**

Shawna Wade commented in opposition to the proposal.

03:28:58 **Alanah Griffith, Public Comment**

Alanah Griffith commented as the attorney representing the Legends II Homeowner's Association and the lack of an easement required for R-5 zoning.

03:32:44 **Haley Rowland, Public Comment**

Haley Rowland, Director of Sales for AC Hotels, spoke in favor of the project due to staffing issues related to housing availability issues.

03:34:16 **Christine Roberts, Public Comment**

Christine Roberts, member of Transportation Board, commented in opposition to the project as high-rise is incompatible with the neighboring developments.

03:36:04 **Chris Omland, Public Comment**

Chris Omland commented that higher density does not necessarily equate to affordability or environmentally beneficial, spoke in opposition to the project, commented on emergency response, and suggested a lower zoning.

03:40:02 **Betty Stroock, Public Comment**

Betty Stroock commented in opposition to the proposed zoning as incompatible with the neighborhood and concerns for wildlife.

03:42:37 **Mark Williams, Public Comment**

Mark Williams commented on the wildlife corridor, the available walkable amenities, and with concerns for the continuity of the neighborhood.

03:43:55 **Nolan Sit, Public Comment**

Nolan Sit commented in favor of the project.

03:45:05 **Diane Sheehan Egnatz, Public Comment**

Diane Sheehan Egnatz commented in favor of annexation but against the commercial scale, commented on the FLUM designations in the region, the inability to expand in some directions, the wildlife, and suggested a lower density.

03:47:51 **Evan Burgess, Public Comment**

Evan Burgess commented in favor of annexation but at lower density, commented on the uniqueness of the location, and the impact on all the people that utilize the Bridgers.

03:50:06 **Meeting Extended**

Mayor Andrus extended the meeting until 10:15pm.

03:50:44 **Stephen Pohl, Public Comment**

Stephen Pohl commented that this project constitutes spot zoning.

03:54:25 **Louisa Carter, Public Comment**

Louisa Carter commented in opposition to the proposal and suggested lower density zoning, commented on infrastructure issues, and commented that this proposal is out of scale with the character of the neighborhood.

03:58:21 **William Johnson, Public Comment**

William Johnson commented as a planning consultant and representative of concerned citizens in opposition to the project as it is incompatible to the surrounding neighborhood, on potential building heights, the high density available uses, and on infrastructure issues.

04:01:49 **Claire Crane, Public Comment**

Claire Crane commented in opposition to the project due to infrastructure issues, commented on concerns to the high zoning and suggested lower density zoning.

04:04:19 **Catherine Ebelke, Public Comment**

Catherine Ebelke commented in favor of annexation but opposition to the high density zoning requested, commented on concerns of health and safety due to access and the intersection of Story Mill and Bridger Drives.

04:07:08 **Meeting Extended**

Mayor Andrus extended the meeting until 10:30pm.

04:07:41 **Nicholas Drew, Public Comment**

Nicholas Drew commented on the failure to disclose affiliation with the developer by some commenters, commented in opposition to the project, and commented on emergency response times.

04:10:28 **Kristen Davidson, Public Comment**

Kristen Davidson commented in opposition to the requested density as the neighborhood is already served by local commercial, the wildlife in the area, and on the current walkability.

04:12:38 **David Perlstein, Public Comment**

David Perlstein commented as an associate of the applicant and commented on the changes in the area.

04:13:44 **Diana Sauther, Public Comment**

Diana Sauther commented in opposition to the high density, commented on the concerns of fire safety, and commented on the traffic concerns at the railroad crossings.

04:16:26 **Lindsay Pittard, Public Comment**

Lindsey Pittard commented in favor of the project to expand housing opportunities and in favor of an infill project over sprawling development.

04:18:04 **Amber Bolton, Public Comment**

Amber Bolton, member of the HomeBase Team, commented in favor of the project.

04:19:00 **Andrew Gault, Public Comment**

Andrew Gault, member of the project team, commented also as a neighbor in favor of the project.

04:21:47 **Meeting Extended**

Mayor Andrus extended the meeting until 10:45pm.

04:22:00 **Leo Crane, Public Comment**

Leo Crane commented in opposition to the project.

04:25:08 **Jack Sauther, Public Comment**

Jack Sauther commented in favor of annexation but not at the high density requested, in opposition to affordability connected to the density of the project, and on the comparisons used of compatible uses.

04:28:51 **Emily Talago, Public Comment**

Emily Talago commented in opposition to the project, that the agreement for workforce housing units should not be considered, and in opposition to the idea of the village in this area.

04:30:51 **Hampton Uzzelle, Public Comment**

Hampton Uzzelle commented in favor of the project and referenced the Community Plan's identification of the area.

04:33:18 **Lauren Cummings, Public Comment**

Lauren Cummings commented on people being forced out of Bozeman due to a lack of housing, the staffing issues this causes, the interest to downsize in the same area, and in support of the project.

04:35:50 **Mayor Extended**

Mayor Andrus extended the meeting until 11:00pm.

04:35:59 **Troy Scherer, Public Comment**

Troy Scherer commented as a developer that has worked on numerous projects around town, the benefits of housing variety, and in favor of the project.

04:38:34 **Sean Casto, Public Comment**

Sean Casto commented in opposition to the requested zoning, the traffic requirements of R-5 zoning, against the proposed workforce housing agreement, and on contract zoning.

04:41:59 **Brian Gallik, Public Comment**

Brian Gallik as a representative of some of the neighbors commented on contract zoning through the proposed workforce housing.

04:44:53 Molly Casto, Public Comment

Molly Casto commented on concerns of traffic and circulation that necessitates an easement to grant access to the R-5 portion of the proposal and commented in opposition to the requested zoning.

04:48:12 Bob Horne, Public Comment

Bob Horne, an affiliate of HomeBase Partners, spoke in favor of the project and the evolution of the Story Mill District.

04:51:51 Brad Bates, Public Comment

Brad Bates commented that the vast majority of commenters are not opposed to development, but on the impact on the neighborhoods of this proposal.

04:54:13 Meeting Extended

Mayor Andrus extended the meeting until 11:10pm.

04:54:39 Mayor Andrus asked to continue the meeting until January 11.

Seeing no objections, Mayor Andrus outlined what the future process would look like.

04:57:05 Clarification of Staff

CA Sullivan clarified how to handle written public comments after the continuation.

J) FYI / Discussion

K) 04:59:02 Adjournment

**Cynthia L. Andrus
Mayor**

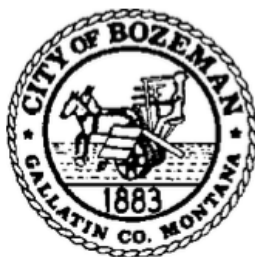
ATTEST:

**Mike Maas
City Clerk**

PREPARED BY:

**Mike Maas
City Clerk**

Approved on: February 1, 2022



THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA

MINUTES

January 4, 2022

Present: Cyndy Andrus, Terry Cunningham, I-Ho Pomeroy, Jennifer Madgic, Christopher Coburn

Absent: None

Staff Present in the WebEx: City Manager (CM) Jeff Mihelich, City Attorney (CA) Greg Sullivan, and City Clerk (CC) Mike Maas

A) 00:04:35 Call to Order - 6:00 PM - WebEx Videoconference

B) 00:07:49 Pledge of Allegiance and a Moment of Silence

C) 00:08:23 Special Presentation

00:08:32 City Manager Introduction

CM Mihelich provided a brief introduction before administering the oaths of office and recognizing Judge Herrington, who was sworn in on Monday morning.

00:08:47 Deputy Mayor Cunningham

00:09:58 Commissioner Pomeroy

00:11:11 Commissioner Madgic

00:12:14 Commissioner Coburn

00:13:10 Judge Herrington

D) 00:13:44 Changes to the Agenda

- There were no changes to the agenda.

E) 00:13:54 FYI

- Mayor Andrus reminded the public of upcoming citizen advisory board meetings. She wished the MSU Bobcats good luck.

F) 00:15:17 Commission Disclosures

- There were no disclosures.

G) 00:15:29 Approval of Minutes

G.1 00:15:33 Approve the regular meeting minutes from:
October 19, 2021
October 26, 2021
November 9, 2021
November 16, 2021
November 23, 2021
December 7, 2021
December 14, 2021

Approve the special meeting minutes for:
September 24, 2021

Approve the executive session minutes for:
December 14, 2021

10-19-21 MINUTES City Commission Meeting Minutes.pdf
10-26-21 MINUTES City Commission Meeting Minutes.pdf
11-09-21 MINUTES City Commission Meeting.pdf
11-16-21 MINUTES City Commission Meeting Minutes.pdf
11-23-21 MINUTES City Commission Meeting.pdf
12-07-21 MINUTES City Commission Meeting of Bozeman, Montana.pdf
12-14-21 MINUTES City Commission Meeting of Bozeman, Montana.pdf
09-24-21 City Commission Special Meeting Minutes.pdf

00:15:34 Motion to approve the combined City Commission minutes as submitted.

Terry Cunningham: Motion
Jennifer Madgic: 2nd

00:15:45 Vote on the Motion to approve the combined City Commission minutes as submitted. **The Motion carried 5 – 0.**

Approve:
Cyndy Andrus
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic
Christopher Coburn

Disapprove:
None

H) 00:16:03 Consent
H.1 Accounts Payable Claims Review and Approval
H.2 Authorize the City Manager to Sign a Utility Easement with Four Fly Fellows, LLC for The Flats SP (21078)
Utility Easement

- H.3 Authorize the City Manager to Sign a Release and Reconveyance of Easements, Releasing Document 2585890 with Bon Ton Inc for the Allison Subdivision Phase 4A Project (20430)
[Release and Reconveyance of Easements](#)
- H.4 Authorize the City Manager to Sign a Professional Architectural Services Agreement with Hennebery Eddy Architects for Design and Contract Administration Services for the Remodel of the Solid Waste Facility
[Architectural Services Agreement Solid Waste Remodel 2021](#)
[Exhibit A - SWD Architect Fee Proposal](#)
[Exhibit B - SWD Engineering Fee Proposal](#)
- H.5 Authorize the City Manager to Sign a Memorandum of Agreement with the Montana Department of Transportation (MDT) for the Bridger Drive and Story Mill Road Improvements Project
[Bridger_StoryMill_MOA_20211206_FINAL_FOR_CITY_COMMISSION_APPROVAL.pdf](#)
- H.6 Authorize the City Manager to Sign a Contract with American Medical Response for Backup Ambulance Services
[City of Bozeman - Safety Net Agreement 2022.pdf](#)
- H.7 Authorize the City Manager to Sign a Professional Services Agreement with Western Skies Landscapes, LLC to Provide Sidewalk Snow Removal Services
[RFP Western Skies Landscapes.pdf](#)
- H.8 Authorize the City Manager to Sign an Amendment 2 to the Professional Services Agreement with Advanced Engineering and Environmental Services, Inc. for the Bozeman Wastewater Collection System Model Update
[Amendment No. 2 to Professional Services Agreement](#)
[ATTACHMENT A Wastewater Collection System Phase 2 SCOPE](#)
[Bozeman WWCS FP Detailed Scope of Work - Attachment A](#)
[Bozeman WWCS FP Ph 2 Scope and Fee](#)
- H.9 Resolution 5365 Authorizing the Use of an Alternative Project Delivery Contract for a General Contractor / Construction Manager for Preconstruction and Construction Services for the Fire Station 2 Relocation
[Commission Resolution 5365.docx](#)
- H.10 Resolution 5367 The South 3rd Growth Policy Amendment to Modify the Future Land Use Map from Public Institutions to Urban Neighborhood, Addressed at 2303 South 3rd Avenue, Located on the West Side of South 3rd Avenue and 1/4 Mile South of Kagy Boulevard, Application 21309
[21309 S 3rd Resolution of Adoption 5367.pdf](#)
[21309 S 3rd GPA Map.pdf](#)
- H.11 Ordinance 2095 Final Adoption to Rezone 3.4 Acres from B-2, Community Business District to B-2M, Community Business District-Mixed, Application 21192, Property Located on the Southeast Corner of South 19th Avenue and West Babcock Street
[West Babcock ZMA Ordinance 2095.pdf](#)
[21-192 ZMA Map 10-12-2021.pdf](#)
[21-192 Legal Description 05-05-2021.pdf](#)

00:16:11 [City Manager Introduction](#)
CM Mihelich provided the highlights of the Consent Agenda.

00:16:37 [Public Comment](#)

There were no public comments on the Consent Agenda.

00:18:59 Motion to approve Consent Items 1 - 11 as submitted.

Jennifer Madgic: Motion

Christopher Coburn: 2nd

00:19:12 Vote on the Motion to approve Consent Items 1 - 11 as submitted. **The Motion carried 5 – 0.**

Approve:

Cyndy Andrus

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Christopher Coburn

Disapprove:

None

I) **00:19:34 Public Comment**

Mayor Andrus opened general public comment.

00:21:58 Mary Wictor, Public Comment

Mary Wictor commented on Zone Map Amendment criteria and quoted Community Development Program Manager Chris Saunders' comments from the October 18 Zoning Commission. She highlighted the training materials presented to the Community Development Board at last night's meeting.

00:25:40 Chris Omland, Public Comment

Chris Omland commented on City growth and zoning. He highlighted the importance of decisions made by this group and their long-term impact. He noted the necessity and importance of information in making decisions. He commented on the need of housing.

00:29:17 Sean Casto, Public Comment

Sean Casto commented on contract zoning law in Montana.

J) **00:30:54 FYI / Discussion**

- Mayor Andrus congratulated the newly elected and sworn in officials.

K) **00:31:09 Adjournment**

Cynthia L. Andrus
Mayor

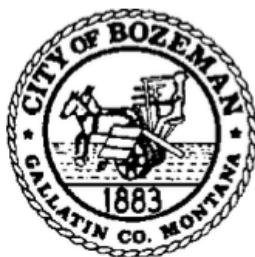
ATTEST:

Mike Maas
City Clerk

PREPARED BY:

Mike Maas
City Clerk

Approved on: February 1, 2022



THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA

MINUTES

January 11, 2022

Present: Cyndy Andrus, Terry Cunningham, I-Ho Pomeroy, Jennifer Madgic

Absent: Christopher Coburn

Staff Present in the WebEx: City Manager (CM) Jeff Mihelich, City Attorney (CA) Greg Sullivan, and Meeting Clerk (MC) Taylor Chambers

A) 00:01:55 Call to Order - 6:00 PM - WebEx Video Conference

B) 00:05:21 Pledge of Allegiance and a Moment of Silence

C) 00:05:49 Changes to the Agenda

- Adding an Agenda Item D - Authorize Absence of Commissioner Coburn

D) 00:06:13 Authorize the absence of Commissioner Coburn.

00:06:18 Motion I move to authorize the absence of Commissioner Coburn.

I-Ho Pomeroy: Motion

Terry Cunningham: 2nd

00:06:29 Vote on the Motion I move to authorize the absence of Commissioner Coburn. **The Motion carried 4 – 0.**

Approve:

Cyndy Andrus

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Disapprove:

None

DE) 00:07:15 Public Service Announcements

DE.1 00:07:18 Introduction of Interim Community Development Director, Anna Bentley, and Public Works Utility Director, John Alston

- CM Mihelich introduced John Alston as the new Public Works Utility Director.
- CM Mihelich introduced Anna Bentley as the Interim Community Development Director.

EF) 00:10:07 FYI

- Mayor Andrus recognized HRDC for the national recognition of their Streamline Transportation Services for their outstanding service during the pandemic.
- Mayor Andrus thanked Community Development Director Marty Matsen for his years of service to the community.
- CM Mihelich informed the Commission that City offices will be closed for Martin Luther King, Jr. Day.

FG) 00:12:55 Commission Disclosures

- DM Cunningham disclosed to the Commission that there have been signs throughout the City encouraging the Commission to vote against Canyon Gate, and that it will not affect his ability to vote in a transparent manner.

GH) 00:14:21 Consent

GH.1 Accounts Payable Claims Review and Approval

GH.2 Authorize the City Manager to Sign a Letter of Concurrence with the Findings of the MDT Speed Study for Cottonwood Road
[20220111_Cottonwood Road speed study_letter.pdf](#)
[20211220_MDT_Cottonwood Road Speed Study.pdf](#)

GH.3 Authorize the City Manager to Sign a Temporary Right-Of-Way Agreement and Two Temporary Construction Permits Needed for the City to Install Improvements to Story Mill Road - Parcels 6 & 7 (Wake Up Inc.)
[Story Mill Temporary Right of Way Agreement.pdf](#)
[Story Mill Temporary Construction Permits.pdf](#)

00:14:24 City Manager Introduction

CM Mihelich provided the highlights of the Consent Agenda.

00:14:43 Public Comment

There were no public comments on the Consent Agenda.

00:16:30 Motion to approve Consent items 1 through 3 as submitted.

Terry Cunningham: Motion

Jennifer Madgic: 2nd

00:16:41 Vote on the Motion to approve Consent items 1 through 3 as submitted. **The Motion carried 4 – 0.**

Approve:

Cyndy Andrus

Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

H) 00:16:59 Public Comment

Mayor Andrus opened General Public Comment. She informed attendees that public comment has closed for Canyon Gate and no further public comment on the manner will be considered.

00:18:51 Mary Wictor, Public Comment

Mary Wictor commented on the changes for allowable apartment buildings that come about from the adoption of Ordinance 2059.

00:22:19 Emily Talago, Public Comment

Emily Talago commented on the benefits and drawbacks of WebEx meetings and requested to know if there is a possibility for attendees to know how many people are present at meetings. She also expressed her gratitude towards Marty Matsen.

00:28:18 Daniel Gaugler, Public Comment

Daniel Gaugler commented on the noise impact from freight trains and requested that the City Commission look in to the possibility of constructing an overpass or an underpass.

00:29:51 Evan Rainey, Public Comment

Evan Rainey thanked Marty Matsen for his service to the City.

00:31:44 Chris Omland, Public Comment

Chris Omland asked what the policy procedure is for the vote on Canyon Gate with Commissioner Coburn being absent.

00:33:19 Marcia Kaveney, Public Comment

Marcia Kaveney commented that that B-1 zoning is underrated, that it should be utilized more frequently within the City, and the need for neighborhood businesses.

00:39:45 Betty Stroock, Public Comment

Betty Stroock commented that buildings in the Story Mill Neighborhood should not be allowed to be above two stories.

00:41:00 Shawna Wade, Public Comment

Shawna Wade asked Commissioners to carefully consider their decision for the action item on Canyon Gate.

00:42:48 Mark Williams, Public Comment

Mark Williams commented on issues that are arising due to the train crossings.

H) 00:45:33 Action Items

- H.1 00:45:36 Canyon Gate Annexation, Adoption of Resolution 5363, and Zone Map Amendment, Provisional Adoption of Ordinance 2099, to Annex Approximately 25.42 Acres and Establish Zoning Districts of R-3, R-5, REMU, and B-2M, Located at 980 Story Mill Road, Application 21337
21337 Canyon Gate ANNEX ZMA CC SR.pdf
Hinds v. COB Decision.pdf
A1DevelopmentReviewApplication_08112021.pdf
DRCMemoResponses_10272021.pdf
RevisionandCorrectionRC.pdf
Letter to City - Annexation Agreement.pdf
120821 FINAL Canyon Gate Annexation Agreement.docx.pdf
21337 Canyon Gate ANNEX Resolution 5363.pdf
21337 Canyon Gate ZMA Ordinance 2099.pdf
Canyon Gate Annexation Meets and Bounds 11-12-21.docx
Canyon Gate ZMA 11-12-21.pdf
Canyon Gate Annexation Map 11-12-21.pdf
Canyon Gate Zoning Meets and Bounds 11-12-21.docx
SIDWaiver_10272021.pdf
ExistingOff-SiteGasPipelineEasementBk122Pg54_10272021.pdf
ExistingWaterMainEasementBk17Pg29_10272021.pdf
StoryMillRoadPublicStreetandUtilityEasement_10272021.pdf
WaterPipelineAccessEasement_10272021.pdf
21337 Canyon Gate Comment Tracking.xlsx

00:45:56 Clarification on Process by Mayor Andrus
Mayor Andrus outlined where the hearing of the project would be picked up from the previous meeting.

00:46:57 Staff Presentation
CA Sullivan answered that the process for how a supermajority vote would work for the meeting with the absence of Commissioner Coburn, stating that three votes would make a supermajority. He provided clarification on the definition of contract zoning.
Planner Miller provided clarification to the Commission on criteria of approval for the project, the differences of B-2M and B-1 zoning, and the noticing process in response to public comments.

00:57:57 Applicant Presentation
Andy Holloran presented the Canyon Gate Annexation Proposal to the Commission and responded to public comments.

01:05:12 Questions
Commissioners directed questions to staff and the applicant.

01:45:59 Meeting Recess
Mayor Andrus called for a five minute break.

01:48:39 Meeting Reconvened
Mayor Andrus called the meeting back to order.

01:49:10 Discussion

02:07:33 Motion *Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings related to annexation presented in the staff report for application 21337 and move to approve Resolution 5363, the Canyon Gate Annexation and authorize the City Manager to sign the Canyon Gate Annexation Agreement.*

Jennifer Madgic: Motion
I-Ho Pomeroy: 2nd

02:11:16 Motion *to amend the motion to add an agreement to the annexation agreement that would limit building height to 50 feet or 4 stories throughout the entire project.*

Jennifer Madgic: Motion
I-Ho Pomeroy: 2nd

02:12:05 Discussion on the Amendment

02:18:14 Vote on the Motion *to amend the motion to add an agreement to the annexation agreement that would limit building height to 50 feet or 4 stories throughout the entire project. The Motion carried 4 – 0.*

Approve:
Cyndy Andrus
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

02:18:33 Discussion on the Main Motion

02:24:43 Vote on the Motion *Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings related to annexation presented in the staff report for application 21337 and move to approve Resolution 5363, the Canyon Gate Annexation and authorize the City Manager to sign the Canyon Gate Annexation Agreement. The Motion carried 4 – 0.*

Approve:
Cyndy Andrus
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

02:25:52 Motion *Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings related to zoning presented in the staff report for application 21337 and move to provisionally adopt Ordinance 2099, the Canyon Gate Zone Map Amendment.*

Jennifer Madgic: Motion

I-Ho Pomeroy: 2nd

02:26:19 Discussion on the Zoning Motion

Cr. Madgic provided findings in agreement with staff's findings with particular reference to neighborhood nodes and the policy goals of the Community Plan.

DM Cunningham highlighted Theme Three from the Community Plan speaking to districts within the City. He noted the well-resourced and thoughtful comments submitted from the public on this matter. He noted the importance in adhering to adopted City plans when making decisions for the next 50 year, while also balancing neighbors' concerns in the short-term.

Mayor Andrus noted the requested zoning makes sense in this particular area. She noted the difficulty in building the City we want given the UDC designed around utilizing Euclidian Zoning.

02:51:17 Vote on the Motion *Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings related to zoning presented in the staff report for application 21337 and move to provisionally adopt Ordinance 2099, the Canyon Gate Zone Map Amendment. **The Motion carried 4 – 0.***

Approve:

Cyndy Andrus

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Disapprove:

None

¶.2 **02:51:39** Continue to the January 25, 2022 Commission Meeting the Approval of a Preliminary Plat for the Park View Crossing Major Subdivision to Create 44 Residential Lots on a 7 Acre Parcel Zoned R-3, Medium-density Residential District
21158 Park View Crossing PP continuance memo 12 23 21.docx

02:52:07 Motion *to Re-schedule the Park View Crossing Major Subdivision Preliminary Plat to the January 25, 2022 Commission meeting as an action item.*

I-Ho Pomeroy: Motion

Terry Cunningham: 2nd

02:52:52 Vote on the Motion *to Re-schedule the Park View Crossing Major Subdivision Preliminary Plat to the January 25, 2022 Commission meeting as an action item. **The Motion carried 4 – 0.***

Approve:

Cyndy Andrus

Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

J.3 02:53:10 Continue the Public Hearing of Resolution 5370 Approving a Project in the Northeast Urban Renewal District, Known as Wildlands, as an Urban Renewal Project; Making Findings with Respect Thereto and Approving the Use of Tax Increment Revenues or Tax Increment Revenue Bonds to Reimburse Eligible Costs Thereof and Approving a Related Development Agreement to January 25, 2022

02:53:49 Motion to continue Resolution 5370 Approving a Project in the Northeast Urban Renewal District, known as Wildlands, as an Urban Renewal Project; Making Findings with Respect Thereto and Approving the Use of Tax Increment Revenues or Tax Increment Revenue Bonds to Reimburse Eligible Costs Thereof and Approving a Related Development Agreement to January 25, 2022.

Terry Cunningham: Motion
Jennifer Madgic: 2nd

02:54:00 Vote on the Motion to continue Resolution 5370 Approving a Project in the Northeast Urban Renewal District, known as Wildlands, as an Urban Renewal Project; Making Findings with Respect Thereto and Approving the Use of Tax Increment Revenues or Tax Increment Revenue Bonds to Reimburse Eligible Costs Thereof and Approving a Related Development Agreement to January 25, 2022. **The Motion carried 4-0.**

Approve:
Cyndy Andrus
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

JK) 02:54:20 FYI / Discussion

KL) 02:54:44 Adjournment

Cynthia L. Andrus
Mayor

ATTEST:

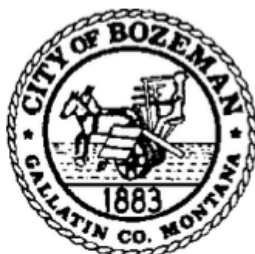
**Mike Maas
City Clerk**

PREPARED BY:

**Mike Maas
City Clerk**

Approved on: February 1, 2022

DRAFT



THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA

MINUTES

January 25, 2022

Present: Terry Cunningham, I-Ho Pomeroy, Jennifer Madgic

Absent: None

Staff Present in the WebEx: City Manager (CM) Jeff Mihelich, City Attorney (CA) Greg Sullivan, and City Clerk (CC) Mike Maas

- A) 00:01:42 Call to Order - 6:00 PM - WebEx Videoconference
- B) 00:05:43 Pledge of Allegiance and a Moment of Silence
- C) 00:06:20 Changes to the Agenda
 - Item H.5 was removed and will return next week after a correction to the contract that is uploaded.
- D) 00:07:00 Authorize Absence
 - D.1 00:07:01 Authorize the Absence of Mayor Cyndy Andrus and Commissioner Christopher Coburn

00:07:09 Motion to authorize the absence of Mayor Cyndy Andrus and Commissioner Christopher Coburn.

I-Ho Pomeroy: Motion
Jennifer Madgic: 2nd

00:07:34 Vote on the Motion to authorize the absence of Mayor Cyndy Andrus and Commissioner Christopher Coburn. **The Motion carried 3 – 0.**

Approve:
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

E) 00:07:48 Public Service Announcements

E.1 Recently Approved Citizen Advisory Board Minutes

F) 00:08:27 FYI

- CM Mihelich noted the ribbon cutting ceremony on Thursday at 4pm for the newly acquired property on the south end of Peets Hill.
- He added that the Engage Bozeman platform has a new survey on the PRAT Plan.
- He referenced the HRDC quarterly update with information about the Outreach Bozeman Pilot Program.

H) 00:10:58 Consent

H.1 Accounts Payable Claims Review and Approval

H.2 Approve City Manager Jeff Mihelich's Merit Increase to Base Salary

H.3 Authorize the City Manager to Sign an Agreement for Digital Video Migration with Granicus for the Conversion of Old City Commission and Citizen Advisory Board Meetings

[Data Migration Media Manager Quote - Granicus.pdf](#)

H.4 Authorize the City Manager to Sign a Professional Services Agreement with Montana Outdoor Science School to Implement a Direct Student Engagement Pilot Program in Bozeman Public Schools Utilizing the Bozeman Water Conservation and Stormwater Management Educator Guide

[Professional Services Agreement_MOSS Direct Student Engagement Pilot Program.pdf](#)
[Scope of Services_MOSS Direct Student Engagement Pilot Program.pdf](#)

H.5 Authorize the City Manager to Sign a Professional Services Agreement with SKIDATA for the Installation of New Gates in the Bridger Park Parking Garage

[Exhibit A-SKIDATA_Proposal_For_Bridger Garage Replacement Gates.pdf](#)
[PSA for new Garage Gate Skidata Jan 25, 2022.docx](#)

H.6 Authorize the City Manager to Sign Task Order Number 1 for the Right of Way Acquisition Project for West Babcock Street from 15th to 19th

[Right of Way Acquisition Task Order 1 for West Babcock 15th to 19th.pdf](#)

00:11:04 City Manager Introduction

CM Mihelich provided the highlights of the Consent Agenda.

00:12:26 Public Comment

There were no public comments on the Consent Agenda.

G) 00:13:56 Commission Disclosures

00:15:51 Motion to approve Consent Items 1-4 and 6 as submitted.

Jennifer Madgic: Motion

I-Ho Pomeroy: 2nd

00:16:12 Vote on the Motion to approve Consent Items 1-4 and 6 as submitted. **The Motion carried 3 – 0.**

Approve:

Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:

None

I) 00:16:30 Public Comment

DM Cunningham opened general public comments.

00:18:40 Marcia Kaveney, Public Comment

Marcia Kaveney commented on concerns of the Wildlands Project and how it meets the criteria for TIF assistance funds.

00:22:26 Chris Omland, Public Comment

Chris Omland commented on the City's public comment process, the need for improvements, and the need for citizens to engage in dialogue with developers and Commissioners.

00:25:44 Evan Rainey, Public Comment

Evan Rainey commented in opposition to TIF assistance in general as subsidizing gentrification.

J) 00:30:37 Action Items

- J.1 00:30:46 Review of the Preliminary Plat of the Park View Crossing Major Subdivision to Create 44 Townhome Lots, 2 Open Space Lots, 1 Storm Water Management Lot, Streets and an Alley on 7 Acres of Land zoned R-3, Medium-density Residential
[_2.g_PreliminaryPlat_09242021.pdf](#)
[21158 Park View Crossing CC staff rpt 12 28 21.pdf](#)
[21158 City Commission hearing memo.pdf](#)
[21158 Comm Dev Board mtg summary.pdf](#)

00:30:59 Staff Presentation

Senior Planner Susana Montana presented the application, the project vicinity, the Future Land Use Map (FLUM) designation and correlating zoning district, land uses in the vicinity, the proposed subdivision plat, availability of Accessory Dwelling Units (ADU), the lot size and park requirements, the findings from the Community Plan Policy, a summary of the public comment received, and the recommendation.

00:44:06 Questions of Staff

00:59:50 Applicant Presentation

Brett Megaard with Hyalite Engineers presented the application, the project vicinity and land uses, noted efforts on a land swap to adjust the property boundary, the overall layout of utilities, and responded to questions the Commission raised related to housing diversity, parking issues, and shared use pathways.

01:07:44 Questions of Applicant

01:10:32 Public Comment

DM Cunningham opened this item for public comments.

01:12:08 Emily Talago, Public Comment

Emily Talago commented on the reduction of lots related to requirements of parking adjacent to parkland.

01:14:50 Motion *Having reviewed and considered the application materials, public comment, and all the information presented, I hereby adopt the findings presented in the staff report for application 21158 and move to approve the Park View Crossing Preliminary plat Major Subdivision with staff recommended conditions and subject to all applicable code provisions.*

I-Ho Pomeroy: Motion
Jennifer Madgic: 2nd

01:15:25 Discussion

Cr. Pomeroy agreed with staff's findings, noted the variety of housing, and will support the motion. Cr. Madgic will support the motion, agreed with staff's findings and Cr. Pomeroy, and appreciated the work for attainable housing utilizing the R-3 district to its maximum extent and housing variety. She noted the need to review the policy for lots abutting parks. DM Cunningham agreed with his colleagues, staff's findings, and noted the wisdom of removing the request for a variance. He will support the motion.

01:23:55 Vote on the Motion *Having reviewed and considered the application materials, public comment, and all the information presented, I hereby adopt the findings presented in the staff report for application 21158 and move to approve the Park View Crossing Preliminary plat Major Subdivision with staff recommended conditions and subject to all applicable code provisions. **The Motion carried 3 – 0.***

Approve:
Terry Cunningham
I-Ho Pomeroy
Jennifer Madgic

Disapprove:
None

- J.2 01:24:22 [Review North Montana Avenue Minor Subdivision Preliminary Plat, Application 21224](#)
[21224 N. Montana Ave. Minor Sub PP SR.pdf](#)
[A1 - Preliminary Plat.pdf](#)
[NoticingChecklistN1.pdf](#)
[PP City Response - Annotated .pdf](#)
[Project Narrative.pdf](#)
[PROPERTY OWNERS ADJACENT TO 413.pdf](#)
[PROPERTY OWNERS WITHIN 200 FT.pdf](#)
[RevisionandCorrectionRC.pdf](#)
[SID Waiver 413-415 N. Montna.pdf](#)

[Title Certificate.pdf](#)
[Utility Easement 415 N. Montana.pdf](#)
[Preliminary Plat - Exhibit 1.pdf](#)

01:24:50 [Staff Presentation](#)

Associate Planner Jacob Miller entered the staff report and materials into the record, presented the application, the FLUM designation and the correlating zoning district, the project vicinity, the preliminary plat, a summary of the application criteria, and recommendations.

01:29:48 [Questions of Staff](#)

01:32:55 [Applicant Presentation](#)

Gordon Carpenter presented the background of the project, the intent for the project, and a status update on the project.

01:34:33 [Questions of Applicant](#)

01:37:41 [Public Comment](#)

There were no public comments on this item.

01:40:40 Motion *Having reviewed and considered the application materials, public comment, and all the information presented, I hereby adopt the findings presented in the staff report for application 21224 and move to approve the subdivision with conditions and subject to all applicable code provisions.*

Jennifer Madgic: Motion

I-Ho Pomeroy: 2nd

01:41:10 [Discussion](#)

01:45:24 Vote on the Motion *Having reviewed and considered the application materials, public comment, and all the information presented, I hereby adopt the findings presented in the staff report for application 21224 and move to approve the subdivision with conditions and subject to all applicable code provisions.*
The Motion carried 3 – 0.

Approve:

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Disapprove:

None

01:45:40 [DM Cunningham called the meeting into recess.](#)

01:46:25 [DM Cunningham called the meeting back to order.](#)

J.3 01:46:42 [Resolution 5370 A Resolution Approving a Project in the Northeast Urban Renewal District, Known as Wildlands, as an Urban Renewal Project; Making](#)

[Findings with Respect Thereto and Approving the Use of Tax Increment Revenues or Tax Increment Revenue Bonds to Reimburse Eligible Costs Thereof and Approving a Related Development Agreement](#)

[Commission Memorandum for Resolution 5370.docx](#)

[Staff Report to the NURD and Packet Material.pdf](#)

[Resolution 5370 approving Wildlands project.docx](#)

[BZN Development Agreement.Wild Peach.v7.docx](#)

[Affordable Housing Restrictive Covenant and Agreement 010622 v2.doc](#)

01:46:59 [Staff Presentation](#)

Urban Renewal Program Manager David Fine presented the purpose of TIF assistance and urban renewal, the Northeast Urban Renewal Plan's seven goals, an overview of the Northeast TIF program, the site context, the project and proposed restrictive covenant for off-site housing agreement, the costs to be reimbursed with TIF assistance, the fiscal effects and reimbursement timeline, the required findings, entered the staff report and recommendation of the Northeast Urban Renewal Board into the record, and outlined the actions of Resolution 5370.

01:59:50 [Questions of Staff](#)

02:23:52 [Public Comment](#)

There were no public comments on this item.

02:28:27 Motion to adopt Staff's findings in the Commission Memorandum and the Staff Report to the Northeast Urban Renewal Board and approve Resolution 5370.

I-Ho Pomeroy: Motion

Jennifer Madgic: 2nd

02:28:35 [Discussion](#)

Cr. Pomeroy agreed with staff's findings and that the TIF assistance is well used for this project and will support the motion.

Cr. Madgic will support the motion, agreed with the findings, and TIF assistance is a tool to provide additional housing units.

DM Cunningham will support the motion, highlighted sections of the staff report related to projects lack of feasibility but for TIF assistance, and the constraints of building to accommodate the neighborhood character. He noted the improvements efforts addressing blight and the ratio of private to public funding.

02:38:14 Vote on the Motion to adopt Staff's findings in the Commission Memorandum and the Staff Report to the Northeast Urban Renewal Board and approve Resolution 5370. ***The Motion carried 3 – 0.***

Approve:

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Disapprove:

None

- J.4 02:38:34 Annual Comprehensive Financial Report (ACFR) for Fiscal Year 2021 and Audit Results
FY21 City of Bozeman Draft ACFR.pdf

02:39:17 Staff Presentation

Assistant City Manager Anna Rosenberry, joined by Jessica Van Voast and Jacob Popp from Anderson ZurMuehlen and Company presented the Annual Comprehensive Financial Report for FY2021 and Audit results. ACM Rosenberry presented the financial report for financial results, transparency, accountability, and compliance. She noted that this is the 37th year the City of Bozeman received the GFOA's Certificate of Achievement for Excellence in Financial Reporting, highlighted the work of Controller Aaron Funk and Treasurer Laurae Clark, past employees, Kristin Donald, Brian LaMeres, Brandi Higgins, and Maurice Gauthier, and all current employees across all departments that are involved in processing finances in achieving this award. She presented the highlights of the financial report and important financial events for FY21.

Jessica Van Voast & Jacob Popp presented an overview of the audit process and requirements, an overview of the audit results, the letter to governance, and items coming in the future.

03:01:06 Questions

03:14:05 Public Comment

There were no public comments on this item.

03:17:12 Motion to approve the Fiscal Year 2021 Annual Comprehensive Financial Report and the accompanying Letter of Governance.

Jennifer Madgic: Motion

I-Ho Pomeroy: 2nd

03:17:28 Discussion

03:22:37 Vote on the Motion to approve the Fiscal Year 2021 Annual Comprehensive Financial Report and the accompanying Letter of Governance. **The Motion carried 3 – 0.**

Approve:

Terry Cunningham

I-Ho Pomeroy

Jennifer Madgic

Disapprove:

None

K) 03:22:49 FYI / Discussion

- CM Mihelich responded that the purchasing policy was updated in December and the annual audit is required by the City Charter.

L) 03:23:45 Adjournment

Cynthia L. Andrus
Mayor

ATTEST:

Mike Maas
City Clerk

PREPARED BY:

Mike Maas
City Clerk

Approved on: February 1, 2022

Memorandum

REPORT TO: City Commission

FROM: Taylor Lonsdale, Transportation Engineer

SUBJECT: Acknowledge Receipt of Petition to Abandon Redwing Drive and Direct Staff to Review the Petition

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Administration

RECOMMENDATION: Acknowledge Receipt of Petition to Abandon Redwing Drive and Direct Staff to Review the Petition.

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: The city received a petition to abandon Redwing Drive. Resolution 3628 sets the procedure for abandonment of streets. Accepting of the petition and directing staff to review the petition is the initial step of that procedure. Future steps include: completion of an engineering staff report, a Resolution of Intent, a noticed public hearing, and finally a Resolution of Abandonment.

UNRESOLVED ISSUES: None.

ALTERNATIVES: None identified or recommended.

FISCAL EFFECTS: None.

Attachments:

[Red Wing Drive Abandonment Application 011822.pdf](#)

Report compiled on: January 20, 2022

APPLICATION FOR STREET/ALLEY VACATION

1. Name: _____
2. Address and Phone Number: _____
3. Street/alley name and written description of area to be vacated:

4. Attach a map/design of proposed vacation showing the following:

- a. Location in City
- b. Street/alley to be vacated
- c. Applicant's property
- d. Adjacent property owners
- e. Location of utilities
- f. Adjacent buildings/fixtures

5. Names and addresses of adjacent property owners to proposed street/alley vacation:

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. ATTACH SIGNED CONSENT LETTERS FROM EACH ADJACENT PROPERTY OWNER.

7. Is street/alley improved? Yes No
8. Attach statement from utility companies indicating consent, consent with conditions (stating conditions), or object to proposed vacation
9. Attach title report showing all ownership interests and easements in property abutting proposed vacation.

**NON-REFUNDABLE APPLICATION FEE
(FOR SIMPLE STREET/ALLEY VACATIONS)**

Public Service:	\$60.00
City Clerk:	\$75.00
Police:	\$25.00
Fire	\$25.00
Planning:	<u>\$10.00</u>
Total:	\$195.00

For Complex Street/Alley Vacation:

Add 10% to above fee

Sanderson Stewart check number 2994 for \$214.50 is included with this application to cover the "complex" fee amount.

Submission of Application for Street/Alley Vacation in no way obligates the City to vacate proposed street or alley. The ultimate decision for vacation is made by the City Commission, based on if proposed vacation is detrimental to the public interest.

RED WING DRIVE ABANDONMENT

Application Narrative

Purpose

On behalf of Bozeman TRAX Partners, LLC (the applicant), Sanderson Stewart (the applicant’s representative) is requesting the partial abandonment of Red Wing Drive in Bozeman, Montana. Red Wing Drive is in actual existence. See the included map showing the location of Red Wing within the City, the portion of the street to be abandoned and retained, the applicant’s properties, the additional abutting properties, locations of public utilities, and adjacent buildings and fixtures.

This application specifically requests the abandonment of Red Wing Drive within Montana Rail Link Right of Way (ROW), while retaining the portion within the City of Bozeman ROW.

This abandonment will allow the TRAX Partners, LLC and MRL to design and construct multiple rail spurs to service the future industrial users at North Park.

Road Description

Red Wing Drive is located just west of N 7th Ave and runs southwest paralleling the Frontage Road and the railroad tracks. The section to be abandoned extends from the intersection of Red Wing Dr. and the Frontage Rd. (the northwestern-most extent) to the point it crosses the MRL ROW boundary (the southeastern-most extent), which is approximately 0.15 miles from North 7th Avenue. The road averages 26 feet in width with a road surface of gravel and remnants of dilapidated pavement.



Figure 1: Crumbling Pavement of Red Wing Dr.

Land & Uses Description

There are currently six properties that abut Red Wing Drive.

These properties are owned by Bozeman TRAX Partners, LLC, the State of Montana-DNRC, Burlington Northern Santa Fe, and Montana Department of Transportation. The road is primarily used for access to the railroad by MRL and as one of two access to the DNRC land. Red Wing Drive also provides access to two utility sites operated by Crown Castle and NorthWestern Energy. With the abandonment of Red Wing Dr., a temporary alternative access road will be constructed to provide continued access to Crown Castle and NorthWestern Energy’s utilities (see included

exhibit). This temporary access road will be replaced when the North Park Master Site Plan (MSP) is constructed and local streets will provide permanent access to the utility sites (see included exhibit).



Figure 2: View of Red Wing Dr. (Looking southwest)

Abutting Property Owners

Below is a list of the abutting property owners and active users with their documented position on the proposed abandonment noted. Formal letters from these owners and users are included in this petition packet.

Bozeman TRAX Partners—Consent

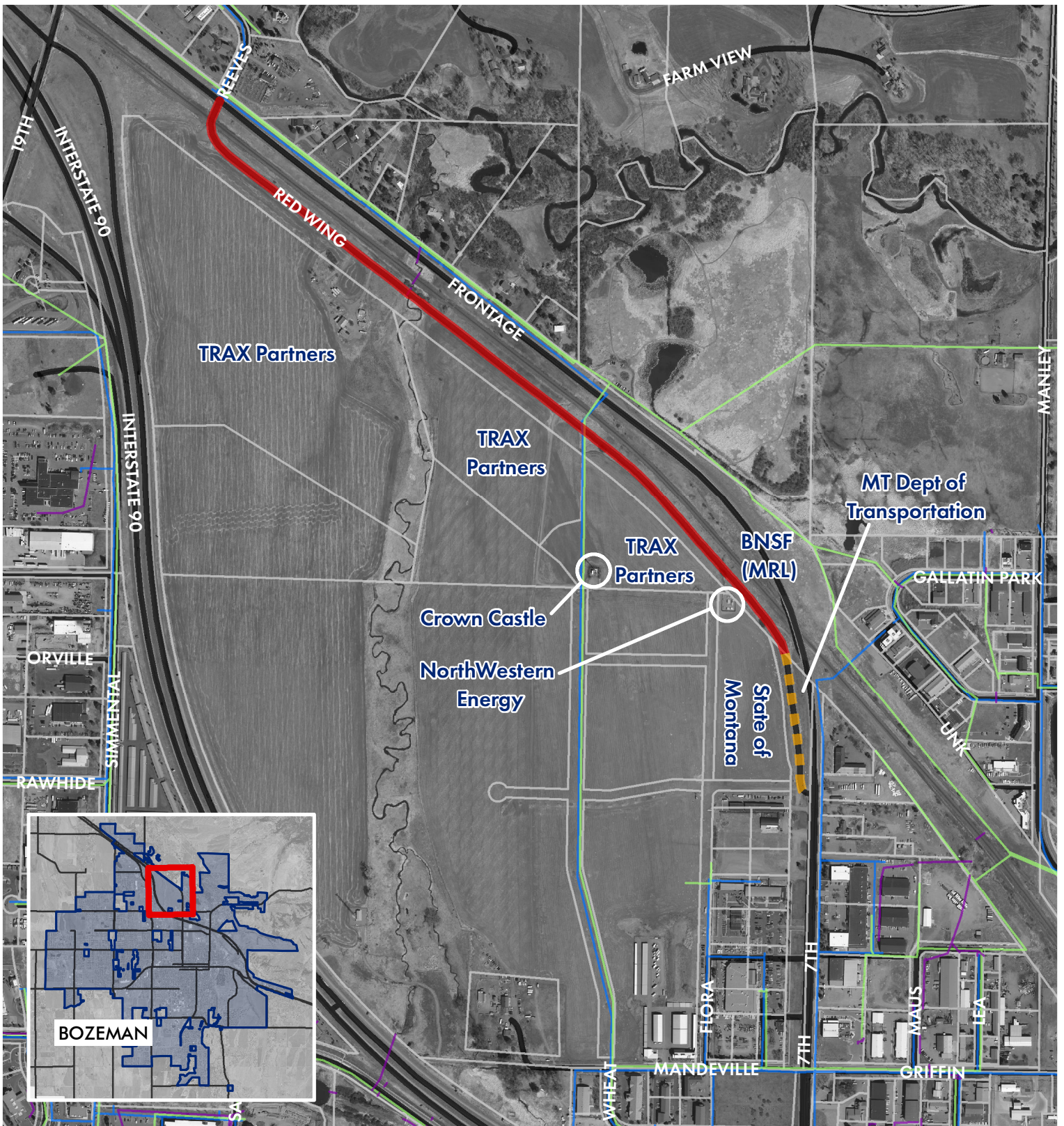
Crown Castle Communications—No Response

Northwestern Energy—Consent

Montana Department of Transportation—Conditional Support

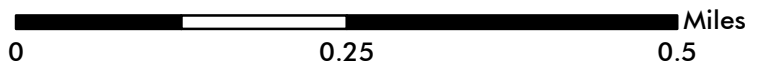
Montana Department of Natural Resources—No Position

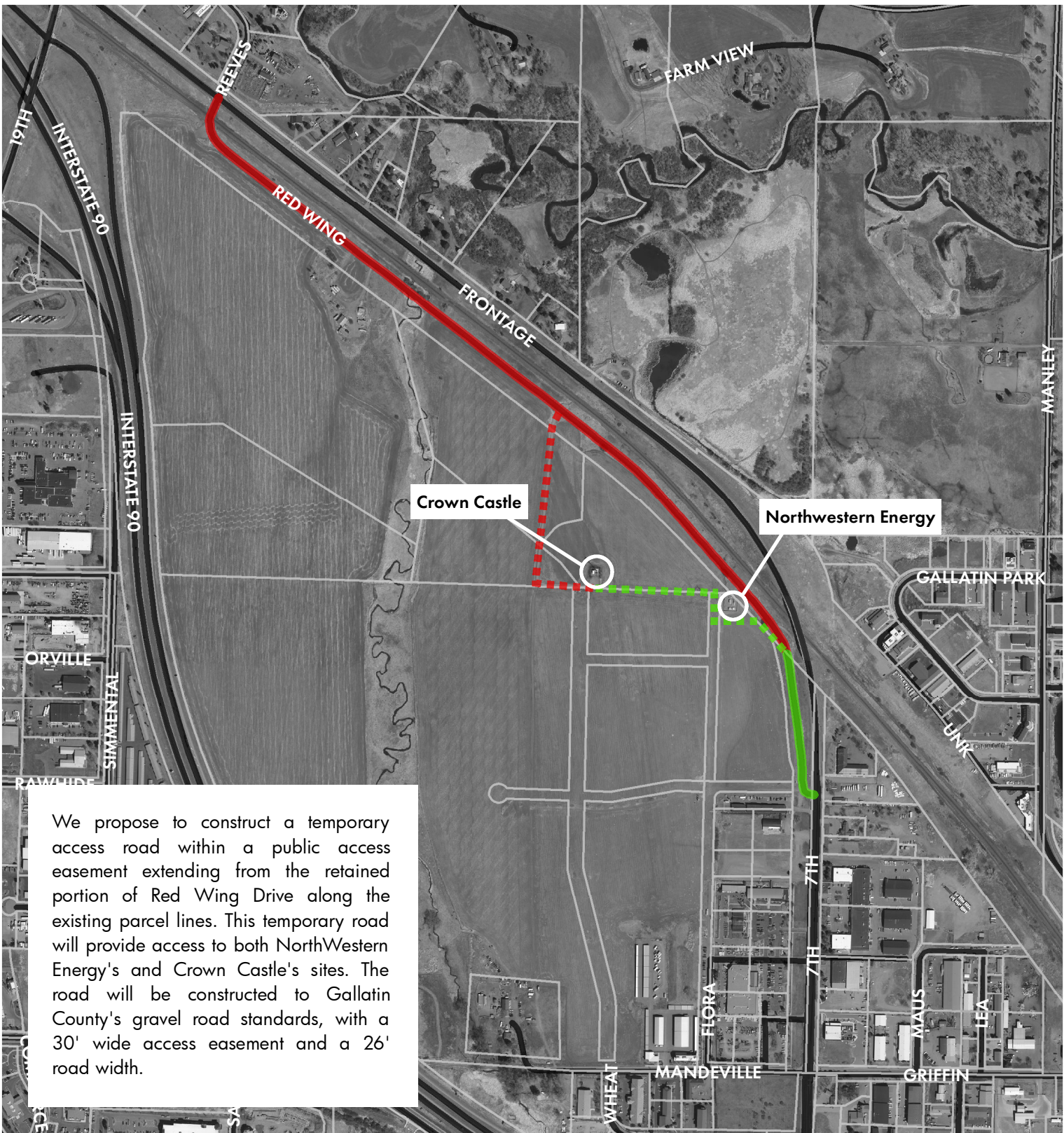
Montana Rail Link—Consent



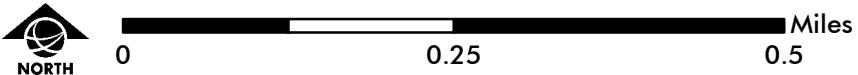
Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)
- Storm Main
- Sewer Main
- Water Main



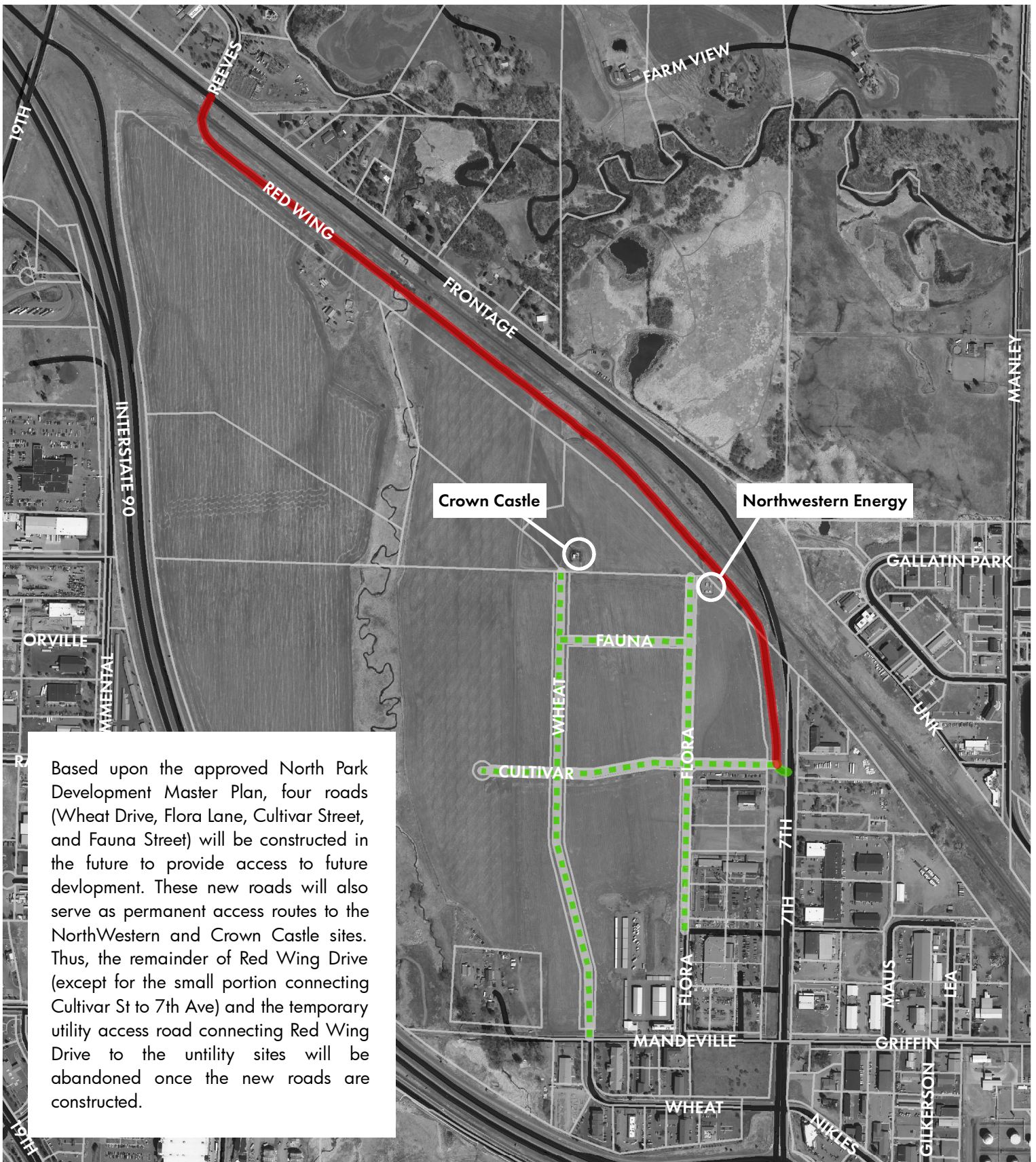


We propose to construct a temporary access road within a public access easement extending from the retained portion of Red Wing Drive along the existing parcel lines. This temporary road will provide access to both NorthWestern Energy's and Crown Castle's sites. The road will be constructed to Gallatin County's gravel road standards, with a 30' wide access easement and a 26' road width.

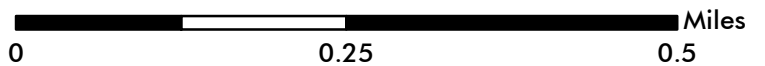


Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)
- - - - Proposed Temporary Access
- - - - Crown Castle Access to be Abandoned



- Abandoned Red Wing Dr
- - - Future Roads



September 28th, 2021

Red Wing Drive Abandonment

Future Permanent Utility Access

Adjacent Property Owners

Legal Description	Property Owner Name	Contact Name	Contact Address
S36, T01 S, R05 E, COS2153A, Tract 1-B	Bozeman Trax Partners LLC	Casey Tippens	5148 US Highway 89, Livingston, MT 59047
S36, T01 S, R05 E, COS2153A, Tract 2-B	Bozeman Trax Partners LLC	Casey Tippens	5148 US Highway 89, Livingston, MT 59047
S36, T01 S, R05 E, COS2153A, Tract 4-B	Bozeman Trax Partners LLC	Casey Tippens	5148 US Highway 89, Livingston, MT 59047
S36, T01 S, R05 E, COS3019, Area 6	State of Montana, DNRC	Ryan Weiss	PO Box 201601, Helena, MT 59620-1601
Railroad Right of Way	Burlington Northern Santa Fe as successor to Northern Pacific Railroad	Nick Bailey, P.E., Montana Rail Link	101 International Dr, Missoula, MT 59808
Right of Way	Montana Department of Transportation	Jean A. Riley, P.E.	2701 Prospect, PO Box 201001, Helena, MT 59620
ZAL-MT08_SIMMENTAL (cell tower identifier)	Crown Castle	Sharry Bendel	1220 Augusta Drive Suite 500, Houston, TX 77057
N/A	NorthWestern Energy	Pat Patterson	121 E Griffin Dr, Bozeman, MT 59715

* See EXHIBIT A for Title Report

EXHIBIT A

Bozeman (Main Office)
 (406) 587-5563 • (888) 405-5299
 Fax: (406) 587-8038
 1800 West Koch Street, Suite 1 • P.O. Box 396
 Bozeman, MT 59715 • 59771-0396
 bozeman@altc.biz



www.altc.biz

Ennis (Branch Office)
 (406) 682-5299 • (800) 405-5299
 Fax: (406) 682-5288
 3 Geysler Street • P.O. Box 1248
 Ennis, MT 59729
 ennis@altc.biz

OWNERSHIP REPORT – Red Wing Drive Project

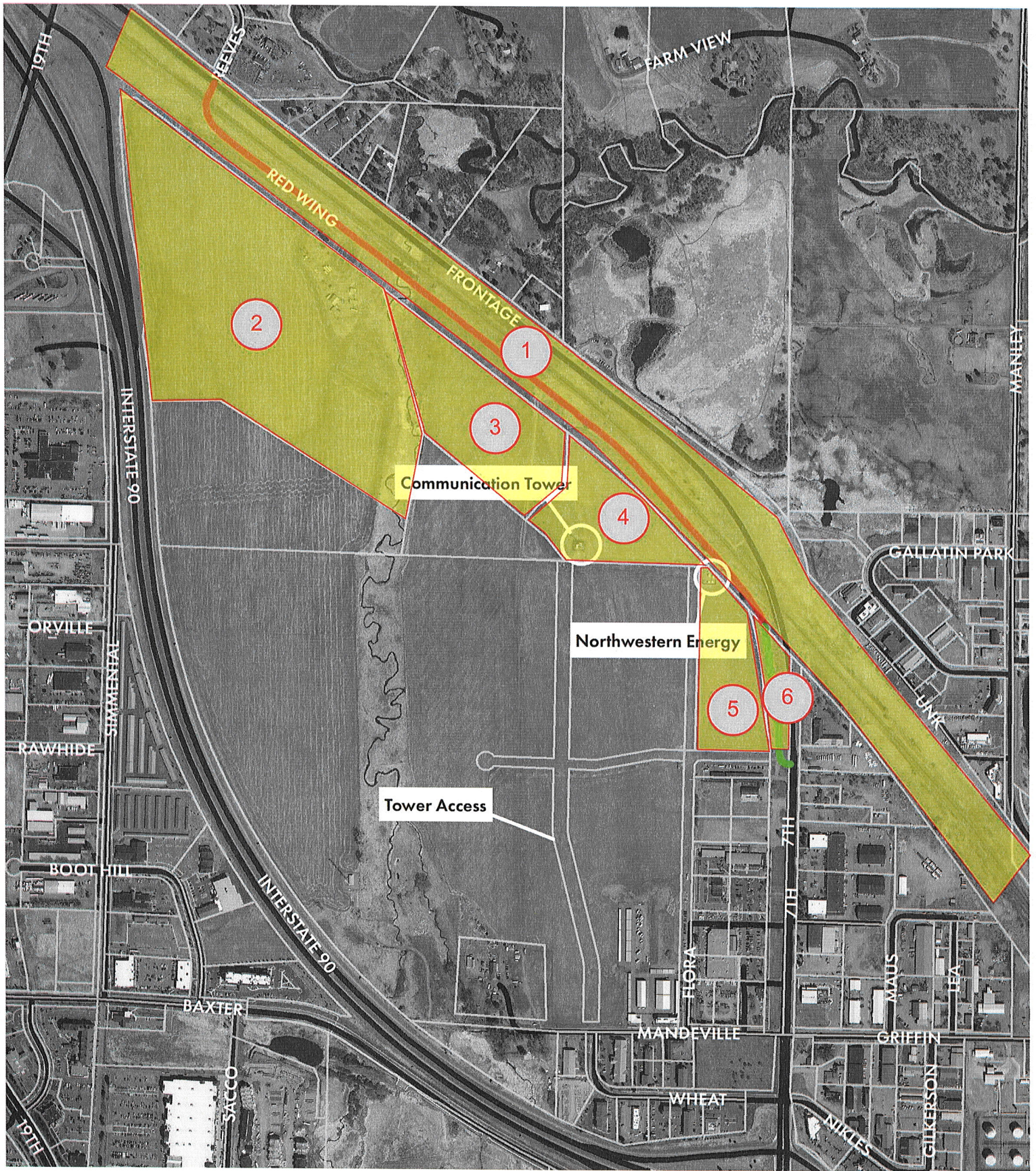
Order #: RS-02841

See Attached image submitted with order request for REF #.

REF #	Legal	Tax ID	Owner
1.	Railroad Right of Way	N/A	Burlington Northern Santa Fe as successor to Northern Pacific Railroad Montana Rail Link as Lessee (Lease in Film 99 Page 1829)
2.	COS2153A Tract 1-B (Former Tract 1-A, 2-A, & Part 3-A of COS2153)	*RFG44603 (1-A) *RFG21678 (2-A) *RFG44604 (3-A)	Bozeman Trax Partners, LLC (Warranty Deed #2740727)
3.	COS2153A Tract 2-B (Parts Former Tracts 3-A & 4-A of COS2153)	*RFG44604 (3-A) *RFG44605 (4-A)	Bozeman Trax Partners, LLC (Warranty Deed #2740727)
4.	COS2153A Tract 4-B (Part Former Tract 4-A of COS2153)	*RFG44605 (4-A)	Bozeman Trax Partners, LLC (Warranty Deed #2740727)
5.	Area 6 as shown on COS3019	RFG83139	State of Montana (Book 89 of Deeds Page 76) Bozeman TRAX Partners, LLC as lessee (Memorandum of Commercial Ground Lease #2740728)
6.	Right of Way	N/A	Montana Department of Highways (ROW deed Film 117 Page 879)

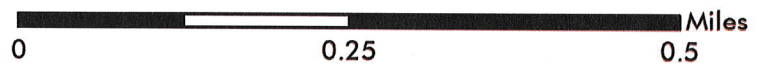
*Tax parcels as shown in public record do not yet reflect 2/4/2021 plat Certificate of Survey No. 2153A

This report is provided without benefit of a title examination. No liability is assumed for the completeness thereof. Plats may or may not be a survey of the land depicted herein. The company expressly disclaims any liability for alleged loss or damage which may result from reliance upon them.



Redwing Drive

- Retain (within City/MDT ROW)
- Abandon (within MRL ROW)



August 30, 2021

Red Wing Drive Abandonment

September 23, 2021

Casey Tippens
Bozeman Trax Partners LLC
ctippens@gmail.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: COS2153A, Tract 1-B

Dear Casey,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

Attached is a map showing the adjacent parcels, with your parcel highlighted, and the portion of Red Wing Drive we are petitioning to abandon.

In accordance with the requirements of the Petition to Vacate as established by City of Bozeman Resolution 3628, we respectfully request your written consent to abandon by signing this consent letter on page 2 and returning a signed copy to me via e-mail. If you wish to add any comments, please include them in the space below your signature, or attach a separate sheet of paper if necessary.

Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,



Chris Naumann
Senior Planner

Mr. Casey Tippens
September 23, 2021
Page 2

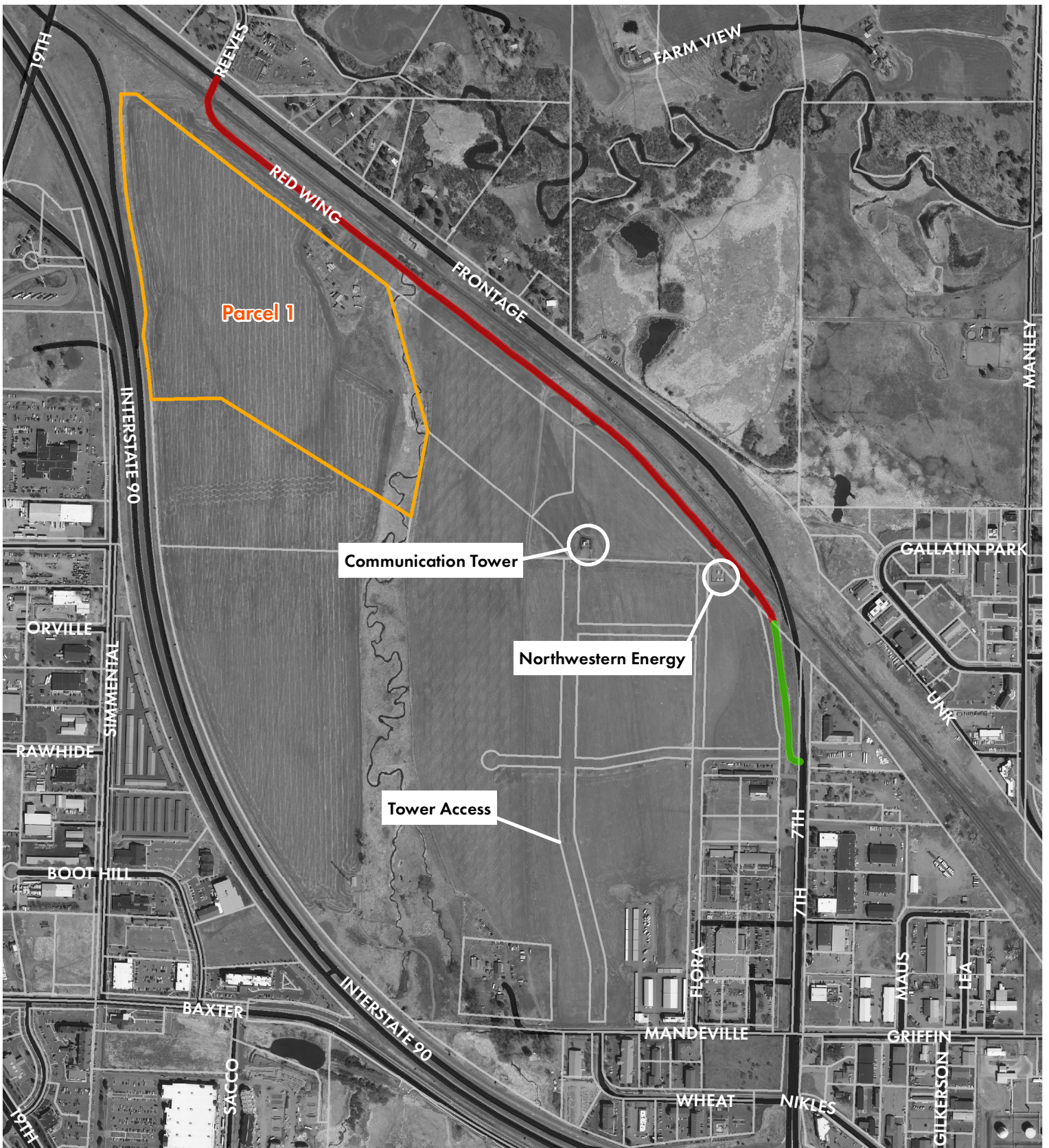
Subject: Red Wing Drive Abandonment
Owner: Casey Tippens
Bozeman Trax Partners LLC
Property: COS2153A, Tract 1-B

To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.

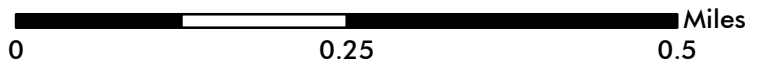
Signed: Casey Tippens Dated: JAN 13, 2022
Printed Name: CASEY TIPPENS Phone: 406 624 7815

COMMENTS:



Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)



September 23rd, 2021

Redwing Drive Abandonment
Parcel 1



September 23, 2021

Casey Tippens
Bozeman Trax Partners LLC
ctippens@gmail.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: COS2153A, Tract 2-B

Dear Casey,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

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Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,



Chris Naumann
Senior Planner

Mr. Casey Tippens
September 23, 2021
Page 2

Subject: Red Wing Drive Abandonment
Owner: Casey Tippens
Bozeman Trax Partners LLC
Property: COS2153A, Tract 2-B

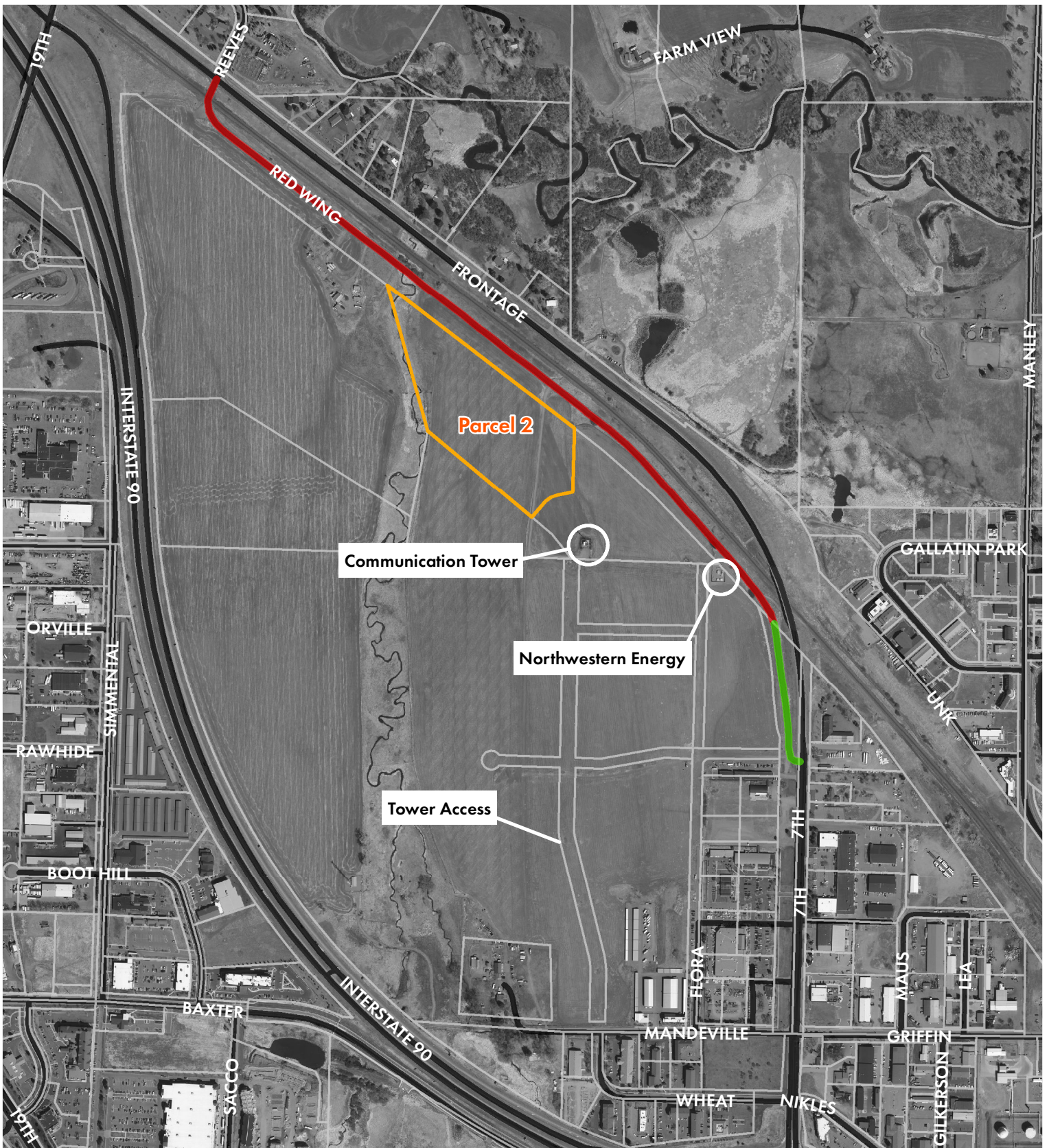
To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.

Signed: Casey Tippens Dated: JAN 13, 2022

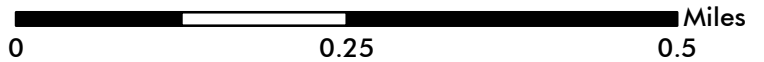
Printed Name: CASEY TIPPENS Phone: 406-624-7815

COMMENTS:



Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)



September 23rd, 2021

Redwing Drive Abandonment
Parcel 2

September 23, 2021

Casey Tippens
Bozeman Trax Partners LLC
ctippens@gmail.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: COS2153A, Tract 4-B

Dear Casey,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

Attached is a map showing the adjacent parcels, with your parcel highlighted, and the portion of Red Wing Drive we are petitioning to abandon.

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Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,



Chris Naumann
Senior Planner

Mr. Casey Tippens
September 23, 2021
Page 2

Subject: Red Wing Drive Abandonment
Owner: Casey Tippens
Bozeman Trax Partners LLC
Property: COS2153A, Tract 4-B

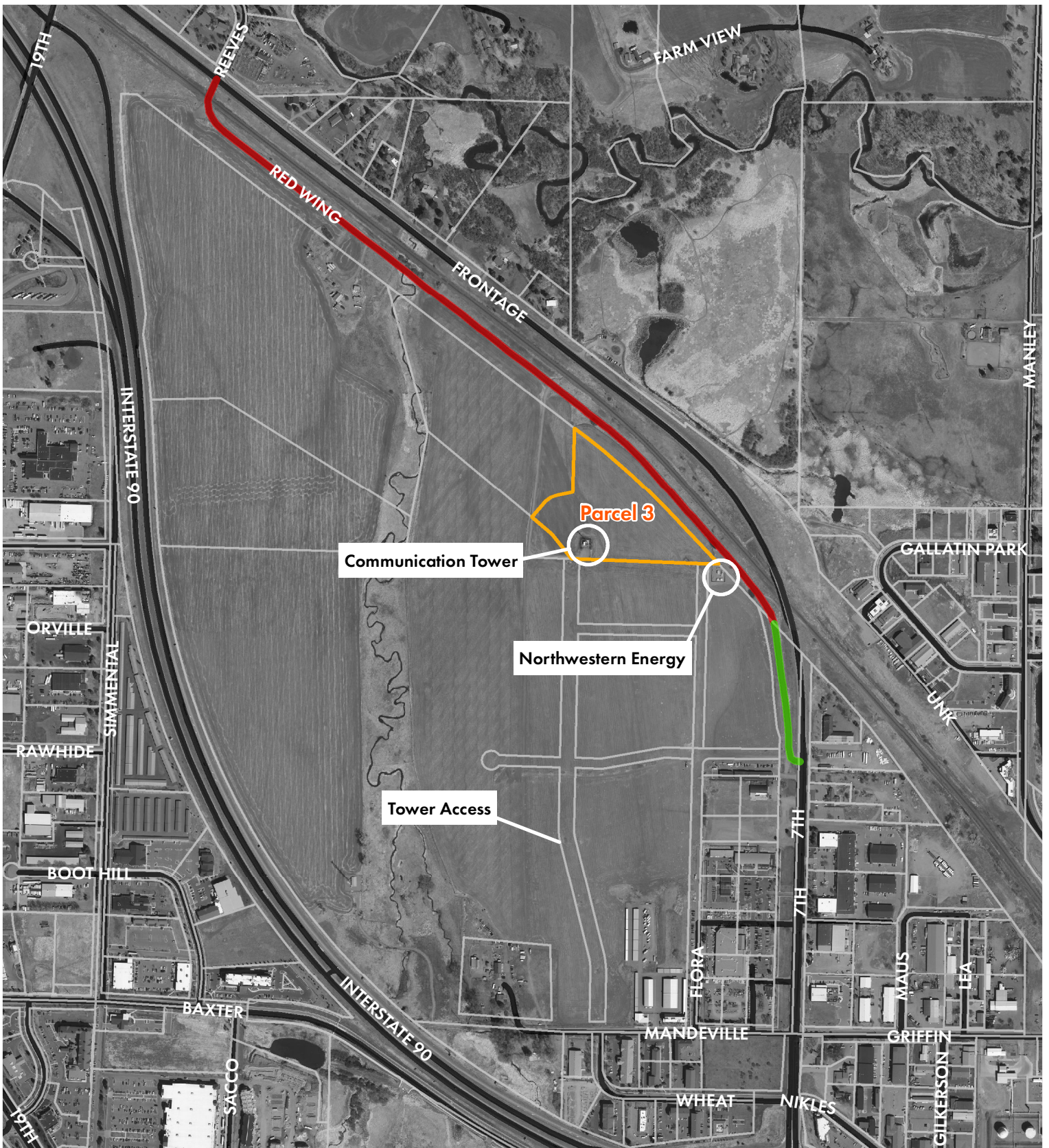
To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.

Signed: Casey Tippens Dated: JAN 13, 2022

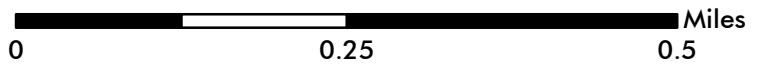
Printed Name: CASEY TIPPENS Phone: 406-624-7815

COMMENTS:



Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)



September 23rd, 2021

Redwing Drive Abandonment
Parcel 3



DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



GREGGIANFORTH, GOVERNOR

1539 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

January 7, 2022

Bozeman City Commission
121 N Rouse Ave.
Bozeman, MT 59715

RE: Petition to Abandon a Public Road
Red Wing Drive through Sec. 36-T1S-R5E

Dear Commissioners,

The Department received notification of the proposed abandonment action affecting Red Wing Drive through the property described above. We appreciate the opportunity to provide input and upon cursory review, the Department takes no position on the proposal at this time.

Should the proposal be modified or altered we would appreciate being afforded the opportunity to re-engage and participate as necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Weiss".

Ryan Weiss, Chief
Real Estate Management Bureau

cc: Bozeman Unit Office
Right of Way Section
Property Management Section

September 23, 2021

State of Montana, DNRC (Owner)
Casey Tippens, Bozeman Trax Partners LLC (Lessee)
ctippens@gmail.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: COS3019, Area 6

Dear State of Montana & Mr. Tippens,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

Attached is a map showing the adjacent parcels, with your parcel highlighted, and the portion of Red Wing Drive we are petitioning to abandon.

In accordance with the requirements of the Petition to Vacate as established by City of Bozeman Resolution 3628, we respectfully request your written consent to abandon by signing this consent letter on page 2 and returning a signed copy to me via e-mail. If you wish to add any comments, please include them in the space below your signature, or attach a separate sheet of paper if necessary.

Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,



Chris Naumann
Senior Planner

Subject: Red Wing Drive Abandonment
Owner: State of Montana
Lessee: Casey Tippens
Bozeman Trax Partners LLC
Property: COS3019, Area 6

To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.

Owner

Signed: _____ Dated: _____

Printed Name: _____ Phone: _____

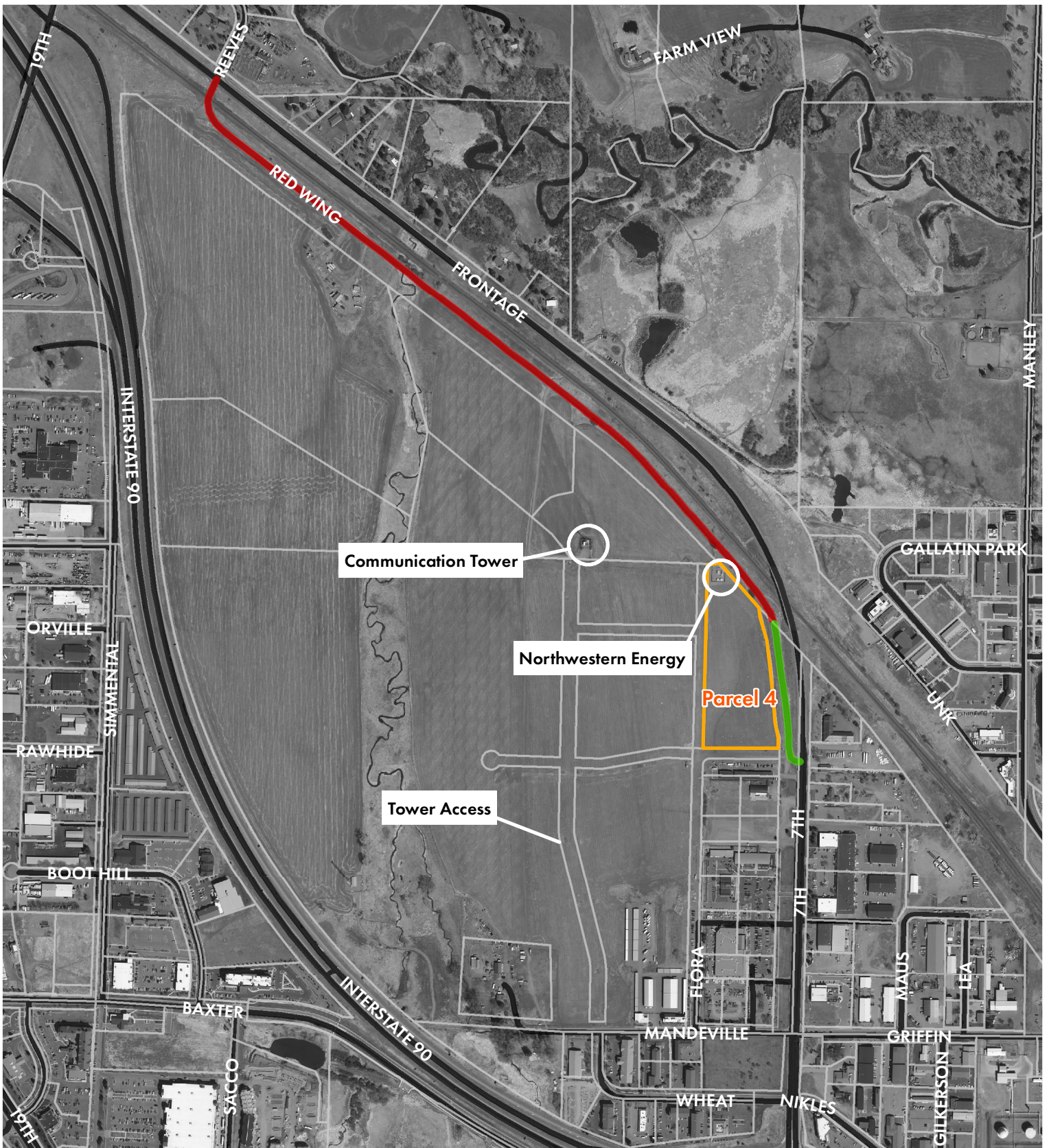
Lessee:

Signed: Casey Tippens Dated: JAN 13, 2022

Printed Name: CASEY TIPPEMS Phone: 406-624-7815

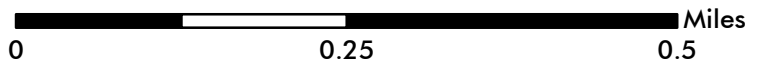
COMMENTS (Owner):

COMMENTS (Lessee):



Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)



September 23rd, 2021

Redwing Drive Abandonment
Parcel 4



September 23, 2021

Nick Bailey, PE
Montana Rail Link
nbailey@mtrail.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: Railroad Right of Way

Dear Nick,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

Attached is a map showing the adjacent parcels, with your parcel highlighted, and the portion of Red Wing Drive we are petitioning to abandon.

In accordance with the requirements of the Petition to Vacate as established by City of Bozeman Resolution 3628, we respectfully request your written consent to abandon by signing this consent letter on page 2 and returning a signed copy to me via e-mail. If you wish to add any comments, please include them in the space below your signature, or attach a separate sheet of paper if necessary.

Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,




Chris Naumann
Senior Planner

Mr. Nick Bailey
September 23, 2021
Page 2

Subject: Red Wing Drive Abandonment
Owner: Nick Bailey, PE
Montana Rail Link
Property: Railroad Right of Way

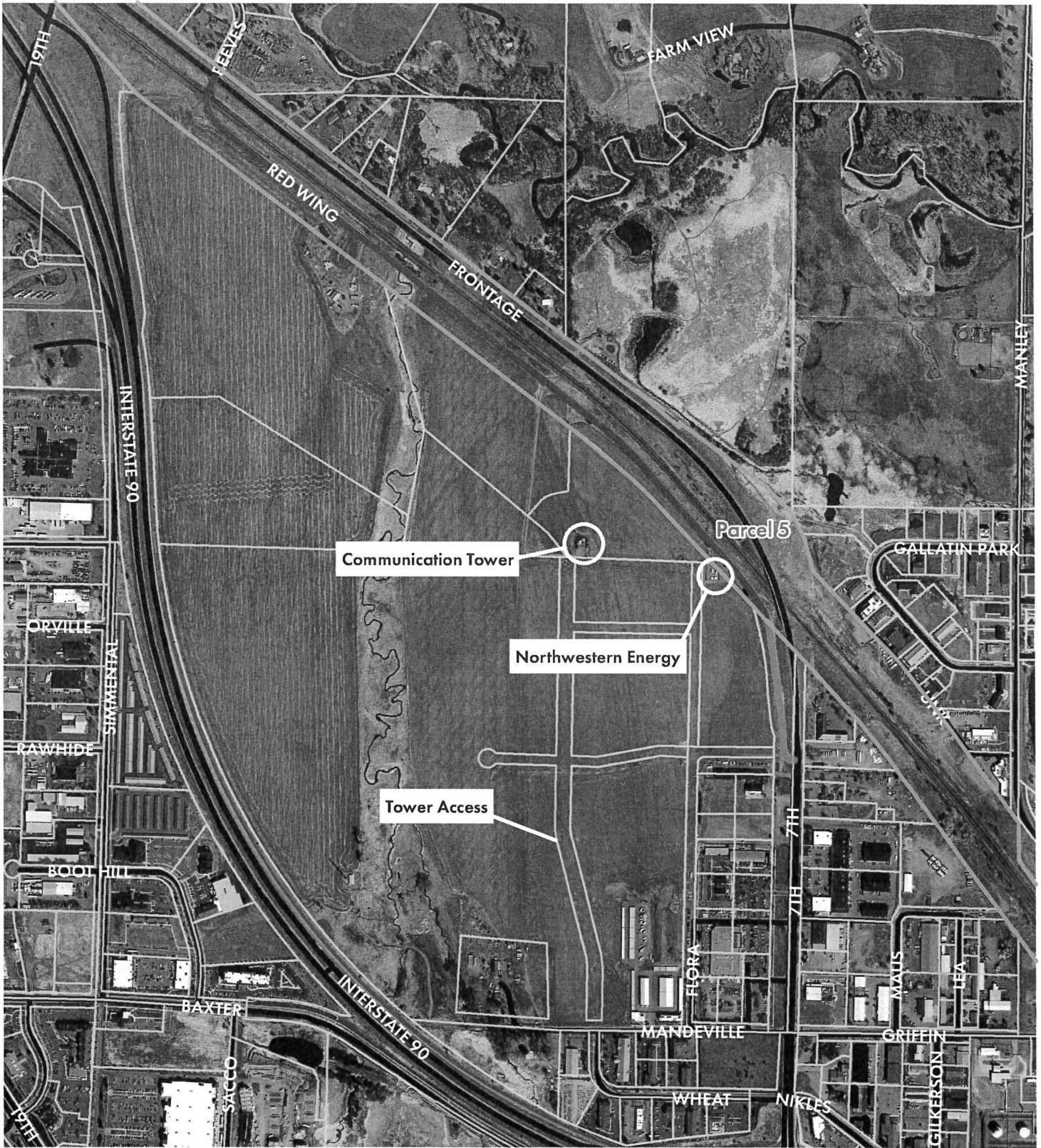
To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.



Signed:  Dated: 09/30/2021

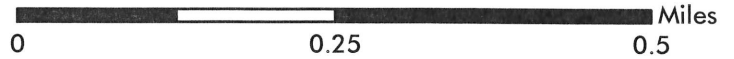
Printed Name: RANDALL A. GOWAN Phone: 406 523-1442

COMMENTS:



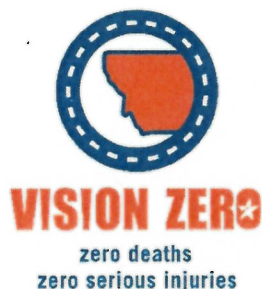
Redwing Drive

-  Retain (within City ROW)
-  Abandon (within MRL ROW)



September 23rd, 2021

Redwing Drive Abandonment
Parcel 5



Montana Department of Transportation

2701 Prospect
PO Box 201001
Helena MT 59620-1001

Greg Gianforte, Governor
Malcolm "Mack" Long, Director

December 9, 2021

Chris Naumann
Sanderson Stewart
106 East Babcock Street Suite L.1
Bozeman MT 59615

Subject: North Park Properties – Closure of Red Wing Drive – Frontage Rd (P-118) RP 2.77

Dear Chris,

The Montana Department of Transportation (MDT) staff has reviewed your request from the Bozeman TRAX Partners, LLC to abandon the Red Wing Drive (L-16-2101) approach onto the Frontage Road (P-118) at Reference Post (RP) 2.77. MDT will consider closure if the following requirements are met:

- The City of Bozeman must provide Documentation of the official City's action for the Road closure – Red Wing Drive.
- MRL must concur with the closure of the at-grade railroad crossing. Documentation of MRL's concurrence must be provided.
- The Developer must complete an encroachment permit and appropriate documentation to complete the removal of the existing approach onto Frontage Rd (P-118) at RP 2.77. This will include plans, environmental checklist and MRL approval to work within MRL right-of-way. The plans must show the restoration of the MDT roadway slopes (6:1 or flatter) with positive drainage. The plans must be approved by both MDT and MRL.

Once the above requirements are met, MDT will complete the closure documents.

If you have any questions, please contact me at (406) 444-9456.

Sincerely,

Jean Riley, P.E.
Transportation Planning Engineer
Policy, Program & Performance Analysis Engineer
Montana Department of Transportation

Copies: Bill Fogarty – Butte District Administrator
Kyle DeMars – Bozeman Area Maintenance Chief
Dave Gates – Butte District Preconstruction Engineer
Kristina Kiltz – Bozeman Area Traffic Engineer
Taylor Lonsdale – City of Bozeman
Nick Bailey – MRL
File

September 23, 2021

Pat Patterson & Roy M Ishkanian
NorthWestern Energy
Pat.patterson@northwestern.com
Roy.Ishkanian@northwestern.com
*Contacted via email

Reference: Red Wing Drive Abandonment
Property: Within property COS3019, Area 6

Dear Pat Patterson & Roy M Ishkanian,

Bozeman TRAX Partners, LLC (Petitioner) wishes to abandon the portion of Red Wing Drive within the Montana Rail Link (MRL) Railroad Right-of-Way (ROW). The section of Red Wing Drive being petitioned for abandonment extends from the grade-crossing at Frontage Road and extends to the southeast extent of the railroad ROW.

Attached is a map showing the adjacent parcels, with your parcel highlighted, and the portion of Red Wing Drive we are petitioning to abandon.

In accordance with the requirements of the Petition to Vacate as established by City of Bozeman Resolution 3628, we respectfully request your written consent to abandon by signing this consent letter on page 2 and return a signed copy to me via e-mail. If you wish to add any comments, please include them in the space below your signature, or attach a separate sheet of paper if necessary.

Your prompt attention to this matter would be greatly appreciated. If you have any questions concerning this abandonment, please feel free to contact me at 406/922-4311 or cnaumann@sandersonstewart.com. Thank you.

Sincerely,

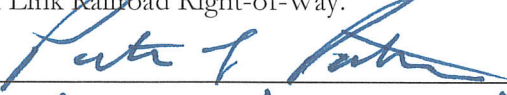


Chris Naumann
Senior Planner

Subject: Red Wing Drive Abandonment
Owner: Pat Patterson & Roy M Ishkhanian
NorthWestern Energy
Property: Within property COS3019, Area 6

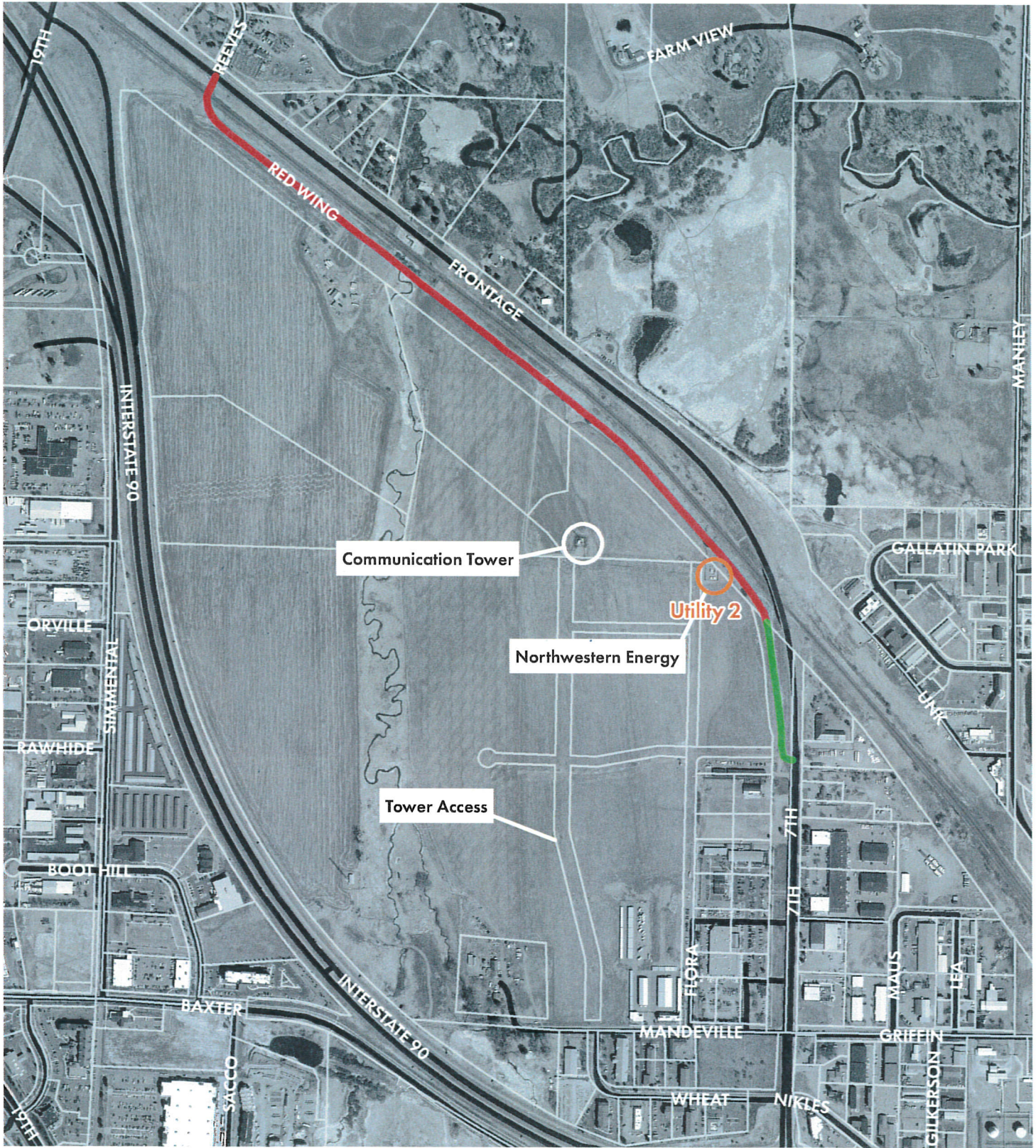
To: City of Bozeman, Gallatin County, MT

Consent is hereby granted for the Petitioner to abandon the portion of Red Wing Drive within the Montana Rail Link Railroad Right-of-Way.

Signed:  Dated: 11/1/2021
Printed Name: Patrick J. Patterson Division: MANAGER Phone: (406) 600-8467

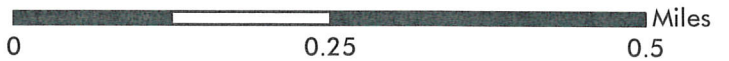
COMMENTS:

Acceptable Access to Northwestern Energy facilities
must be maintained 100% of the time.



Redwing Drive

- Retain (within City ROW)
- Abandon (within MRL ROW)



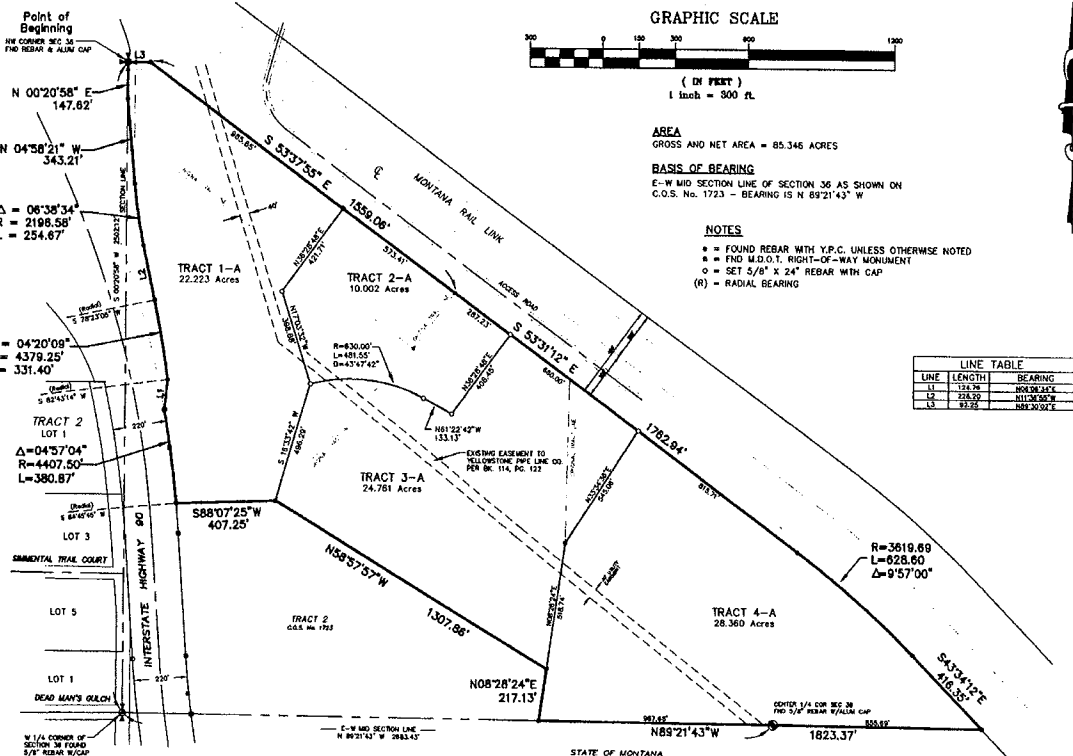
CERTIFICATE OF SURVEY No. 2153

A TRACT OF LAND BEING TRACT A OF CERTIFICATE OF SURVEY No. 939 AND TRACTS 1, 3 & 4 OF CERTIFICATE OF SURVEY NO. 1723 SITUATED IN THE NW1/4 OF SECTION 36, T.1S., R.5E., P.M.M., GALLATIN COUNTY, MONTANA

FOR: JOHN & DONNA MANDEVILLE AND CRAIG & CONNIE MANDEVILLE
BY: GASTON ENGINEERING AND SURVEYING

SCALE: 1" = 300'

JANUARY, 2000
BOZEMAN, MONTANA



DESCRIPTION
A Tract of land being Tract A of Certificate of Survey No. 939 and Tracts 1, 3 and 4 of Certificate of Survey No. 1723, situated in the NW1/4 of Section 36, T.1S., R.5E., P.M.M., Gallatin County, Montana, and being further described as follows:

Beginning of a point being the northwest corner of said Section 36, said point being on the east Right-of-way line of Interstate Highway 90. Thence along the north line of said Section 36 (L3) N 89°21'43" E a distance of 92.25 feet to a point on the south line of Montana Red Line; thence along said line S 53°31'12" E a distance of 1530.06 feet; S 53°31'12" E a distance of 436.35 feet to a point on the north line of State of Montana Lands, said point also being on the E-W mid-section line of said Section 36; thence along said line N 89°21'43" W a distance of 1823.37 feet to a point being the southeast corner of Tract 2 of said Certificate of Survey No. 1723; thence along the east and northerly lines of said Tract 2 N 08°28'24" E a distance of 217.13 feet; N 58°57'57" W a distance of 1307.86 feet; S 88°07'25" W a distance of 407.25 feet to a point on the westerly Right-of-way line of Interstate Highway 90. Thence along said line along a non-tangent curve to the left with a radial bearing of S 84°45'00" W with a radius of 4407.50 feet a distance of 388.87 feet; (L1) N 08°28'24" E a distance of 126.76 feet to a non-tangent curve to the right with a radial bearing of S 84°45'00" W with a radius of 4379.25 feet a distance of 331.40 feet; (L2) N 11°38'34" E a distance of 254.67 feet to a curve to the right with a radius of 2198.58 feet a distance of 254.67 feet; N 04°58'21" W a distance of 343.21 feet to a point on the west line of said Section 36. Thence along said line N 00°20'58" E a distance of 147.82 feet to the Point of Beginning. Said Tract being 85.346 acres along with and subject to any existing easements.

CERTIFICATE OF EXEMPTION
We Certify that the purpose of this survey is to relocate common boundaries between adjoining properties. Therefore this survey is exempt from review as a subdivision pursuant to Section 76-3-207 (1)(c), M.C.A., as amended.
We hereby Certify that Tract 2A is not subject to Montana Department of Environmental Quality review pursuant to 17.36.605 (2)(b) A.R.M. which allows for divisions made to correct errors in construction where buildings, shrubs or other permanent vegetation may encroach upon the neighboring property. Tracts 1A, 3A and 4A are greater than 20 acres and are exempt from review.
Dated this 28th day of January, 2000

John M. Mandeville
John M. Mandeville
Donna R. Mandeville
Donna R. Mandeville

STATE OF MONTANA }
County of Gallatin }
On this 28th day of January, 2000, before me, a Notary Public in and for the State of Montana, personally appeared John M. Mandeville and Donna R. Mandeville, husband and wife, both to me to be the persons whose names are subscribed to in the above instrument, and who acknowledged to me that they executed the same.
WITNESS my hand and seal, the day and year above first written.

Mark A. Mandeville
Mark A. Mandeville
Notary Public for the State of MT
Residing at Livingston, MT
My Commission Expires 7/23/2002

Dated this 28th day of January, 2000
Craig A. Mandeville
Craig A. Mandeville
Connie J. Mandeville
Connie J. Mandeville

STATE OF MONTANA }
County of Gallatin }
On this 28th day of January, 2000, before me, a Notary Public in and for the State of Montana, personally appeared Craig A. Mandeville and Connie J. Mandeville, husband and wife, known to me to be the persons whose names are subscribed to in the above instrument, and who acknowledged to me that they executed the same.
WITNESS my hand and seal, the day and year above first written.

Mark A. Mandeville
Mark A. Mandeville
Notary Public for the State of MT
Residing at Livingston, MT
My Commission Expires 7/23/2002

CERTIFICATE OF SURVEYOR
I, the undersigned, Dennis L. Foreman, Registered Land Surveyor, do hereby certify that during August 1999, I surveyed Certificate of Survey and plotted the same as shown on the accompanying Certificate of Survey and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-105, M.C.A. and the Gallatin County Subdivision Regulations.
Dated this 28th day of January, 2000.

Dennis L. Foreman
Dennis L. Foreman
Registration # 56065

CERTIFICATE OF COUNTY TREASURER
I, Jeffrey K. Krauss, Treasurer of Gallatin County, Montana, do hereby certify that the accompanying plat or Certificate of Survey has been duly examined and that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
Dated this 28th day of January, 2000.

Jeffrey K. Krauss
Jeffrey K. Krauss
Treasurer of Gallatin County

CERTIFICATE OF COUNTY COMMISSIONERS
I, the Chairman of the Board of County Commissioners, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act, Section 76-3-101 et seq. M.C.A. and the Gallatin County Subdivision Regulations.
Dated this 15th day of February, 2000.

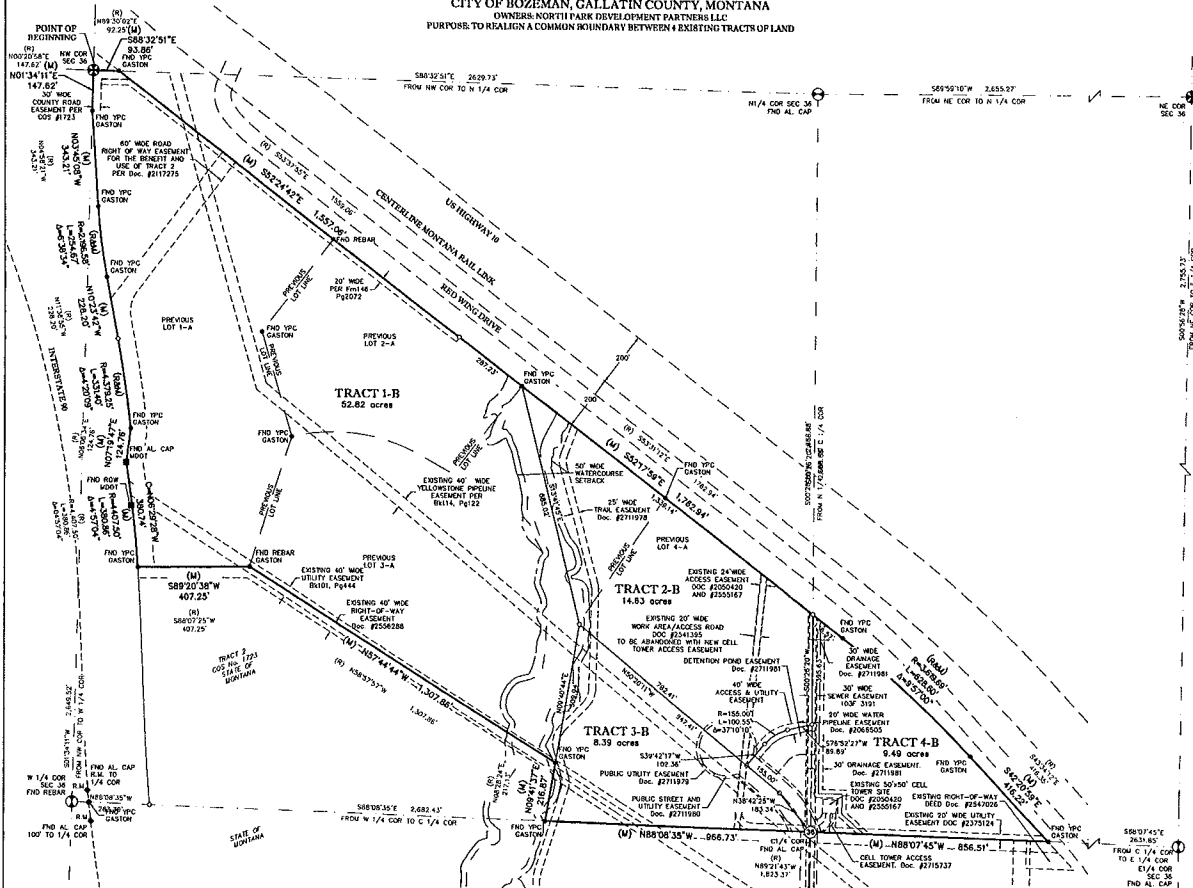
Phil Olson
Phil Olson
Chairman
Board of County Commissioners

CERTIFICATE OF CLERK & RECORDER
I, Clerk & Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office at 3:14 o'clock (p.m. or p.m.), this 17th day of February, 2000, and assigned Certificate of Survey No. 2153. Records of the Clerk & Recorder, Gallatin County, Montana.
Dated this 17th day of February, 2000.

BY: _____
Clerk & Recorder

2007110
Page: 1 of 1
02/17/2000 03:14
GASTON ENGINEERING SURVEYING & SOILS TESTING
SHEET 1 OF 1
JANUARY 20 2000

CERTIFICATE OF SURVEY No. 2153A
 BEING TRACTS 1-A, 2-A, 3-A AND 4-A OF CERTIFICATE OF SURVEY No. 2153,
 LOCATED IN THE NORTHWEST ONE-QUARTER AND THE NORTHEAST ONE-QUARTER OF SECTION 36,
 TOWNSHIP 1 SOUTH, RANGE 5 EAST, PRINCIPAL MERIDIAN MONTANA,
 CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA
 OWNERS: NORTH PARK DEVELOPMENT PARTNERS, LLC
 PURPOSE: TO REALIGN A COMMON BOUNDARY BETWEEN 4 EXISTING TRACTS OF LAND

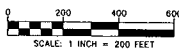


SURVEY NOTE
 The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the Certificate of Survey on which said area is described, unless said area is included with or excluded from adjoining tracts of record.

BEARINGS SHOW ARC MONTANA STATE PLANE GRID.
 DISTANCES ARE GROUND DISTANCES IN INTERNATIONAL FEET.

MONTANA COORDINATE SYSTEM NAD 83
 HORIZONTAL DATUM: BOZEMAN CONTINUOUSLY OPERATING STATION
 ID: DKS2144
 MTSU BOZEMAN COORS ARP

MONTANA STATE PLANE NAD 83 (2011) (EPOCH: 2010.0000)
 NORTH LATITUDE: 45°39'40.37889"
 WEST LONGITUDE: 111°02'42.00000"
 UNITS: INTERNATIONAL FEET
 Convergence angle: -01°07'49"



CERTIFICATE OF CONSENT

We, the undersigned property owners, do hereby certify that we caused to be surveyed, subdivided and plotted into lots, blocks, streets and alleys and other divisions and dedications, as shown by the plat hereto included, the following described tract of land, to wit:

LEGAL DESCRIPTION

Being Tracts 1-A, 2-A, 3-A and 4-A of Certificate of Survey No. 2153, located in the Northwest One-Quarter and the Northeast One-Quarter of Section 36, Township 1 South, Range 5 East, Principal Meridian Montana, City of Bozeman, Gallatin County, Montana, and being more particularly described as follows:

Beginning at a point being the Northwest Corner of said Section 36; thence South 88°32'11"E East along the north line of said Section 36, a distance of 93.86 feet to a point on the southeasterly line of Montana Rail Link; thence along said line through the following courses: South 52°24'42"E East, a distance of 1,557.06 feet; South 52°17'55"E East, a distance of 1,762.84 feet; along a 3,618.69 foot radius curve to the right through a central angle of 09°57'00" for an arc length of 828.60 feet; South 42°29'58"E East, a distance of 418.72 feet, to a point on the north line of State of Montana Lands said point also being on the east-west mid-section line of said Section 36; thence along said line through the following courses: North 88°07'45"W West, a distance of 856.53 feet to the Center One-Quarter Corner of said Section 36; North 88°08'35"W West, a distance of 866.73 feet, to the Southwest Corner of Tract 2 of Certificate of Survey No. 1723; thence along said line through the following courses: North 09°41'37"E East, a distance of 216.87 feet; North 57°44'44"W West, a distance of 1,307.06 feet; South 82°03'38"W West, a distance of 407.25 feet, to a point on the easterly Right-of-Way line of Interstate Highway 90; thence along said line through the following courses: along a 4,407.50 foot radius non-constant curve to the left, through a central angle of 04°57'04" for an arc length of 380.66 feet, with a chord bearing of North 06°29'28"W West, a distance of 380.74 feet; North 07°19'47"E East, a distance of 124.76 feet; along a 4,379.25 foot radius curve to the left through a central angle of 04°20'09" for an arc length of 331.40 feet; North 10°23'42"W West, a distance of 228.20 feet; along a 2,198.58 foot radius curve to the right through a central angle of 08°38'34" for an arc length of 234.87 feet; North 03°45'08"W West, a distance of 343.21 feet; South tract of land being 85.33 acres, along with and subject to any existing easements.

The above described tract of land is to be known and designated as Certificate of Survey No. _____ City of Bozeman, Gallatin County, Montana.

The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, internet, cable television or other utility or service, the right to the point use of an easement for the construction, maintenance, repair and removal of their lines and other facilities in, over, under and across each acre designated on this plat as "Utility Easement" for use and to hold forever.

CERTIFICATE OF EXEMPTION FROM SUBDIVISION REVIEW

We, certify that the purpose of this survey is to relocate a common boundary line between adjoining properties. Therefore Tracts 1-A, 2-A, 3-A and 4-A in this survey are exempt from review as a subdivision pursuant to Section 78-3-207(1)(a), MCA, and the Bozeman Municipal Code.

DATED this 20th day of January, 2021.
 North Park Development Partners, LLC
 By: Clayton P. Schubert
 its: Manager

State of Montana,) ss
 County of Gallatin,)

On this 19th day of January, 2021, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Clayton P. Schubert, known to me to be the Manager of the Corporation executed the within 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 first above written.

Notary Public for the State of Montana
 Residing at Bozeman, Montana
 My commission expires May 7, 2023

CERTIFICATE OF EXCLUSION FROM M.D.E.Q. REVIEW
 This Certificate of Survey, being Tracts 2-B, 3-B and 4-B, shown hereon, is within the City of Bozeman, Montana, a first-class municipality, and with the planning area of the Bozeman growth policy which was adopted pursuant to MCA 76-1-501 et seq. and can be provided with adequate storm water drainage and adequate municipal facilities. Therefore, under the provisions of MCA 76-4-125(1)(a), and 76-4-125(1)(b), this Certificate of Survey is excluded from the requirement for Montana Department of Environmental Quality Review.
 DATED this 22nd day of January, 2021.

LEGEND

- PROPERTY LINE
- LOT LINE
- PREVIOUS LOT LINE
- EASEMENT LINE
- ROAD EASEMENT LINE
- SECTION LINE
- WATERCOURSE SETBACK LINE
- FOUND MONUMENT AS NOTED
- SET 3/8" REBAR WITH 2" ALUMINUM CAP
- FOUND SECTION CORNER
- FOUND ONE-QUARTER CORNER
- FOUND CENTER ONE-QUARTER CORNER
- SET 3/8" REBAR WITH YELLOW PLASTIC CAP

AREA TABLE

AREA OF TRACT 1-A	= 22.22 acres
AREA ADDED TO TRACT 3-A	= 35.62 acres
AREA OF TRACT 1-B	= 52.82 acres
AREA OF TRACT 2-A	= 10.00 acres
AREA ADDED TO TRACT 2-A	= 1.83 acres
AREA OF TRACT 2-B	= 14.83 acres
AREA OF TRACT 3-A	= 24.76 acres
AREA SUBTRACTED FROM TRACT 3-A	= 8.39 acres
AREA OF TRACT 3-B	= 8.39 acres
AREA ADDED TO TRACT 4-A	= 28.35 acres
AREA OF TRACT 4-B	= 9.49 acres
TOTAL AREA	= 85.33 acres

CERTIFICATE OF SURVEYOR

I, the undersigned, Gregory L. Finck, Professional Land Surveyor, do hereby certify that this Certificate of Survey was surveyed under my direct supervision and plotted the same as shown on the accompanying Certificate of Survey and as shown described in accordance with the provisions of the Montana Subdivision and Platting Act, (MCA 76-3-101 through 76-3-925), and the Bozeman Municipal Code.

DATED this 20th day of January, 2021.
 Gregory L. Finck
 Montana Registration No. 13174LS



CERTIFICATE OF GOVERNING BODY

I, _____ Planning Director, do hereby certify that the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act (MCA 76-3-101 et seq.), and the Bozeman Municipal Code.
 DATED this 20th day of January, 2021.

Planning Director
 City of Bozeman, Montana

CERTIFICATE OF COUNTY TREASURER

I, _____ Treasurer of Gallatin County, Montana, do hereby certify that the accompanying Certificate of Survey has been duly examined and that all real property taxes and special assessments assessed and listed on the land to be subdivided are paid.
 DATED this 19th day of January, 2021.

Deputy Treasurer of Gallatin County

CERTIFICATE OF CLERK AND RECORDER

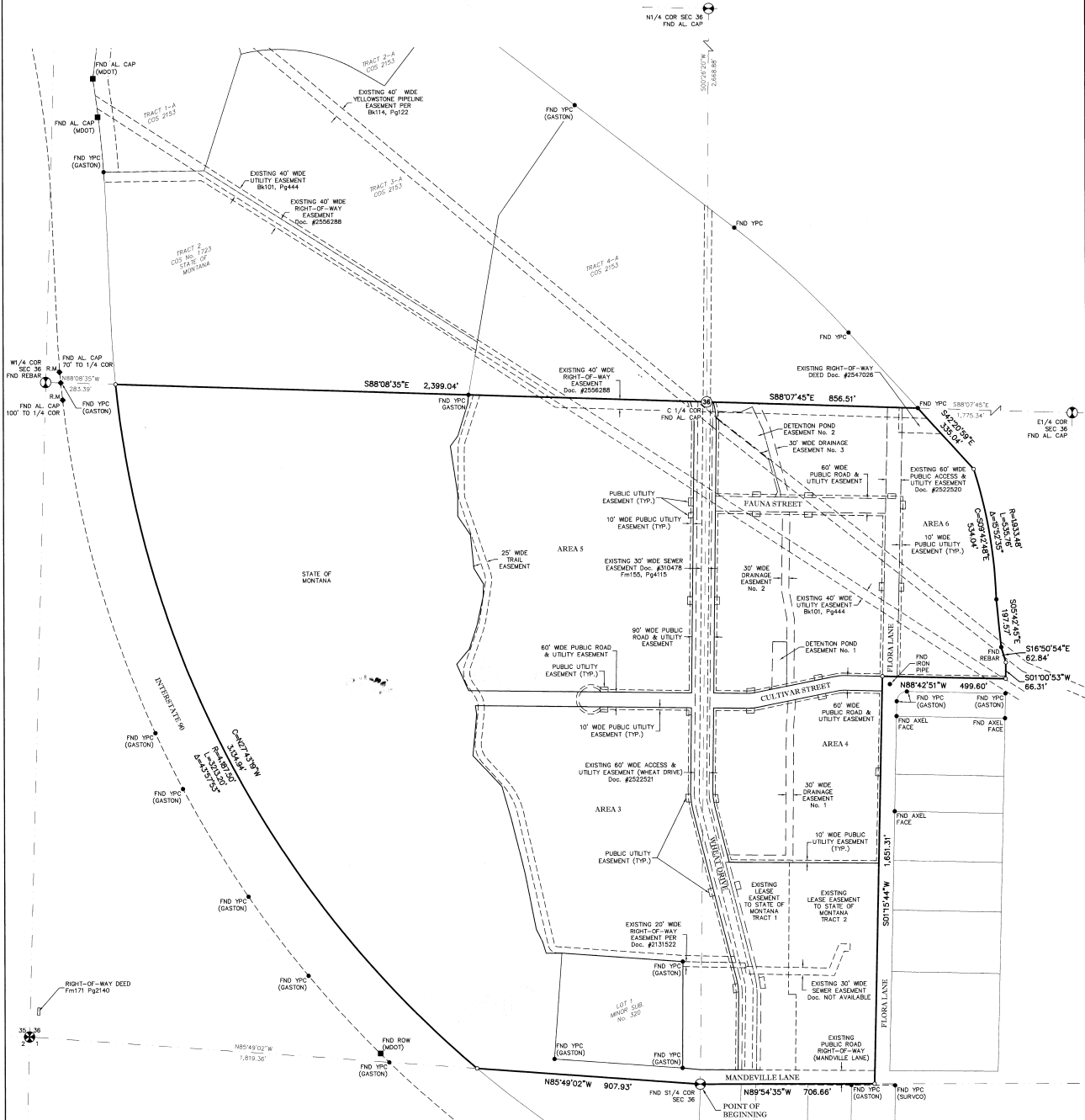
I, _____ Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office of 160 S. 2nd Street (4th or 5th) this 21st day of January, 2021, and recorded as Certificate of Survey No. 2153.6. Records of the Clerk and Recorder, Gallatin County, Montana.

219121 MFE
 Clerk and Recorder
 Gallatin County

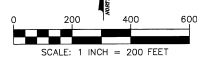
THIS DOCUMENT IS PROVIDED WITHOUT BENEFIT OF A TITLE EXAMINATION. NO LIABILITY IS ASSUMED FOR THE COMPLETENESS THEREOF. PLATS MAY OR MAY NOT BE A SURVEY OF THE LAND DEPICTED HEREIN. THE COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY FOR ALLEGED LOSS OR DAMAGE WHICH MAY RESULT FROM RELIANCE UPON THEM.

CERTIFICATE OF SURVEY No. 3019

FOR NORTH PARK DEVELOPMENT MASTER SITE PLAN,
 LOCATED IN THE SOUTHWEST ONE-QUARTER AND THE SOUTHEAST ONE-QUARTER OF SECTION 36,
 TOWNSHIP 1 SOUTH, RANGE 5 EAST, PRINCIPAL MERIDIAN MONTANA,
 CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA
 OWNER: STATE OF MONTANA
 PURPOSE: SHOW NEW DEVELOPMENT SITES
 AND DEDICATE PUBLIC ROAD, UTILITY, AND ACCESS EASEMENTS



BASIS OF BEARING, COORDINATES
 BEARINGS SHOWN ARE MONTANA STATE PLANE GRID.
 DISTANCES ARE GROUND DISTANCES IN INTERNATIONAL FEET.
 MONTANA COORDINATE SYSTEM NAD 83
 HORIZONTAL DATUM: BOZEMAN CONTINUOUSLY OPERATING REFERENCE STATION
 ID: 0356040010
 DATUM: 4573040.376807
 WEST LONGITUDE: 111°02'42.00898"
 UNITS: INTERNATIONAL FEET
 Convergence angle: -01°07'49"



- LEGEND**
- PROPERTY LINE
 - AREA BOUNDARY
 - - - EASEMENT LINE
 - ROAD EASEMENT LINE
 - - - SECTION LINE
 - - - ADJOINING PROPERTY LINE
 - FOUND MONUMENT AS NOTED
 - SET 3/8" REBAR WITH 2" ALUMINUM CAP
 - FOUND SECTION CORNER AS NOTED
 - FOUND QUARTER CORNER AS NOTED
 - REFERENCE MONUMENT
 - YELLOW PLASTIC CAP

NOTE
 This Certificate of Survey does not create additional tracts of record for transfer.

EASEMENT NOTE
 Refer to individual easement documents for additional information and legal documents.

SURVEY NOTE
 The area that is being created as a development site is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the Certificate of Survey on which said area is described.

2683173
 2683173 02/20/2020 02:11:33 PM Fee: \$35.00

THIS DOCUMENT IS PROVIDED WITHOUT BENEFIT OF A TITLE EXAMINATION. NO LIABILITY IS ASSUMED FOR THE COMPLETENESS THEREOF. PLATS MAY OR MAY NOT BE A SURVEY OF THE LAND DEPICTED HEREIN. THE COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY FOR ALLEGED LOSS OR DAMAGE WHICH MAY RESULT FROM RELIANCE UPON THEM.

32 DISCOVERY DRIVE BOZEMAN, MT 59718 PHONE: (406) 552-2221 FAX: (406) 552-0776	Civil Engineering Geotechnical Engineering and Surveying		PROJECT SURVEYOR: GJ DRAWN BY: VMO REVISED BY: GJ PROJECT NO.: 14-181
SHEET 1 of 2			SHEET NO.: 14-181

Memorandum

REPORT TO: City Commission

FROM: Kellen Gamradt, Engineer II
Lance Lehigh, Interim City Engineer
Jeff Mihelich, City Manager

SUBJECT: Authorize the City Manager to Sign a Professional Services Agreement with DOWL to Provide Professional Engineering Design Services for the 2022 Sewer Lining Project

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to sign a professional services agreement with DOWL to provide professional engineering design services for the 2022 Sewer Lining Project

STRATEGIC PLAN: 2.2 Infrastructure Investments: Strategically invest in infrastructure as a mechanism to encourage economic development.

BACKGROUND: The City has identified a section of 21-inch gravity sewer main in poor structural condition beginning near the northeast corner of Walmart's Property off of North 7th Avenue and ending at a 30-inch trunk sewer main connection in Rouse Avenue near the Lehrkinds Property. This sewer main was installed in 1969 and crosses under the railroad tracks (MRL), interstate 90 (MDOT), along Evergreen Drive (COB), and thru the Lehrkinds Property. This sewer main is very difficult for City crews to access for maintenance and has a high probability of failure. The City is proposing cure-in-place pipe lining to improve the condition of this pipe.

A second sewer main along South 19th Avenue between College Street and Lincoln Street has been identified for pipe lining due high groundwater infiltration into the pipe. The existing sewer main is 8-inch diameter vitrified clay pipe, installed in 1963 within the right-of-way of South 19th Avenue. There are very few service connections on this main which makes it an ideal candidate for lining.

The proposed contract will design cured in place (CIPP) pipe lining for the above mentioned sewer lines. Because the work areas cross Montana Rail Link Right-of-way and Interstate 90, there will be a significant amount of construction permitting work. City engineering staff advertised a request for proposals on October 17, 2021 to provide professional design services for the proposed improvements. Proposals were received from six firms. A

selection committee of five city staff selected DOWL as the most qualified firm to complete the work. A detailed breakdown of the services provided under this agreement are included in the attached scope and fee schedule.

UNRESOLVED ISSUES: None

ALTERNATIVES: Disapprove

FISCAL EFFECTS: The cost of these services total \$136,656 which is commensurate with the work involved. This work will be paid for from the wastewater fund

Attachments:

[PSA.pdf](#)

[Scope & Fee.pdf](#)

Report compiled on: January 14, 2022



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 202__ (“Effective Date”), by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, DOWL, LLC , _____, hereinafter referred to as “Contractor.” The City and Contractor may be referred to individually as “Party” and collectively as “Parties.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as Exhibit A and by this reference made a part hereof.

2. **Term/Effective Date:** This Agreement is effective upon the Effective Date and will expire on the ____ day of _____, 202_ , unless earlier terminated in accordance with this Agreement.

3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.

4. **Payment:** City agrees to pay Contractor the amount specified in the Scope of Services. Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.

5. **Contractor’s Representations:** To induce City to enter into this Agreement,

Contractor makes the following representations:

a. Contractor has familiarized itself with the nature and extent of this Agreement, the Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform the services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. Independent Contractor Status/Labor Relations: The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, Montana Code Annotated (MCA), and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that

Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes.

7. Indemnity/Waiver of Claims/Insurance: For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; or (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or intentional misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the City as indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should the City be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below, the City shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent

jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the City for a claim(s) or any portion(s) thereof.

In the event of an action filed against the City resulting from the City's performance under this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except "responsibility for [City's] own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent" as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor's expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City. Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers' Compensation – statutory;
- Employers' Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City shall be endorsed as an additional or named insured on a primary non-contributory basis on the Commercial General, Employer's Liability, and Automobile Liability policies. The insurance and required endorsements

must be in a form suitable to City and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Contractor shall notify City within two (2) business days of Contractor's receipt of notice that any required insurance coverage will be terminated or Contractor's decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement, the City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives and Notices:

a. City's Representative: The City's Representative for the purpose of this Agreement shall be Kellen Gamradt or such other individual as City shall designate in

writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as designated by the City in writing and may receive approvals or authorization from such persons.

b. Contractor's Representative: The Contractor's Representative for the purpose of this Agreement shall be Kevin Johnson or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

c. Notices: All notices required by this Agreement shall be in writing and shall be provided to the Representatives named in this Section. Notices shall be deemed given when delivered, if delivered by courier to Party's address shown above during normal business hours of the recipient; or when sent, if sent by email or fax (with a successful transmission report) to the email address or fax number provided by the Party's Representative; or on the fifth business day following mailing, if mailed by ordinary mail to the address shown above, postage prepaid.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination and Equal Pay: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Contractor represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). Contractor must report to the City any violations of the Montana Equal Pay Act that Contractor has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Contractor shall require these nondiscrimination terms of its subcontractors providing services under this Agreement.

15. Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training: Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing its employees and agents in safe work practices.

16. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not

subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. Reports/Accountability/Public Information: Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. Non-Waiver: A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. Attorney's Fees and Costs: In the event it becomes necessary for either Party 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's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

20. Taxes: Contractor is obligated to pay all taxes of any kind or nature and make all appropriate employee withholdings.

21. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of

competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. Survival: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. Headings: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. Severability: If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.

25. Applicable Law: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. Binding Effect: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. No Third-Party Beneficiary: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. Counterparts: This Agreement may be executed in counterparts, which together constitute one instrument.

29. Integration: This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained herein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. Consent to Electronic Signatures: The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written or as recorded in an electronic signature.

CITY OF BOZEMAN, MONTANA

By _____
Jeff Mihelich, City Manager

DOWL, LLC
CONTRACTOR (Type Name Above)

By _____

Print Name: Kevin R. Johnson, PE, BCEE

Print Title: Water Supply and Wastewater Practice Lead

APPROVED AS TO FORM:

By _____
Greg Sullivan, Bozeman City Attorney



January 13, 2022

Mr. Kellen Gamradt
City of Bozeman
P.O. Box 1230
Bozeman, MT 59771

**Subject: 2022 CIPP Projects – Proposed Scope and Fee – Rev. 1
4528.12477.01**

Dear Mr. Gamradt:

Please find enclosed the revised scope of services and fee for completion of the design phase services for the 2022 CIPP Projects.

We look forward to working with you and the City. Please let us know what questions or comments you have.

Sincerely,
DOWL

A handwritten signature in black ink, appearing to read "Kevin R. Johnson".

Kevin R. Johnson, PE, BCEE
Project Manager

Attachment(s): As stated



This is **EXHIBIT A**, consisting of 10 pages, is referred to in and part of the **Agreement between Owner and DOWL for Professional Services** dated _____, 2022.
Project No. 4528.12477.01

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Introduction, Pre-Design, Permitting

- A. The 2022 Sewer Lining Project includes rehabilitation of existing sewer mains in poor condition and/or subject to groundwater infiltration. Area 1 (Evergreen Sewer) of the project includes rehabilitation of the existing 21-inch sewer trunk main from the northeast corner of the Walmart facility, across I-90, along Evergreen Drive, crossing Montana Rail Link (MRL) railroad right-of-way (ROW), and through private property before reaching the sewer trunk main on Rouse Avenue. Area 2 (S. 19th Sewer) of the project includes the rehabilitation of an existing 8-inch sewer main subject to groundwater infiltration located primarily within South 19th Avenue between Marsh Lab and College Street.
1. The proposed Cured-In-Place-Pipe (CIPP) installations will require bypass pumping provisions made more difficult by the Montana Department of Transportation (MDT) and railroad right-of-way (ROW) crossings and the busy traffic areas at locations of bypass manholes. Based on early discussions with both MDT and MRL, the project will require permission/permitting with the agencies, and temporary construction easements from private property owners for routing of temporary sewer bypass piping. Though the project will only need bypass pumping provisions for short time periods, the coordination to procure access for bypass pumping equipment and access to bypass manholes will encompass the majority of the project effort as compared to the actual CIPP design.
 2. The project will include traffic impacts to the Walmart property, the Evergreen Drive business park area, the Lehrkinds Inc. property, the Cannery District, Rouse Avenue, West Garfield Street, South 19th Avenue, Montana State University Family Graduate Housing (FGH), and S. 15th Avenue. Traffic impacts will also need to be coordinated with ongoing or planned 2022 City and State construction projects such as the Griffin Drive Reconstruction project.
- B. Engineer shall:
1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
 2. Advise Owner of any need for Owner to provide data or services which are not part of Engineer's Basic Services.
 3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer.
 4. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist Owner in consultations with such

authorities; and revise the Drawings and Specifications in response to directives from such authorities.

5. Perform or provide the following additional Phase tasks or deliverables:

- a. Existing Sewer Video Review & Condition Assessment: DOWL will review the sewer videos the City has completed and provided. The purpose of the review will be to identify any areas of the targeted sewer mains with structural or grade problems that will need to be repaired prior to slip lining with CIPP.
- b. Base Mapping: For use in both the construction drawings and exhibits necessary for permits and temporary construction easements, DOWL will develop base mapping from aerial imagery and available contour mapping.
- c. Conceptual Temporary Sewer Bypass Plans: For procurement of the necessary permits and temporary construction access agreements or easements, DOWL will develop a complete sewer bypass pumping plan to address access issues for the temporary bypass pumping required during construction.
 - 1) DOWL will develop workable bypass pumping plans for the Evergreen sewer main for incorporation into traffic control plans at Rouse Avenue and for use in illustrating the requested temporary construction access provisions for the affected private property owners (Walmart, Westlake, Cannery District, Lehrkinds).
 - 2) The bypass pumping plan for the S. 19th sewer will be the basis for traffic control provisions needed on S. 19th, Garfield, S. 15th and within Family Graduate Housing.
 - 3) Changes to the bypass pumping plan during construction could warrant revisions to temporary construction access/easement agreements or traffic control plans. The intent is to provide proposed bypass plans for procurement of permits that are also adequate for construction and/or enable minor revisions to the plan without affecting any necessary agreements or approved traffic control plans.
- d. Preliminary Traffic Control Plans: Based upon the proposed bypass pumping plans, DOWL will prepare preliminary traffic control plans (TCP's) for submittal to Montana Department of Transportation and City of Bozeman for review and concurrence. The final, approved TCP's will be included in the bidding documents.
- e. Montana Rail Link Application: For the portion of existing sewer located under the MRL railroad tracks, MRL has indicated they will require an updated pipeline crossing permit for the sewer main. MRL has also indicated the updated agreement needs to reflect "current design standards" but it is not clear how this statement may apply for the proposed CIPP installation and if MRL will require additional improvements. For purposes of this scope of work, DOWL has assumed the permit application will reflect the CIPP installation, and MRL will accept this with no further mitigation requirements or improvements. Should MRL require more extensive mitigation or enhancement of the existing casing and/or pipeline crossing, DOWL will submit a request for equitable adjustment in scope and fee for incorporation of such additional mitigation measures and/or necessary design changes.
- f. Montana Department of Transportation Occupancy Permit(s): For the portion of the existing Evergreen sewer segment located under the I-90 interstate, MDT will require an update to the occupancy permit through MDT's online Utility Permitting Administration System (UPAS). Similarly, the traffic control plans for impacts to Rouse Avenue for the

sewer bypass can be submitted through the UPAS system. For S. 19th, MDT has indicated this route is within the City of Bozeman maintenance areas and the City can oversee permitting for sewer rehabilitation.

As with the MRL application, DOWL has assumed the permit application will reflect installation of the CIPP liner and no further mitigation will be required. Should MDT require more extensive mitigation or enhancement of the existing casing and/or pipeline crossing, DOWL will submit a request for commensurate adjustment in the scope and fee for incorporation of such additional mitigation measures and/or necessary design changes.

- g. Private Landowner Access Agreements: The construction process will warrant permission from several landowners for temporary construction access and/or routing of temporary bypass piping. will prepare exhibits and work descriptions for incorporation into Temporary Construction Easements (TCE's) for execution by the landowner and the City. We anticipate the TCE's are compensable and waiver valuations will be necessary for the TCE's. DOWL anticipates completion of the following sequence of tasks to secure TCE's.
- 1) Waiver Valuation: Includes title review of publicly available documentation to verify current ownership, comparable research, identification of Fair Market Value and document creation.
 - 2) Offer Package Preparation: Includes preparation of draft offer package and presentation to the City for any comments before providing to the owners.
 - 3) Offer Presentation: Includes preparation and meeting with owners for presentation of final offer packages and addressing owner questions and documenting the communications.
 - 4) Negotiation and Coordination: Includes time for follow up contacts, coordination of explanations and alleviation of owner concerns, signing paperwork, compiling file and all documents for the City and transmittal of the file and associated documents for payment by the City to the owner.
 - 5) It is assumed all valuation research and identification of ownership will be completed using publicly available information via desktop review and no title reports are anticipated.
 - 6) DOWL anticipates access agreements or temporary construction easements will be necessary from the below identified entities.
 - a) Walmart: Key manholes are located within the access road around the north and east sides of the Walmart building. It may be necessary to temporarily block the path around the back of the building during, at least, the first two stages of CIPP installation and bypass pumping, as the piping will block the access road around the building. Following the first two segment installations, a manhole out of the roadway can be used for the bypass pump suction line, and the road can remain open thereafter. DOWL will work with Walmart to coordinate this short-term access road closure and obtain a TCE to allow the contractor to stage bypass pumping and piping equipment from this corner of the Walmart property.
 - b) Westlake Property: MDT has indicated bypass pipe and equipment cannot be placed inside the interstate controlled access right-of-way. Thus, the best bypass

route is to install pipe adjacent to the ROW fence but on the private property side, owned by Westlake. DOWL will work with Westlake to pursue a TCE for access to the proposed bypass pipe installation route along the north side of the affected private property parcel. The anticipated duration of this bypass is approximately 30 calendar days.

- c) Cannery District: The proposed sewer bypass piping route exits the Westlake property and enters the Cannery District property until intersecting the Rouse Avenue ROW. DOWL will work with the Cannery District to pursue a TCE for access and installation of the temporary sewer bypass pipe along the north side of this property parcel.
 - d) Lehrkinds, Inc.: The City holds an easement for the sewer main crossing the Lehrkind property. The most practical access to the easement is through the existing parking lot. DOWL will work with Lehrkinds to obtain a temporary access agreement for additional short term access for the construction equipment and installation of the CIPP.
 - e) Whitefish LP II (Osterman's Mini Warehouse): For project manhole on the east side of the railroad tracks, ready access is available through this property. A TCE is not anticipated but DOWL will work with this owner to obtain temporary access agreement to cross the property and access the necessary manhole.
 - f) Family Graduate Housing/Montana State University (S. 19th Sewer): The best apparent sewer bypass route for the CIPP installation on S. 19th is through Family Graduate Housing between S. 19th and S. 15th Avenues. DOWL will coordinate with MSU and/or Family Graduate Housing to pursue TCE for access and routing of the necessary bypass piping across this property. Similarly, if adequate easement is not available at the south end of the project at Marsh Lab, DOWL will pursue access agreements for this area as well.
- h. Sewer Flow Monitoring: The City owns open channel flow monitoring equipment for use in measuring sanitary sewer flows. April and May tend to produce the highest flows with snow melt and rain showers. Thus, the intent will be to collect flow data both before the peak flow and during the peak months to capture the range of possible flows. We anticipate two (2) different installation and monitoring periods for the 21-inch main in Area 1. Flow monitoring is not as critical for the 8-inch mains on S. 19th but we propose a single monitoring period for this area as well. The City will install this equipment and collect the flow monitoring data for use in selecting the appropriate temporary bypass pumping flow rates to include in the bidding/construction documents. We have provided time for assistance with meter calibration and data collection/download from the equipment using the City's equipment and software licensing.
- i. American Rescue Plan Act (ARPA) Application Materials: DOWL will prepare application materials for use of the City's Minimum Allocation Funds from the ARPA. Application materials will include the following:
- 1) Minimum Allocation Funds Application (applicant information, project description, location, type and summary, goals, objectives, level of readiness, schedule, budget).
 - 2) Montana Environmental Policy Act (MEPA) Checklist: This includes documentation of the source of all information and statements provided in the checklist and generation of any necessary figures and maps, along with contact with environmental agencies with interest within the project area. DEQ/DNRC will utilize this information to assist

in preparation of the required environmental assessment and advertising for public comment.

- C. Engineer’s services under this phase will be considered complete on the date when the necessary, signed access agreements are received and any other deliverables have been delivered to Owner.

A1.02 Preliminary Design Phase

- A. The Preliminary Design Phase will include the following tasks.

- 1. Prepare Preliminary Design Phase documents consisting of project design criteria and assumptions, preliminary drawings, outline specifications, and written descriptions of the Project. The Preliminary Construction Drawings are expected to include the following:

Drawing Description	Expected Number of Sheets
General, Cover, Legend, Notes, Key Maps	4
21" Evergreen Sewer Main – CIPP Plan Sheets (2,500 LF; 1" = 40'; 800-900' per sheet)	3
Evergreen - Bypass Pumping Plans	2
Evergreen/Rouse – Traffic Control Plans	1
S. 19 th Sewer Mains – CIPP Plan Sheets (2,500 LF)	3
S. 19 th – Bypass Pumping Plans	2
S. 19 th – Traffic Control Plans	1
General Details	3
Estimated Sheet Count	19

- a. CIPP Design: The Cured-In-Place-Pipe thickness design will be based upon a 50-year design life and fully deteriorated pipe condition. The structural pipe design calculations may also need to take into account unique railroad loading conditions for the portions under the railroad. The CIPP design will identify the minimum required CIPP liner thickness to withstand the expected external loading imposed on the pipelines. Project design beyond CIPP for the railroad or MDT permitting requirements will be competed as necessary with an amendment to this scope of services.
- b. Lateral Restoration: The design will include provisions to address lateral connections where problems are identified with sewer lateral connections. This may include excavation to replace the connections or trenchless installation of new lateral inserts, where applicable. Treatment of laterals will depend on the condition identified in the sewer videos, the implications of not resolving any issues, and the location of the lateral with respect to the corresponding ground surface improvements.
- c. Preliminary Specifications and Draft Special Provisions: Preliminary specifications will be based upon the Montana Public Works Standard Specifications, Sixth Edition (April 2010) and the City of Bozeman Modifications to Montana Public Works Standard Specifications, Sixth Edition, March 21, 2011, and Addenda No. 1 through No. 3.

- 1) Project specific conditions and construction constraints will be outlined in a separate Summary of Work to detail the work description, identify work sequence restrictions, describe property access allowances and highlight specific permit requirements.
 - 2) Additionally, DOWL will provide an itemized bid schedule and technical CIPP specifications.
2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
 - a. Field survey is anticipated to include limited survey of the affected manholes to get accurate sewer section lengths along with invert measure downs to allow identification of the manhole depths on the construction drawings for contractor's reference.
 - b. Additional topographical survey is not anticipated unless areas of the existing sewer mains are found to need dig and repair improvement prior to the proposed CIPP installation. In this case, limited additional topographic survey may be necessary to ensure adequate information can be provided in the construction drawings for the dig, replace/repair, and restoration of specified pipeline sections. For the purpose of project budgeting, two (2) days of survey crew time is included for additional pickup survey.
 - c. No permanent easements are anticipated for the completion of the CIPP project. No specific property or right-of-way research or survey is anticipated for procurement of temporary construction easements for bypass pipe routing.
 3. Advise Owner if additional reports, data, information, or services are necessary and assist Owner in obtaining such reports, data, information, or services.
 4. Based on the information contained in the Preliminary Design Phase documents, DOWL will prepare an opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.
 5. Furnish Preliminary Design Phase documents and any other deliverables to Owner within 90 calendar days of authorization to proceed with this phase and review them with Owner. Within **14** calendar days of receipt, Owner shall submit to Engineer any comments regarding the Preliminary Design Phase documents and any other deliverables.
 6. Incorporate Owner's comments to the Preliminary Design Phase documents and any other deliverables into the Final Design Phase documents.
 7. Submit design report, plans and specifications to the Montana Department of Environmental Quality for review and approval to construct. We have estimated these fees based on the current fee schedule and included in the fee proposal. DOWL will pay the permit fee on behalf of the City.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.

A1.03 *Final Design Phase*

- A. After acceptance by the Owner of the Preliminary Design Phase documents, opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables

subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:

1. Prepare final Construction Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 2. Advise Owner of any adjustments to the opinion of probable Construction Cost known to Engineer.
 3. Prepare and furnish bidding documents for review by Owner and other advisors and assist Owner in the preparation of other related documents. Within **14** days of receipt, Owner shall submit to Engineer any comments and instructions for revisions.
 4. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit **2** final hard copies and one (1) electronic PDF copy of the bidding documents, a revised opinion of probable Construction Cost, and any other deliverables to Owner within **14** calendar days after receipt of Owner's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete when the submittals required for project bidding have been delivered to Owner.
- C. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase – Not included.*

A1.05 *Construction Phase (not included)*

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws

and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.

4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Part 1, Basic Services, if any.
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in Part 1, Basic Services, if any.
10. If not required as part of Basic Services defined in Part 1 above, preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
11. If not required as part of Basic Services defined in Part 1 above, preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
12. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
13. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Part 1, Basic Services, including any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
14. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
15. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
16. If not required as part of Basic Services defined in Part 1 above, preparation of operation and maintenance manuals.
17. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.

18. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner other than those required under Part 1, Basic Services.
19. If not required as part of Basic Services defined in Part 1 above, assistance in connection with the adjusting of Project equipment and systems.
20. If not required as part of Basic Services defined in Part 1 above, assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
21. If not required as part of Basic Services defined in Part 1 above, assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
22. If not required as part of Basic Services defined in Part 1 above, overtime work requiring higher than regular rates.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

PART 3 – INSURANCE REQUIREMENTS (see contract)

PART 4 - COMPENSATION

A4.01 Basic Services – Lump Sum

Article I of the Agreement is supplemented to include the following agreement of the parties:

A. Owner shall pay Engineer for Basic Services set forth in this Exhibit A, as follows:

1. A Lump Sum amount of \$136,656.00 based on the following estimated distribution of compensation:
 - a. Pre-Design, Permitting Phase \$76,294.00
 - b. Preliminary Design Phase \$46,150.00
 - c. Final Design Phase \$14,212.00
2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered but shall not exceed the total amount unless approved in writing by the Owner.
3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.



- B. *Period of Service:* The compensation amount stipulated above is conditioned on a period of service not exceeding 24 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.



Project: Bozeman 2022 CIPP Projects
Client: City of Bozeman
Project #: 4528.12477.01
1/11/2022

Prepared By:
K. Johnson
 Reviewed By:
P. Yakawich

Summary

Phase Name	Task	Labor Subtotal		Expenses	Totals	
		Hours	Costs			
Pre-Design	1	Project Management	27	\$ 4,896.00	\$ -	\$ 4,896.00
	2		-	\$ -	\$ -	\$ -
	3	Sewer Video Review - CIPP Eligibility	20	\$ 2,440.00	\$ -	\$ 2,440.00
	4	Base Mapping - Aerials/Topo's	36	\$ 4,200.00	\$ -	\$ 4,200.00
	5		-	\$ -	\$ -	\$ -
	6	MRL Application Materials; Exhibits	48	\$ 5,600.00	\$ -	\$ 5,600.00
	7	MRL Meetings and Correspondence	32	\$ 4,160.00	\$ 33.00	\$ 4,193.00
	8	Temp Sewer Bypass Plans - I15/MRL/Rouse	40	\$ 4,880.00	\$ -	\$ 4,880.00
	9	Temp Sewer Bypass Plans - S. 19th	36	\$ 4,520.00	\$ -	\$ 4,520.00
	10	MDT Application Materials - UPASS; S. 19th, Rouse	44	\$ 5,560.00	\$ -	\$ 5,560.00
	11	MDT Meetings and Correspondence	8	\$ 1,200.00	\$ 33.00	\$ 1,233.00
	12	Traffic Control Plans; Rouse, S. 19th	32	\$ 3,400.00	\$ -	\$ 3,400.00
	13	Temp. Constr. Easement (TCE) - (Walmart)	28	\$ 3,780.00	\$ 11.00	\$ 3,791.00
	14	TCE - (Westlake)	28	\$ 3,780.00	\$ 38.50	\$ 3,818.50
	15	TCE - (MSU/FGH)	28	\$ 3,780.00	\$ 38.50	\$ 3,818.50
	16	TCE - (Cannery Dist)	28	\$ 3,780.00	\$ 38.50	\$ 3,818.50
	17	Temporary Access Agreement (Lehrkinds)	6	\$ 890.00	\$ 60.50	\$ 950.50
	18	Temporary Access Agreement (Whitefish LP II)	6	\$ 890.00	\$ -	\$ 890.00
	19	Sewer Flow Monitoring - Assistance	12	\$ 1,560.00	\$ 605.00	\$ 2,165.00
	20	ARPA Application Materials & Coordination	28	\$ 3,680.00	\$ -	\$ 3,680.00
	21	MEPA Checklist, Document and Exhibits	44	\$ 5,240.00	\$ -	\$ 5,240.00
	22	Quality Control	40	\$ 7,200.00	\$ -	\$ 7,200.00
	23		-	\$ -	\$ -	\$ -
		<input type="checkbox"/> T&M <input type="checkbox"/> Lump Sum <input type="checkbox"/> Other	Subtotal	\$ 75,436.00	\$ 858.00	\$ 76,294.00
Preliminary Design	1	Project Management	15	\$ 2,646.00	\$ -	\$ 2,646.00
	2		-	\$ -	\$ -	\$ -
	3	Survey - Manholes & Measure Downs	34	\$ 6,340.00	\$ 1,551.00	\$ 7,891.00
	4	Survey - Topo Pickup	26	\$ 4,540.00	\$ 1,023.00	\$ 5,563.00
	5		-	\$ -	\$ -	\$ -
	6	Prelim Plan Sheets - Gen, Details	32	\$ 3,680.00	\$ -	\$ 3,680.00
	7	Prelim Plan Sheets - Evergreen	60	\$ 6,360.00	\$ -	\$ 6,360.00
	8	Prelim Plan Sheets - S. 19th	60	\$ 6,360.00	\$ -	\$ 6,360.00
9		-	\$ -	\$ -	\$ -	
10	Prelim Specifications	26	\$ 3,480.00	\$ -	\$ 3,480.00	
11	Prelim. EOPC	10	\$ 1,400.00	\$ -	\$ 1,400.00	
12		-	\$ -	\$ -	\$ -	
13	DEQ Submittal & Correspondence	22	\$ 2,800.00	\$ 1,650.00	\$ 4,450.00	



Project: Bozeman 2022 CIPP Projects
Client: City of Bozeman
Project #: 4528.12477.01
 1/11/2022

Prepared By:
K. Johnson
 Reviewed By:
P. Yakawich

Summary

Phase Name	Task	Labor Subtotal		Expenses	Totals
		Hours	Costs		
14		-	\$ -	\$ -	\$ -
15	Quality Control	24	\$ 4,320.00	\$ -	\$ 4,320.00
16		-	\$ -	\$ -	\$ -
	<input type="checkbox"/> T&M <input type="checkbox"/> Lump Sum <input type="checkbox"/> Other	309	\$ 41,926.00	\$ 4,224.00	\$ 46,150.00
1	Project Management	5	\$ 972.00	\$ -	\$ 972.00
2		-	\$ -	\$ -	\$ -
3	Final Drawings	58	\$ 6,040.00	\$ -	\$ 6,040.00
4	Final Specifications	26	\$ 3,480.00	\$ -	\$ 3,480.00
5		10	\$ 1,400.00	\$ -	\$ 1,400.00
6	Final EOPC	6	\$ 880.00	\$ -	\$ 880.00
7	Quality Control	8	\$ 1,440.00	\$ -	\$ 1,440.00
8		-	\$ -	\$ -	\$ -
	<input type="checkbox"/> T&M <input type="checkbox"/> Lump Sum <input type="checkbox"/> Other	113	\$ 14,212.00	\$ -	\$ 14,212.00
1	Project Management	-	\$ -	\$ -	\$ -
2		-	\$ -	\$ -	\$ -
3		-	\$ -	\$ -	\$ -
4	Plans Exchange Set Up (QuestCDN)	-	\$ -	\$ -	\$ -
5	Prebid Meeting	-	\$ -	\$ -	\$ -
6	Bidding, Questions, Addenda	-	\$ -	\$ -	\$ -
7	Bid Opening	-	\$ -	\$ -	\$ -
8	Bid Reviews, Rec. for Award	-	\$ -	\$ -	\$ -
9	Rvw. Bonds, Insurance, Contracts	-	\$ -	\$ -	\$ -
10		-	\$ -	\$ -	\$ -
11		-	\$ -	\$ -	\$ -
	<input type="checkbox"/> T&M <input type="checkbox"/> Lump Sum <input type="checkbox"/> Other				
	TOTAL	993	\$ 131,574.00	\$ 5,082.00	\$ 136,656.00



Bozeman 2022 CIPP Projects
Client: City of Bozeman
Project #: 4528.12477.01
1/11/2022

Prepared By:
K. Johnson
 Reviewed By:
P. Yakawich

Labor

Phase Name	Task	Engineer VI	Engineer V	Engineer III	Tech II	Survey	ROW Agent	ROW Agent	Engr II	Labor Subtotal	
		KR/J/DOF/PS \$ 180/hour	P/Y \$ 170/hour	D/W \$ 130/hour	BB \$ 90/hour	Crew \$ 190/hour	II \$ 115/hour	Sr. \$ 160/hour	LB \$ 120/hour	Hours	Cost
1	Project Management	27								27	\$ 4,896.00
2											\$ -
3	Sewer Video Review - CIPP Eligibility			4					16	20	\$ 2,440.00
4	Base Mapping - Aerials/Topo's		12		24					36	\$ 4,200.00
5											\$ -
6	MRL Application Materials; Exhibits			32	16					48	\$ 5,600.00
7	MRL Meetings and Correspondence			32						32	\$ 4,160.00
8	Temp Sewer Bypass Plans - I15/MRL/Rouse		8	16	16					40	\$ 4,880.00
9	Temp Sewer Bypass Plans - S. 19th		8	16	12					36	\$ 4,520.00
10	MDT Application Materials - UPASS; S. 19th, Rouse			40	4					44	\$ 5,560.00
11	MDT Meetings and Correspondence		4	4						8	\$ 1,200.00
12	Traffic Control Plans; Rouse, S. 19th			4	16				12	32	\$ 3,400.00
13	Temp. Constr. Easement (TCE) - (Walmart)		2				16	10		28	\$ 3,780.00
14	TCE - (Westlake)		2				16	10		28	\$ 3,780.00
15	TCE - (MSU/FGH)		2				16	10		28	\$ 3,780.00
16	TCE - (Cannery Dist)		2				16	10		28	\$ 3,780.00
17	Temporary Access Agreement (Lehrkinds)		2				2	2		6	\$ 890.00
18	Temporary Access Agreement (Whitfish LP II)		2				2	2		6	\$ 890.00
19	Sewer Flow Monitoring - Assistance			12						12	\$ 1,560.00
20	ARPA Application Materials & Coordination	4		20	4					28	\$ 3,680.00
21	MEPA Checklist, Document and Exhibits			32	12					44	\$ 5,240.00
22	Quality Control	40								40	\$ 7,200.00
23											\$ -
	Subtotal	71	44	212	104	-	68	44	28	571	\$ 75,436.00
1	Project Management	15								15	\$ 2,646.00
2											\$ -
3	Survey - Manholes & Measure Downs			2		32				34	\$ 6,340.00
4	Survey - Topo Pickup			2		20			4	26	\$ 4,540.00
5											\$ -
6	Prelim Plan Sheets - Gen, Details		4	12	16					32	\$ 3,680.00
7	Prelim Plan Sheets - Evergreen		4	16	40					60	\$ 6,360.00
8	Prelim Plan Sheets - S. 19th		4	16	40					60	\$ 6,360.00
9											\$ -
10	Prelim Specifications	2		24						26	\$ 3,480.00
11	Prelim. EOPC	2		8						10	\$ 1,400.00
12											\$ -
13	DEQ Submittal & Correspondence	2		16	4					22	\$ 2,800.00



Bozeman 2022 CIPP Projects
Client: City of Bozeman
Project #: 4528.12477.01
1/11/2022

Prepared By:
K. Johnson
 Reviewed By:
P. Yakawich

Labor

Phase Name	Task	Engineer VI	Engineer V	Engineer III	Tech II	Survey	ROW Agent	ROW Agent	Engr II	Labor Subtotal	
		KR/JDOF/PS \$ 180/hour	PY \$ 170/hour	DW \$ 130/hour	BB \$ 90/hour	Crew \$ 190/hour	II \$ 115/hour	Sr. \$ 160/hour	LB \$ 120/hour	Hours	Cost
	14 -									-	\$ -
	15 Quality Control	24								24	\$ 4,320.00
	16 -									-	\$ -
	Subtotal	45	12	96	100	52	-	4		309	\$ 41,926.00
Final Design	1 Project Management	5								5	\$ 972.00
	2 -									-	\$ -
	3 Final Drawings	2		16	40					58	\$ 6,040.00
	4 Final Specifications	2		24						26	\$ 3,480.00
	5 Final Bid Documents	2		8						10	\$ 1,400.00
	6 Final EOPC	2		4						6	\$ 880.00
	7 Quality Control	8								8	\$ 1,440.00
	8 -									-	\$ -
	19 -									-	\$ -
	20 -									-	\$ -
	Subtotal	21	-	52	40	-	-	-		113	\$ 14,212.00
Bidding	1 Project Management									-	\$ -
	2 -									-	\$ -
	3 -									-	\$ -
	4 Plans Exchange Set Up (QuestCDN)									-	\$ -
	5 Prebid Meeting									-	\$ -
	6 Bidding, Questions, Addenda									-	\$ -
	7 Bid Opening									-	\$ -
	8 Bid Reviews, Rec. for Award									-	\$ -
	9 Rvw. Bonds, Insurance, Contracts									-	\$ -
	10 -									-	\$ -
	Subtotal	-	-	-	-	-	-	-		-	\$ -
LABOR HOUR TOTAL										993	\$ -
LABOR COST TOTAL										32	\$ 3,840.00
										44	\$ 7,040.00
										68	\$ 7,820.00
										52	\$ 9,880.00
										244	\$ 21,960.00
										360	\$ 46,800.00
										56	\$ 9,520.00
										137	\$ 24,714.00
										21	\$ 46,800.00
										40	\$ 21,960.00
										52	\$ 9,880.00
										68	\$ 7,820.00
										44	\$ 7,040.00
										32	\$ 3,840.00
										993	\$ 131,574.00



Bozeman 2022 CIPP Projects
Client: City of Bozeman
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 1/11/2022

Prepared By:
 K. Johnson
 Reviewed By:
 P. Yakowich

Phase Name	Task	Travel, Mileage, & Misc. Subtotal										Direct Expenses Subtotal	% Mark Up	Total w/ Mark Up	*Other Expenses Description
		Per Diem (State)	Lodging	Autos		Travel, Mileage, & Misc. Subtotal Cost	Supplies	*Other Expenses	Direct Expenses Subtotal	% Mark Up	Total w/ Mark Up				
				\$55/day	\$130/night										
	1 Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	2 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	3 Sewer Video Review - CIPP Eligibility	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	4 Base Mapping - Aerials/Topo's	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	5 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	6 MRL Application Materials, Exhibits	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	7 MRL Meetings and Correspondence	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	8 Temp Sewer Bypass Plans - 115/MRL/Rouse	\$ -	\$ -	\$ 20	\$ 30.00	\$ 30.00	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ 33.00		
	9 Temp Sewer Bypass Plans - S. 19th	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ -		
	10 MDT Application Materials - UPASS; S. 19th, Rouse	\$ -	\$ -	\$ 20	\$ 30.00	\$ 30.00	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ 33.00		
	11 Traffic Control Plans; Rouse, S. 19th	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ -		
	12 Temp. Constr. Easement (TCE) - (Walmart)	\$ -	\$ -	\$ 20	\$ 16.00	\$ 10.00	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ 11.00		
	14 TCE - (Westlake)	\$ -	\$ -	\$ 20	\$ 16.00	\$ 10.00	\$ 25.00	\$ -	\$ -	\$ -	\$ -	10%	\$ 36.50		
	15 TCE - (MSU/FGH)	\$ -	\$ -	\$ 20	\$ 16.00	\$ 10.00	\$ 25.00	\$ -	\$ -	\$ -	\$ -	10%	\$ 36.50		
	16 TCE - (Cannery Dist)	\$ -	\$ -	\$ 20	\$ 16.00	\$ 10.00	\$ 25.00	\$ -	\$ -	\$ -	\$ -	10%	\$ 36.50		
	17 Temporary Access Agreement (Lehrkinds)	\$ -	\$ -	\$ 20	\$ 30.00	\$ 30.00	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ 60.50		
	18 Temporary Access Agreement (Whitefish LP II)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	10%	\$ -		
	19 Sewer Flow Monitoring - Assistance	\$ -	\$ -	\$ 200	\$ 300.00	\$ 300.00	\$ 250.00	\$ -	\$ -	\$ -	\$ -	10%	\$ 605.00		
	20 ARPA Application Materials & Coordination	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	21 MEPA Checklist, Document and Exhibits	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	22 Quality Control	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	23 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	Subtotal	\$ -	\$ -	\$ 340	\$ 454.00	\$ 454.00	\$ 350.00	\$ -	\$ 804.00	\$ -	\$ 804.00	0%	\$ 804.00		
	1 Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	2 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	3 Survey - Manholes & Measure Downs	\$ 440.00	4	\$ 520.00	\$ 450.00	\$ 1,410.00	\$ -	\$ -	\$ 1,410.00	\$ -	\$ 1,410.00	10%	\$ 1,551.00		
	4 Survey - Topo. Pickup	\$ 220.00	2	\$ 260.00	\$ 300	\$ 930.00	\$ -	\$ -	\$ 930.00	\$ -	\$ 930.00	10%	\$ 1,023.00		
	5 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	6 Prelim Plan Sheets - Gen. Details	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	7 Prelim Plan Sheets - Evergreen	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	8 Prelim Plan Sheets - S. 19th	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	9 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	10 Prelim Specifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	11 Prelim. EOPC	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	12 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	13 DEQ Submittal & Correspondence	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,500.00	\$ -	\$ 1,500.00	\$ -	\$ 1,500.00	10%	\$ 1,650.00		
	14 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	15 Quality Control	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	16 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	Subtotal	\$ 660.00	12	\$ 780.00	\$ 900.00	\$ 2,340.00	\$ -	\$ 1,500.00	\$ 3,840.00	\$ -	\$ 3,840.00	0%	\$ 3,840.00		
	1 Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	2 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	3 Final Drawings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	4 Final Specifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	5 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	6 Final EOPC	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	7 Quality Control	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	8 -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		



Expenses		Bozeman 2022 CIPP Projects Client: City of Bozeman Project #: 4528.12477.01 1/11/2022										Prepared By: K. Johnson Reviewed By: P. Yakawich	
Phase Name	Task	Travel, Mileage, & Misc. Subtotal				Travel, Mileage, & Misc. Subtotal Cost	Supplies	*Other Expenses	Direct Expenses Subtotal	% Mark Up	Total w/ Mark Up	*Other Expenses Description	
		Per Diem (State)	Lodging	Autos	Total Cost								
		\$55/day	\$130/night	\$1,500									
	Subtotal												
1	Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
2	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
3	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
4	Plans Exchange Set Up (QuestCDN)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
5	Prebid Meeting	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
6	Bidding, Questions, Addenda	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
7	Bid Opening	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
8	Bid Reviews, Rec. for Award	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
9	Rvw. Bonds, Insurance, Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
10	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -		
	Subtotal												
	EXPENSES TOTAL	12	\$ 660.00	6	\$ 780.00	940	\$ 1,354.00	\$ 2,794.00	\$ 350.00	\$ 1,500.00	\$ 4,644.00	#####	

Memorandum

REPORT TO: City Commission

FROM: Lance Lehigh, PE, Interim City Engineer
Jeff Mihelich, City Manager

SUBJECT: Authorize the City Manager to Sign a Public Street and Utility Easement, Sewer and Water Pipeline and Access Easement and Agreement with Canyon Gate Investors, LLC for The Canyon Gate Annex (21337)

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Property

RECOMMENDATION: Authorize the City Manager to sign a Public Street and Utility Easement, Sewer and Water Pipeline and Access Easement and Agreement with Canyon Gate Investors, LLC for The Canyon Gate Annex (21337).

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: Attached are copies (original to City Clerk) of the partially executed agreements. Engineering staff reviewed the documents and found them to be acceptable.

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: None

Attachments:

[Public Street and Utility Easement](#)
[Sewer and Water Pipeline and Access Easement and Agreement](#)

Report compiled on: January 18, 2022

After Recording, return to:

City of Bozeman
P.O. Box 1230
Bozeman, MT 59771

PUBLIC STREET AND UTILITY EASEMENT

Canyon Gate Investors, LLC, GRANTOR, in consideration of \$ 1.00 and for other and valuable considerations, receipt of which is acknowledged, grants to The City of Bozeman, a municipal corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman, Montana 59715, GRANTEE, its successors and assigns, a perpetual street and utility easement for the use of the public, in, through, and across a strip of land situated in Gallatin County, Montana, 45, feet wide to be located on the following described real property: Tract 7B, COS No 2408

The easement is more particularly described on the attached Exhibit(s) A which by this reference is made a part hereof.

The GRANTOR states that he possesses the real property described above and that he has a lawful right to grant an easement thereon.

The GRANTOR further agrees that the GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR.

The terms, covenants, and provisions of this easement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto.

DATED this 15 day of October, 2021.

Canyon Gate Investors, LLC
By: Canyon Gate Partners, LLC

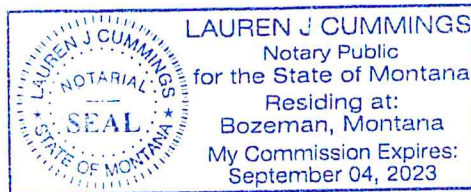
By: [Signature]

Andy Holloran, Manager

STATE OF MONTANA)
):ss
County of Gallatin)

On this 15th day of October, 2021, before me the undersigned, a Notary Public for the State of Montana, personally appeared Andy Holloran, known to me to be Manager of Canyon Gate Investors and the person whose name is subscribed to the within instrument and acknowledged to me that he executed the within instrument for and on behalf of Canyon Gate Investors.

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



(SEAL)

[Signature]
Notary Public for the State of Montana
Lauren J. Cummings

(Printed Name)
Residing at Gallatin County, MT
My Commission expires 9/4/2023

ACCEPTED:

CITY OF BOZEMAN
by _____
City Manager

ATTEST:

City Clerk

STATE OF MONTANA)
)ss.
County of Gallatin)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk, respectively, of the City of Bozeman and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

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

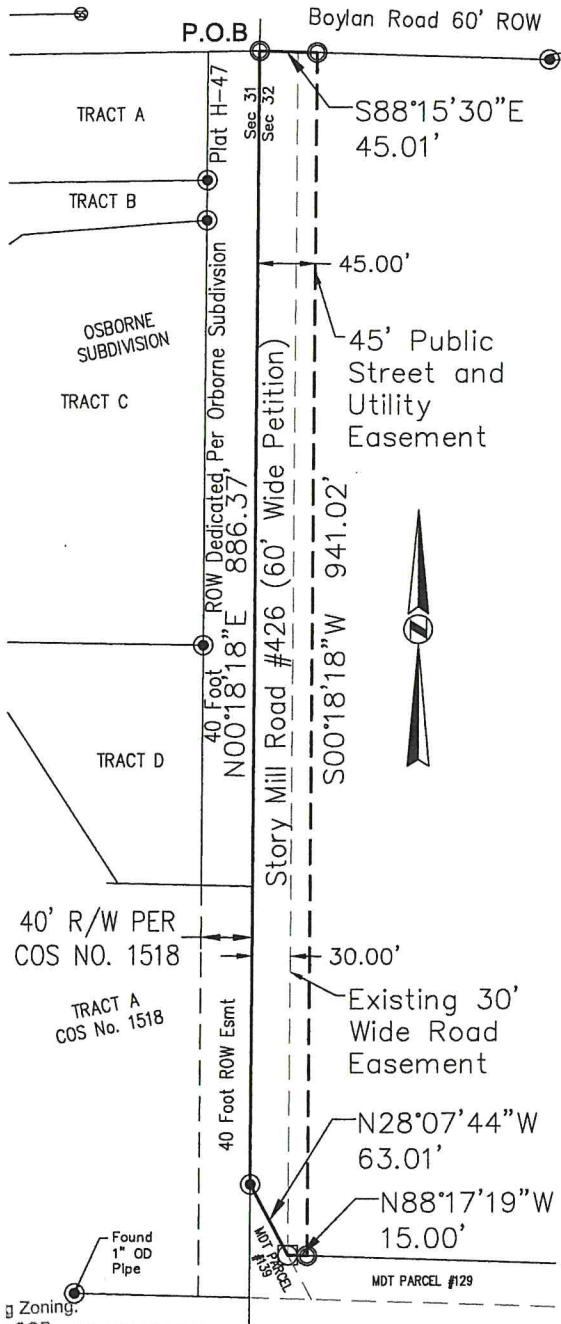
(SEAL)

Notary Public for the State of Montana

(Printed Name)
Residing at _____
My Commission Expires ____/____/20____

EXHIBIT A

A PUBLIC STREET AND UTILITY EASEMENT LOCATED WITHIN A PORTION OF TRACT 7B OF COS 2408
 FURTHER LOCATED WITHIN THE SOUTH WEST ONE QUARTER OF SECTION 32
 TOWNSHIP 1 SOUTH, RANGE 6 EAST, P.M.M., GALLATIN COUNTY, MONTANA



LEGAL DESCRIPTION OF PUBLIC STREET AND UTILITY EASEMENT

A Public Street and Utility easement located within a portion of Tract 7B of COS 2408, and further located within the South West One Quarter of Section 32, Township 1 South, Range 6 East, PMM, Gallatin County, Montana, and being more particularly described as follows:

Beginning at a point (POB), that is the NW corner of Tract 7B of COS 2408 and also being a point on the line between Sections 31 and 32, T1S, R6E, and also on the centerline of Story Mill Road;

- thence, S 88° 15' 30" E, along the North line of said Tract 7B, a distance of 45.01 feet to a point;
- thence, leaving said line, S 00° 18' 18" W, a distance of 941.02 feet to a point on the ROW of Bridger Drive;
- thence, along said ROW, N 88° 17' 19" W, a distance of 15.00 feet to a point;
- thence, along said ROW, N 28° 07' 44" W, a distance of 63.01 feet to a point being the intersection of said MDT ROW, Section line, Story Mill road and the West line of said Tract 7B;
- thence, along said lines, N 00° 18' 18" E, a distance of 886.37 feet to the P.O.B.

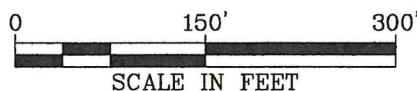
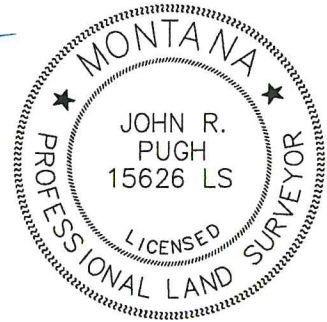
Said area being 41,526 square feet or 0.95 acres more or less, along with and subject to all easements of record.

CERTIFICATE OF SURVEYOR

I, the undersigned, John R. Pugh, Registered Land Surveyor, do hereby certify that I surveyed the same as shown on the accompanying drawing and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-625, MCA, and the City of Bozeman and Gallatin County Subdivision Regulations.

DATED this 15th day of October, A.D., 2021.

John R. Pugh
 Registration No.15626LS



BASIS OF BEARING:

STATE PLANE GRID NORTH WITH GROUND INTERNATIONAL FEET PROJECTION AT:

NORTH LATITUDE: 45°-42'-00.54885"
 WEST LONGITUDE: 111°-01'-14.92058"
 ELLIPSOID HT: 4698.37 sft.

DERIVED FROM MTSU CORS STATION (BOZEMAN, MONTANA)

MERIDIAN CONVERGENCE ANGLE= 01°-06'-50"



STAHLY ENGINEERING & ASSOCIATES
 PROFESSIONAL ENGINEERS & SURVEYORS

www.seaeng.com

2223 MONTANA AVE. STE. 201
 BILLINGS, MT 59101
 Phone: (406)601-4055

3530 CENTENNIAL DR.
 HELENA, MT 59601
 Phone: (406)442-8594
 Fax: (406)442-8557

851 BRIDGER DR. STE. 1
 BOZEMAN, MT 59715
 Phone: (406)522-9526
 Fax: (406)522-9528

STORY MILL ROAD EASEMENT EXHIBIT

CANYON GATE ANNEXATION

CANYON GATE INVESTORS, LLC
 BOZEMAN, MONTANA

FIELD: 08-01-2021
 DRAWN: JP
 CHECKED: CP
 DATE: 08-11-2021

SHEET
EXHIBIT A

After Recording, return to:

City of Bozeman
P.O. Box 1230
Bozeman, MT 59771

SEWER AND WATER PIPELINE AND ACCESS EASEMENT AND AGREEMENT

Canyon Gate Investors, LLC, the GRANTOR(S), in consideration of \$1.00 and other good and valuable consideration, receipt of which is acknowledged, grant(s) to The City of Bozeman, a municipal corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman, Montana 59715, GRANTEE, its successors and assigns, a perpetual easement to lay, construct and maintain a water pipeline with the usual services, valves, connections, accessories and appurtenances for the purpose of transmitting water in, through, and across a strip of land situated in Gallatin County, Montana, Thirty (30) feet wide to be located on the following described real property: Tract 7B, COS 2408

The easement is more particularly described on the attached Exhibit(s) A which by this reference are made a part hereof.

This grant includes the right of the GRANTEE, its successors, permittees, licensees, and assigns and its and their agents and employees, to enter at all times upon the above-described land by using existing roads or trails or otherwise by a route causing the least damage and inconvenience to the GRANTOR(S) in order to survey and establish the route and location of the easement and the pipeline and to:

- (1) Construct, operate, patrol, repair, substitute, remove, enlarge, replace, and maintain the pipeline, services, connections, accessories and appurtenances;

- (2) Trim, remove, destroy, or otherwise control any trees and brush inside or outside the boundaries of the easement which may, in the opinion of the GRANTEE, interfere or threaten to interfere with or be hazardous to the construction, operation and maintenance of the pipeline;
- (3) Grade the land subject to this easement and extend the cuts and fills of this grading into and on the land adjacent to that which is subject to this easement to the extent GRANTEE may find reasonably necessary; and
- (4) Support the pipeline across ravines and water courses with structures which GRANTEE deems necessary.

THE GRANTEE AGREES:

- (1) That, in connection with the construction, operating, patrolling, repairing, substituting, removing, enlarging, replacing, and maintaining of said water pipeline(s), it will repair or replace, at its sole expense, or pay to GRANTOR(S) the reasonable value of any damages to growing crops, existing fences, ditches and other appurtenances of said land that may be disturbed by its operation.
- (2) That, during operations involving excavation, it will remove the topsoil from the trenched area to a depth of one foot, or to the full depth of the topsoil, whichever is less, and stockpile said topsoil for replacement over the trench. It will remove from the site any large rocks or surplus excavating material or any debris that may have been exposed by the excavation and remains after backfilling is completed. And, it will leave the finished surface in substantially the same condition as existed prior to the beginning of operations except that the surface of backfilled areas may be mounded sufficiently to prevent the formation of depressions after final settlement has taken place.

THE GRANTOR(S) AGREES:

- (1) At no time will they build, construct, erect or maintain any permanent structure within the boundaries of said easement without the prior written consent of GRANTEE.
- (2) At no time will they modify the finished grade of the land over the pipeline by removal of existing soil or by placement of fill material within the boundaries of said easement without the prior written consent of the GRANTEE.
- (3) That where the subject improvements are not located under improved public or private streets or other provided access, a 12 foot wide all-weather access road may be constructed within the easement where at the City's discretion such access is required for operation and maintenance purposes.
- (4) The GRANTOR(S) warrants that they are lawfully seized and possessed of the real property described above, that they have a lawful right to convey the property, or any part of it, and that they will forever defend the title to this property against the claims of all persons.
- (5) The GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR(S). The terms, covenants and provisions of this easement and agreement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

DATED this 15th day of October, 2021.

Canyon Gate Investors, LLC
By: Canyon Gate Partners, LLC

By: [Signature]

Andy Holloran, Manager

STATE OF MONTANA)
) ss.
County of Gallatin)

On this 15th day of October, 2021, before me the undersigned, a Notary Public for the State of Montana, personally appeared, Andy Holloran, known to me to be Manager of Canyon Gate Partners, LLC and the person whose name is subscribed to the within instrument and acknowledged to me that he executed the within instrument for and on behalf of Canyon Gate Investors, LLC.

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

(SEAL)
[Signature]

Notary Public for the State of Montana
Lauren J. Cummings



(Printed Name)
Residing in Gallatin County, MT
My Commission Expires 9/4/2023

DATED this _____ day of _____, 20____.

GRANTEE:

CITY OF BOZEMAN, MONTANA

JEFF MIHELICH, City Manager

ATTEST:

MIKE MAAS, City Clerk

STATE OF MONTANA)
) ss.
County of Gallatin)

On this _____ day of _____, 20___, before me, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk for the City of Bozeman, respectively, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

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

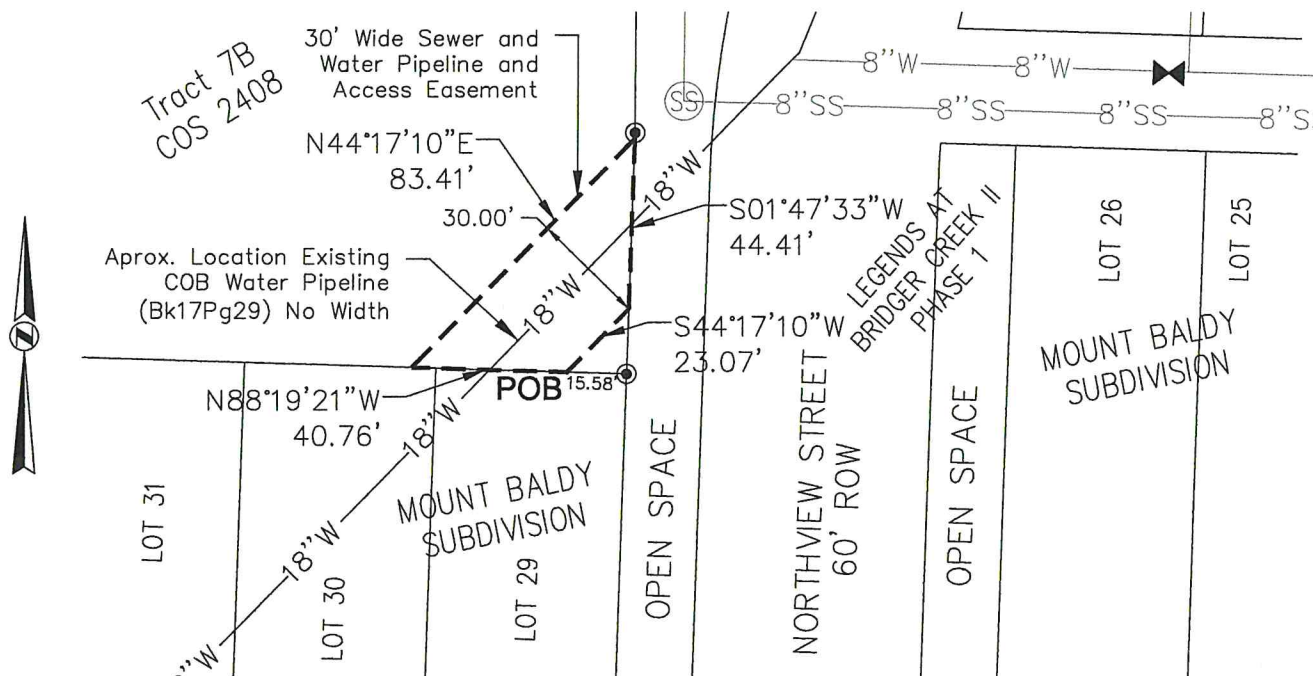
(SEAL)

Notary Public for the State of Montana

(Printed Name)
Residing at Bozeman, Montana
My Commission Expires: ___/___/20___

EXHIBIT A

A SEWER AND WATER PIPELINE AND ACCESS EASEMENT LOCATED WITHIN A PORTION OF TRACT 7B OF COS 2408 LOCATED WITHIN THE SOUTH WEST ONE QUARTER OF SECTION 32 TOWNSHIP 1 SOUTH, RANGE 6 EAST, P.M.M., GALLATIN COUNTY, MONTANA



LEGAL DESCRIPTION

A Sewer and Water pipeline and Access Easement located within a portion of Tract 7B of COS 2408, and further located within the South West One Quarter of Section 32, Township 1 South, Range 6 East, PMM, Gallatin County, Montana, and being more particularly described as follows:

- Beginning at a point (POB), that bears N 88° 19' 21" W, a distance of 15.58 feet from the SW corner of Tract 7B of COS 2408 and also being the NE corner of Lot 29 of the Mount Baldy Subdivision;
- thence, along said South line of said Lot 29, N 88° 19' 21" W, a distance of 40.76 feet to a point;
- thence, leaving said Lot 29, N 44° 17' 10" E, a distance of 83.41 feet to a point on the Eastern line of said Tract 7B;
- thence, along said line, S 01° 47' 33" W, a distance of 44.41 feet to a point;
- thence, leaving said line, S 44° 17' 10" W, a distance of 23.07 feet to the POB.

Said area being 1,597 square feet or 0.04 acres more or less, along with and subject to all easements of record.

CERTIFICATE OF SURVEYOR

I, the undersigned, John R. Pugh, Registered Land Surveyor, do hereby certify that I surveyed the same as shown on the accompanying drawing and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-625, MCA, and the City of Bozeman and Gallatin County Subdivision Regulations.

BASIS OF BEARING:

STATE PLANE GRID NORTH WITH GROUND INTERNATIONAL FEET PROJECTION AT:

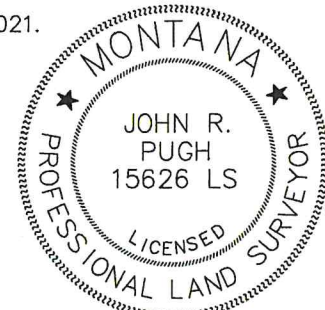
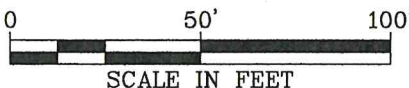
NORTH LATITUDE: 45°-42'-00.54885"
 WEST LONGITUDE: 111°-01'-14.92058"
 ELLIPSOID HT: 4698.37 sft.

DERIVED FROM MTSU CORS STATION (BOZEMAN, MONTANA)

MERIDIAN CONVERGENCE ANGLE= 01°-06'-50"

DATED this 15th day of October, A.D., 2021.

John R. Pugh
 Registration No.15626LS



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www.seaeng.com
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 851 BRIDGER DR. STE. 1 BOZEMAN, MT 59715 Phone: (406)522-9526 Fax: (406)522-9526

EXHIBIT A
 SEWER AND WATER PIPELINE AND ACCESS EASEMENT

CANYON GATE PROJECT
 CANYON GATE INVESTORS, LLC
 BOZEMAN, MONTANA

FIELD: 08-01-2021
 DRAWN: JP
 CHECKED: CP
 DATE: 10-14-2021

SHEET
1 OF 1

Memorandum

REPORT TO: City Commission

FROM: Cody Flammond, PE, Engineer II
Lance Lehigh, Interim City Engineer
Jeff Mihelich, City Manager

SUBJECT: Authorize the City Manager to Sign a Task Order Revision 1 for Fiscal Year 2022 Remediation Systems Oversight, Bozeman Landfill with Tetra Tech

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to execute the attached Task Order Revision for Fiscal Year 2022 Remediation Systems Oversight, Bozeman Landfill with Tetra Tech.

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: The purpose of this task order is to allow Tetra Tech to perform design and oversight of new soil vapor extraction wells at the Bozeman Landfill. This task order will be implemented under the previously [professional services agreement referenced](#).

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: The cost of this work will be \$24,780.00. This work will be paid for with solid waste funds dedicated to this purpose.

Attachments:

[Revision 1 to Task Order 2021 - 2022 Remediation Systems Operation and Maintenance, Bozeman Landfill](#)

Report compiled on: January 19, 2022



REVISION 1
Design of Additional SVE Wells Along the Southeast side of the Landfill
TO TASK ORDER
2021 - 2022 REMEDIATION SYSTEMS OPERATION AND MAINTENANCE
FOR
BOZEMAN LANDFILL
January 2022

CLIENT:
The City of Bozeman
P.O. Box 1230
Bozeman, Montana 59711-1230

CONSULTANT:
Tetra Tech, Inc.
851 Bridger Drive, Ste 6
Bozeman, MT 59718

Attention: Mr. Cody Flammond, PE

Attention: Mr. Larry Cawfield

INTRODUCTION

The purpose of this task order revision is to design additional Soil Vapor Extraction (SVE) wells along the east boundary of the Landfill near the southeast corner. This activity will be conducted between January 2022 and June 30, 2022 and is directed at meeting DEQ Solid Waste rules and the requirements of DEQ’s June 6, 2014 letter requiring the City of Bozeman to conduct a Corrective Measures Assessment and implement remedial measures. This Task Order revises our July 14, 2021 Task Order that was approved by the City Commission in July 2021.

SCOPE OF SERVICES

This task order will create Task 900-Design and Construction Oversight for new SVE wells along the East Landfill Boundary. The scope of work for this task is described above and further detailed below.

Previous investigations identified a potential migration path for landfill gasses from the landfill to the east. To address this, this task order provides for the design of 3-4 additional SVE wells along the landfill eastern boundary near the southeast corner and for connection of the new SVE wells to the existing SVE system. Tetra Tech will provide design plans and specifications for the additions, will incorporate the plans and specs into a bid package in the City’s standard format and will assist the City in getting and evaluating bids. Tetra Tech will also conduct a pre-bid meeting and answer Contractor inquiries regarding the meaning and intent of the project documents. Following selection of a bidder by the City, Tetra Tech will provide construction support and oversight including leading a pre-construction conference, evaluation of submittals, tracking pay quantities and pay requests, providing on-site personnel to oversee construction and provide Quality Assurance, providing as-built drawings and otherwise completing construction closeout. On completion of construction, Tetra Tech personnel will add the new wells to the existing vacuum system and evaluate system setting modifications caused by the new wells.

Tetra Tech
 851 Bridger Drive, Suite 6; Bozeman, MT 59715
 Tel 406.582.8780 Fax 406.582.8790 tetratech.com

PERIOD OF PERFORMANCE

Tetra Tech's anticipated schedule to complete the above described activities will be the following: Final Design to City for Approval by February 1 Bid Documents to City by February 7, Construction Oversight completed by June 7 and As-built drawings by June 7, 2022. . Due to the tight timeline and challenges finding available contractors, it may not be possible to complete the as-built drawings and construction closeout before end of FY 2022, hence, they may be completed under Tetra Tech's 2022-2023 Task Order for SVE system operation.

COSTS

Estimated costs to complete the foregoing scope of services are \$24,780. Our costs will be on a time and materials basis. A detailed cost estimate can be provided upon request.

SPECIAL CONDITIONS: Execution of this Task Order constitutes acceptance of all terms and conditions contained in Tetra Tech's Professional Services Agreement with the City of Bozeman, dated April 15, 2014.

CLIENT:

City of Bozeman _____

By: _____

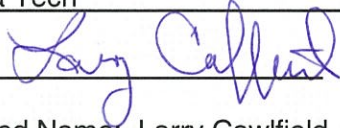
Printed Name: _____

Its: _____

Date: _____

CONSULTANT:

Tetra Tech _____

By:  _____

Printed Name: Larry Cawfield, PE _____

Its: Senior Project Manager

Date: January 19, 2022 _____

NOTICE OF CONFIDENTIALITY This Task Order (including attachments) contains information confidential to Tetra Tech, Inc., its subsidiaries, and subcontractors. It is intended only for City of Bozeman to consider Tetra Tech providing professional services at the Bozeman Landfill. Any other use is prohibited, without the prior written consent of Tetra Tech.

Memorandum

REPORT TO: City Commission

FROM: Taylor Lonsdale, Transportation Engineer
Lance Lehigh, Interim City Engineer
Jeff Mihelich, City Manager

SUBJECT: Authorize the City Manager to Sign Temporary Construction Permits and Right-of-Way Documents with Bozeman Industrial Park Owners' Association for the Griffin Drive and Manley Road Street and Stormwater Improvements Project

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Property

RECOMMENDATION: Authorize the City Manager to sign Temporary Construction Permits and Right-of-Way documents with Bozeman Industrial Park Owners' Association for the Griffin Drive and Manley Road Street and Stormwater Improvements Project.

STRATEGIC PLAN: 4.5 Housing and Transportation Choices: Vigorously encourage, through a wide variety of actions, the development of sustainable and lasting housing options for underserved individuals and families and improve mobility options that accommodate all travel modes.

BACKGROUND: The Griffin Drive and Manley Road Street and Stormwater Improvement project generally consists of construction of a new three-lane roadway on Griffin Drive from Maus Lane to Rouse Avenue with curb and gutter, separated multi-use pathways on both sides, a traffic signal at Manley Road, lighting and utility improvements. The project also includes construction of approximately 200 feet of Manley Road from Griffin Drive to the south end of the Manley Road reconstruction project, which was completed in 2020. In order to construct these improvements it is necessary to acquire the right of way described herein. The attached documents have been executed by the property owners, and are necessary for the completion of the project. The valuations used for these acquisitions were established through the work of Sanderson Stewart.

UNRESOLVED ISSUES: None.


ALTERNATIVES: None identified or recommended.

FISCAL EFFECTS: The total cost of \$500.00 for the Temporary Construction Easement are available through SIF001 - Right of Way Acquisition.

Attachments:

[20220113_Bozeman Industrial Park Owners_ROW
Agreements for City Signature.pdf](#)

Report compiled on: January 19, 2022

	<p>City of Bozeman Engineering Division Public Works Department</p>	<p>Project Name: Griffin Dr-R/W Acq. Project No: 18092.12 Parcel No: 36</p>
---	--	--

TEMPORARY RIGHT-OF-WAY AGREEMENT

This Temporary Right-of-Way Agreement (the "Agreement") has been reached this ____ day of _____, 20__, between the **Bozeman Industrial Park Owners' Association**, (hereinafter the "GRANTORS"), the owners of Tract A (private road) of Bozeman Industrial Park, a tract of land in Section 31, Township 1 South, Range 6 East, M.P.M., according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana, and the **City of Bozeman**, a Municipal Corporation of the State of Montana (hereinafter the "GRANTEE"), for the purchase of Temporary Construction Access. The compensation amount to be paid and other considerations to be given in full satisfaction of this Agreement are as follows:

Compensation:

Parcel 36: Temporary Construction Access Area	1,799 sq.ft.*	\$500
Cost to cure: None		\$N/A

* Figure 1

Total (rounded)

\$500.00

Considerations:

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this Agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. GRANTORS certify that to the best of their knowledge, any known encumbrances on the property are shown on this Agreement. If GRANTORS sell their property prior to the project being constructed and the termination of this Agreement, GRANTORS agree to provide the purchaser(s) with a copy of this entire Agreement and agree to make the sale of their property subject to all the terms and conditions contained in this Agreement.
2. Taxes and special assessments, if any, delinquent from former years, and taxes and special assessments for the current year, if due and/or payable, shall be paid by the GRANTORS.
3. This Agreement embodies the whole Agreement between the parties hereto as it pertains to the real estate, and there are no promises, terms, conditions or obligations referring to the subject matter hereof, other than as contained herein or within the temporary construction access area.
4. The GRANTORS hereby agree that the compensation herein provided to be paid includes full compensation for the temporary construction access area.
5. This Agreement shall be deemed a contract extending to and binding upon the parties hereto and upon the respective heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties, only when the same shall have been approved by the City Manager on behalf of the Public Works Department.
6. The temporary construction access area shall be effective upon acceptance by GRANTORS and GRANTEE, evidenced by the execution of this Agreement by the GRANTORS and GRANTEE and payment of the compensation amount. The temporary construction access is in effect for a period beginning the 1st day of construction on the property, and ending two (2) years later, at which time the temporary construction access shall expire and be of no force and effect.

FIGURE 1

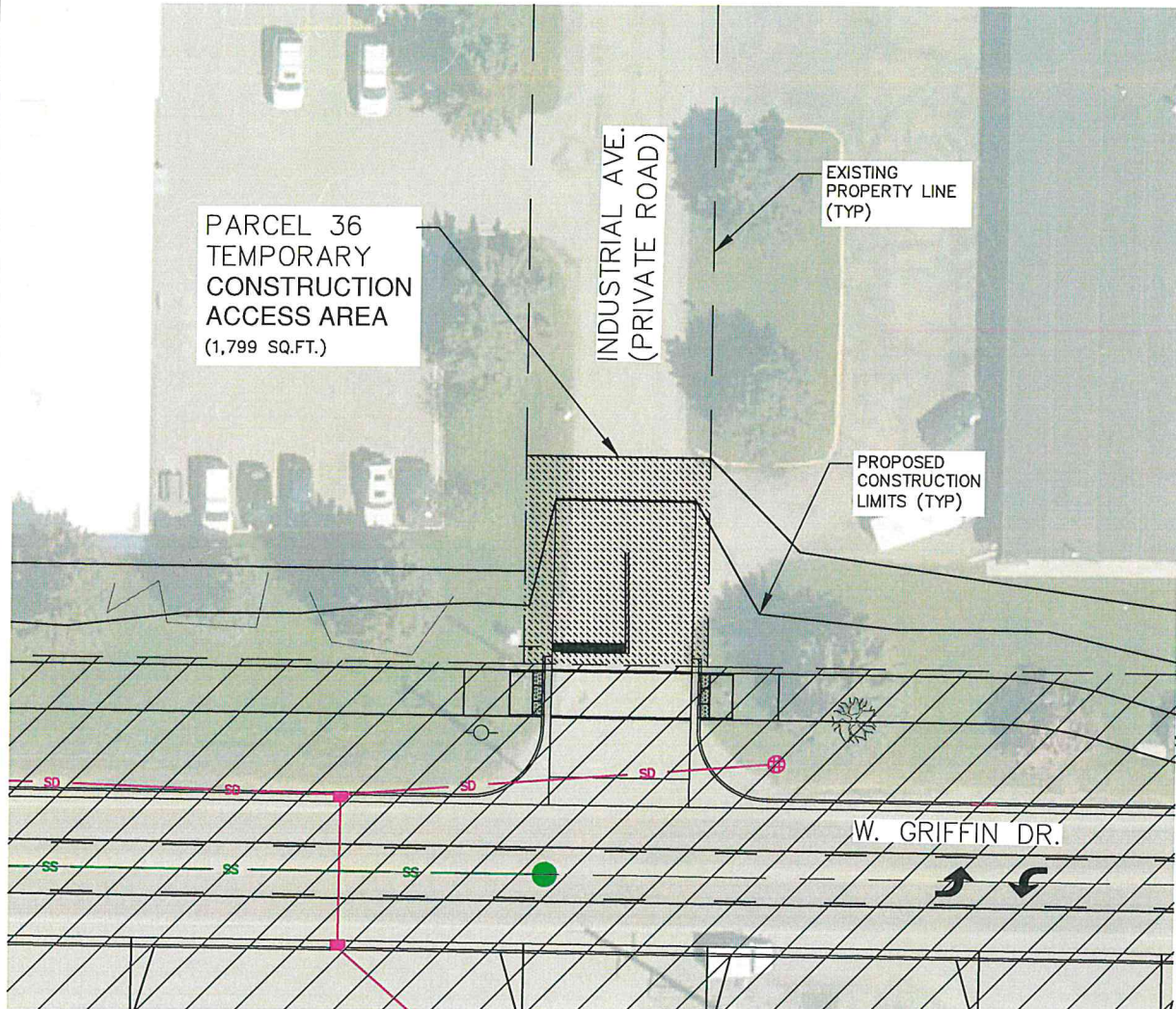
TEMPORARY CONSTRUCTION ACCESS AREA
WITHIN
TRACT A (PRIVATE ROAD), BOZEMAN INDUSTRIAL PARK,
LOCATED IN S31, T1S, R6E, M.P.M.

PREPARED FOR : CITY OF BOZEMAN

MAY, 2021

PREPARED BY : **SANDERSON STEWART**

BOZEMAN, MONTANA



NOTES:

- 1. AERIAL IMAGE LOCATIONS ARE APPROXIMATE AND MAY NOT BE EXACT.
- 2. NEW PROJECT IMPROVEMENT LOCATIONS ARE PRELIMINARY AND SUBJECT TO CHANGE.

R/W LEGEND	
	EXISTING ROAD R/W
	TEMPORARY CONST. AREA



GRIFFIN DR-R/W ACQ
PARCEL 36

7. The GRANTORS and GRANTEE agree that the purpose of the temporary construction access area is for constructing and/or improving a public street, highway, walkway, trail and/or electric, telephone or telecommunications, gas, water, sewer, drainage, or other utility transmission or distribution facilities as necessary for this project as depicted on Figure 1 attached hereto and incorporated herein.

Of the total amount of compensation hereinabove agreed upon, the sum of **\$500.00** shall be paid upon execution and delivery of a good and sufficient: Temporary Right-of-Way Agreement.

Disbursement of funds will be made in the following manner:

GRANTORS	Amount of Payment
Bozeman Industrial Park Owners' Association	\$500.00

The GRANTORS certify that there are no known hazardous materials on the property being acquired.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

BOZEMAN INDUSTRIAL PARK OWNERS' ASSOCIATION

Robin Struyvenberg
 Tract 1 Property Owner (Century Warehousing, Inc)
 Name: *Robin Struyvenberg*
 Title: *VP, Treasurer*

Date: *7/26/2021*

Rebecca Ritter
 Tract 2 Property Owner (S&L World Properties, LLC)
 Name: *Rebecca Ritter*
 Title: *OWNER, CFO*

Date: *7/27/2021*

 Tracts 3A&B Property Owner (Power River Company, LLC)
 Name:
 Title:

Date: _____

 Tract 4 Property Owner (Francis and Kathleen Mahoney
 Name:

Date: _____

 Tract 5A Property Owner (Westland Enterprises, Inc)
 Name:
 Title:

Date: _____

7. The GRANTORS and GRANTEE agree that the purpose of the temporary construction access area is for constructing and/or improving a public street, highway, walkway, trail and/or electric, telephone or telecommunications, gas, water, sewer, drainage, or other utility transmission or distribution facilities as necessary for this project as depicted on Figure 1 attached hereto and incorporated herein.

Of the total amount of compensation hereinabove agreed upon, the sum of **\$500.00** shall be paid upon execution and delivery of a good and sufficient: Temporary Right-of-Way Agreement.

Disbursement of funds will be made in the following manner:

GRANTORS	Amount of Payment
Bozeman Industrial Park Owners' Association	\$500.00

The GRANTORS certify that there are no known hazardous materials on the property being acquired.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

BOZEMAN INDUSTRIAL PARK OWNERS' ASSOCIATION

 Tract 1 Property Owner (Century Warehousing, Inc)
 Name:
 Title: _____ Date: _____

 Tract 2 Property Owner (S&L World Properties, LLC)
 Name:
 Title: _____ Date: _____

DocuSigned by:

 A6177A8CF9F84C9... _____ Date: 1/3/2022
 Tracts 3A&B Property Owner (Mahoney Family Partnership, LP)
 Name: Shannon Mahoney
 Title: Member

 Tract 4 Property Owner (Francis and Kathleen Mahoney)
 Name: _____ Date: _____

 Tract 5A Property Owner (Westland Enterprises, Inc)
 Name:
 Title: _____ Date: _____

7. The GRANTORS and GRANTEE agree that the purpose of the temporary construction access area is for constructing and/or improving a public street, highway, walkway, trail and/or electric, telephone or telecommunications, gas, water, sewer, drainage, or other utility transmission or distribution facilities as necessary for this project as depicted on Figure 1 attached hereto and incorporated herein.

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Disbursement of funds will be made in the following manner:

GRANTORS	Amount of Payment
Bozeman Industrial Park Owners' Association	\$500.00

The GRANTORS certify that there are no known hazardous materials on the property being acquired.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

BOZEMAN INDUSTRIAL PARK OWNERS' ASSOCIATION

Tract 1 Property Owner (Century Warehousing, Inc)
Name:
Title:

Date: _____

Tract 2 Property Owner (S&L World Properties, LLC)
Name:
Title:

Date: _____

Tracts 3A&B Property Owner (Power River Company, LLC)
Name:
Title:

Date: _____

[Signature]
Tract 4 Property Owner (Francis and Kathleen Mahoney)
Name:

Date: Aug 4, 2021

Tract 5A Property Owner (Westland Enterprises, Inc)
Name:
Title:

Date: _____

7. The GRANTORS and GRANTEE agree that the purpose of the temporary construction access area is for constructing and/or improving a public street, highway, walkway, trail and/or electric, telephone or telecommunications, gas, water, sewer, drainage, or other utility transmission or distribution facilities as necessary for this project as depicted on Figure 1 attached hereto and incorporated herein.

Of the total amount of compensation hereinabove agreed upon, the sum of **\$500.00** shall be paid upon execution and delivery of a good and sufficient: Temporary Right-of-Way Agreement.

Disbursement of funds will be made in the following manner:

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Bozeman Industrial Park Owners' Association	\$500.00

The GRANTORS certify that there are no known hazardous materials on the property being acquired.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

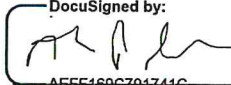
BOZEMAN INDUSTRIAL PARK OWNERS' ASSOCIATION


 Tract 1 Property Owner (Century Warehousing, Inc)
 Name:
 Title: _____ Date: _____

 Tract 2 Property Owner (S&L World Properties, LLC)
 Name:
 Title: _____ Date: _____

 Tracts 3A&B Property Owner (Mahoney Family Partnership, LP)
 Name: Shannon Mahoney
 Title: Member _____ Date: _____

 Tract 4 Property Owner (Francis and Kathleen Mahoney)
 Name: _____ Date: _____

DocuSigned by:

 AEF169G791741G...
 Tract 5A Property Owner (Westland Enterprises, Inc)
 Name: Thomas Simkins
 Title: Manager _____ Date: 1/4/2022

DocuSigned by:

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Tract 5B Property Owner (Simkins-Hallin Inc)
Name: Thomas Simkins
Title: Manager

Date: 1/4/2022

Tract 6A Property Owner (BHB Real Estate, LLC)
Name: Peter Bronken
Title: Manager/Member

Date: _____

Tract 6B & 7 Property Owner (Bart and Myrna Thompson)
Name: _____

Date: _____

CITY OF BOZEMAN

By: Jeff Mihelich
City Manager

Date: _____

ATTEST:

By: Mike Maas
City Clerk

Date: _____

Tract 5B Property Owner (Simkins-Hallin Inc)

Name:

Title:

Date: _____

DocuSigned by:

Peter Bronken

24E46296D54E430...

Tract 6A Property Owner (BHB Real Estate, LLC)

Name: Peter Bronken

Title: Manager/Member

Date: 12/15/2021

Date: _____

Tract 6B & 7 Property Owner (Bart and Myrna Thompson)

Name:

Date: _____

CITY OF BOZEMAN

By: Jeff Mihelich
City Manager

Date: _____

ATTEST:

By: Mike Maas
City Clerk

Date: _____

Tract 5B Property Owner (East Gallatin Warehousing, LLC)
Name: _____
Title: _____
Date: _____

Tract 6A Property Owner (BHB Real Estate, LLC)
Name: _____
Title: _____
Date: _____

Bart Thompson
Myrna Thompson
Tract 6B & 7 Property Owner (Bart and Myrna Thompson)
Name: _____
Date: 12/3/21

CITY OF BOZEMAN

By: Jeff Mihelich
City Manager
Date: _____

ATTEST:

By: Mike Maas
City Clerk
Date: _____

Memorandum

REPORT TO: City Commission

FROM: Lance Lehigh, PE, Interim City Engineer
Jeff Mihelich, City Manager

SUBJECT: Authorize the City Manager to Sign a Second Addendum to the Professional Services Agreement for Engineering Development Services with TD&H Engineering

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to sign the Second Addendum to the Professional Services Agreement for Engineering Development Services with TD&H Engineering.

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: The City is experiencing a tremendous amount of growth and development. During certain times, City staff require a qualified consultant to assist with engineering development review (i.e. infrastructure, occupancy, permitting, site plan, etc.)

Per MCA 18-8-201 et seq, Staff conducted a Request for Qualifications process to select a consultant capable of completing this work. Five consultants submitted proposals, which four staff members reviewed and ranked. Staff determined TD&H engineering to be the most qualified consultant. The agreement is effective for two years after the date of execution with the option to extend the agreement an additional year upon mutual agreement. In no case, however, may this agreement run longer than three (3) years from its effective date.

Staff plans to utilize TD&H engineering on an on-call basis as deemed appropriate in order to continue to satisfy deadlines, maintain our current level of service, and address unforeseen support needs that arise.

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the Commission.

FISCAL EFFECTS: Development support services will be paid on a time-and-materials basis, and will be funded through the FY22 engineering department operating

budget for consultant support needs.

Attachments:

[Second Addendum to Professional Services Agreement](#)
[Attachment A Scope of Services and Rate Schedule for 2022](#)
[Professional Service Agreement dated 01-27-2020](#)

Report compiled on: January 20, 2022



SECOND ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS SECOND ADDENDUM TO THE PROFESSIONAL SERVICES AGREEMENT is made and entered into this ____ day of _____, 2022, by and between the **CITY OF BOZEMAN, MONTANA**, a self governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” TD&H Engineering, hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Extension of Term.** Section 30 of the Professional Services Agreement between the City and Contractor dated January 27, 2020 (the Agreement) is extended for an additional one (one) year period. The Agreement shall terminate on January 27, 2023.
2. **Agreement still valid.** All remaining terms and provisions of the Agreement remain valid. Updated - Attachment A Scope of services.

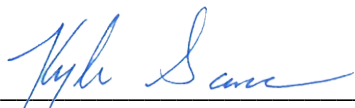
****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BOZEMAN, MONTANA

CONTRACTOR (TD&H Engineering)

By _____
Jeff Mihelich, City Manager

By 

Print Name: Kyle Scarr
Title: Vice President

APPROVED AS TO FORM

By _____

Greg Sullivan, Bozeman City Attorney

Attachment A

Scope of Services for City of Bozeman Engineering Development Review Term Contract

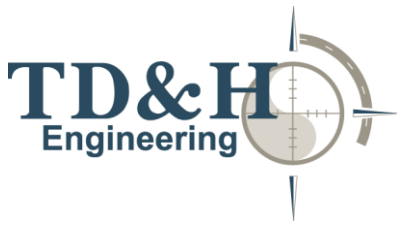
The services to be provided include:

The services to be provided include:

1. Engineering development reviews for site plans, subdivisions, and other various private development applications received by the Department of Community Development or Engineering Department. These items may include:
 - a) Water/Sewer layout, design, and metering
 - b) Potential conflicts with private and public utilities
 - c) Stormwater design review
 - d) Street layout and design
 - e) Transportation facilities review
 - f) Building permit review
 - g) Occupancy Review
 - h) Conformance with Bozeman Municipal Code and Montana Code provisions for subdivisions
2. Review of engineering design reports, specifications, and drawings.
3. Engineering Department permit reviews.
4. Provide review comments in a comprehensive technical memorandum that can be conveyed to the applicant within a mutually agreed upon timeframe.
5. All consultation services will be coordinated through the representatives outlined within the contract or their designees.

Payment:

1. Fee compensation the contractor for all work directly related to the services outlined within this scope of services shall be reimbursed on a Time & Material Basis, as detailed in the attached TD&H Engineering 2022 Rate Schedule.
2. In the event additional services are required beyond what has been outlined in this scope of services, the costs and details of services provided will be negotiated at that time. The additional services may include, but not limited to, attendance to public meetings, formal written reports beyond the standard development review requirements, or GIS/mapping services.



2022 BOZEMAN RATE SCHEDULE

FEE COMPENSATION

TD&H Engineering's hourly billing rates for 2022 are provided in the adjacent table. We invoice for services rendered to a project to the nearest half hour.

We will invoice all direct project costs at their actual cost plus 10%. Examples of these costs include airfare, ground transportation, lodging, meals, shipping and express mail, outside reproduction services, and other direct costs required for the project.

Outside contract services including subconsultants, subcontractors, and drilling services will be invoiced at cost plus 10% to cover additional insurance and administrative fees.

DIRECT REIMBURSABLES	
Vehicle Use: Passenger Vehicle Mileage	\$0.70/mile
Survey – Global Positioning	
Daily Rate:	\$500.00
Hourly Rate:	\$80.00
Minimum Charge:	\$160.00
Survey – Total Station	
Daily Rate:	\$100.00
Hourly Rate:	\$20.00
Nuclear Densometer	
Half Day Rate:	\$30.00
Full Day Rate:	\$60.00
Survey – Robotic Total Station	
Hourly Rate:	\$30.00
Reproduction	
Copy Machine:	\$0.10/page
CAD Plotter (In-house)	
Black and White:	\$0.30/SF
Color:	\$0.90/SF
Mylar:	\$3.00/SF
Concrete Testing	
Compressive Strength per Cylinder:	\$25.00

DESCRIPTION	HOURLY RATE
AA/EA Admin./Eng. Assistant	\$67.00
AM Administrative Manager	\$101.00
GA Grant Administrator	\$91.00
LS1 Surveyor's Assistant	\$75.00
LS2 Surveyor	\$85.00
LS3 Survey Party Chief	\$105.00
LS4 Project Surveyor	\$118.00
LS5 Registered Land Surveyor	\$145.00
IH1 Industrial Hygiene Technician I	\$80.00
IH2 Industrial Hygiene Technician II	\$103.00
ENVS Environmental Scientist	\$113.00
LT1 Lab Technician I	\$70.00
LT2 Lab Technician II	\$80.00
CR1 Construction Representative I	\$96.00
CR2 Construction Representative II	\$115.00
CM Construction Manager	\$115.00
RPR3 Resident Project Representative III	\$115.00
RPRSR Resident Project Representative Sr.	\$162.00
LA Landscape Architect	\$121.00
LP Land Planner	\$152.00
CLS CMT Lab Supervisor	\$116.00
CD1 CAD Designer I	\$80.00
GC CAD/GIS Specialist	\$98.00
CD2 CAD Designer II	\$110.00
CD3 CAD Manager	\$116.00
ET Engineering Technician	\$110.00
E1 Engineer I	\$105.00
E2 Engineer II	\$112.00
E3 Engineer III	\$130.00
E4 Engineer IV	\$148.00
E5 Engineer V	\$169.00
E6 Engineer VI	\$184.00
P Principal	\$222.00
DCT Deposition & Court Testimony	\$367.00

NOTES:

- 1) Construction Materials Testing per Separate Fee Schedule.
- 2) Overtime work (above 40 hours per week, or weekends) increase hourly rates by 25%, or per quotation.
- 3) Annual rate adjustments occur in January of each year. Increases typically range from 3% to 4%.



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of January, 2020, by and between the **CITY OF BOZEMAN, MONTANA**, a self governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, TD&H Engineering , 234 E. Babcock, Bozeman MT 59715, hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as Attachment “A” and by this reference made a part hereof.

2. **Term/Effective Date:** This Agreement is effective upon the date of its execution and will terminate two years after the date of execution. The agreement may be extended at the discretion per section 30 extensions.

3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.

4. **Payment:** City agrees to pay Contractor the amount specified in the Scope of Services. Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.

5. **Contractor’s Representations:** To induce City to enter into this Agreement, Contractor makes the following representations:
 - a. Contractor has familiarized itself with the nature and extent of this Agreement, the

Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform said services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. Independent Contractor Status/Labor Relations: The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in

connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes.

7. **Indemnity/Waiver of Claims/Insurance:** For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of and expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or willful misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should any indemnitee described herein be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below the indemnitee shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the indemnitee for a claim(s) or any portion(s) thereof.

In the event of an action filed against City resulting from the City's performance under this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City or its officers, agents or employees, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except “responsibility for his own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent” as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor’s expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in subsection (a) of this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City and Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers’ Compensation – statutory;
- Employers’ Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City of Bozeman, its officers, agents, and employees, shall be endorsed as an additional or named insured on a primary non-contributory basis on both the Commercial General and Automobile Liability policies. The insurance and required endorsements must be in a form suitable to City and shall include no less than a sixty (60) day notice of cancellation or non-renewal. The City must approve all insurance coverage and endorsements prior to the Contractor commencing work. Contractor shall notify City within two (2) business days of Contractor’s receipt of notice that any required insurance coverage will be terminated or Contractor’s decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately

in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives:

a. **City's Representative:** The City's Representative for the purpose of this Agreement shall be Lance Lehigh (Development Review Engineering Manager) or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to Lance Lehigh as the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as listed above and may receive approvals or authorization from such persons.

b. Contractor's Representative: The Contractor's Representative for the purpose of this Agreement shall be Kyle Scarr (TD&H Project Manager) or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder. The Contractor shall require these nondiscrimination terms of its sub-Contractors providing services under this agreement.

15. Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training: Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property

or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing his employees and agents in safe work practices.

16. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. Reports/Accountability/Public Information: Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. Non-Waiver: A waiver by either party any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. Attorney's Fees and Costs: That in the event it becomes necessary for either Party of 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's fees and costs, including fees, salary, and costs of in-house counsel to include City Attorney.

20. Taxes: Contractor is obligated to pay all taxes of any kind or nature and make all

appropriate employee withholdings.

21. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. Survival: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. Headings: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. Severability: If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.

25. Applicable Law: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. Binding Effect: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. No Third-Party Beneficiary: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. Counterparts: This Agreement may be executed in counterparts, which together constitute one instrument.

29. Integration: This Agreement and all Exhibits attached hereto constitute the entire

agreement of the parties. Covenants or representations not contained therein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. **Extensions:** this Agreement may, upon mutual agreement, be extended for a period of one year by written agreement of the Parties. In no case, however, may this Agreement run longer than three (3) years from its effective date.

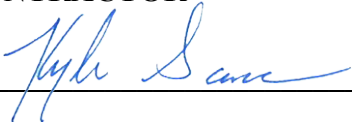
****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BOZEMAN, MONTANA

**TD&H Engineering
CONTRACTOR**

By _____
Dennis M. Taylor, Interim City Manager

By  _____
Print Name: Kyle Scarr
Print Title: Vice President

APPROVED AS TO FORM:

By _____
Greg Sullivan, Bozeman City Attorney

Memorandum

REPORT TO: City Commission

FROM: Luke Kline, Contracts Coordinator
Mitch Overton, Director of Parks and Recreation

SUBJECT: Authorize the City Manager to Sign a Second Amendment to the Professional Services Agreement with Treasure State, Inc. for Services to Design and Construct the Bogert Park Court Renovation Project

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to Sign the Second Amendment to the Professional Services Agreement with Treasure State, Inc. for Services to Design and Construct the Bogert Park Court Renovation Project.

STRATEGIC PLAN: 6.5 Parks, Trails & Open Space: Support the maintenance and expansion of an interconnected system of parks, trails and open spaces.

BACKGROUND: On May 4th, 2021 the City of Bozeman initiated a Professional Services Agreement with Treasure State, Inc. for Services to Design and Construct the Bogert Park Court Renovation Project. The project includes design and construction as defined in the Professional Service Agreement attached to the Memorandum as Attachment B PSA Treasure State Inc. The project has reached the final phase of construction that will include application of an athletic court surfacing product. The application requires a specific range of sustained outdoor temperature to install and cure correctly. It has been determined that those temperatures are most attainable during the 2022 summer season. A second amendment to the professional service agreement with Treasures State Inc. will extend the Agreement to provide the needed environmental conditions to finish out the project. The Second Amendment will extend the Professional Service Agreement between the City and Contractor dated May 4, 2021 to June 30, 2022 as described Attachment A PSA Amendment 2 Treasure State Inc. to the memorandum.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As Suggested by the Commission.

FISCAL EFFECTS: This project is being completed with funding approved in 2021 including contributions raised by pickleball community, Capital Improvements Project Maintenance fund, a Matching contribution allocated from the cash-in-lieu

of parkland fund and the Parks and Trails District Maintenance Fund account. No additional fund are being requested.

Attachments:

[Attachment A PSA Amendment 2 Treasure State Inc..pdf](#)

[Attachment B PSA Treasure State Inc..pdf](#)

Report compiled on: January 20, 2022



SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR Bogert Park Court Renovation Project dated May 4, 2021 (the “Agreement”) is made and entered into this ____ day of _____, 2022, by and between the **CITY OF BOZEMAN, MONTANA**, a self governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and Treasure State Inc., PO Box 588, Belgrade, MT 59714, hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

1. **Term/Effective Date:** The professional Service Agreement between the City and Contractor dated May 4, 2021 (the Agreement) is extended to June 30, 2022. The Agreement shall terminate on June 30, 2022.
2. **Agreement still valid.** All remaining terms and provisions of the Agreement remain valid.

****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BOZEMAN, MONTANA

TREASURE STATE INC.

By _____
Jeff Mihelich, City Manager

By _____
Print Name:
Title:

APPROVED AS TO FORM

By _____
Greg Sullivan, Bozeman City Attorney



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 4th day of May, 2021, by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as "City," and, Treasure State Inc., PO Box 588, Belgrade, MT 59714, hereinafter referred to as "Contractor." The City and Contractor may be referred to individually as "Party" and collectively as "Parties."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as **Attachment A** RFP Bogert Park Court Renovation and **Attachment B** Treasure State Bogert Park Court Design-Build Proposal by this reference made a part hereof.
2. **Term/Effective Date:** This Agreement is effective upon the Effective Date unless earlier terminated in accordance with this Agreement.
3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.
4. **Payment:** City agrees to pay Contractor the amount specified in the **Attachment B** Treasure State Bogert Park Court Design-Build Proposal as specified in the Value Engineered Revisions for Post-Tensioned Concrete Price Proposal. The total project cost not to exceed \$327,965. Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.

5. **Contractor's Representations:** To induce City to enter into this Agreement, Contractor makes the following representations:

a. Contractor has familiarized itself with the nature and extent of this Agreement, the Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform the services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. **Independent Contractor Status/Labor Relations:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, Montana Code Annotated (MCA), and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

Contractor shall post a legible statement of all wages and fringe benefits to be paid to the Contractor's employees and the frequency of such payments (i.e., hourly wage employees shall be paid weekly). Such posting shall be made in a prominent and accessible location at the Contractor's normal place of business and shall be made no later than the first day of services provided under this Agreement. Such posting shall be removed only upon expiration or termination of this Agreement.

In performing the services under this Agreement, Contractor shall give preference to the employment of bona fide residents of Montana, as required by §18-2-403, MCA, as such term is defined by §18-2-401(1), MCA. When making assignments of work, Contractor shall use workers both skilled in their trade and specialized in their field of work for all work to which they are assigned.

Pursuant to §§18-2-403 and 18-2-422, MCA, Contractor shall pay wages, fringe benefits, and expenses, including travel allowances as set forth in the current Montana Prevailing Wage Rate for Non Construction Services in effect and applicable to Gallatin County, Montana, which schedule is incorporated herein. Contractor shall pay all hourly wage employees on a weekly basis. Violation of the requirements set forth in the above State of Montana schedule of prevailing wage rates may subject the Contractor to the penalties set forth in §18-2-407, MCA. Contractor shall maintain payroll records during the term of this Agreement and for a period of three (3) years following termination of this Agreement.

The Contractor shall ensure that any person, firm or entity performing any portion of the services under this Agreement for which the contractor, subcontractor or employer is responsible, is paid the applicable standard prevailing rate of wages.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes and for any claims regarding underpaid prevailing wages.

7. Indemnity/Waiver of Claims/Insurance: For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the

cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; or (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or intentional misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the City as indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should the City be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below, the City shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the City for a claim(s) or any portion(s) thereof.

In the event of an action filed against the City resulting from the City's performance under this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except "responsibility for [City's] own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent" as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor's expense secure

insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City. Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers' Compensation – statutory;
- Employers' Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City shall be endorsed as an additional or named insured on a primary non-contributory basis on both the Commercial General and Automobile Liability policies. The insurance and required endorsements must be in a form suitable to City and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Contractor shall notify City within two (2) business days of Contractor's receipt of notice that any required insurance coverage will be terminated or Contractor's decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement, the City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives and Notices:

a. **City's Representative:** The City's Representative for the purpose of this Agreement shall be Luke Kline or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as designated by the City in writing and may receive approvals or authorization from such persons.

b. **Contractor's Representative:** The Contractor's Representative for the purpose of this Agreement shall be Ty Giffin or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

c. **Notices:** All notices required by this Agreement shall be in writing and shall be provided to the Representatives named in this Section. Notices shall be deemed given when delivered, if delivered by courier to Party's address shown above during normal business

hours of the recipient; or when sent, if sent by email or fax (with a successful transmission report) to the email address or fax number provided by the Party's Representative; or on the fifth business day following mailing, if mailed by ordinary mail to the address shown above, postage prepaid.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination and Equal Pay: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Contractor represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). Contractor must report to the City any violations of the Montana Equal Pay Act that Contractor has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Contractor shall require these nondiscrimination terms of its subcontractors providing services under this Agreement.

15. **Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training:** Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing its employees and agents in safe work practices.

16. **Modification and Assignability:** This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. **Reports/Accountability/Public Information:** Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. **Non-Waiver:** A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. **Attorney's Fees and Costs:** In the event it becomes necessary for either Party 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's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

20. **Taxes**: Contractor is obligated to pay all taxes of any kind or nature and make all appropriate employee withholdings.

21. **Dispute Resolution**:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. **Survival**: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. **Headings**: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. **Severability**: If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.

25. **Applicable Law**: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. **Binding Effect**: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. **No Third-Party Beneficiary**: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. **Counterparts:** This Agreement may be executed in counterparts, which together constitute one instrument.

29. **Integration:** This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained herein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. **Consent to Electronic Signatures:** The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

**** END OF AGREEMENT EXCEPT FOR SIGNATURES ****

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written or as recorded in an electronic signature.

CITY OF BOZEMAN, MONTANA

Treasure State, Inc.

DocuSigned by:
By Jeff Mihelich
201007F0B4B24AD...
Jeff Mihelich, City Manager



DocuSigned by: **CONTRACTOR (Type Name Above)**

DocuSigned by:
By Ty Giffin
2475EBA72651463...
Print Name: Ty Giffin
Print Title: GM

APPROVED AS TO FORM:

DocuSigned by:
By Greg Sullivan
876992AC9ACA44B...
Greg Sullivan, Bozeman City Attorney



FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR Bogert Park Court Renovation Project dated the May 4, 2021 (the “Agreement”) is made and entered into this 14th day of September, 2021, by and between the **CITY OF BOZEMAN, MONTANA**, a self governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and Treasure State Inc., PO Box 588, Belgrade, MT 59714, hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

1. **Scope of Services.** The Scope of services, Section 3 is amended to incorporate the scope of work attached as Attachment A, Treasure State Inc. Bogert Park Court Renovation Design/Build Proposal Construction Documents Revision which is made a part of the Agreement by this reference.
2. **Payment.** Section 4 of the Agreement is amended to increase the total project cost amount the city agrees to pay Contractor up to \$4,300 as defined in Attachment A Optional Scope: 1. Add \$4,300 to increase the overex and replacement with screened rock to 12” depth instead of 6” depth. The total project cost is not to exceed \$332,265.
3. **Agreement still valid.** All remaining terms and provisions of the Agreement remain valid.

****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BOZEMAN, MONTANA

TREASURE STATE INC.

DocuSigned by:
 By Jeff Mihelich
 251807FD6A824A6...
Jeff Mihelich, City Manager



DocuSigned by:
 By Ty Giffin
 2475EBA72051183...
Print Name: Ty Giffin
Title: GM

APPROVED AS TO FORM

DocuSigned by:
 By Greg Sullivan
 876992AC9ACA44B...
Greg Sullivan, Bozeman City Attorney

Attachment ATREASURE STATE INC.

Date: 8/18/2021

Belgrade/Bozeman, MT

City of Bozeman
 c/o Luke Kline, Parks Contracts Coordinator
 PO Box 1230
 Bozeman, MT 59771-1230

Project: Bogert Park Court Renovation Design/Build Proposal
 Construction Documents Revision

Dear Luke,

Below is a revised breakout incorporating changes to date within the Construction Documents. Here's what changed:

1. Site Demolition increased because of changes to demo limits to accommodate under slab drainage system. We also added effort to remove and stack the existing bball court tiles within the bball court fenced area. The City will reinstall upon completion.
2. Earthwork/Excavation and Placement/Compaction of Materials includes the addition of 6" of subexcavtion below subgrade and import of 6" of screened rock for the perimeter thickened edges and storm drain areas per modified recommendations within the geotechnical memo to replace existing asphalt areas that have been removed with 6" of screened rock.
3. Added Utilities to include the under slab drainage system.
4. PT Slab is higher due to an increase in footprint to include the existing posts within the slab and the need to provide 12" of embedment of the thickened edges into the existing grades around the perimeter. That increased the total height of the thickened edges from 12" to an average of around 20". The reveal of the concrete around the perimeter will remain the same. The edges just had to be increased in height to include at least 12" underground.
5. Fencing changes includes adding the removal, offsite storage, and reinstallation of all 4 sides after adding 12" sleeve extensions to accommodate reusing the existing fence on top of the new slab rather than alongside it. Added resetting of North poles due to grade changes along the North end.
6. There was some minor changes that include grading modifications around the perimeter and a stair addition that were not added to the cost of the project as we should be able to complete those tasks while onsite completing adjacent scope.

Description	Total	VE	Difference
Investigations/Site Examinations	\$ 550	\$ 550	\$ -
Engineering Design SD / DD/ CD	\$ 9,900	\$ 9,900	\$ -
Engineering Construction Services	\$ 8,800	\$ 8,800	\$ -
General Requirements (incl. mob, traffic control, BMPs, other proj. incidentals)	\$ 53,030	\$ 54,000	\$ (970)
Site demolition	\$ 13,500	\$ 10,700	\$ 2,800
Earthwork/Excavation	\$ 13,200	\$ 12,000	\$ 1,200
Utilities	\$ 4,585	\$ -	\$ 4,585
Placement/Compaction of Materials	\$ 15,700	\$ 9,200	\$ 6,500
PT slab	\$ 132,700	\$ 120,000	\$ 12,700
Fencing, net posts, & gates	\$ 34,000	\$ 31,000	\$ 3,000
Court surfacing, paint, striping	\$ 42,000	\$ 42,000	\$ -
SubTotal	\$ 327,965		
VE amount w/ 10% Contingency	\$ 327,965		
Difference	\$ 0		

Optional Scope:

1. Add \$ 4,300 to increase the overex and replacement with screened rock to 12" depth instead of 6" depth.

First Amendment to Professional Services Agreement Bogert Park Court Renovation Project
 FY 2021 – FY 2022

Page 3 of 4

Attachment A

TREASURE STATE INC.

Belgrade/Bozeman, MT

Cheers,



Ty Giffin
General Manager
ty@treasurestateinc.com



Office: (406) 924-4525 Fax: (406) 924-8452 www.treasurestateinc.com PO Box 588 Belgrade, MT 59714



First Amendment to Professional Services Agreement Bogert Park Court Renovation Project
FY 2021 – FY 2022
Page 4 of 4

NONDISCRIMINATION AND EQUAL PAY AFFIRMATION

Treasure State, Inc. (name of entity submitting) hereby affirms it will not discriminate on the basis of race, color, religion, creed, sex, age, marital status, national origin, or because of actual or perceived sexual orientation, gender identity or disability and acknowledges and understands the eventual contract will contain a provision prohibiting discrimination as described above and this prohibition on discrimination shall apply to the hiring and treatments or proposer's employees and to all subcontracts.

In addition, Treasure State, Inc. (name of entity submitting) hereby affirms it will abide by the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act), and has visited the State of Montana Equal Pay for Equal Work "best practices" website, <https://equalpay.mt.gov/BestPractices/Employers>, or equivalent "best practices" publication and has read the material.

Ty Giffin, General Manager

Name and title of person authorized to sign on behalf of submitter

Memorandum

REPORT TO: City Commission

FROM: Mike Veselik, Parking Program Manager
Brit Fontenot, Economic Development Director

SUBJECT: Authorize the City Manager to Sign a Professional Services Agreement with SKIDATA for the Installation of New Gates in the Bridger Park Parking Garage

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to Sign a Professional Services Agreement with SKIDATA for the Installation of New Gates in the Bridger Park Parking Garage

STRATEGIC PLAN: 7.5. Funding and Delivery of City Services: Use equitable and sustainable sources of funding for appropriate City services, and deliver them in a lean and efficient manner.

BACKGROUND: In October 2021, the parking gate which separates the basement of the garage from the main floors failed. Staff attempted contacting several vendors and SKIDATA was the only company to respond with a timeline that met the City's needs and capacity to take on a new project at this time. SKIDATA will ship the gate to Bozeman and send a technician to install the gate and train city staff on basic maintenance of the gate.

UNRESOLVED ISSUES: No Unresolved issues identified

ALTERNATIVES: As proposed by the Commission

FISCAL EFFECTS: The project will cost \$23,176 for the equipment, labor, and travel. It is included in the Commission approved budget as part of routine maintenance.

Attachments:

[PSA for new Garage Gate Skidata Jan 25, 2022.docx](#)
[Exhibit A-SKIDATA_Proposal_For_Bridger Garage Replacement Gates.pdf](#)

Report compiled on: January 11, 2022



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 202__ (“Effective Date”), by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, SKIDATA, 16600 Sherman Way, Suite 150, Van Nuys, CA 91406, hereinafter referred to as “Contractor.” The City and Contractor may be referred to individually as “Party” and collectively as “Parties.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as Exhibit A and by this reference made a part hereof.
2. **Term/Effective Date:** This Agreement is effective upon the Effective Date and will expire on the 31st day of December, 2022, with the option to extend on an annual basis for up to five years, unless earlier terminated in accordance with this Agreement.
3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.
4. **Payment:** City agrees to pay Contractor the amount specified in the Scope of Services (Exhibit A). Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.
5. **Contractor’s Representations:** To induce City to enter into this Agreement,

Contractor makes the following representations:

a. Contractor has familiarized itself with the nature and extent of this Agreement, the Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform the services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. Independent Contractor Status/Labor Relations: The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, Montana Code Annotated (MCA), and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that

Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes.

7. Indemnity/Waiver of Claims/Insurance: For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; or (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or intentional misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the City as indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should the City be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below, the City shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent

jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the City for a claim(s) or any portion(s) thereof.

In the event of an action filed against the City resulting from the City's performance under this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except "responsibility for [City's] own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent" as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor's expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City. Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers' Compensation – statutory;
- Employers' Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City shall be endorsed as an additional or named insured on a primary non-contributory basis on the Commercial General, Employer's Liability, and Automobile Liability policies. The insurance and required endorsements

must be in a form suitable to City and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Contractor shall notify City within two (2) business days of Contractor's receipt of notice that any required insurance coverage will be terminated or Contractor's decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement, the City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives and Notices:

a. City's Representative: The City's Representative for the purpose of this Agreement shall be Mike Veselik, Economic Development Program Manager, Parking or

such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as designated by the City in writing and may receive approvals or authorization from such persons.

b. Contractor's Representative: The Contractor's Representative for the purpose of this Agreement shall be Ron Machon, Area Sales Manager, or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

c. Notices: All notices required by this Agreement shall be in writing and shall be provided to the Representatives named in this Section. Notices shall be deemed given when delivered, if delivered by courier to Party's address shown above during normal business hours of the recipient; or when sent, if sent by email or fax (with a successful transmission report) to the email address or fax number provided by the Party's Representative; or on the fifth business day following mailing, if mailed by ordinary mail to the address shown above, postage prepaid.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination and Equal Pay: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Contractor represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). Contractor must report to the City any violations of the Montana Equal Pay Act that Contractor has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Contractor shall require these nondiscrimination terms of its subcontractors providing services under this Agreement.

15. Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training: Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing its employees and agents in safe work practices.

16. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not

subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. Reports/Accountability/Public Information: Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. Non-Waiver: A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. Attorney's Fees and Costs: In the event it becomes necessary for either Party 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's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

20. Taxes: Contractor is obligated to pay all taxes of any kind or nature and make all appropriate employee withholdings.

21. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of

competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. Survival: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. Headings: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. Severability: If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.

25. Applicable Law: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. Binding Effect: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. No Third-Party Beneficiary: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. Counterparts: This Agreement may be executed in counterparts, which together constitute one instrument.

29. Integration: This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained herein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. Consent to Electronic Signatures: The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

31. Extensions: this Agreement may, upon mutual agreement, be extended for a period

Version 8 30 21

of one year by written agreement of the Parties. In no case, however, may this Agreement run longer than five years.

****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written or as recorded in an electronic signature.

CITY OF BOZEMAN, MONTANA

SKIDATA

By _____
Jeff Mihelich, City Manager

By _____
Darrell Smithson, NAM President

APPROVED AS TO FORM:

By _____
Greg Sullivan, Bozeman City Attorney



SKIDATA PROPOSAL

ISSUE DATE: 01/05/2022
VALID UNTIL: 02/04/2022

PROJECT INFORMATION			
PROJECT NAME:	BRIDGER GARAGE - REPLACEMENT GATES	SKIDATA CONTACT:	RONALD MACHON
ACCOUNT NAME:	BRIDGER GARAGE	PHONE NUMBER:	425-864-7317
PROPOSAL #:	273638	E-MAIL ADDRESS:	RONALD.MACHON@SKIDATA.COM

PROJECT LOCATION	BILL TO INFORMATION
BRIDGER GARAGE 26 E MENDENHALL ST BOZEMAN, MT 59715	BRIDGER GARAGE 26 E MENDENHALL ST BOZEMAN, MT 59715

SOLUTION SUMMARY
SKIDATA TO REPLACE (2) TWO EXISTING BARRIER 98 WITH BARRIER.GATE. NEW GATES WILL REQUIRE A MOUNTING PLATE ALONG WITH DISCONNECTING POWER & LOW VOLTAGE. TRAINING ON FIRST LEVEL MAINTENANCE WILL BE PROVIDED ONCE INSTALLATION IS COMPLETE. TRAINING WILL CONSIST BUT NOT LIMITED TO, SIMPLE TROUBLE SHOOTING, POWER CYCLE, GATE ARM REPLACEMENT, BEST PRACTICES, ETC.

FINANCIAL SUMMARY			
EQUIPMENT:	\$ 13,025	EQUIPMENT WARRANTY TERM:	12 MONTHS
SOFTWARE:	\$ 0	SERVICE OPTIONS	FIRST YEAR
LABOR:	\$ 1,575	SCHEDULED SERVICING	AVAILABLE
FREIGHT:	\$ 476	EXTENDED WARRANTY	AVAILABLE
ESTIMATED SALES TAX:	\$ 0	PCI - SECURITY SUPPORT	AVAILABLE
ESTIMATED LABOR TAX:	\$ 0	UPTIME GUARANTEE	AVAILABLE
ESTIMATED FREIGHT TAX:	\$ 0		
ANNUAL LICENSING FEES INCLUDED:	\$ 0		
SUB-CONTRACTED TOTAL:	\$ 0		
WAGE OR INSURANCE PREMIUMS:	\$ 0		
PROJECT SERVICES:	\$ 8,100		
TOTAL SYSTEM INVESTMENT:	\$ 23,176		


PROJECT DATES	
YOUR DESIRED GO-LIVE	*02/05/2022

PAYMENT SCHEDULES OF VALUES			
#	PAYMENT DESCRIPTION	%	\$ AMOUNT
1	DEPOSIT CHECK - RETURN WITH SIGNED AGREEMENT TO ACTIVATE THE PROJECT	50%	\$ 11,588
2	ARRIVAL - EQUIPMENT AND SOFTWARE INVOICED ONCE RECEIVED AT SKIDATA	30%	\$ 6,953
3	SUBSTANTIAL COMPLETION - UPON GO-LIVE, AN INVOICE WILL BE ISSUED	15%	\$ 3,476
4	FINAL RETENTION - AT PROJECT CLOSE-OUT, A FINAL INVOICE WILL BE ISSUED	5%	\$ 1,159




PROPOSAL STATEMENT OF WORK

- (2) BARRIER,GATE
 - STRAIGHT ARM
 - RETROFIT BASE
- (4) STRAIGHT ARMS
 - 2 SPARE
- (20) SHER BOLTS
- (1) BARRIER TOOL KIT
- (1) LOT TRAVEL


SKIDATA GATES




#	BUNDLE NAME	UNIT PRICE	QTY	EXTENDED PRICE
1	 ENTRY BARRIER.GATE - ECO HIGH QUALITY BARRIER.GATE DEVICE FOR THE US- AND CANADIAN MARKET WITH NRTL/UL CERTIFICATION. INCLUDES LIGHT STRIPE AND WARNING LIGHT	\$5,297.56	2	\$ 10,595

BARRIER GATE KITS

#	BUNDLE NAME	UNIT PRICE	QTY	EXTENDED PRICE
2	 BARRIER.GATE - BOOM 10FT 3 M (9.84FT) YELLOW BARRIER ARM, NOT ILLUMINATED, MADE FROM FIBERGLASS REINFORCED PLASTIC	\$ 400.00	4	\$ 1,600
3	 MOUNTING PLATE - BARRIER.GATE MOUNTING PLATE FOR SKIDATA BARRIER.GATE	\$ 322.00	2	\$ 644
4	 BARRIER.GATE LAYING BOLT (SHEAR) SHEAR BOLTS FOR SKIDATA BARRIER GATE	\$ 6.00	20	\$ 120

ACCESSORIES / OTHER

#	BUNDLE NAME	UNIT PRICE	QTY	EXTENDED PRICE
5	 SKIDATA BARRIER TOOL KIT	\$ 65.00	1	\$ 65

PROJECT SERVICES		
#	PROJECT SERVICE NAME	TOTAL PRICE
1	 COMMISSIONING	\$ 900
2	 TRAVEL + TRAINING	\$ 5,700
3	 PROJECT MANAGEMENT	\$ 1,500

**CUSTOMER ACCOUNT
INFORMATION FORM**



Name of Parking Facility: _____

Bill To:
 Legal Entity Name: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____
 Bus. Phone: _____ Cell Phone: _____
 A/P Contact: _____
 A/P Phone: _____ E-mail: _____

Are you a Municipal, State, or Federal Government-Owned Corporation? Yes No
 Is work performed at your location "Public Works" subject to Prevailing Wages? Yes No
 Are you Tax Exempt? Yes No | If Yes, please provide Certificate of Exemption.

Business Entity Type: (Please select all that apply)
 Owner Property Manager Car Park Operator
 General Contractor Other: _____

Preferred Contact Method: Business Phone Cell Phone Mail E-mail
 Preferred Invoice Delivery Method: Mail E-mail

Ship To: (If Same as Billing Address)
 Location Name: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____
 Shipping Contact: _____
 Shipping Phone: _____ E-mail: _____

If the Parking Facility's location is different than the Shipping Address, please provide the Facility Location:

Facility Location: (If Same as Shipping Address)
 Location Name: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____

Please Note: All fields are required.

Signature: _____ Title: _____
 X _____ Date: _____
 Customer Representative

CRM ID (Internal Use Only)

Please Return Completed Form to:
us.ar@skidata.com
 For Questions, Please Contact:
 Traci Hawkins | Admin, Project Billing
traci.hawkins@skidata.com | 818.538.2144

Memorandum

REPORT TO: City Commission

SUBJECT: State of the City Address

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Administration

RECOMMENDATION: Mayor Andrus will provide the State of the City.

Memorandum

REPORT TO: City Commission

FROM: Tom Rogers, Senior Planner
Anna Bentley, Interim Community Development Director

SUBJECT: South 3rd Avenue Annexation and Zone Map Amendment for the Establishment of a Zoning Designation of R-3 for a property Addressed at 2303 South 3rd Avenue and Generally Located One-quarter Mile South of the Kagy and Wilson, Application 21161

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Community Development - Legislative

RECOMMENDATION: **Recommended Annexation Motion:**
Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application 21161 and move to approve the South 3rd Avenue Annexation with recommended terms of annexation, and direct staff to prepare an annexation agreement for signature by the parties.

Recommended Zoning Motion:
Having reviewed and considered the staff report, application materials, public comment, recommendation of the Zoning Commission, and all information presented, I hereby adopt the findings presented in the staff report for application 21161 and move to approve the South 3rd Avenue Zone Map Amendment, with contingencies required to complete the application processing.

STRATEGIC PLAN: 4.1 Informed Conversation on Growth: Continue developing an in-depth understanding of how Bozeman is growing and changing and proactively address change in a balanced and coordinated manner.

BACKGROUND: The applicants and property owners, CBJ, LLC, submitted application to annex a 1.17 acre parcel into the City limits and establish initial zoning of R-3, Residential Medium Density. The property is currently zoned "Public Lands" within the county and hosts a single-household structure with associated out buildings. Nearby municipal zoning includes Residential Single-Household Low Density (R-1).

The Bozeman City Commission approved a modification of the Future Land Map on December 7, 2021 to change the Future Land Use designation from Public Lands to Urban Neighborhood. Final adoption of Resolution No. 5367 occurred on January 4, 2022 as described in Application 21309. The R-3

(Residential Medium Density District), serves to implement the Urban Neighborhood classification.

On January 3, 2022 the Community Development Board acting in their capacity as the Zoning Commission held a public hearing and after considering all information and public comment recommended approval of the zoning designation.

UNRESOLVED ISSUES: There are no identified conflicts between the City and Applicant regarding the annexation or zoning at this time.

ALTERNATIVES:

1. Approve the application with the recommended contingencies and requested zoning;
2. Approve the application with modifications to the recommended contingencies or zoning;
3. Deny the application based on the Commission's findings of non-compliance with the applicable criteria contained within the staff report; or
4. Open and continue the public hearing on the application, with specific direction to staff or the applicant to supply additional information or to address specific items.

FISCAL EFFECTS: No unusual fiscal effects have been identified. No presently budgeted funds will be changed by this Annexation or Zone Map Amendment. Future development will incur costs and generate review according to standard City practices.

Attachments:

[21161 S 3rd ANNEX - ZMA CC SR.pdf](#)

[A1_093021.pdf](#)

[NARRATIVE092721.pdf](#)

[ANNEX.pdf](#)

[ZMA.pdf](#)

[COS_3052.pdf](#)

[N1_032921.pdf](#)

[PUB_STR_UTIL_EAS_EX_A.pdf](#)

[PLUM_SITE_092721.pdf](#)

Report compiled on: January 20, 2022

21161 Staff Report for the South 3rd Avenue Annexation & ZMA

Public Hearings: Community Development Board (map amendment only) January 3, 2022

City Commission (Annexation and map amendment) February 1, 2022

Project Description: Annexation of 1.17 acres and amendment of the City Zoning Map for the establishment of a zoning designation of R-3 (Residential Medium Density).

Project Location: 2303 South 3rd Avenue and more accurately described as Tract 1 of Certificate of Survey 3052, located in the Northeast One-Quarter (NE ¼) of Section 24, Township Two South (T2S), Range Five East (R5E), P.M.M., Gallatin County, MT. The annexation and zone map amendment would also apply to the street adjacent to the property.

Recommendation: Meets standards for approval with contingencies.

Recommended Annexation Motion: Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application 21161 and move to approve the South 3rd Avenue Annexation with recommended terms of annexation, and direct staff to prepare an annexation agreement for signature by the parties.

Recommended Zoning Motion: Having reviewed and considered the staff report, application materials, public comment, recommendation of the Zoning Commission, and all information presented, I hereby adopt the findings presented in the staff report for application 21161 and move to approve the South 3rd Avenue Zone Map Amendment, with contingencies required to complete the application processing.

Zoning Commission Motion: Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application 21161 and move to recommend approval of the South 3rd Avenue Zone Map Amendment, with contingencies required to complete the application processing.

Report: January 19, 2022

Staff Contact: Tom Rogers, Senior Planner

Agenda Item Type: Action – **Legislative**

EXECUTIVE SUMMARY

This report is based on the application materials submitted and public comment received to date.

Unresolved Issues

There are no identified conflicts between the City and Applicant regarding the annexation or zoning at this time.

Project Summary

The applicants and property owners, CBJ, LLC, seek to annex 1.17 acre parcel into the City limits and establish initial zoning of R-3, Residential Medium Density. The property is currently zoned “Public Lands” within the county and hosts a single-household structure with associated out buildings. Immediate vicinity municipal zoning includes Residential Single-Household Low Density (R-1) and a more diverse zoning map within one third of a mile that includes R-2, BP, B-1, R-3, and R-O.

Please note that the map exhibit states R-5 is requested while the narrative and application states R-3. R-3 is the correct zoning designation. If approved, the contingencies require the map exhibit to be corrected prior to final action.

The Bozeman City Commission approved a modification of the Future Land Map on December 7, 2021 to change the Future Land Use designation from Public Lands to Urban Neighborhood. Final adoption of Resolution No. 5367 is scheduled on January 4, 2022 as described in Application 21309. The R-3 (Residential Medium Density District), serves to implement the Urban Neighborhood classification.

The adjacent South 3rd Avenue road rights-of-way will be annexed with this application.

The following public adopted planning documents support urban development for the subject area if development is proposed on the site:

- [Bozeman Community Plan 2020](#)
- [Gallatin County growth policy](#)
- [Gallatin County/Bozeman Area Plan](#) – County neighborhood plan
- [Transportation Master Plan 2017](#) – City transportation plan
- [Greater Bozeman Area Transportation Master Plan 2007](#) – Gallatin County Transportation Plan
- [Water Facility Plan 2017](#) – City’s plan for water system operations and expansion
- [Wastewater Facility Plan 2015](#) – City’s plan for wastewater system operations and expansion

Zoning Commission

The Community Development Board acting in their capacity as the Zoning Commission held a public hearing on January 3, 2022. After consideration of the application materials, Staff report, and public comment the Board voted 9:0 to recommend approval of the ZMA.

In addition to the written comments four people made oral testimony during the hearing. Testimony against the zoning focused on the impacts future development may have on the character of the neighborhood, noise concerns, increased traffic, noise, and factual errors contained in the applicant submittal.

Those in support addressed the need for housing in the community and argued this area is well suited for additional housing.

The video recording of the public hearing is available at:

https://bozeman.granicus.com/player/clip/210?view_id=1&redirect=true

Public comment has been received on the application. Comments, including those received on the Growth Policy Amendment application, can be viewed at the following link.

<https://weblink.bozeman.net/WebLink/browse.aspx?id=258402&dbid=0&repo=BOZEMAN>

Alternatives

1. Approve the application with the recommended contingencies and requested zoning;
2. Approve the application with modifications to the recommended contingencies or zoning;
3. Deny the application based on the Commission's findings of non-compliance with the applicable criteria contained within the staff report; or
4. Open and continue the public hearing on the application, with specific direction to staff or the applicant to supply additional information or to address specific items.

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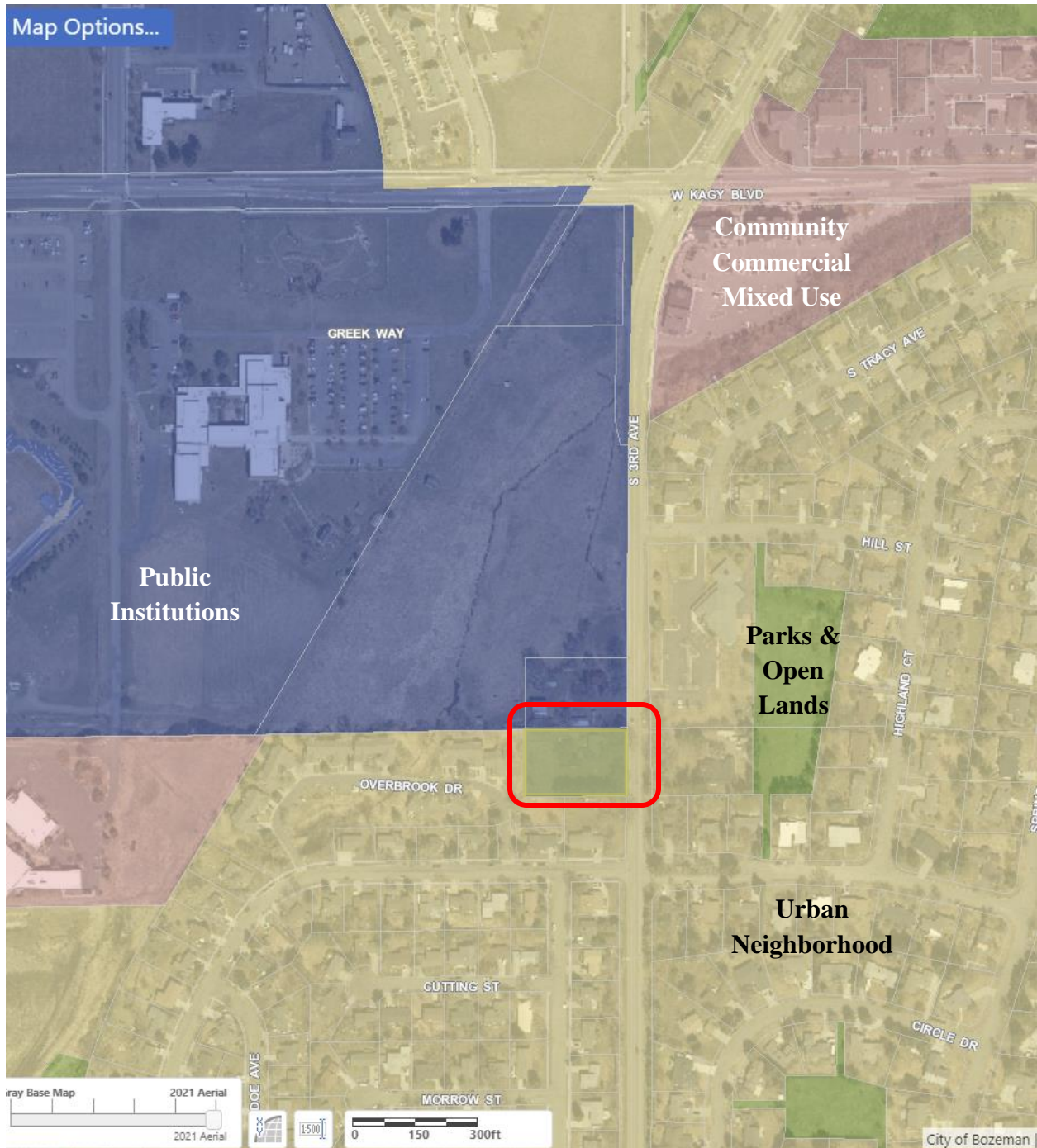
SECTION 1 - MAP SERIES



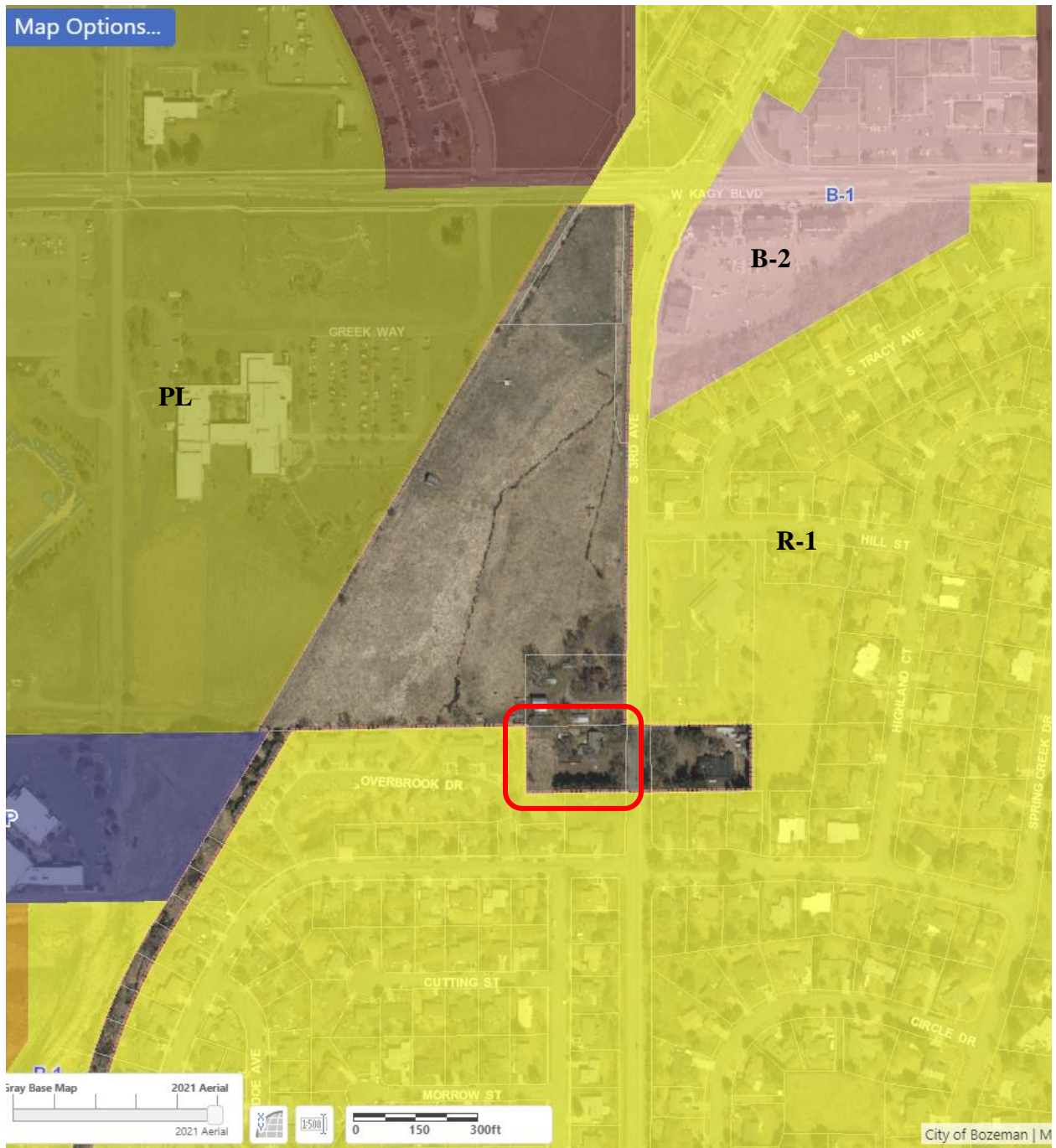
Project Vicinity Map (2021 air photo)



Project Vicinity Map (2021 air photo)



Project Vicinity Map Showing the Bozeman Community Plan 2020 Future Land Use Map – Subject property is designated as Urban Neighborhood



Project Vicinity Map Showing Near Vicinity Municipal Zoning

SECTION 2 - RECOMMENDED TERMS OF ANNEXATION

The following terms of annexation are recommended to enable the application to comply with the City's Annexation Policy and the requirements of state law for the provision of services.

Recommended terms of annexation:

1. The documents and exhibits to formally annex the subject property must be identified as the "South 3rd Annexation".
2. An Annexation Map, titled "South 3rd Annexation Map" with a legal description of the property and any adjoining un-annexed rights-of-way and/or street access easements must be submitted by the applicant for use with the Annexation Agreement. The map must be supplied as a PDF for filing with the Annexation Agreement at the County Clerk & Recorder, and a digital copy for the City Engineer's Office. This map must be acceptable to the Director of Public Works and City Engineer's Office, and must be submitted with the signed Annexation Agreement.
3. The applicant must execute all contingencies and terms of said Annexation Agreement with the City of Bozeman within 60 days of the distribution of the annexation agreement from the City to the applicant or annexation approval shall be null and void.
4. The land owners and their successors must pay all fire, street, water and sewer impact fees at the time of connection; and for future development, as required by Chapter 2, Bozeman Municipal Code, or as amended at the time of application for any permit listed therein.
5. If they do not already exist the applicant must provide and file with the County Clerk and Recorder's office executed Waivers of Right to Protest Creation of Special Improvement Districts (SID's) for the following:
 - a) See engineering comments.

The applicant may obtain a copy of the template SID waiver from the City Engineering Department. The document filed must specify that in the event an SID is not utilized for the completion of these improvements, the applicant agrees to participate in an alternate financing method for the completion of said improvements on a fair share, proportionate basis as determined by square footage of property, taxable valuation of the property, traffic contribution from the development, or a combination thereof. The applicant must provide a copy of the SID waiver filed with the County Clerk and Recorder prior to annexation.

6. The Annexation Agreement must include notice that the applicant must connect to municipal services and will be responsible for installing any facilities required to provide full municipal services to the property in accordance with city policy at the time of connection.
7. The applicant must properly abandon the existing on-site septic tank and leach field prior to connection to the City sanitary sewer system. The applicant must report the abandonment to the City Water and Sewer Superintendent (John Alston) for inspection, and the applicant must report the abandonment to the Gallatin City County Health Department. In addition to abandonment of the septic tank and leach field, the applicant

must demonstrate that the sanitary sewer service to the septic tank has been completely disconnected from the old septic system prior to connection to the City sanitary sewer system.

8. The applicant must completely disconnect the on-site well from the house prior to connection to the City water system to protect the City's system from cross contamination. The applicant must contact the City Water and Sewer Superintendent to inspect the disconnect prior to connection of water service from the house to the City water system.
9. The applicant must contact the City Engineering Department to obtain an analysis of cash-in-lieu of water rights for the proposed annexation. The determined amount must be paid prior to annexation.

SECTION 3 - RECOMMENDED CONTINGENCIES OF ZONE MAP AMENDMENT

Please note that these contingencies are necessary for the City to complete the process of the proposed amendment. These contingencies only apply in the event that the related annexation request has previously been approved.

Recommended Contingencies of Approval:

1. The Ordinance for the Zone Map Amendment must not be approved until the Annexation Agreement is signed by the applicant and formally approved by the City Commission. If the Annexation Agreement is not approved, the Zone Map Amendment application is null and void.
2. All documents and exhibits necessary to establish an initial municipal zoning designation must be identified as the "South 3rd Avenue Zone Map Amendment". The map exhibit must be revised to state R-3 zoning designation.
3. The applicant must submit a zone amendment map, titled "South 3rd Avenue Zone Map Amendment", as PDF and a digital copy of the area to be zoned, acceptable to the Director of Public Works, which will be utilized in the preparation of the Ordinance to officially amend the City of Bozeman Zoning Map. The map must contain a metes and bounds legal description of the perimeter of the subject properties, zoning district, and total acreage of the property.
4. The Ordinance for the Zone Map Amendment shall not be drafted until the applicant provides an editable metes and bounds legal description prepared by a licensed Montana surveyor.

SECTION 4 – ADVISORY COMMENTS

1. Future Impact Fees - Please note that future building permit applications will require payment of the required transportation, water, sewer and fire impact fees according to the City of Bozeman adopted impact fee schedule in place at the time of building permit issuance. If you desire an estimate of the required impact fees according to current rates please contact the Department of Community Development and/or visit www.bozeman.net.
2. Upon future development of the parcel, the transfer of water rights or the payment of cash-in-lieu (CIL) of water rights must be provided per Bozeman Municipal Code 38.410.130.

SECTION 5 - RECOMMENDATION AND FUTURE ACTIONS

Annexation

The Development Review Committee (DRC) considered the annexation. The DRC did not make a formal recommendation and did not express concerns with annexation of the property.

The City Commission will hold a public meeting on the annexation on February 1, 2022. The meeting will begin at 6 p.m. The meeting will be conducted through WebEx. Instructions on joining the meeting will be included on the meeting agenda.

Zone Map Amendment

Having considered the criteria established for a zone map amendment, the Staff finds the application meets criteria for approval as submitted. The South 3rd Avenue Zone Map Amendment (ZMA) is in conjunction with an annexation request. Staff's recommendation and staff responses are predicated on approval of the annexation, application 21161.

The Development Review Committee (DRC) considered the amendment. The DRC identified did not identify any infrastructure or regulatory constraints that would impede the approval of the Zone Map Amendment application.

The Community Development Board in their capacity as the Zoning Commission held a public hearing on this Zone Map Amendment on January 3, 2022 and forwarded a positive recommendation to the City Commission on the Zone Map amendment.

The City Commission will hold a public hearing on the zone map amendment on February 1, 2022. The meeting will begin at 6 p.m. The meeting will be conducted through WebEx. Instructions on joining the meeting will be included on the meeting agenda.

SECTION 6 - ANNEXATION STAFF ANALYSIS AND FINDINGS

In considering applications for approval of the requested annexation, the advisory boards and City Commission shall consider the following:

Commission Resolution No. 5076 Criteria

In evaluating compliance with the following Goals and Policies, Staff considers the application materials, Terms of Annexation, and adopted standards of the City to determine whether the Goal or Policy can be met.

Commission Resolution No. 5076 Goals

Goal 1: The City of Bozeman encourages annexations of land contiguous to the City.

This criterion is met. The property in question is contiguous to the City limits. The property is bounded on the south and west sides by City limits.

Goal 2: The City encourages all areas that are totally surrounded by the City to annex.

The subject property is not wholly surrounded although is considered an inholding within city limits.

Goal 3: The City encourages all properties currently contracting with the City for City services such as water, sanitary sewer, and/or fire protection to annex.

Not applicable. The subject property is not currently contracting for services.

Goal 4: The City of Bozeman requires annexation of all land proposed for development lying within the existing and planned service area of the municipal water and sewer systems as depicted in their respective facility plans, any land proposed for development that proposes to utilize municipal water or sewer systems.

This criterion is met. The subject property lies within the planned service area of the municipal water and sewer services. Existing sewer and systems are installed in the adjacent street right-of-way. As noted above, the area in question is an inholding with nearby properties currently being served by full City services included emergency services, and streets.

Goal 5: The City encourages annexations within the urban area identified on the future land use map in the current Bozeman Growth Policy.

This criterion is met. As shown in Section 1, the subject property is planned as Urban Neighborhood and is within the urban area of the growth policy. See the discussion under Criterion A of Section 6 of the report for more information on the growth policy.

Goal 6: The City of Bozeman encourages annexations to make the City boundaries more regular rather than creating irregular extensions which leave unannexed gaps between annexed areas or islands of annexed or unannexed land.

This criterion is met. The subject property is one of a number of inholdings wholly surrounded by City Limits. This annexation would secure another section of South 3rd Avenue rights-of-way to meet requirements of the City's Transportation Plan and will make the City's boundaries more regular and improve efficient delivery of services.

Goal 7: The City of Bozeman encourages annexations which will enhance the existing traffic circulation system or provide for circulation systems that do not exist at the present time.

This criterion is met. The subject property will provide additional right of way for South 3rd Avenue and, if developed, will improve the streetscape adjacent to the property and upgrade to current street standards, see Term of Annexation 4 and 5. No addition internal street network is required to serve the property.

Goal 8: The City prefers annexation of parcels of land larger than five (5) acres in size, but will allow annexation of smaller parcels if factors such as topographic limitations, sanitary disposal needs, fire access, maintenance of public facilities, etc., justify a smaller annexation.

The subject property is 1.02 acres plus the adjacent right-of-way.

Goal 9: The City seeks to obtain water rights adequate for future development of the property with annexation.

This criterion is met. After annexation, the subject property will be bound to the provisions of [38.410.130](#) which require evaluation of water adequacy and provision of water if needed at time of development. The municipal code section requires water rights or an equivalent to be provided. Exact timing and amounts will be evaluated during development review. There are several methods to address the requirements of 38.410.130. The annexation agreement will provide notice of this requirement, see Term of Annexation 9. The landowner will consent to this requirement by signature on the annexation agreement.

Goal 10: The City of Bozeman encourages annexations for City provision of clean treated water and sanitary sewer.

This criterion is met. The subject property is located within the City's planned water and sewer service area. See Goal 4 above. The applicant proposes zoning for future development of homes. There is an existing home on the property which uses an onsite well and septic system. The annexation terms include requirements for future abandonment of the septic system and connection to the municipal sewer system. Any new construction must connect with initial construction to the municipal system.

Terms of Annexation 6 - 8 address the termination of the existing on-site septic system. Exact timing will depend on the sequencing of future development. The City's water and sewer systems are adjacent to the property. See the maps below. Per Term of Annexation 6, the Annexation Agreement required to finalize the requested annexation will require the applicant to design extensions of services to meet the City's adopted infrastructure standards. These include provisions for minimum water pressure and volumes, adequate sewer flows by volume, gravity flow of sewers, and other standards necessary to protect public health and safety and ensure functional utilities.

Resolution No. 5076 Policies

Policy 1: Annexations must include dedication of all easements for rights-of-way for collector and arterial streets, adjacent local streets, public water, sanitary sewer, or storm or sewer mains, and Class I public trails not within the right of way for arterial or collector streets. Annexations must also include waivers of right to protest the creation of special or improvement districts necessary to provide the essential services for future development of the City.

This policy is met. The recommended Terms of Annexation include requirements for provision of right of way for South 3rd Avenue, a Collector and Urban Route according to the Bozeman Transportation Plan, 2017 Update. See Terms of Annexation 2. Dedicated Streets or public street and utility easements provide locations for municipal water and sewer mains. Waivers of right to protest special improvement districts are included in Term of Annexation 5 for streets affected by the future development of the property.

Any additional easements and rights of way will be provided within the property with future development of the property as required by municipal standards. Exact locations will be determined by further technical analysis and site design.

Policy 2: Issues pertaining to master planning and zoning must be addressed prior to or in conjunction with the application for annexation.

This policy is met. The application to alter the Future Land Use Designation from Public Lands to Urban Neighborhood is complete. See Application 21309. No additional changes to the growth policy is required. The application includes a request for initial zoning of R-3. See the zone map amendment section of this report for analysis of the zone map amendment criteria.

Policy 3: The application for annexation must be in conformance with the current Bozeman Growth Policy. If a Growth Policy Amendment is necessary to accommodate

anticipated uses, the amendment process must be initiated by the property owner and completed prior to any action for approval of the application for annexation.

This policy is met. The property is designated “Urban Neighborhood” on the future land use map. As noted in Policy 3 above, the required growth policy amendment is complete and no further adjustments are needed. See discussion under zone map amendment Criterion A.

Policy 4: Initial zoning classification of the property to be annexed will be determined by the City Commission, in compliance with the Bozeman Growth Policy and upon a recommendation of the City Zoning Commission, simultaneously with review of the annexation petition.

This policy is met. The property proposed for annexation requests a zoning designation of R-3. See the zone map amendment section of this report for review of the zoning criteria. The Zoning Commission held a public hearing on January 3, 2022. A motion recommending approval of the requested R-3 zoning was passed unanimously.

Note: The annexation and the placement of a zoning district designation on the property by the City does not guarantee available services or approval of a specific development. Section 38.300.020.C of the Unified Development Code states: “Placement of any given zoning district on an area depicted on the zoning map indicates a judgment on the part of the city that the range of uses allowed within that district are generally acceptable in that location. It is not a guarantee of approval for any given use prior to the completion of the appropriate review procedure and compliance with all of the applicable requirements and development standards of this chapter and other applicable policies, laws and ordinances. It is also not a guarantee of immediate infrastructure availability or a commitment on the part of the city to bear the cost of extending services.”

Policy 5: The applicant must indicate their preferred zoning classification as part of the annexation petition.

This policy is met. The applicant has requested R-2, the Residential Moderate Density District. See Section 7 of this report for analysis of the requested zoning.

Policy 6: Fees for annexation processing will be established by the City Commission.

This policy is met. Applicant has paid required application fees.

Policy 7: It is the policy of the City that annexations will not be approved where unpaved county roads will be the most commonly used route to gain access to the property unless the landowner proposes a method to provide for construction of the road to the City’s street standards.

This policy is met. The property proposed for annexation is accessed from South 3rd Avenue, a Collector, which is paved to the edge of the subject property.

Policy 8: Prior to annexation of property, the City will require the property owner to acquire adequate and usable water rights, or an appropriate fee in lieu thereof, in accordance with Section 38.410.130 of the municipal code, as amended.

This policy is met. The property owner shall provide usable water rights, or cash in-lieu of water rights thereof, in an amount to be determined by the Director of Public Works, as outlined by Section 38.410.130 of the municipal code. The calculated amount will be determined by the Director of Public Works and based on the zoning designation approved by the City Commission. This will be addressed with the annexation agreement.

Policy 9: Infrastructure and emergency services for an area proposed for annexation will be reviewed for the health, safety and welfare of the public and conformance with the City's adopted facility plans. If the City determines adequate services cannot be provided to ensure public health, safety and welfare, the City may require the property owner to provide a written plan for accommodation of these services, or the City may reject the petition for annexation. Additionally, the parcel to be annexed may only be provided sanitary sewer service via the applicable drainage basin defined in the City Wastewater Collection Facilities Plan.

This policy is met. City infrastructure and emergency services are available to the subject property. A water and sewer mains are located in South 3rd Street on the east side of the property. The property is located adjacent to residential development that is currently served by Bozeman Fire.

Recommended Term of Annexation 6 includes the provision that the applicant will be responsible for installing facilities required to provide full municipal services to the property in accordance with city policy at the time of connection.

Policy 10: The City may require annexation of any contiguous property for which city services are requested or for which city services are currently being provided. In addition, any person, firm, or corporation receiving water or sewer service outside of the City limits is required as a condition of initiating or continuing such service, to consent to annexation of the property serviced by the City. The City Manager may enter into an agreement with a property owner for connection to the City's sanitary sewer or water system in an emergency conditioned upon the submittal by the property owner of a petition for annexation and filing of a notice of consent to annexation with the Gallatin County Clerk and Recorder's Office. The contract for connection to city sewer and/or water must require the property owner to annex or consent to disconnection of the services. Connection for purposes of obtaining City sewer services in an emergency requires, when feasible as determined by the City, the connection to City water services.

The property is not currently provided City services. No emergency connection is requested. City services will be required to be provided concurrent with future development. Terms of Annexation 5 - 8 address connection to services.

Policy 11: The annexation application shall be accompanied by mapping to meet the requirements of the Director of Public Works. Where an area to be annexed can be entirely described by reference to a certificate of survey or subdivision plat on file with the Gallatin County Clerk and Recorder the mapping may be waived by the Director of Public Works.

Mapping to meet the requirements of the Director of Public Works must be provided with the Annexation Agreement. Typically, this includes a Portable Document File (PDF) for filing with the Annexation Agreement at the County Clerk & Recorder, an electronic map with a meets and bounds description for the property to be annexed for the City Engineer's Office, and must be submitted with the signed Annexation Agreement. Mapping requirements are addressed in Recommended Term of Annexation # 2.

Policy 12: The City will assess system development/ impact fees in accordance with Montana law and Chapter 2, Article 6, Division 9, Bozeman Municipal Code.

This annexation does not require immediate payment of fees. The annexation agreement will provide notice of obligations to pay impact fees at times as required in ordinance. See Term of Annexation 4.

Policy 13: Public notice requirements: Notice for annexation of property must be coordinated with the required notice for the zone map amendment required with all annexation. The zone map amendment notice must contain the materials required by 38.220.410, BMC.

Notices of the public hearing have been mailed, published in the Bozeman Daily Chronicle, and posted on the site as set forth under this policy. See Appendix A for more details.

Policy 14: Annexation agreements must be executed and returned to the City within 60 days of distribution of the annexation agreement by the City, unless another time is specifically identified by the City Commission.

This policy will be implemented only if the Commission acts to grant preliminary approval. If the application is denied then no annexation agreement will be necessary.

Policy 15: When possible, the use of Part 46 annexations is preferred.

This annexation is being processed under Part 46 provisions.

Policy 16: Where a road improvement district has been created, the annexation does not repeal the creation of the district. The City will not assume operations of the district until the entirety of the district has been annexed. Any funds held in trust for the district will be used to benefit the district after transfer to the City. Inclusion within a

district does not lessen the obligation to participate in general city programs that address the same subject.

No road improvement district is associated with this application.

Policy 17: The City will notify the Gallatin County Planning Department and Fire District providing service to the area of applications for annexation.

The necessary agencies were notified and provided copies of the annexation on November 8, 2021.

Policy 18: The City will require connection to and use of all City services upon development of annexed properties. The City may establish a fixed time frame for connection to municipal utilities. Upon development, unless otherwise approved by the City, septic systems must be properly abandoned and the development connected to the City sanitary sewer system. Upon development, unless otherwise approved by the City, water wells on the subject property may be used for irrigation, but any potable uses must be supplied from the City water distribution system and any wells disconnected from structures. The property owner must contact the City Water and Sewer Superintendent to verify disconnects of wells and septic systems.

An existing residential structure and associated out buildings are on the subject property which has on-site well and septic system and will be required to sever the use of the on-site systems and connect to City water and sewer service. A term of annexation requires connection to municipal water and sewer implements this policy. In conjunction with future connection the septic system must be properly abandoned and the well disconnected from the domestic supply. Terms of Annexation 6 - 8 address these issues.

SECTION 7 - ZONE MAP AMENDMENT STAFF ANALYSIS AND FINDINGS

In considering applications for approval under this title, the advisory boards and City Commission must consider the following criteria (letters A-K). As an amendment is a legislative action, the Commission has discretion to determine a policy direction. The burden of proof that the application should be approved lies with the Applicant. See the application materials for the Applicant's response to the criteria

A zone map amendment must be in accordance with the growth policy (criteria A) and be designed to secure safety from fire and other dangers (criteria B), promote public health, public safety, and general welfare (criteria C), and facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements (criteria D). Therefore, to approve a zone map amendment the Commission must find Criteria A-D are met.

In addition, the Commission must also consider criteria E-K, and may find the zone map amendment to be positive, neutral, or negative with regards to these criteria. To approve the zone map amendment, the Commission must find the positive outcomes of the amendment outweigh negative outcomes for criteria E-K. In determining whether the criteria are met, Staff considers the entire body of regulations for land development. Standards which prevent or mitigated negative impacts are incorporated throughout the entire municipal code but are principally in Chapter 38, Unified Development Code.

Section 76-2-304, MCA (Zoning) Criteria

A. Be in accordance with a growth policy.

Yes. The BCP 2020, Chapter 5, p. 73, in the section titled Review Criteria for Zoning Amendments and Their Application, discusses how the various criteria in 76-2-304 MCA are applied locally. Application of the criteria varies depending on whether an amendment is for the zoning map or for the text of Chapter 38, BMC. The first criterion for a zoning amendment is accordance with a growth policy.

Future Land Use Map

The proposed amendment is a change to the zoning map. Therefore, it is necessary to analyze compliance with the future land use map. Chapter 3 of the BCP 2020 addresses the future land use map. The introduction to that chapter discusses the importance of the chapter. Following are some excerpts.

“Future land use is the community’s fundamental building block. It is an illustration of the City’s desired outcome to accommodate the complex and diverse needs of its residents.”

“The land use map sets generalized expectations for what goes where in the community. Each category has its own descriptions. Understanding the future land use map is not possible without understanding the category descriptions.”

The area of this application has been within in the anticipated growth area of the City. As shown on the maps in Section 1, on the excerpt of the current future land use map, the property is designated as Urban Neighborhood through the recent modification of the FULM to correctly designate the FLU of the property. The Urban Neighborhood designation description reads:

“This category primarily includes urban density homes in a variety of types, shapes, sizes, and intensities. Large areas of any single type of housing are discouraged. In limited instances, an area may develop at a lower gross density due to site constraints and/or natural features such as floodplains or steep slopes. Complementary uses such as parks, home-based occupations, fire stations, churches, schools, and some neighborhood-serving

commerce provide activity centers for community gathering and services. The Urban Neighborhood designation indicates that development is expected to occur within municipal boundaries. This may require annexation prior to development.

Applying a zoning district to specific parcels sets the required and allowed density. Higher density residential areas are encouraged to be, but are not required or restricted to, proximity to commercial mixed use areas to facilitate the provision of services and employment opportunities without requiring the use of a car.”

The correlation between the future land use map of the growth policy and the zoning districts is presented in Table 4 of the Bozeman Community Plan 2020. As shown in the following Correlation with Zoning Table, the R-3 district is an implementing district of the Urban Neighborhood category.

CORRELATION WITH ZONING

The zoning districts which implement each future land use category are shown in relation to each future land use category in chart below. For zoning district intent, see [38.300](#). For permitted uses, see [38.310](#).



Goals and Policies

A zoning amendment is also evaluated against the goals and policies of the BCP 2020. Most of the goals and policies are not applicable to this application. Relevant goals and objectives have been identified by staff. Conflict with the text of the growth policy has not been identified.

The Short Term Action list on page 63 of the BCP 2020 describes 14 items to implement the growth policy. The first two relate to direct changes to the zoning map in support of listed goals and objectives. These include increasing the intensity of zoning districts in already developed areas. Beginning on page 71 of the BCP 2020 in the section titled Zoning Amendment Review, the document discusses how the City implements zoning for new areas, amendments to areas, and revisions to existing text. This section includes a discussion of when the City may initiate a zoning change to a more intensive district to increase development opportunities. This section demonstrates that the City, as a matter of policy, is supportive of more intensive zoning districts and development, even within already developed areas. It is inconsistent with this approach to zone at annexation for lower intensities than what infrastructure and planning documents will support. This policy approach does not specify any

individual district but does lean towards the more intensive portion of the zoning district spectrum.

The Applicant provided an argument that, ...”the area reflects a need for a higher density residential development to help meet the growing housing needs of the area by investing the construction infill with an established highly used area of the city. Higher density is also supported by the access to commercial and university nodes to the north.” No further analysis of how the proposed R-3 zoning in conformance with the growth policy was provided. Therefore, staff submits additional analysis for consideration and includes specific goals and policy’s the amendment furthers.

Goal DCD-1: Support urban development within the City.

The proposed zoning is occurring in conjunction with an annexation. Any future development will be required to occur at urban densities and will be within the City. If the City Commission declines the annexation then the requested R-3 zoning will not occur.

DCD-1.11 Pursue annexations consistent with the future land use map and adopted facility plans for development at urban intensity.

The proposed zoning is consistent with the future land use map and is within the current facilities plans. Municipal infrastructure is installed in the adjacent roadway and has capacity accommodate additional development.

Goal RC-3: Collaborate with Gallatin County regarding annexation and development patterns adjacent to the City to provide certainty for landowners and taxpayers.

RC-3.3 Prioritize annexations that enable the incremental expansion of the City and its utilities.

The zone map amendment is proposed in association with an annexation. The area to be annexed, for all intent and purpose, wholly surrounded by the City boundary and eliminates one of a number of isolated inholding with the City service area and street network.

RC-3.4 Encourage annexation of land adjacent to the City prior to development and encourage annexation of wholly surrounded areas.

The property, for all intent and purpose, is wholly surrounded by the City. The property is seeking annexation and municipal zoning for the purpose of maintaining and possibly expanding the use and intensity of the site. The application is in accordance with the growth policy.

B. Secure safety from fire and other dangers.

Yes. The existing building, constructed in circa 1905, is of unknown quality, fire, and safety measures. Any renovations, expansions, or removal and replacement must meet the development standards of the City and, in some cases, might require retrofitting to ensure the building is safe for occupants and neighboring properties.

The 2017 Fire and EMS Master Plan shows this property within the acceptable response reach of the Fire Department. Fire protection water supply will be provided by the City of Bozeman water system. The property is not within any delineated floodplain. Upon annexation the subject property will be provided with City emergency services including police, fire and ambulance. The initial zoning of R-3 is not likely to adversely impact safety from fire and other dangers. The property will be required to conform to all City of Bozeman public safety, building and land use requirements. The City provides emergency services to adjacent properties and there will be no difficulty extending service to this parcel.

C. Promote public health, public safety, and general welfare.

Yes. The proposed zoning designation will promote general welfare by implementing the future land use map in the Bozeman Community Plan. Public health and safety will be positively affected as the proposed annexation will allow the existing structure to connect to the City sewer system, thereby removing a septic system and lessening resulting groundwater discharge.

As noted in criterion B, further development and redevelopment must be in accordance with modern building, access, stormwater, pedestrian circulation, ingress and egress to the site, and full connection to the greater transportation network for users ensuring the promotion of public health, safety and general welfare.

Public health and safety will be positively affected by requiring new and redevelopment to connect to municipal sanitary sewer and water systems, which will prevent groundwater pollution and depletion by wells and septic systems.

D. Facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements.

Yes. The BCP 2020, page 74, says regarding evaluation of Criteria B-D for zoning amendments:

“For a map amendment, all three of the above elements are addressed primarily by the City’s long range facility Plans, the City’s capital improvements program, and development standards adopted by the City. The standards set minimum sizing and flow requirements, require dedication of parks, provision of right of way for people and vehicles, keep development out of floodplains, and other items to address public safety, etc. It is often difficult to assess these issues in detail on a specific site.

For example, at the time of annexation, the final intensity of development is unknown and it may be many years before development occurs and the impacts are experienced. The availability of other planning and development review tools must be considered when deciding the degree of assurance needed to apply an initial zoning at annexation.”

The City conducts extensive planning for municipal transportation, water, sewer, parks, and other facilities and services provided by the City. The adopted plans allow the City to consider existing conditions and identify enhancements needed to provide additional service needed by new development. The City implements these plans through its capital improvements program that identifies individual projects, project construction scheduling, and financing of construction. Private development must demonstrate compliance with standards.

The application site is located within the City’s land use, transportation, parks, and utility planning areas and those plans show this property as developing within the City when development is proposed. Adequacy of all these public requirements is evaluated during the subdivision and site development process. As stated in 38.300.020.C, the designation of a zoning district does not guarantee approval of new development until the City verifies the availability of needed infrastructure. All zoning districts in Bozeman enable a wide range of uses and intensities. At time of future subdivision or site plan review the need for individual services can be more precisely determined. No subdivision or site plan is approved without demonstration of adequate capacity.

38.300.020.C, “Placement of any given zoning district on an area depicted on the zoning map indicates a judgment on the part of the city that the range of uses allowed within that district are generally acceptable in that location. It is not a guarantee of approval for any given use prior to the completion of the appropriate review procedure and compliance with all of the applicable requirements and development standards of this chapter and other applicable policies, laws and ordinances. It is also not a guarantee of immediate infrastructure availability or a commitment on the part of the city to bear the cost of extending services.”

The development of public infrastructure improvements to serve the property will be required to conform to the City of Bozeman’s adopted standards which require properties to construct public infrastructure and/or pay impact fees, assessments, and taxes to support transportation, water, sewer, school, parks, and other public requirements. City water and sewer lines are located adjacent to the property in the South 3rd Avenue right-of-way and the terms of annexation require the applicant to connect to municipal services and install any facilities required to provide full municipal services to the property. The property is accessed from South 3rd Avenue (collector). Park dedication is not required at this time. However, if additional residential units are constructed on the site parkland dedication, improvements or

cash-in-lieu, or a combination thereof may be required. Any future development of the property will be evaluated for additional required improvements during the plan review process.

Public comments received to date expressed concern about the additional traffic that may be generated from a development on the property. Future development will be required to address impacts. The existing street section includes bike lane and additional shoulder on the east side and only a shoulder area on the west side with no dedicated pedestrian sidewalks or curb and gutter. This section of south 3rd was reconstructed with barrow ditches for storm water and with subsequent development full street sections are installed. South 3rd is similar to Oak Street from 7th to 19th followed a similar construction plan. Originally constructed with state support including one lane and did not include curb and gutter and rather used barrow ditches to address storm water. Subsequent development was required to construct the second lane and the remaining full street section components.

South 3rd Avenue is listed in the Major Street Network (MSN) improvement list, the improvement is not on the current Capital Improvement Plan (CIP). See MSN-21 in the Bozeman Transportation Master Plan, 2017 Edition.

Additionally, the street grid in the area continues to become more robust. Graf Street connecting South 3rd and South 19th is complete. In addition, Arnold Street connecting South 3rd and 11th was recently completed providing an additional transportation routes. These improvements will likely ameliorate some traffic impacts.

E. Reasonable provision of adequate light and air.

Yes. The R-3 zoning designation has requirements for setbacks, height, and lot coverage, which provide for the reasonable provision of adequate light and air. Any future development of the property will be required to conform to City standards for setbacks, height, lot coverage, and buffering. The existing structures within the city limits, at a minimum, are more than 45 feet from the property boundary.

In addition to the zoning standards, adopted building codes contain more detailed requirements for air circulation, window placement, and building separation that further ensure the intent of this criterion is satisfied.

F. The effect on motorized and non-motorized transportation systems.

Yes. The proposed R-3 zoning designation will have a positive effect on the City's motorized and non-motorized transportation systems. The existing site was not required to update the adjacent roadway to a complete street city standard that includes pedestrian, bicycle, stormwater, and other transportation and safety measures. Annexation and future development will require these minimum standards to be constructed improving the transportation system and safety for all users.

The intersection at Kagy Boulevard and Wilson is fully built out although the road surface needs attention. Kagy Boulevard is a Montanan Department of Transportation roadway.

Terms of annexation require dedication of right-of-way along South 3rd Avenue necessary for completion of a Collector cross section roadway. Collector streets require 90 feet of right-of-way.

The recommended terms of annexation and City’s development approval processes, for example requirements for easements, the waiver of the right to protect special improvement districts related to transportation, and construction of future roads are expected to sufficiently address impacted transportation systems as a result of the map amendment.

On page 74-75 of the BCP 2020 in the discussion of application of the zoning criteria it says:

“Development creates or funds many of the City’s local streets, intersection upgrades, and trails. Therefore, although a text or map amendment may allow more intense development than before, compliance with the adopted Plans and standards will provide adequate capacity to offset that increase.”

As the zoning designation itself does not change traffic flow or transportation demand, and the compliance of future development with adopted standards will offset impacts from development.

G. Promotion of compatible urban growth.

Yes. Individuals may have widely varying opinions about what constitutes compatibility. Compatible development and Compatible land use are defined in [Article 38.7](#) BMC to establish a common reference for consideration of this criterion and application of development standards. They are defined as:

“Compatible development. The use of land and the construction and use of structures which is in harmony with adjoining development, existing neighborhoods, and the goals and objectives of the city's adopted growth policy. Elements of compatible development include, but are not limited to, variety of architectural design; rhythm of architectural elements; scale; intensity; materials; building siting; lot and building size; hours of operation; and integration with existing community systems including water and sewer services, natural elements in the area, motorized and non-motorized transportation, and open spaces and parks. Compatible development does not require uniformity or monotony of architectural or site design, density or use.

Compatible land use. A land use which may by virtue of the characteristics of its discernible outward effects exist in harmony with an adjoining land use of differing character. Effects often measured to determine compatibility include, but are not limited to, noise, odor, light and the presence of physical hazards such as combustible or explosive materials.”

As noted in the definition of Compatible development, there are many elements that contributed to compatibility. The final sentence of the definition deserves emphasis

“Compatible development does not require uniformity or monotony of architectural or site design, density or use.” Compatible development can be different than what is already in place. The City has adopted a variety of standards to implement compatibility.

The proposed R-3 district is a predominantly residential district. The allowed uses for residential districts are set in [section 38.310.030](#). The proposed zoning allows more density than is currently built in the vicinity and in character because the primary and intended use of the R-3 district is residential as neighboring properties. However, as discussed in criterion H below, the existing development is well below permitted intensity. The proposed amendment is associated with an annexation creating continuity between the existing and surrounding uses. Staff concludes R-3 zone is compatible and is urban growth as called for in the growth policy. See also discussion for Criteria A & H.

H. Character of the district.

Yes. The proposed R-3 zoning promotes the character of the district as the intent of the Residential Moderate Density district is to “... provide for one- and two-household residential development at urban densities within the city in areas that present few or no development constraints.” Surrounding properties are low-density single-household residential. Adjacent properties in the City are zoned R-1. The property directly across South 3rd is zoned Residential Suburban (R-S) in the County and the property to the north which assorted with the Museum of the Rockies is zoned Public Lands and Institutions. The proposed R-3 zoning designation is consistent with the character of the neighborhood as well as existing development on the property.

Section 76-2-302, MCA says “...legislative body may divide the municipality into districts of the *number, shape, and area* as are considered best suited to carry out the purposes [promoting health, safety, morals, or the general welfare of the community] of this part.” Emphasis added.

This proposal amends the zoning map and not the text. Therefore, no element of this amendment modifies the standards of any zoning district. The character of the districts as created by those standards remains intact.

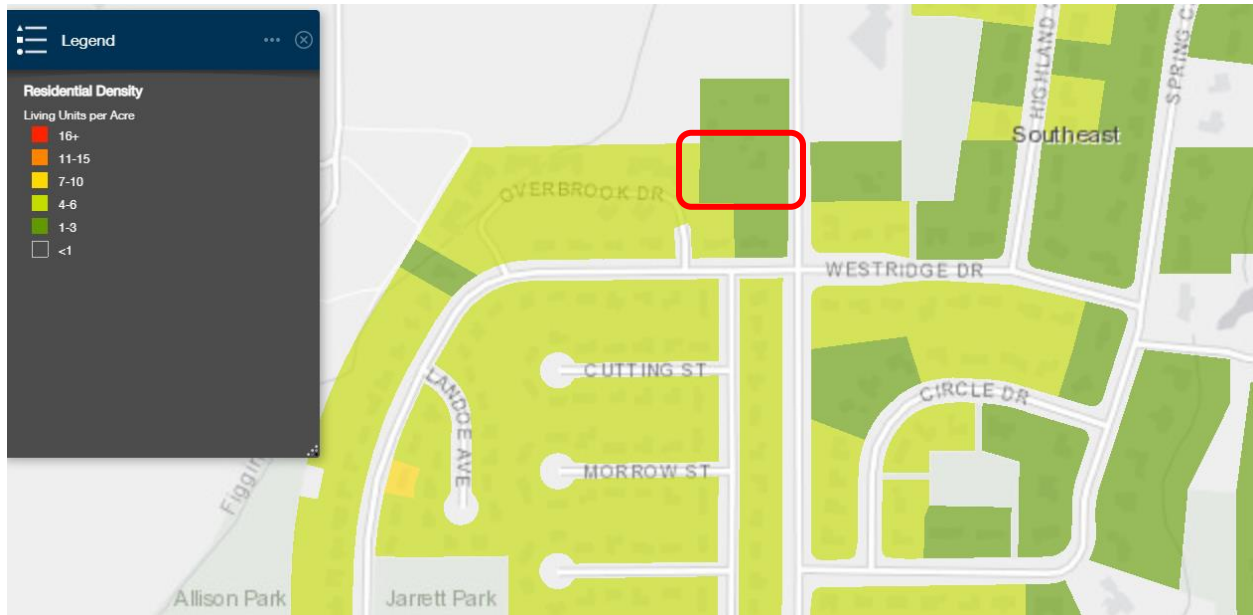
As noted above, the City Commission has latitude in considering the geographical extents of a zoning district. It is not expected that zoning freeze the character of an area in perpetuity. Rather, it provides a structured method to consider changes to the character.

The City has defined compatible development as:

“The use of land and the construction and use of structures which is in harmony with adjoining development, existing neighborhoods, and the goals and objectives of the city's adopted growth policy. Elements of compatible development include, but are not limited to, variety of architectural design; rhythm of architectural elements; scale; intensity; materials; building siting; lot and building size; hours of operation; and integration with existing community systems including water and sewer services, natural elements in the

area, motorized and non-motorized transportation, and open spaces and parks. Compatible development does not require uniformity or monotony of architectural or site design, density or use.”

The City has adopted many standards to identify and avoid or mitigate demonstrable negative impacts of development. These will support the ability of future development in this new area of the R-3 district to be compatible with adjacent development and uphold the character of the area. Below is an excerpt from the Residential Density map supported by the City GIS Department. It shows adjacent properties, including the Overbrook condominiums to the west, are developed at approximately 4-6 dwellings units per acre. If developed as the R-3 district allows future development would be at a higher density that the existing neighborhood although, due to other adopted standards, would be compatible.



Living unit density map

I. Peculiar suitability for particular uses.

Yes. The property is located in an area of single-household residential development which is suitable for uses allowed in the R-3 zoning district. The existing use of the property is residential. Future development, if constructed, would likely increase the number of houses on the site. Building heights, building setbacks, drive accesses, parking, open space requirements, and parkland will limit the maximum density the site can support. It is not possible to calculate a maximum number of dwelling units that can be constructed on the site without significant assumptions that are not realistic in context. For example, current building codes allow a habitable residential structure to be as little as 250 square feet. One parking space under the City’s current parking standard consumes 162 square feet. The proposed drive isle will

consume approximately 5,520 square feet of surface area. Assuming structured parking facility will not be used we typically see residential densities from 5 to 12 homes per net acre.

The proposed R-3 zoning designation is suitable for the current use of the property.

The applicant provided a statement addressing this criterion stating that, “all the uses within R-3 would fit the transitional “fringe” nature of the lot.”

J. Conserving the value of buildings.

Yes. There is an existing single-household residential structure with a variety of other outbuildings in an area of compatible residential land uses. The proposed R-3 zoning designation will allow for similar land use patterns and will thus conserve the value of buildings in the area.

Any future development on the property will be subject to standards in the R-3 zoning district which will ensure the conservation of adjacent building values including but not limited to standards set forth in the Unified Development Code for fire safety, setbacks, buffers and building heights, which will help alleviate any potential negative impacts to the values of adjacent buildings as a result of future development on the subject property. Therefore, this criterion is met.

K. Encourage the most appropriate use of land throughout the jurisdictional area.

Yes. As discussed in Criteria A above, this property has been planned for residential uses. The proposed R-3 zoning designation will encourage the most appropriate use of land as the property is surrounded by lower density residential development, which is consistent with the R-3 designation. Furthermore, the proposed R-3 zoning designation is consistent with the Bozeman Community Plan’s future land use map designation of “Urban Neighborhood.”

Spot Zoning Criteria

Rezoning may, in certain factual circumstances, constitute impermissible “spot zoning.” The issue of whether a rezoning constitutes spot zoning was discussed by the Montana Supreme Court in *Plains Grains LP v. Board of County Comm’rs of Cascade County* and *Little v. Bd. Of County Comm’rs*, in which the Court determined that the presence of the following three conditions generally will indicate that a given situation constitutes spot zoning, regardless of variations in factual scenarios.

1. Is the proposed use significantly different from the prevailing land uses in the area?

No. The R-3 zoning designation is primarily residential, as with the R-1 and R-2 districts, near service facilities with the city. The historic and current is residential. The current use was established in 1905. The neighboring properties were developed from 1960 and on and Figgins Addition Subdivision being created and annexed in 1972 when Bozeman’s population was

18,670. The stated purpose of the R-3 district is to provide for a variety of housing types, including single household dwellings, two to four household dwellings, and townhouses to serve the varied needs of households of different size, age and character, while reducing the adverse effect of non-residential uses which is similar to neighboring properties.

Therefore, staff finds that this criterion is not met.

2. Is the area requested for the rezone rather small in terms of the number of separate landowners benefited from the proposed change?

Yes. The application is submitted by one landowner in conjunction with annexation of the single 1.02 acre property. Although the City supports multiparty annexation applications, landowner annexation of single properties are the most frequent annexations. The applicant did approach the adjacent property to the east across South 3rd Avenue but there was no response to the request for a conversation.

As described in Criterion A above, the amendment advances the overall policies of the BCP 2020, the City's adopted growth policy, and the growth policy and neighborhood plans for Gallatin County. As the application advances the growth policies there are benefits to the larger community from the amendment. Although there is generalized benefit to the community, the number of direct beneficiaries is small.

3. Would the change be in the nature of "special legislation" designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public?

No. While the applicant/landowner will directly benefit from the proposed zone map amendment, the proposed amendment is not at the expense of surrounding landowners or the general public. As discussed above in the various review criteria above, no substantial negative impacts are identified due to this amendment.

As discussed in Criterion A, the application is consistent both the City's and the County's growth policy. The growth policy is the overall land use policy for the community. Consistency with the growth policy demonstrates benefit to the general public. As discussed under Criterion D, the City's development standards will require the applicant to provide the needed infrastructure to support any proposed development prior to construction of homes. Concurrency and adequacy of infrastructure remove most potential injury to others.

As discussed in the various review criteria above, no substantial negative impacts or hazards are identified due to this amendment which cannot be resolved or mitigated through other City standards, policies or regulations. Although the zoning map is changing, the associated Terms of Annexation, and the development standards referenced throughout the analysis of the zone map amendment will limit impacts of new development and avoid expense to the general public or surrounding landowners. When looking at the City as a whole, Bozeman is in need of additional housing to meet increased demand for a variety of housing options.

The City Commission has adopted legal documents by which land uses and development patterns are determined within city limits. [The Unified Development Code](#) (UDC), along with the growth policy ([BDC 2020](#)) provide the guiding framework that governs what growth looks like in our community. These documents go through numerous iterations as the knowledge and understanding of development principles evolve, and as the needs of our community change. The UDC establishes technical requirements that dictate the layout of subdivisions, the placement and height of buildings, the width of driveways, allowable land uses, and a plethora of other development requirements that shape the fabric of the community, and protect the safety of its members. The growth policy is a visionary document that contains the long term goals of the City for the next 20 years. These goals were crafted based on current growth and development trends, contemporary planning theory, and through a robust public engagement process that spanned the course of several years.

The layered dynamic of the two policy documents creates the ability for our community to begin with large scale ideas about community growth and needs and distill them down into a technical guide for how that growth and development can physically occur. The goals and themes of the growth policy informs the technical content of the UDC which contains provisions whose main focus is protecting the health, safety, and general welfare of the community. This dynamic ensures that locations and standards of zoning districts are a benefit to the community as a whole and do not benefit only one landowner. As noted in Section 6, Criterion A, the proposed application is in accordance with the growth policy

PROTEST NOTICE FOR ZONING AMENDMENTS

IN THE CASE OF WRITTEN PROTEST AGAINST SUCH CHANGES SIGNED BY THE OWNERS OF 25% OR MORE OF THE AREA OF THE LOTS WITHIN THE AMENDMENT AREA OR THOSE LOTS OR UNITS WITHIN 150 FEET FROM A LOT INCLUDED IN A PROPOSED CHANGE, THE AMENDMENT SHALL NOT BECOME EFFECTIVE EXCEPT BY THE FAVORABLE VOTE OF TWO-THIRDS OF THE PRESENT AND VOTING MEMBERS OF THE CITY COMMISSION.

The City will accept written protests from property owners against the proposal described in this report until the close of the public hearing before the City Commission. Pursuant to 76-2-305, MCA, a protest may only be submitted by the owner(s) of real property within the area affected by the proposal or by owner(s) of real property that lie within 150 feet of an area affected by the proposal. The protest must be in writing and must be signed by **all** owners of the real property. In addition, a sufficient protest must: (i) contain a description of the action protested sufficient to identify the action against which the protest is lodged; and (ii) contain a statement of the protestor's

qualifications (including listing all owners of the property and the physical address), to protest the action against which the protest is lodged, including ownership of property affected by the action. Signers are encouraged to print their names after their signatures. A person may in writing withdraw a previously filed protest at any time prior to final action by the City Commission. **Protests must be delivered to the Bozeman City Clerk, 121 North Rouse Avenue, PO Box 1230, Bozeman, MT 59771-1230.**

APPENDIX A - NOTICING AND PUBLIC COMMENT

Notice was published in the Bozeman Daily Chronicle on December 19 and 26, 2021. The site was posted on site and notices mailed by the applicant as required by [38.220](#) and the required confirmation provided to the Planning Office. Notice was or will be provided at least 15 and not more than 45 days prior to any public hearing.

Public comment has been received on the application. Comments, including those received on the Growth Policy Amendment application, can be viewed at the following link.

<https://weblink.bozeman.net/WebLink/browse.aspx?id=258402&dbid=0&repo=BOZEMAN>

APPENDIX B - PROJECT GROWTH POLICY AND PROPOSED ZONING

Adopted Growth Policy Designation:

The property is designated as “Urban Neighborhood” in the Bozeman Community Plan 2020.

1. URBAN NEIGHBORHOOD.

This category primarily includes urban density homes in a variety of types, shapes, sizes, and intensities. Large areas of any single type of housing are discouraged. In limited instances, an area may develop at a lower gross density due to site constraints and/or natural features such as floodplains or steep slopes. Complementary uses such as parks, home-based occupations, fire stations, churches, schools, and some neighborhood-serving commerce provide activity centers for community gathering and services. The Urban Neighborhood designation indicates that development is expected to occur within municipal boundaries. This may require annexation prior to development. Applying a zoning district to specific parcels sets the required and allowed density. Higher density residential areas are encouraged to be, but are not required or restricted to, proximity to commercial mixed use areas to facilitate the provision of services and employment opportunities without requiring the use of a car.

Proposed Zoning Designation and Land Uses:

The applicant has requested zoning of R-3, “Residential Moderate Density” in association with the annexation of the property. According to Sec. 38.300.100(C) of the Unified Development Code, “The intent of the R-3 residential medium density district is to provide for the development of one- to five-household residential structures near service facilities within the city. This purpose is accomplished by: (1) providing for minimum lot sizes in developed areas consistent with the established development patterns while providing greater flexibility for clustering lots and mixing housing types in newly developed areas and (2) providing for a variety of housing types, including single household dwellings, two to four household dwellings, and townhouses to serve the varied needs of households of different size, age and character, while reducing the adverse effect of non-residential uses.

Use of this zone is appropriate for areas with good access to parks, community services and/or transit.

The Zoning Correlation Table on Page 58 of the Bozeman Community Plan, 2020 correlates zoning districts with the Growth Policy’s land use categories, demonstrating that the proposed zoning designation of R-3 correlates with the Growth Policy’s future land use designation of “Urban Neighborhood”.

CORRELATION WITH ZONING

The zoning districts which implement each future land use category are shown in relation to each future land use category in chart below. For zoning district intent, see 38.300. For permitted uses, see 38.310.



Authorized uses in Residential districts are detailed in [section 38.310.030](#).

APPENDIX C - OWNER INFORMATION AND REVIEWING STAFF

Owner: CBJ, LLC, PO Box 327, Bozeman, MT 59771

Applicant: Plum Design Lab, 875 Bridger Drive, Suite F, Bozeman, MT 59715

Representative: Stahly Engineering & Associates, 851 Bridger Drive, Suite 1, Bozeman, MT 59715

Report By: Tom Rogers, Senior Planner, Community Development Department

FISCAL EFFECTS

No unusual fiscal effects have been identified. No presently budgeted funds will be changed by this Annexation or Zone Map Amendment. Future development will incur costs and generate review according to standard City practices.

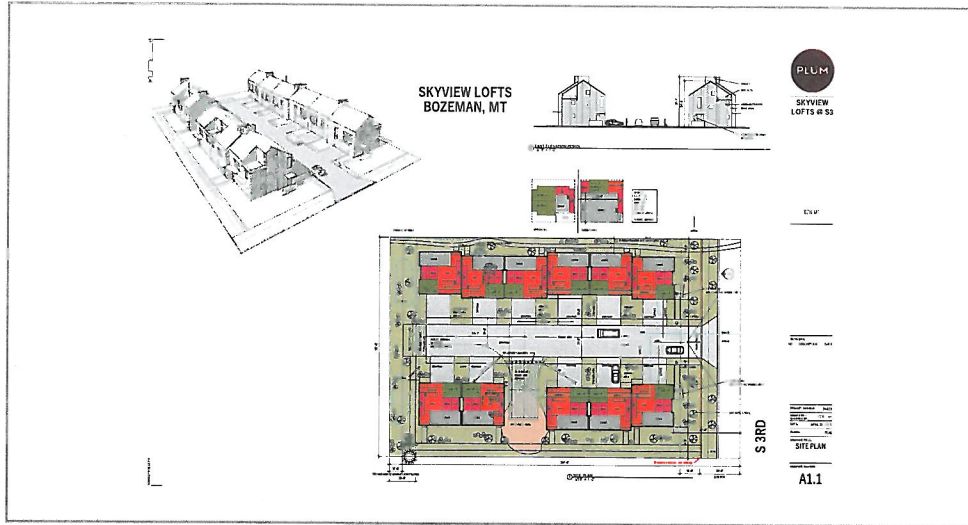
ATTACHMENTS

The full application and file of record can be viewed at the Community Development Department at 20 E. Olive Street, Bozeman, MT 59715.

Application materials

DEVELOPMENT REVIEW APPLICATION

PROJECT IMAGE



PROJECT INFORMATION

Project Name: South 3rd Annexation

Project Type(s): Annexation & Initial Zoning

Street Address: 2303 South 3rd Avenue

Legal Description: COS 3052

Description of Project: Medium Density Residential

Current Zoning: Current: Public Lands and Institutions District, Proposed: R-3

Gross Lot Area: 43560 SQ FT (1 Acre)

Block Frontage(s): n/a

Number of Buildings: 3

Type and Number of Dwellings: Residential (11)

Building Size(s): 11 Units: 2,004Sq Ft

Building Height(s): 37 ft, 4 inches

Number of Parking Spaces: 44 (22 in driveways, 22 in garages)

Affordable Housing (Y/N): N

Cash-in-lieu Parkland (Y/N): N

Departure/Deviation Request (Y/N): N

VICINITY MAP



SPECIAL DISTRICTS

Overlay District: Neighborhood Conservation None

Urban Renewal District: Downtown North 7th Avenue Northeast North Park None

DEVELOPMENT REVIEW APPLICATION

PROPERTY OWNER

Name: CBJ LLC
Full Address: PO Box 327, Bozeman, MT 59771
Email: bboeckel@gmail.com
Phone: _____

APPLICANT

Name: Plum Design Lab - Cole Robertson
Full Address: 875 Bridger Drive, Suite F, Bozeman, MT 59715
Email: cole@plumdl.com
Phone: 406-671-4796

REPRESENTATIVE

Name: Stahly Engineering & Associates - Kurt Thomson, PE
Full Address: 851 Bridger Drive, Suite 1, Bozeman, MT 59715
Email: kthomson@seaeng.com
Phone: 406-522-8594

CERTIFICATIONS AND SIGNATURES

This application must be signed by both the applicant(s) and the property owner(s) (if different) for all application types before the submittal will be accepted. The only exception to this is an informal review application that may be signed by the applicant(s) only.

As indicated by the signature(s) below, the applicant(s) and property owner(s) submit this application for review under the terms and provisions of the Bozeman Municipal Code. It is further indicated that any work undertaken to complete a development approved by the City of Bozeman shall be in conformance with the requirements of the Bozeman Municipal Code and any special conditions established by the approval authority. I acknowledge that the City has an Impact Fee Program and impact fees may be assessed for my project. Further, I agree to grant City personnel and other review agency representative's access to the subject site during the course of the review process (Section 38.200.050, BMC). I (We) hereby certify that the above information is true and correct to the best of my (our) knowledge.

Certification of Completion and Compliance – I understand that conditions of approval may be applied to the application and that I will comply with any conditions of approval or make necessary corrections to the application materials in order to comply with municipal code provisions.

Statement of Intent to Construct According to the Final Plan – I acknowledge that construction not in compliance with the approved final plan may result in delays of occupancy or costs to correct noncompliance.

Applicant Signature: 

Printed Name: Cole Robertson, Plum Design Lab

Owner Signature: 

Printed Name: CBJ, LLC - Brett Boeckel

Representative Signature: 

Printed Name: Kurt Thomson, Stahly Engineering

DEVELOPMENT REVIEW APPLICATION

APPLICATION TYPE

Check all that apply

	FORM		FORM
<input type="checkbox"/> 1. Administrative Interpretation Appeal	AIA	<input type="checkbox"/> 16. PUD Preliminary Plan	PUDP
<input type="checkbox"/> 2. Administrative Project Decision Appeal	APA	<input type="checkbox"/> 17. PUD Final Plan	PUDFP
<input checked="" type="checkbox"/> 3. Annexation and Initial Zoning	ANNX	<input type="checkbox"/> 18. Reasonable Accommodation	RA
<input type="checkbox"/> 4. Commercial/Nonresidential COA	CCOA	<input type="checkbox"/> 19. Site Plan	SP
<input type="checkbox"/> 5. Comprehensive Sign Plan	CSP	<input type="checkbox"/> 20. Special Use Permit	SUP
<input type="checkbox"/> 6. Condominium Review	CR	<input type="checkbox"/> 21. Special Temporary Use Permit	STUP
<input type="checkbox"/> 7. Conditional Use Permit	CUP	<input type="checkbox"/> 22. Subdivision Exemption	SE
<input type="checkbox"/> 8. Extension to Approved Plan	EXT	<input type="checkbox"/> 23. Subdivision Pre-Application	PA
<input type="checkbox"/> 9. Growth Policy Amendment	GPA	<input type="checkbox"/> 24. Subdivision Preliminary Plan	PP
<input type="checkbox"/> 10. Informal Review	INF	<input type="checkbox"/> 25. Subdivision Final Plat	FP
<input type="checkbox"/> 11. Master Site Plan	MSP	<input type="checkbox"/> 26. Wetland Review	WR
<input type="checkbox"/> 12. Modification/Plan Amendment	MOD	<input type="checkbox"/> 27. Zone Map Amendment	ZMA
<input type="checkbox"/> 13. Neighborhood/Residential COA	NCOA	<input type="checkbox"/> 28. Zone Text Amendment	ZTA
<input type="checkbox"/> 14. Pre-application Consultation	None	<input type="checkbox"/> 29. Zoning/Subdivision Variance	Z/SVAR
<input type="checkbox"/> 15. PUD Concept Plan	PUDC	<input type="checkbox"/> 30. Zoning Deviation/Departure	None
		<input type="checkbox"/> 31. Other: _____	

REQUIRED FORMS

Varies by project type

APPLICATION FEE

Varies by project type

CONTACT US

Alfred M. Stiff Professional Building
 20 East Olive Street
 Bozeman, MT 59715

phone 406-582-2260
 fax 406-582-2263
 planning@bozeman.net
 www.bozeman.net/planning

Development Review Application COVID-19 Acknowledgment of Application Processing Delays

On March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak.

On March 12, 2020, the Governor of the State of Montana issued Executive Order No. 2-2020 Declaring a State of Emergency to Exist Within the State of Montana Related to the Communicable Disease COVID-19.

The City of Bozeman issued a COVID-19 emergency declaration on March 16, 2020. The City subsequently issued Order ED-05 setting forth public meeting protocols on March 31, 2020 and Order ED-06 closing City facilities to public entry, including the Stiff Professional Building, on March 23, 2020. Order ED-05 states in relevant parts, "In accordance with the Emergency Declaration, public meeting agendas will be limited to only essential matters. . . ." It describes notice requirements, the use of videoconferencing or telephonic technology to hold remote hearings, and providing the public an opportunity to participate remotely. A copy of Order ED-05 is attached to this form.

On March 27, 2020 the Attorney General of the State of Montana issued a letter of guidance to local governments recommending public meetings be held only for essential business, and those public meetings be held remotely.


Provisions in the emergency declarations and City of Bozeman Orders may restrict or delay the ability of the City to complete the review and finally approve certain development review applications.

Acknowledgment and signatures


This acknowledgement must be signed by both the applicant(s) and the property owner(s) (if different) for all application types before the submittal will be accepted and processed.

As indicated by the signature(s) below, the applicant(s) and property owner(s) submit this application for review under the terms and provisions of the Bozeman Municipal Code the City's COVID-19 Emergency Declaration and subsequent Orders issued by the City Manager. I acknowledge that the City may be delayed in the processing of my application and may not be able to complete the application review within standard time limits due to the constraints present under the emergency orders. I (We) hereby certify that the above information is true and correct to the best of my (our) knowledge.

Certification of Acknowledgment – I understand that there may be delays in the processing of my application and that it may reach a point in processing where it may not proceed to final approval and that I will not hold the City responsible for any delays presented under the emergency order.

Applicant
Signature: 

Printed
Name: Loic Roberge Co-owner

Owner
Signature: 

Printed Name: Brett Boeckel Co-OWNER

~~Owner~~ REPRESENTATIVE
Signature [Handwritten Signature]

Printed Name: KURT THOMSON

If signing as a corporation or LLC, please provide the title and position of the individual signing on behalf of the corporation/LLC. Attach separate sheets for additional owner signatures.

S3 Lofts

Owner: CBJ LLC

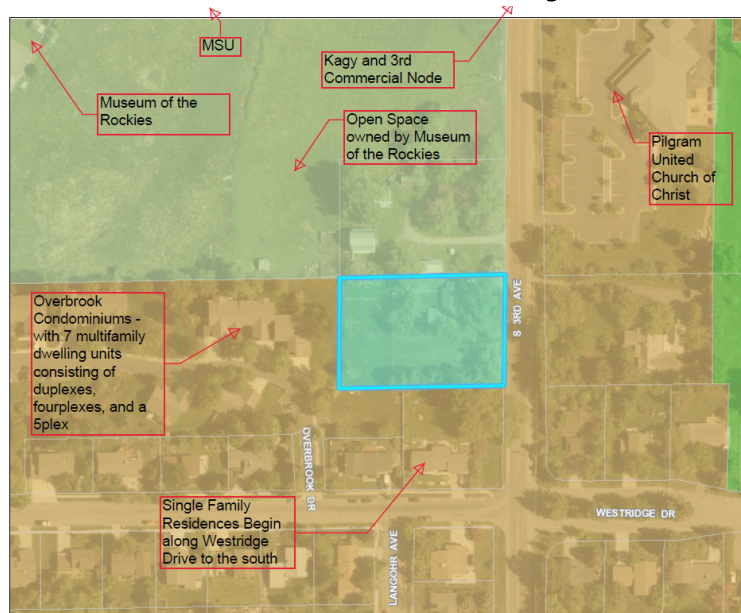
Proposed Site: 2303 South 3rd Bozeman MT

Legal: S24, T02 S, R05 E, TRACT IN NE COR NE4NE4 1.0AC

Project Narrative ZMA (R-3 Proposed Zoning)

The proposed zone map amendment seeks R-3 zoning designation for the Lot. Currently the lot is unzoned and is part of an annexation application submitted for review and approval with this ZMA, 3 contiguous sides of the lot are adjacent to the City of Bozeman supporting current and long term needs for the area through new available uses. The Lot has a distinct opportunity to transition to a higher density, and provide necessary housing for the Community on an infill lot. The lot also sits in close relation to the commercial node created at Kagy / South 3rd intersection, open space to the north, and a place of worship to the northeast. Along with these converging higher density uses, the Museum of the Rockies and MSU sit just beyond the fields creating a close proximity feeling to the area. All of these amenities combined suggest the support of higher density for the lot. Last, adjacent to the west of the property is a series of 4 plex units that currently transition to slightly higher density before turning into the single family residence use further south. The lot proposed as R-3 zoning would be a continuation of the increased density from the west running along the open space at the north border.

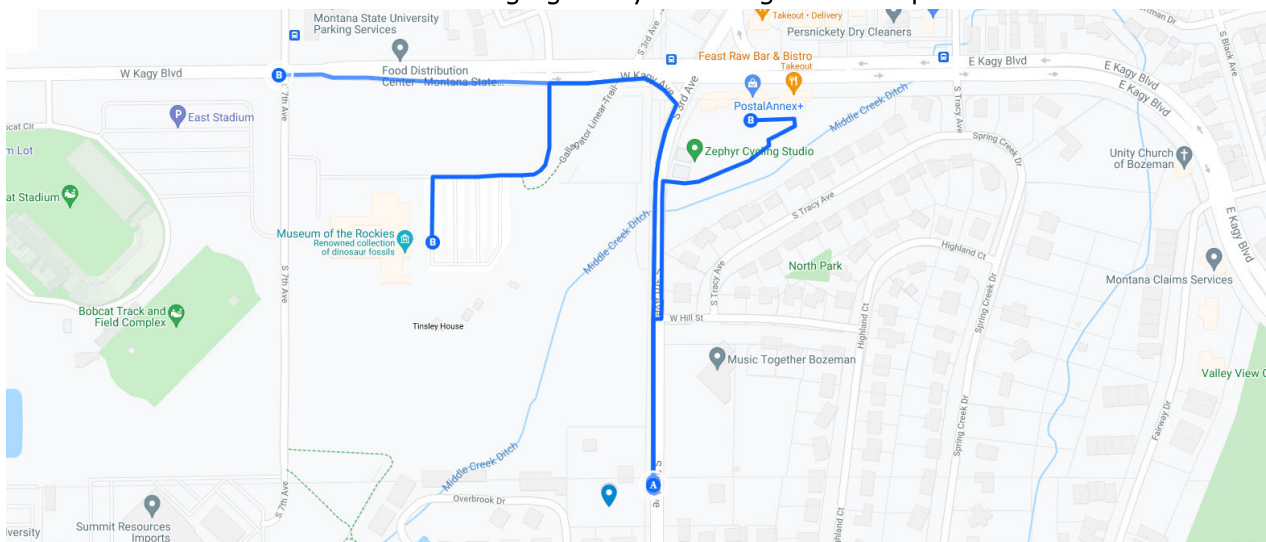
The future growth policy for the lot has been identified by the Planning staff as Public Institution. However, the proposed lot has always been a residence privately owned and Maintained. The adjacent property to the north is owned and maintained as open space by the Museum of the Rockies conforming to the underlying designation of the growth policy. Urban Neighborhood has been proposed by Planning Staff to amend and align the future land use to residential instead of the Public Institution designation as it currently sits.



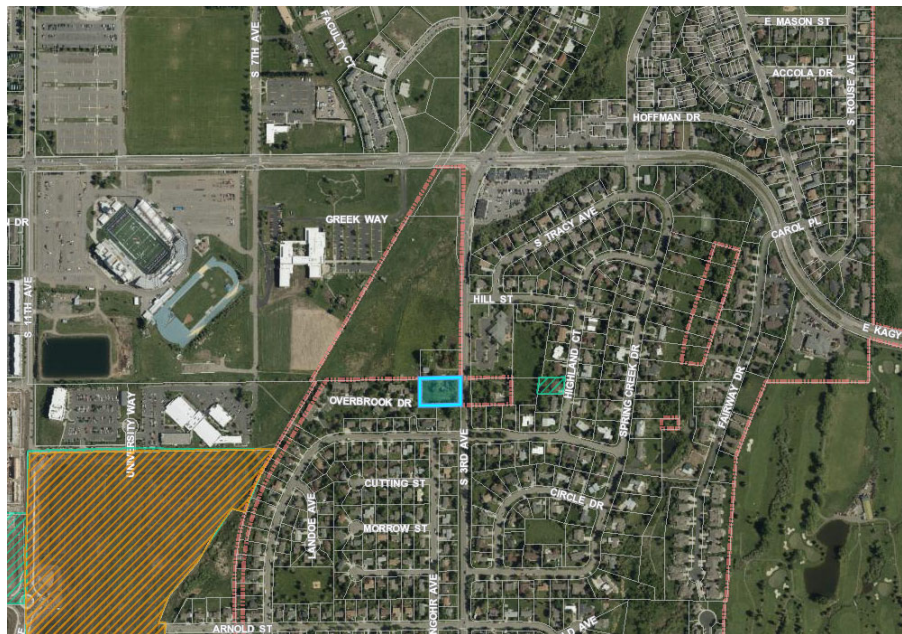
Future land use Map and adjacent uses

Application Responses

- A. Is the new zoning Designed in accordance with Growth Policy?
- Yes, The original designation of the lot as public institution may have assumed the property was owned by a public institute. This is not the case, and if the City agrees, the growth policy map can be amended to reflect the historical use of the property allowing our proposed use to align with the growth policy. This area reflects a need for a higher density residential development to help meet the growing housing needs of the area by investing in new construction infill within an established highly used area of the city. Higher density is also supported by the access to commercial and university nodes to the north.
- B. Will the new zoning secure safety from fire and other dangers?
- Yes, The property use is currently residential and fire access will not be restricted by new zoning. The project is easily accessed from south 3rd by local fire stations, and has space around the area to safely access the property with higher density proposed.
- C. Will the new zoning Promote public Health and Safety?
- Yes, the proposed new zoning will allow for new construction development that will establish new pedestrian access along south third, and possibly to the trail systems located toward the west of the property. Every effort will be made to maintain the large grove of trees to the south, and all large vegetation will be inspected for health and removed if found to be a falling hazard. The development will also promote a safe link for pedestrian traffic to the north, west, and east of the property.
- D. Will the new zoning facilitate transportation, water, sewage, schools, parks and other public requirements?
- Yes, the proposed new zoning will allow for connections to existing services on South 3rd, and demonstrate a good faith effort to achieve usable parks and trail connections when development of the parcel occurs. The current utilities contain capacity for connections matching the possible densities of the R-3 proposed designation. The current school system can also support the zoning of the 1 acre lot. The current property is currently using a well / septic system, any development would remedy the nonconformance of current utilities on the site bringing utility servicing the site up to current codes.

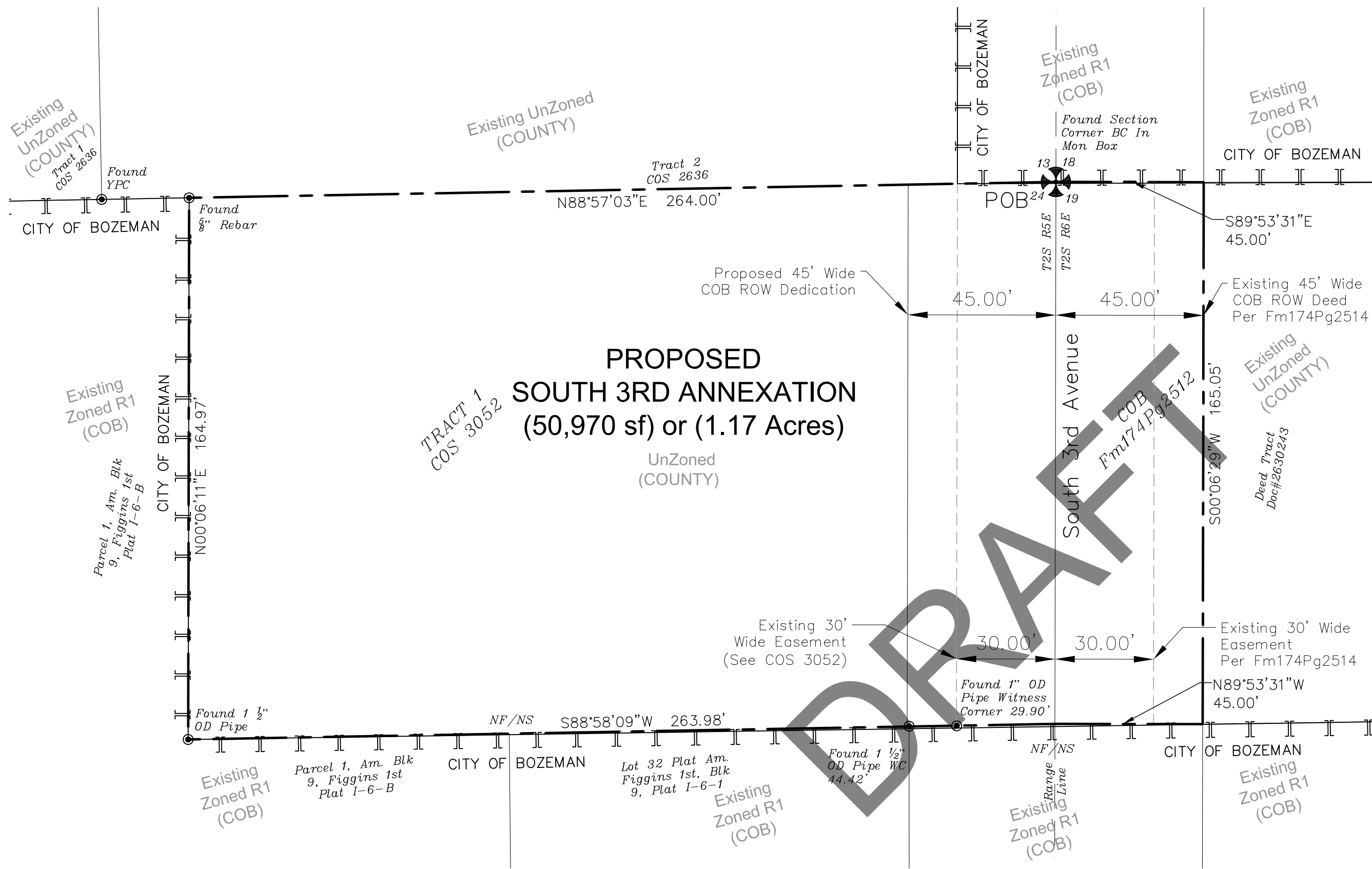


- E. Will the new zoning provide reasonable provision of adequate light and Air?
 - o Yes, the proposed zoning and allowable development opportunities on the lot have enough space around the adjacent properties to allow ample light and air to reach the parcel and maintain access to light and air for neighboring properties.
- F. Will new zoning have an effect on motorized and non-motorized transportation?
 - o Yes, it will allow for the correction of the single point driveway access backing into South third if development occurs. Non vehicular traffic can be enhanced with current standard trails and sidewalks connecting South third toward Kagy through the property.
- G. Does the new zoning promote compatible urban growth?
 - o Yes, the potential growth would allow the lot to contain more density, partnering with it's adjacent neighbors of Multifamily to the west, Museum of the Rockies and open space to the North, Pilgrim Church of Christ to the Northeast. The lot is also within walking distance of Kagy and 3rd commercial node, as well as Montana State University.
- H. Does the new zoning adopt a view of conserving the values of buildings?
 - o Yes, new construction in the area will increase the property values of the neighboring parcels by providing similar scaled units for sale or rent.
- I. Does the new zoning address the affected area's peculiar suitability for particular uses?
 - o Yes, all the uses within R-3 would fit the transitional "fringe" nature of the lot.
- J. Was the new zoning adopted with a view of conserving the values of buildings?
 - o Yes, the zoning allows for similar scaled projects to match the area's vicinity as described above.
- K. Does the new zoning encourage the most appropriate use of the land throughout the jurisdictional area?
 - o Yes, this zoning continues the possibility of the uses that have naturally been formed through organic development growth around the subject property. The compact development would align with climate action plans to increase concentration of units near available infrastructure and discourage more resource allocation toward the edges of the city.



SOUTH 3RD ANNEXATION EXHIBIT

Upon Tracts of Land described as Tract 1 of Certificate of Survey 3052, located in the NE 1/4 of Section 24, T2S, R5E and a City of Bozeman ROW tract described in Fm174Pg2512 and located within the NW 1/4 of Section 19, T2S, R6E, all which are within the Principal Meridian Montana, Gallatin County, Montana.



SOUTH 3RD ANNEXATION EXHIBIT
PROPERTY DESCRIPTION

A Tract of Land described as Tract 1 of Certificate of Survey 3052, located in the NE 1/4 of Section 24, T2S, R5E and a City of Bozeman ROW tract described in Fm174Pg2512 and located within the NW 1/4 of Section 19, T2S, R6E, all which are within the Principal Meridian Montana, Gallatin County, Montana and more particularly described as follows:

Beginning at a point (POB), that is a 2" Brass Cap in a Metal Monument Box, and which is the North East Corner of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana;

- thence S 89° 53' 31" E, along the line common to sections 18 and 19 of said T2S, R6E, a distance of 45.00 feet to a point;
- thence leaving said section line and running S 00° 06' 29" W along the eastern boundary of said Fm174Pg2512 deed parcel, a distance of 165.05 feet to a point;
- thence N 89° 53' 31" W, a distance of 45.00 feet to a point on the range line and the line common to sections 19 and 24;
- thence S 88° 58' 09" W, a distance of 263.98 feet to a point;
- thence N 00° 06' 11" E, a distance of 164.97 feet to a point on the line common to sections 13 and 24 of said T2S, R5E;
- thence N 88° 57' 03" E, a distance of 264.00 feet along said line common to sections 13 and 24 to the POB.

Said Tract being 50,970 square feet or 1.17 acres more or less, along with and subject to all easements of record.

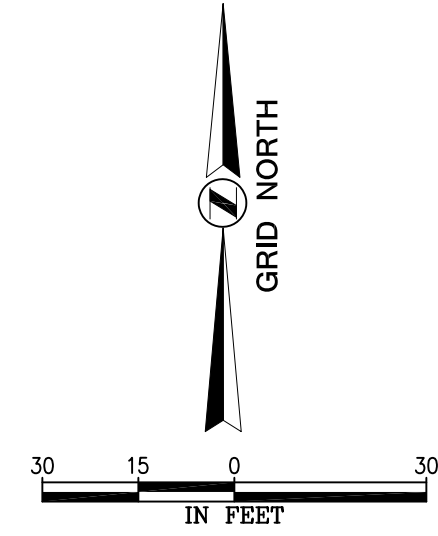
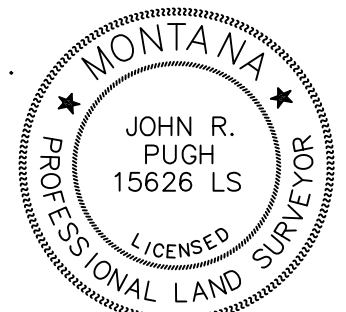
PROPERTY BOUNDARY NOTE: This drawing is intended to show only the approximate location of the proposed Annexation change and does not represent a record boundary survey.

ANNEXATION BOUNDARY NOTE: The lines shown for the existing Annexation boundaries were retrieved from the current City of Bozeman GIS departments online data and Gallatin County interactive map.

CERTIFICATE OF SURVEYOR
I, the undersigned, John R. Pugh, Registered Land Surveyor, do hereby certify that I surveyed the same as shown on the accompanying drawing and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-625, MCA, and the City of Bozeman and Gallatin County Subdivision Regulations.

DATED this ____ day of _____, A.D., 2021.

John R. Pugh
Registration No.15626LS



BASIS OF BEARING:
BOBCAT-LOW DISTORTION PROJECTION
COORDINATE SYSTEM
RTK SOLUTION VIA MTSU CORS
DATUM: NAD83(CONUS)
PROJECTION: LAMBERT CONFORMAL CONIC (SINGLE)
STANDARD PARALLEL & GRID ORIGIN: 46°15'00"N
CENTRAL MERIDIAN: 111°15'00"W
FALSE NORTHING: 328,083.990 IFT (100,000.00 M)
FALSE EASTING: 328,083.990 IFT (100,000.00 M)
STANDARD PARALLEL SCALE: 1.000185
(ALL DISTANCES ARE IN GROUND INTERNATIONAL FEET)

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PROFESSIONAL ENGINEERS & SURVEYORS
www.seaeng.com

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Phone: (406)442-8594 Fax: (406)442-8557

851 BRIDGER DR. STE. 1 BOZEMAN, MT 59715
Phone: (406)522-9526 Fax: (406)522-9528

SOUTH 3RD ANNEXATION EXHIBIT

COUNTY: GALLATIN
PRINCIPAL MERIDIAN, MONTANA

COUNTY: GALLATIN		1/4 SEC T R			1/4 SEC T R		
		X			X		
					X		

DRAWN: J. PUGH
CHECKED: N. BOLTON
DATE: 09/27/2021

PAGE
1 OF 1

L:\2913-Plum Design Lab\00821-2303_South_3rd_Annexation\DWG\Survey\2913-00821-ANNEX.dwg, 18x24 ANNEX, Plotted: Sep 28, 2021 - 10:32am, jpuh

SOUTH 3RD ZONE MAP AMENDMENT

R-5 Zoning on 10.12 Acres (Previously Gallatin County Unzoned)

Upon Tracts of Land described as Tract 1 of Certificate of Survey 3052, located in the NE 1/4 of Section 24, T2S, R5E and a City of Bozeman ROW tract described in Fm174Pg2512 and located within the NW 1/4 of Section 19, T2S, R6E, all which are within the Principal Meridian Montana, Gallatin County, Montana.



VICINITY MAP
Not To Scale
EXHIBIT A
SOUTH 3RD ZONE MAP AMENDMENT
R-5 ZONING

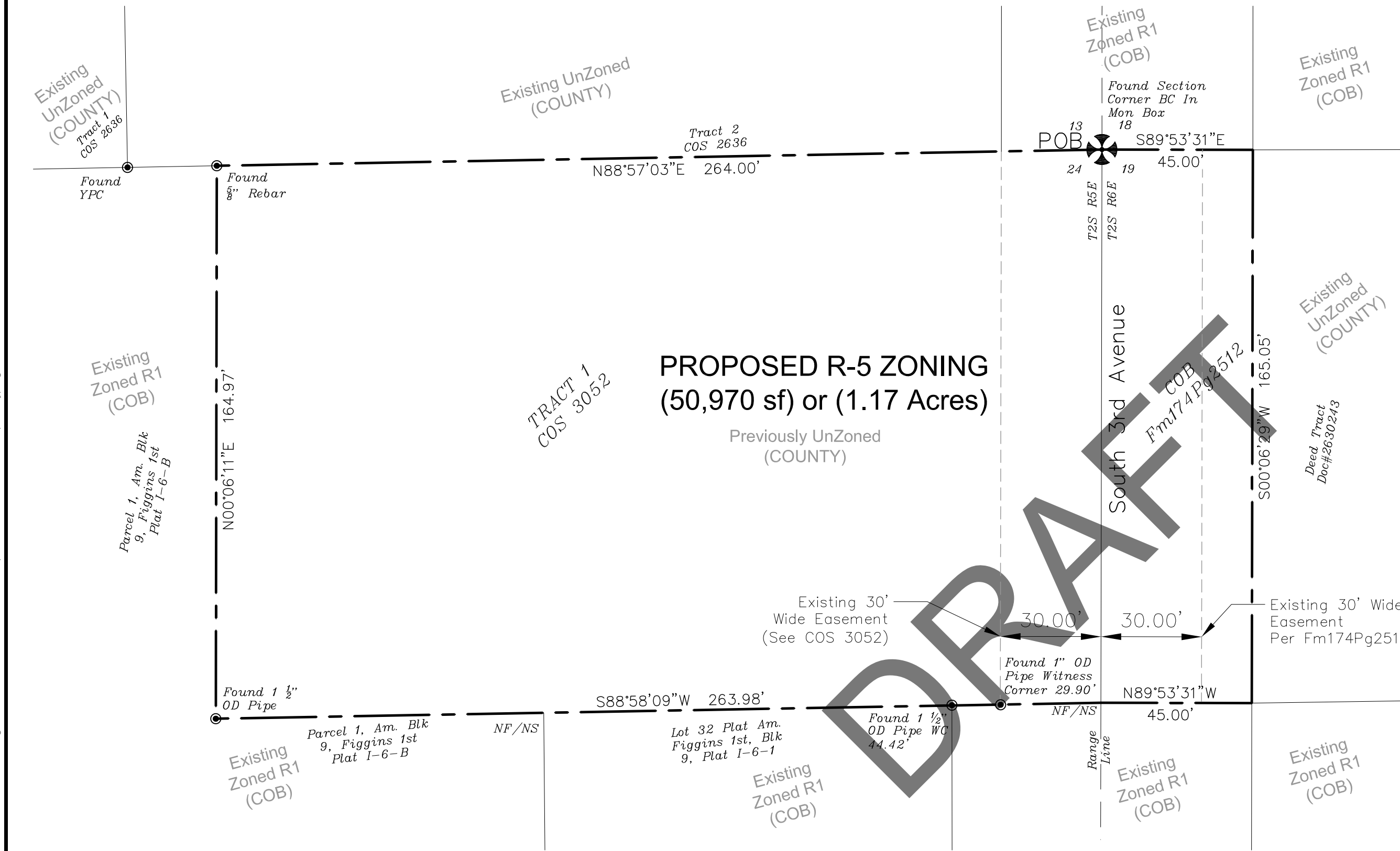
R-5 Zoning on 1.17 Acres (Previously Gallatin County Unzoned)

A Tract of Land described as Tract 1 of Certificate of Survey 3052, located in the NE 1/4 of Section 24, T2S, R5E and a City of Bozeman ROW tract described in Fm174Pg2512 and located within the NW 1/4 of Section 19, T2S, R6E, all which are within the Principal Meridian Montana, Gallatin County, Montana and more particularly described as follows:

Beginning at a point (POB), that is a 2" Brass Cap in a Metal Monument Box, and which is the North East Corner of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana;

- thence S 89° 53' 31" E, along the line common to sections 18 and 19 of said T2S, R6E, a distance of 45.00 feet to a point;
- thence leaving said section line and running S 00° 06' 29" W along the eastern boundary of said Fm174Pg2512 deed parcel, a distance of 165.05 feet to a point;
- thence N 89° 53' 31" W, a distance of 45.00 feet to a point on the range line and the line common to sections 19 and 24;
- thence S 88° 58' 09" W, a distance of 263.98 feet to a point;
- thence N 00° 06' 11" E, a distance of 164.97 feet to a point on the line common to sections 13 and 24 of said T2S, R5E;
- thence N 88° 57' 03" E, a distance of 264.00 feet along said line common to sections 13 and 24 to the POB.

Said Tract being 50,970 square feet or 1.17 acres more or less, along with and subject to all easements of record.



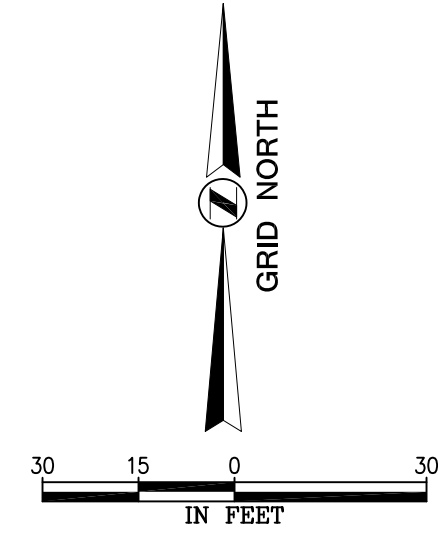
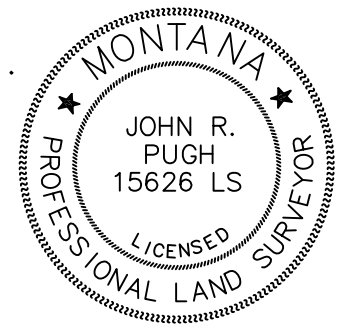
PROPERTY BOUNDARY NOTE: This drawing is intended to show only the approximate location of the zoning change and does not represent a record boundary survey.

ZONE MAP BOUNDARY NOTE: The lines shown for the existing zone map boundaries were retrieved from the current City of Bozeman GIS departments online data and Gallatin County interactive map.

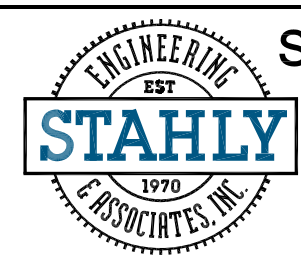
CERTIFICATE OF SURVEYOR
I, the undersigned, John R. Pugh, Registered Land Surveyor, do hereby certify that I surveyed the same as shown on the accompanying drawing and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-625, MCA, and the City of Bozeman and Gallatin County Subdivision Regulations.

DATED this ____ day of _____, A.D., 2021.

John R. Pugh
Registration No.15626LS



BASIS OF BEARING:
BOBCAT-LOW DISTORTION PROJECTION
COORDINATE SYSTEM
RTK SOLUTION VIA MTSU CORS
DATUM: NAD83(CONUS)
PROJECTION: LAMBERT CONFORMAL CONIC (SINGLE)
STANDARD PARALLEL & GRID ORIGIN: 46°15'00"N
CENTRAL MERIDIAN: 111°15'00"W
FALSE NORTHING: 328,083.990 IFT (100,000.00 M)
FALSE EASTING: 328,083.990 IFT (100,000.00 M)
STANDARD PARALLEL SCALE: 1.000185
(ALL DISTANCES ARE IN GROUND INTERNATIONAL FEET)



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851 BRIDGER DR. STE. 1 BOZEMAN, MT 59715 Phone: (406)522-9526 Fax: (406)522-9528

SOUTH 3RD ZONE MAP AMMENDMENT								
COUNTY:	1/4	SEC	T	R	1/4	SEC	T	R
GALLATIN					X	19	2S	6E
PRINCIPAL MERIDIAN, MONTANA					X	24	2S	5E

DRAWN: J. PUGH
CHECKED: N. BOLTON
DATE: 09/27/2021
PAGE
1 OF 1

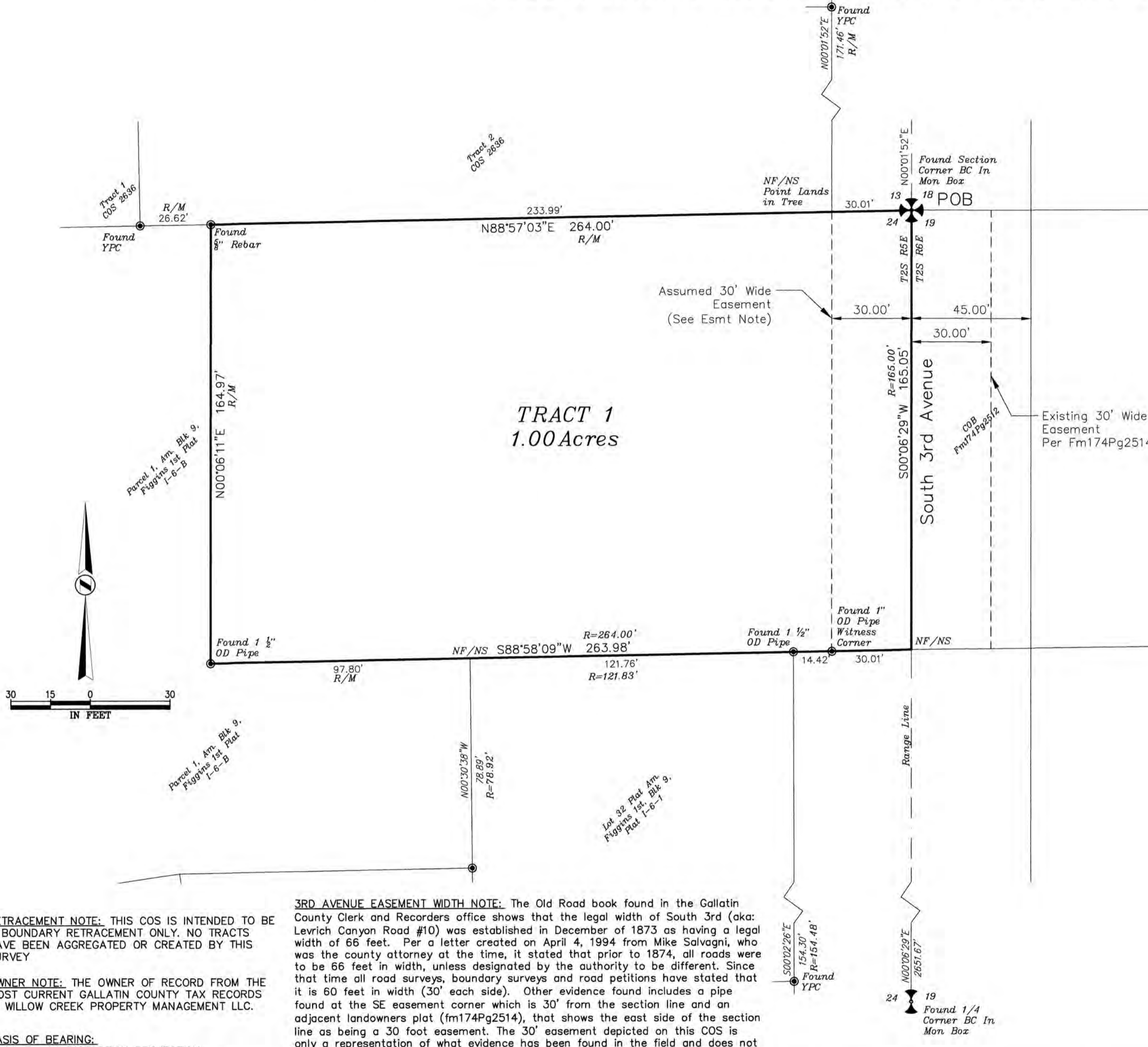
L:\2913-Plum Design Lab\00821_South_3rd_Annexation\DWG\Survey\2913-00821_ZMA.dwg, 18x24 ZMA, Plotted: Sep 28, 2021 - 2:14pm, jpuh

COS 3052

CERTIFICATE OF SURVEY NO. 3052

A TRACT OF LAND DESCRIBED IN QUIT CLAIM DEED DOCUMENT NO. 2570033
 LOCATED WITHIN THE NORTH EAST ONE QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 5 EAST, PRINCIPAL MERIDIAN MONTANA, GALLATIN COUNTY, MONTANA.

PURPOSE OF SURVEY: To Retrace the boundaries of an existing tract of land.



RECORD PROPERTY DESCRIPTION

A tract of land described within quit claim deed document #2570033 of which is located within the North East One Quarter of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana, and more particularly described as follows:

Beginning at a point (POB), that is a 2" Brass Cap in a Metal Monument Box, and which is the North East Corner of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana;

- thence S 00° 06' 29" W, a distance of 165.05 feet, along the line common to sections 24 and 19, to a calculated point;
- thence leaving said section line, S 88° 58' 09" W, a distance of 263.98 feet to a 1 1/2" outside diameter iron pipe;
- thence N 00° 06' 11" E, a distance of 164.97 feet to a 5/8" rebar that is a point on the line common to sections 13 and 24;
- thence N 88° 57' 03" E, a distance of 264.00 feet along said line common to sections 13 and 24 to the POB.

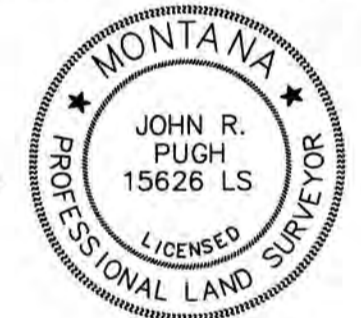
Said Tract being 43,552 square feet or 1.00 acres more or less, along with and subject to all easements of record.

CERTIFICATE OF SURVEYOR

I, the undersigned, John R. Pugh, Licensed Professional Land Surveyor, do hereby certify that in March of 2021, I supervised the survey, platting and description of the tract shown on the accompanying Certificate of Survey in accordance with the provisions of the Montana Subdivision and Platting Act, (MCA 76-3-101 through 76-3-625).

DATED this 12th day of April, 2021.

John R. Pugh,
 Montana 15626 LS



CERTIFICATE OF CLERK AND RECORDER

COS 3052

I, Eric Semerad, Clerk and Recorder for Gallatin County, Montana, do hereby certify that this Certificate of Survey was filed for record in my office on the 12th day of April, 2021 at 4:01 o'clock P.M.

Gallatin County Clerk and Recorder
 Document # 2728605

2728605

Page: 1 of 1 04/12/2021 04:01:36 PM Fee: \$25.50
 Eric Semerad - Gallatin County, MT COS



RETRACEMENT NOTE: THIS COS IS INTENDED TO BE A BOUNDARY RETRACEMENT ONLY. NO TRACTS HAVE BEEN AGGREGATED OR CREATED BY THIS SURVEY

OWNER NOTE: THE OWNER OF RECORD FROM THE MOST CURRENT GALLATIN COUNTY TAX RECORDS IS WILLOW CREEK PROPERTY MANAGEMENT LLC.

BASIS OF BEARING:
 BOBCAT-LOW DISTORTION PROJECTION
 COORDINATE SYSTEM
 RTK SOLUTION VIA MTSU CORS
 DATUM: NAD83(CONUS)
 PROJECTION: LAMBERT CONFORMAL CONIC (SINGLE)
 STANDARD PARALLEL & GRID ORIGIN: 46°15'00"N
 CENTRAL MERIDIAN: 111°15'00"W
 FALSE NORTHING: 328,083.990 IFT (100,000.00 M)
 FALSE EASTING: 328,083.990 IFT (100,000.00 M)
 STANDARD PARALLEL SCALE: 1.000185
 (ALL DISTANCES ARE IN GROUND INTERNATIONAL FEET)

3RD AVENUE EASEMENT WIDTH NOTE: The Old Road book found in the Gallatin County Clerk and Recorders office shows that the legal width of South 3rd (aka: Levrich Canyon Road #10) was established in December of 1873 as having a legal width of 66 feet. Per a letter created on April 4, 1994 from Mike Salvagni, who was the county attorney at the time, it stated that prior to 1874, all roads were to be 66 feet in width, unless designated by the authority to be different. Since that time all road surveys, boundary surveys and road petitions have stated that it is 60 feet in width (30' each side). Other evidence found includes a pipe found at the SE easement corner which is 30' from the section line and an adjacent landowners plat (fm174Pg2514), that shows the east side of the section line as being a 30 foot easement. The 30' easement depicted on this COS is only a representation of what evidence has been found in the field and does not constitute a legal opinion.



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 PROFESSIONAL ENGINEERS & SURVEYORS
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 851 BRIDGER DR. STE. 1 BOZEMAN, MT 59715 Phone: (406)522-9526 Fax: (406)522-9528

CERTIFICATE OF SURVEY NO. 3052

COUNTY: GALLATIN
 PRINCIPAL MERIDIAN, MONTANA

1/4	SEC	T	R	1/4	SEC	T	R
				X	24	2S	5E

DRAWN: J. PUGH
 CHECKED: B. KRAY
 DATE: 04/02/2021

PAGE
1 OF 1

L:\2913-Plum Design Lab\00821_2303_South_3rd_Annexation\DWG\Survey\2913-00821_BD.dwg, 18x24 (LANDSCAPE), Plotted: Apr 12, 2021 - 11:17am, jpugh

NOTICING CHECKLIST

NOTICING PROCEDURE

Notice is required for certain projects in order for citizens to participate in decision making which affects their interests and provides opportunity to receive information pertinent to an application that would not otherwise be available to the decision maker. The applicant is responsible for posting the project site and mailing a notice per the requirements of the Bozeman Municipal Code (BMC). Public noticing for comment periods or hearings and associated application information, timing, type, and location is required by law per Section 38.220, BMC. See form [N2 Noticing Instructions and Declaration Form](#) on how to notice your project, send mailings, and post on the project site.

NOTICING CHECKLIST (NON-CERTIFIED MAILINGS)

The following is required materials for applications that do not require certified mail- Site Plan, Master Site Plan, Conditional Use Permit, Special Use Permit, Variance, Deviation, First Minor Subdivision, Planned Unit Development, Appeals, Zone Map Amendment, Growth Policy Amendment, Annexation.

1. Completed and signed property adjoiners certificate form N1.
2. Legible list of full names and addresses of all property owners within 200 feet of the project site, attached to this checklist.

NOTICING CHECKLIST (CERTIFIED MAILINGS)

The following is required materials for applications that do require certified mail- Major and Subsequent Minor Subdivisions.

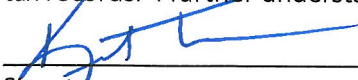
1. Completed and signed property adjoiners certificate form N1.
2. Legible list of full names and addresses of all property owners within 200 feet of the project site and not physically contiguous (touching a boundary) to the subdivision, attached to this checklist. Clearly label list **ADJOINER NOT CONTIGUOUS**.
3. Legible list of full names and addresses of all property owners physically contiguous (touching a boundary) including recorded purchasers under contract for deed to be sent certified mail attached to this checklist. Clearly label list **ADJOINER CONTIGUOUS**.

PROPERTY OWNER RECORDS

Current property owners of record can be found at the Gallatin County Clerk and Recorder's Office in the Gallatin County Courthouse at 311 West Main Street Bozeman, Montana.

CERTIFICATION AND SIGNATURES

I, Kurt Thomson, hereby certify that, to the best of my knowledge, the attached name and address list of all adjoining property owners (including all condominium owners), within 200 feet of the property located at 2303 South 3rd Avenue, is a true and accurate list from the last declared Gallatin County tax records. I further understand that an inaccurate list may delay review of the project.



Signature

3/22/21

Date

CONTACT US

Alfred M. Stiff Professional Building
20 East Olive Street
Bozeman, MT 59715

phone 406-582-2260
fax 406-582-2263
planning@bozeman.net
www.bozeman.net/planning

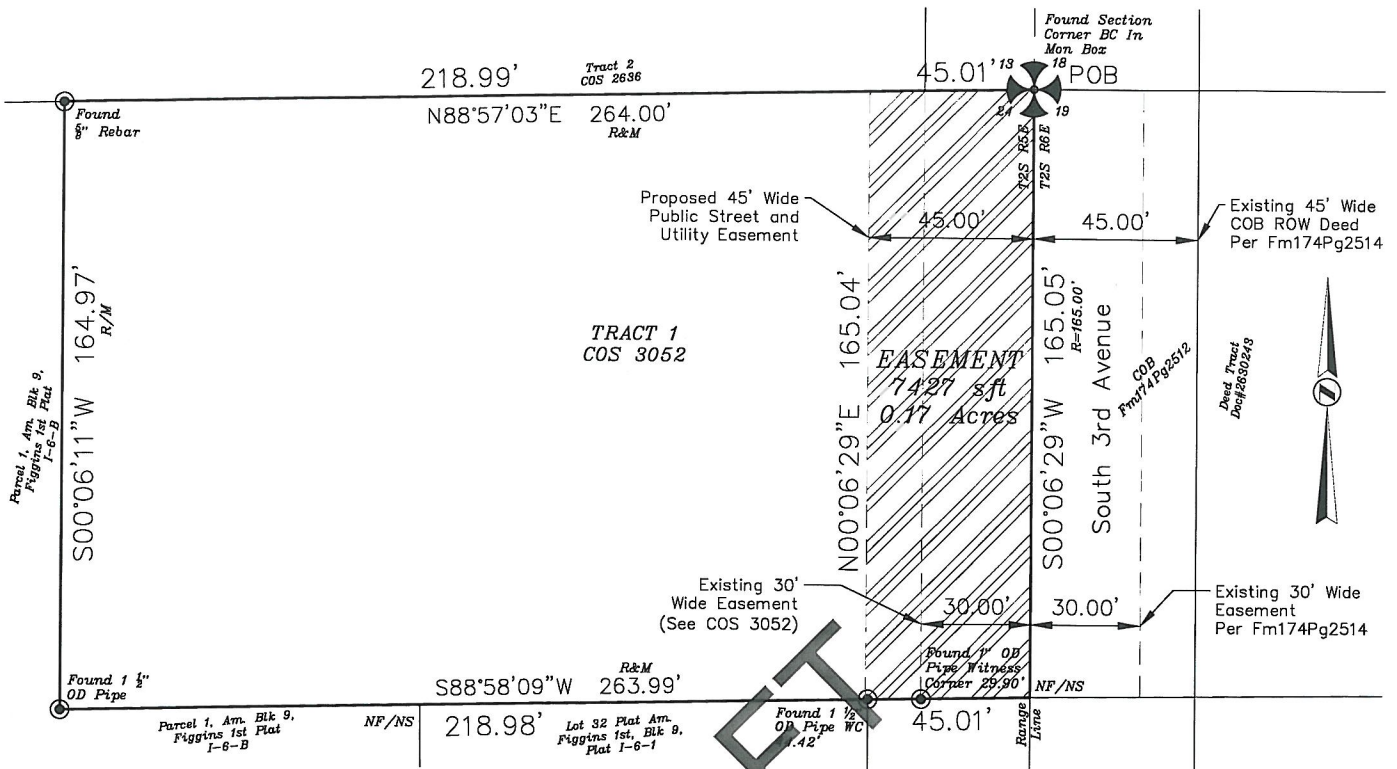
PROPERTY OWNERS WITHIN 200 FEET OF PROPERTY

	Legal Description of Property	Property Owner's Name	Mailing Address of Property Owner
1	S13, T02 S, R05 E, C.O.S. 2636, PARCEL 1, ACRES 11.904	MUSEUM OF THE ROCKIES	MONTANA STATE UNIVERSITY 600 WEST KAGY BOULEVARD BOZEMAN, MT 59717-2734
2	S13, T02 S, R05 E, C.O.S. 2636, PARCEL 2, ACRES 1.048	MUSEUM OF THE ROCKIES	MONTANA STATE UNIVERSITY 600 WEST KAGY BOULEVARD BOZEMAN, MT 59717-2734
3	THOMPSON ADD 3 AMND, S18 T02 S, R06 E, BLOCK 5, LOT 1	PILGRIM CONGREGATIONAL UNITED CHURCH OF CHRIST	2118 SOUTH 3 RD AVENUE BOZEMAN, MT 59715-6006
4	S19, T02 S, R06 E, TRACT 1 NW4 .97 ACRES LESS TR 7425 SQ F	ABUNDANCE HILL MT LLC	2308 SOUTH 3 RD AVENUE BOZEMAN, MT 59715-6010
5	WESTRIDGE SUB, S19, T02 E, R06 E, BLOCK 1, LOT 6, LESS E1' BLK 1	DOUGLAS C & ANNA M SMOOT	215 WESTRIDGE DRIVE BOZEMAN, MT 59715-6024
6	WESTRIDGE SUB, S19, T02 E, R06 E, BLOCK 1, LOT 7	DEAN & ANN DRENK	221 WESTRIDGE DRIVE BOZEMAN, MT 59715-6024
7	FIGGINS ADD 1 ST PH AMND, S24, T02 S, R05 E, BLOCK 9 LOT 32, ACRES 0.428, PLATI-6-1	WAYNE S & VIRGINIA A KLINGA	208 WITE OAK ROAD FAIRFIELD, CT 06825-1862
8	FIGGINS ADD 1 ST PH AMND, S24, T02 S, R05 E, BLOCK 9, LOT 31, ACRES 0.187, PLAT I-6-1	ALEXANDER B & DAYNA TEPAS ALLEN	401 WESTRIDGE DRIVE BOZEMAN, MT 59715-6162
9	FIGGINS ADD 1 ST PH AMND, S24, T02 S, R05 E, BLOCK 9, LOT 20, ACRES 0.182	ANNA E DALTON & MATTHEW P JOHNSON	415 WESTRIDGE DRIVE BOZEMAN, MT 59715-61621

	Legal Description of Property	Property Owner's Name	Mailing Address of Property Owner
10	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 20	WILLIAM GEORGE KLENN	408 OVERBROOK DRIVE BOZEMAN, MT 59715-7131
11	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 1	ROBERTA MORRIS & ROBERT M HUGHES	405 OVERBROOK DRIVE, APT 1 BOZEMAN, MT 59715-7132
12	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 3	CABLE FAMILY LIMITED PARTNERSHIP	4501 TRAPLINE CIRLE ANCHORAGE, AK 99516-1541
13	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 5	FRANB & MARGARET W ANDERSON	6717 DRY CREEK ROAD MANHATTAN, MT 59741-8057
14	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 7	ALPINE RENTAL PROPERTY LLC	906 APLINE WAY BOZEMAN, MT 59715-9275
15	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 9	RICHARDSON MARY B INTER VIVOS TRUST	1201 HIGHLAND BOULEVARD BOZEMAN, MT 59715-5995
16	OVERBROOK AT WESTRIDGE CONDO, S24, T02 S, R05 E, UNIT 11	RICHARDSON MARY B INTER VIVOS TRUST	1201 HIGHLAND BOULEVARD BOZEMAN, MT 59715-5995

EXHIBIT A

A DESCRIPTION OF A PUBLIC STREET AND UTILITY EASEMENT LOCATED WITHIN THE NORTHEAST ONE QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 5 EAST, PRINCIPAL MERIDIAN MONTANA, GALLATIN COUNTY, MONTANA



EASEMENT DESCRIPTION

A Public Street and Utility easement located within the Northeast One Quarter of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana, and more particularly described as follows:


Beginning at a point (POB), that is a 2" Brass Cap in a Metal Monument Box, and which is the North East Corner of Section 24, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana;

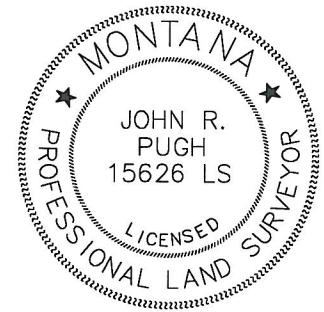
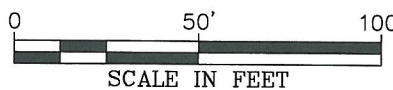
- thence S 00° 06' 29" W, a distance of 165.05 feet, along the line common to sections 24 and 19, to a calculated point;
- thence leaving said section line, S 88° 58' 09" W, a distance of 45.01 feet to a point;
- thence N 00° 06' 29" E, a distance of 165.04 feet to a point on the line common to sections 13 and 24;
- thence N 88° 57' 03" E, a distance of 45.01 feet along said line common to sections 13 and 24 to the POB.

Said area being 7,427 square feet or 0.17 acres more or less, along with and subject to all easements of record.

BASIS OF BEARING:

BOBCAT-LOW DISTORTION PROJECTION
 COORDINATE SYSTEM
 RTK SOLUTION VIA MTSU CORS
 DATUM: NAD83(CONUS)
 PROJECTION: LAMBERT CONFORMAL CONIC (SINGLE)
 STANDARD PARALLEL & GRID ORIGIN: 46°15'00"N
 CENTRAL MERIDIAN: 111°15'00"W
 FALSE NORTHING: 328,083.990 IFT (100,000.00 M)
 FALSE EASTING: 328,083.990 IFT (100,000.00 M)
 STANDARD PARALLEL SCALE: 1.000185
 (ALL DISTANCES ARE IN GROUND INTERNATIONAL FEET)

 Area of New Esmt.



STAHLY ENGINEERING & ASSOCIATES
 PROFESSIONAL ENGINEERS & SURVEYORS

www.seaeng.com
 2223 MONTANA AVE. STE. 201 BILLINGS, MT 59101 Phone: (406)601-4055
 3530 CENTENNIAL DR. HELENA, MT 59601 Phone: (406)442-8594 Fax: (406)442-8557
 851 BRIDGER DR. STE. 1 BOZEMAN, MT 59715 Phone: (406)522-9526 Fax: (406)522-9528

EXHIBIT "A"

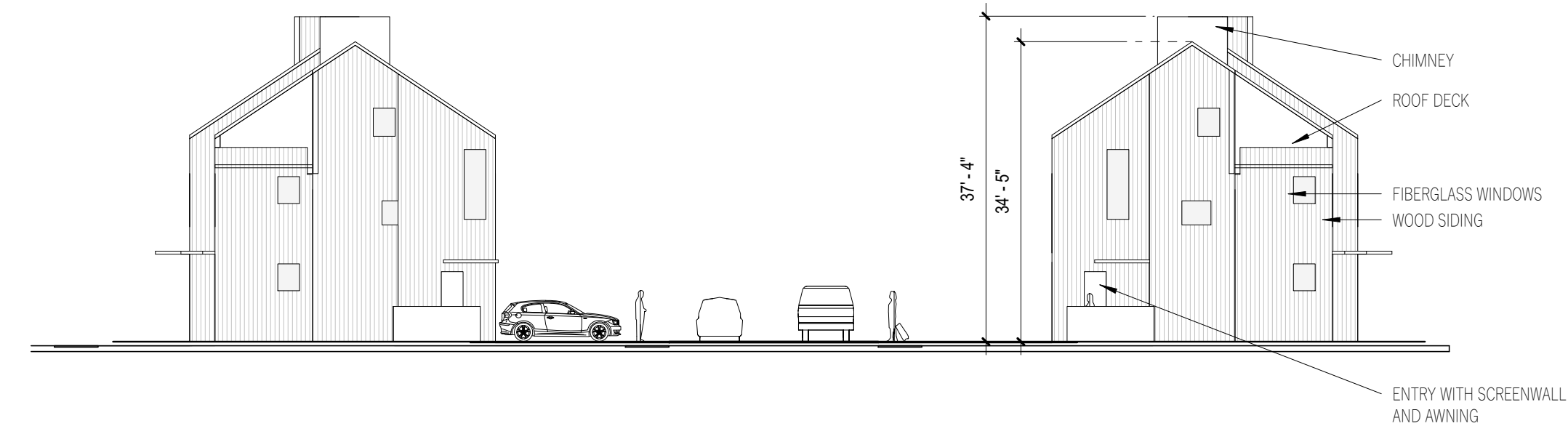
PUBLIC STREET AND UTILITY EASEMENT
 LOCATED WITHIN THE NE 1/4 SECTION 24, T2S, R5E, PMM, GALLATIN COUNTY, MONTANA

FIELD: JP/MS
 DRAWN: JP
 CHECKED: NB
 DATE: 9/27/2021

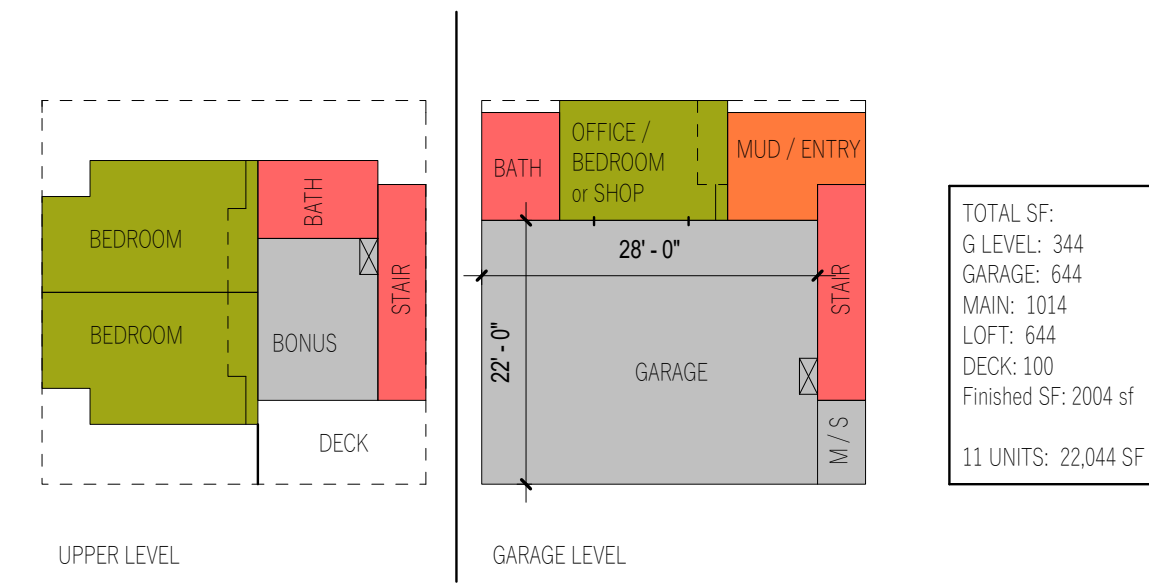
SHEET
1 OF 1



SKYVIEW LOFTS BOZEMAN, MT



3 EAST ELEVATION (S3RD)
1/16" = 1'-0"



SKYVIEW
LOFTS @ S3

BZN MT



1 SITE PLAN
1/16" = 1'-0"

S 3RD

REVISIONS:

NO.	DESCRIPTION	DATE

PROJECT NUMBER: 20-023
 DRAWN BY / CHECKED BY: CCR
 DATE: APRIL 20 | 2021
 PHASE: FEAS

DRAWING TITLE:
SITE PLAN

DRAWING NUMBER:

A1.1

Memorandum

REPORT TO: City Commission

FROM: Jennifer A. Giuttari, Assistant City Attorney
Greg Sullivan, City Attorney
Anna Rosenberry, Assistant City Manager

SUBJECT: Ordinance 2098 Provisionally Adopting an Update to the Department Titles of Administrative Services and Public Works to Reflect the City's Current Department Titles, and Creating the Departments of Economic Development and Strategic Services

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Ordinance

RECOMMENDATION: I move to provisionally adopt Ordinance 2098: Updating the Department Titles of Administrative Services and Public Works to Reflect the City's Current Department Titles, and Creating the Departments of Economic Development and Strategic Services.

STRATEGIC PLAN: 7.1 Values-Driven Culture: Promote a values-driven organizational culture that reinforces ethical behavior, exercises transparency and maintains the community's trust.

BACKGROUND: Ordinance 2098 revises the entire Bozeman Municipal Code so that it properly reflects the City's current department title for the department of finance. Additionally, this Ordinance revises the Bozeman Municipal Code to split the current Department of Public Works into two new departments - the Department of Transportation and Engineering, and the Department of Utilities. This Ordinance also recognizes the retroactive creation of the Departments of Economic Development, and Strategic Services.

UNRESOLVED ISSUES: N/A

ALTERNATIVES: N/A

FISCAL EFFECTS: N/A

Attachments:

[220120 Ord. 2098 - final.pdf](#)

[220120 Ord. 2098 Exhibit A Finance - final.pdf](#)

[220120 Ord. 2098 Exhibit B Trans.-Eng. - final.pdf](#)

[220120 Ord. 2098 Exhibit C Utilities - final.pdf](#)

Report compiled on: January 14, 2022



ORDINANCE 2098

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA UPDATING THE DEPARTMENT TITLES OF ADMINISTRATIVE SERVICES AND PUBLIC WORKS TO REFLECT THE CITY'S CURRENT DEPARTMENT TITLES, AND ESTABLISHING THE DEPARTMENTS OF ECONOMIC DEVELOPMENT AND STRATEGIC SERVICES.

WHEREAS, the City Charter [vests in the City Commission all powers of the city](#), and mandates the City Commission, [by ordinance, to establish, alter or abolish any city department](#).

WHEREAS, the City of Bozeman department of administration was previously renamed, and the name currently assigned to the department shall now be reflected in the Bozeman Municipal Code as department of finance; and

WHEREAS, the City of Bozeman City Manager wishes to divide the department of public works into two new department titles so as to better reflect the specialties and work load of each department, thereby retiring the department and director title “public works”; and

WHEREAS, the City of Bozeman City Manager wishes to create a newly named department of transportation and engineering, which is administered by the director of transportation and engineering; and

WHEREAS, the City of Bozeman City Manager wishes to create a newly named department of utilities, which is administered by the director of utilities; and

WHEREAS, the City of Bozeman City Manager previously created the department of economic development, administered by the director of economic development, and Bozeman Municipal Code shall now reflect such a department; and

WHEREAS, the City of Bozeman City Manager previously created the department of strategic services, administered by the director of strategic services, and the Bozeman Municipal Code shall now reflect such a department.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

Bozeman Municipal Code. Section 2.04.010 shall be amended as follows:

Sec. 2.04.010. Administrative departments established.

- A. The following administrative departments of the city are established:
1. Department of ~~finance~~administrative services;
 2. Department of fire;
 3. Department of human resources;
 4. Department of information technology;
 5. Department of law;
 6. Department of parks and recreation;
 7. Department of community development;
 8. Department of police; ~~and~~
 9. Department of ~~public works~~Transportation and Engineering;
 10. Department of Utilities;
 11. Department of Economic Development; and
 12. Department of Strategic Services.
- B. The commission may by ordinance establish, alter, or abolish city departments, officers, or agencies and may prescribe the functions of all departments, offices and agencies. The city manager may, by administrative order, transfer or add functions to the departments, to include organizing or reorganizing all divisions thereunder.

Section 2

Division 2 of the Bozeman Municipal Code shall be amended as follows:

DIVISION 2. – DEPARTMENT OF ~~ADMINISTRATIVE SERVICES~~ FINANCE

Section 3

All references throughout the Bozeman Municipal Code to the department of administrative services shall be replaced with the department of finance, as indicated in *Exhibit A*

to this Ordinance. *Exhibit A* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 4

All references throughout the Bozeman Municipal Code to the director of administrative services shall be replaced with the director of finance, as indicated in *Exhibit A* to this Ordinance. *Exhibit A* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 5

That Division 10 of the Bozeman Municipal Code shall be amended as follows:

DIVISION 10. - DEPARTMENT OF ~~PUBLIC WORKS~~ TRANSPORTATION AND ENGINEERING

Section 6

Bozeman Municipal Code. Section 2.04.1350 shall be amended as follows:

Sec. 2.04.1350. Director designated; powers and duties.

The director of transportation and engineering ~~public works~~ shall be the head of the department of transportation and engineering ~~public works~~ and shall work under the supervision and control of the city manager in all matters. The director shall discharge all of the duties prescribed by law for that officer, and as such shall manage and have charge of the construction, improvements, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts and other public highways, and of all sewers and sewerage disposal plants, drains, ditches, culverts, canals, streams and watercourses. ~~The director shall manage and have charge of the waterworks system owned by the city, and improvements thereon, and shall have charge of the enforcement of all obligations of privately owned or operated public utilities enforceable by the city.~~ The director of transportation and engineering shall have charge and supervision of the making and preservation of all surveys, maps, plans, drawings and estimates for public work; and charge of the cleaning, sprinkling and lighting of streets and public places; and of the collection and disposal of waste; and charge and supervision of the preservation of papers, plans, tools and appliances belonging to the city and pertaining to the department of transportation and engineering ~~public works~~. The director shall receive such salary as may be fixed by the city manager.

Section 7

All references throughout the Bozeman Municipal Code to the department of public works, shall be replaced with the department of transportation and engineering, as indicated in

Exhibit B to this Ordinance. *Exhibit B* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 8

All references throughout the Bozeman Municipal Code to the director of public works shall be replaced with the director transportation and engineering, as indicated in *Exhibit B* to this Ordinance. *Exhibit B* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 9

Article 4 of the Bozeman Municipal Code shall be amended to include the following new Division:

DIVISION 11.- DEPARTMENT OF UTILITIES.

Section 10

Article 4, Division 11 of the Bozeman Municipal Code shall be codified to include the following new Section:

Sec. 2.04.1380. Sewer connection requirements; director designated; powers and duties.

The director of utilities shall manage and have charge of the waterworks system owned by the city, and improvements thereon, and shall have charge of the enforcement of all obligations of privately owned or operated public utilities enforceable by the city. The director shall receive such salary as may be fixed by the city manager. The director of utilities shall have authority to compel the making of sewer connections whenever, in view of a contemplated street improvement which has been ordered by the commission, or as a sanitary regulation, a sewer connection should in the director's judgment be constructed. The director shall cause written notice requiring such construction to be given to the owner of each lot or parcel of land for which such connection is to be made. Such notice shall be served by the director of utilities or some person designated by the director in the manner provided for the service of summons in civil actions. Nonresidents of the city, or persons who cannot be found, may be served by one publication of such notice in a daily newspaper of general circulation in the city. It shall state the time within which such connections shall be constructed, and if they are not constructed within the time specified, they may be constructed by the city and the cost thereof, together with a penalty of five percent, assessed against the lots and lands for which such connections are made. Such assessments shall be certified and collected as other assessments for street improvements.

Section 11

All references throughout the Bozeman Municipal Code to the department of public works, shall be replaced with the department of utilities, as indicated in *Exhibit C* to this Ordinance. *Exhibit C* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 12

All references throughout the Bozeman Municipal Code to the director of public works shall be replaced with the director utilities, as indicated in *Exhibit C* to this Ordinance. *Exhibit C* shall not be codified and is attached to this Ordinance solely for legislative purposes.

Section 13

That Article 4 of the Bozeman Municipal Code shall be amended to include the following new Division:

DIVISION 12.- DEPARTMENT OF ECONOMIC DEVELOPMENT (RESERVED).

Section 14

That Article 4 of the Bozeman Municipal Code shall be amended to include the following new Division:

DIVISION 13.- DEPARTMENT OF STRATEGIC SERVICES (RESERVED).

Section 15

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 16

Savings Provision.

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 17

Severability.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 18

Codification.

Sections 10 through 15 of this Ordinance shall be codified and included as new divisions, as written above, in Chapter 2, Article 4 of the Bozeman Municipal Code, which is currently entitled *Administration: Departments*. Bozeman Municipal Code shall be amended to include new Sec. 2.04.1380, as set forth in Section 11 of this Ordinance.

Section 19

Effective Date.

This ordinance shall be in full force and effect thirty (30) days after final adoption.

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the ____ day of _____, 20__.

CYNTHIA L. ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the ___ of _____, 20___. The effective date of this ordinance is _____, __, 20__.

CYNTHIA L. ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney

NOT FOR CODIFICATION – FOR LEGISLATIVE PURPOSES ONLY

BOZEMAN MUNICIPAL CODE SECTION	CURRENT LANGUAGE	REPLACEMENT LANGUAGE
Sec. 2.03.550. Financial disclosure statement.	administrative services	finance
Sec. 2.04.150. Director of administrative services; appointment; powers and duties.	administrative services	finance
Sec. 2.04.160. City manager duties.	administrative services	finance
Sec. 2.05.200. Board; donations.	administrative services	finance
Sec. 2.05.210. Recreation fees.	administrative services	finance
Sec. 2.05.1790. Annual reports.	administrative services	finance
Sec. 2.05.1970. Bozeman Downtown Business Improvement District Board.	administrative services	finance
Sec. 2.06.580. Monthly settlement and collection from county treasurer.	administrative services	finance
Sec. 2.06.590. Annual tax reports to commission; contents.	administrative services	finance
Sec. 2.06.600. Special assessments—Collection procedure.	administrative services	finance
Sec. 2.06.610. Same—Procedure for levy.	administrative services	finance
Sec. 2.06.630. Same—Form of notice and receipt.	administrative services	finance
Sec. 2.06.640. Same—Notice of payment deadlines and delinquency conditions.	administrative services	finance
Sec. 2.06.650. Same—Delinquency report.	administrative services	finance
Sec. 2.06.670. Same—Certificates to county clerk and county treasurer.	administrative services	finance
Sec. 2.06.680. Same—Notice publication required.	administrative services	finance
Sec. 2.06.690. Same—Payment procedure.	administrative services	finance
Sec. 2.06.700. Delinquent tax sales; director of administrative services authority and duties.	administrative services	finance
Sec. 2.06.710. Reinstating special assessments.	administrative services	finance

NOT FOR CODIFICATION – FOR LEGISLATIVE PURPOSES ONLY

Sec. 2.04.150. Director of administrative services; appointment; powers and duties.	administrative services	finance
Sec. 2.04.160. City manager duties.	administrative services	finance
Sec. 2.05.200. Board; donations.	administrative services	finance
Sec. 2.05.210. Recreation fees.	administrative services	finance
Sec. 2.05.1790. Annual reports.	administrative services	finance
Sec. 2.05.1970. Bozeman Downtown Business Improvement District Board.	administrative services	finance
Sec. 2.06.580. Monthly settlement and collection from county treasurer.	administrative services	finance
Sec. 2.06.590. Annual tax reports to commission; contents.	administrative services	finance
Sec. 2.06.600. Special assessments—Collection procedure.	administrative services	finance
Sec. 2.06.610. Same—Procedure for levy.	administrative services	finance
Sec. 2.06.630. Same—Form of notice and receipt.	administrative services	finance
Sec. 2.06.640. Same—Notice of payment deadlines and delinquency conditions.	administrative services	finance
Sec. 2.06.650. Same—Delinquency report.	administrative services	finance
Sec. 2.06.670. Same—Certificates to county clerk and county treasurer.	administrative services	finance
Sec. 2.06.680. Same—Notice publication required.	administrative services	finance
Sec. 2.06.690. Same—Payment procedure.	administrative services	finance
Sec. 2.06.700. Delinquent tax sales; director of administrative services authority and duties.	administrative services	finance
Sec. 2.06.710. Reinstating special assessments.	administrative services	finance
Sec. 2.06.720. Special improvement districts; annual reports.	administrative services	finance
Sec. 2.06.1690. Credits against development impact fees.	administrative services	finance
Sec. 2.06.1890. Proof of wages and benefits and other requirements.	administrative services	finance
Sec. 4.04.050. Exceptions to section 4.04.030.	administrative services	finance

NOT FOR CODIFICATION – FOR LEGISLATIVE PURPOSES ONLY

Sec. 8.02.020. Dog and cat licenses— Requirements generally; fee; expiration.	administrative services	finance
Sec. 8.02.180. Enforcement for violations; liability of owner; permit transfers.	administrative services	finance
Sec. 12.02.080. Transfer of license.	administrative services	finance
Sec. 12.02.240. Compliance regarding violations.	administrative services	finance
Sec. 14.01.040. Sale of lots.	administrative services	finance
Sec. 14.01.050. Transfer of lots.	administrative services	finance
Sec. 14.01.060. Record of lots sold.	administrative services	finance
Sec. 14.01.080. Interment permit required.	administrative services	finance
Sec. 14.01.090. Disinterment.	administrative services	finance
Sec. 14.01.110. Expenditures; payment of claims.	administrative services	finance
Sec. 14.01.130. Same—Fund established; maintenance fee; agreement and deposit conditions.	administrative services	finance
Sec. 14.01.140. Same—Form of agreement.	administrative services	finance
Sec. 14.01.150. Same—Fund recordkeeping and reports.	administrative services	finance
Sec. 16.02.110. Abatement by city.	administrative services	finance
Sec. 16.02.120. Notice of assessment— Appeal of charges.	administrative services	finance
Sec. 16.08.160. License; application; fee; change; confidentiality.	administrative services	finance
Sec. 34.04.030. Fees; payments and deposit.	administrative services	finance
Sec. 34.04.060. Construction ordered by city; warrant for payment of costs.	administrative services	finance
Sec. 34.05.160. Suspension or revocation of exclusive uses of public right-of-way.	administrative services	finance
Sec. 40.02.710. Application; existing service; requirements.	administrative services office	finance department
Sec. 40.03.680. Application and other service conditions.	administrative services office	finance department

NOT FOR CODIFICATION – FOR LEGISLATIVE PURPOSES ONLY

Sec. 40.03.1620. Sewer connections;deferred payments authorized when.	administrative services	finance
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NOT FOR CODIFICATION – FOR LEGISLATIVE PURPOSES ONLY

BOZEMAN MUNICIPAL CODE SECTION	CURRENT LANGUAGE	REPLACEMENT LANGUAGE
Sec. 2.04.1370. Engineer and other department personnel.	public works public service	<u>transportation and engineering</u> <u>transportation and engineering</u>
Sec. 2.06.1630. Definitions.	director of public service	<u>director of transportation and engineering</u>
Sec. 2.06.1660. Water impact fees.	public service	<u>transportation and engineering</u>
Sec. 10.03.110. Same— Issuance restrictions and moving conditions.	public works	<u>transportation and engineering</u>
Sec. 16.06.070. Exceptions.	public service	<u>transportation and engineering</u>
Sec. 28.03.050. Permitted locations.	public works	<u>transportation and engineering</u>
Sec. 32.02.010. Definitions.	public works	<u>transportation and engineering</u>
Sec. 32.02.020. City collection of solid waste.	public works	<u>transportation and engineering</u>
Sec. 32.02.030. Collection and disposal by city; exemptions; article provisions not exclusive.	public works	<u>transportation and engineering</u>
Sec. 32.02.050. Administration; rules and regulations.	public works	<u>transportation and engineering</u>
Sec. 32.02.110. Violation; penalty.	public works	<u>transportation and engineering</u>
Sec. 34.02.030. Work in streets; permit required; interfering with authorized work prohibited.	public works	<u>transportation and engineering</u>
Sec. 34.02.040. Obstructing or encumbering streets; permit required.	public works	<u>transportation and engineering</u>
Sec. 34.02.050. Structures in streets; permit required.	public works	<u>transportation and engineering</u>
Sec. 34.02.060. Obstructions; warning signals required.	public works	<u>transportation and engineering</u>

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Sec. 34.02.070. Removal of litter or obstructions; notice; work performed by city when; costs.	public works	<u>transportation and engineering</u>
Sec. 34.02.080. Removal of obstructions; time limit; interfering when work performed by city prohibited.	public works	<u>transportation and engineering</u>
Sec. 34.02.090. Violations; penalties.	public works	<u>transportation and engineering</u>
Sec. 34.04.020. Repair of sidewalks by abutting owners; failure to repair.	public works	<u>transportation and engineering</u>
Sec. 34.05.020. Definitions.	public works	<u>transportation and engineering</u>
Sec. 34.05.100. Encroachments permitted under this article; additional standards.	public works	<u>transportation and engineering</u>
Sec. 34.05.110. Notification of name or address change.	public works	<u>transportation and engineering</u>
Sec. 34.05.130. Special event or temporary permits.	public works	<u>transportation and engineering</u>
Sec. 34.05.140. Fees.	public works	<u>transportation and engineering</u>
Sec. 34.05.150. Suspension and revocation of permits for non-substantial encroachments.	public works	<u>transportation and engineering</u>
Sec. 34.05.160. Suspension or revocation of exclusive uses of public right-of-way.	public works	<u>transportation and engineering</u>
Sec. 34.06.010. Definitions.	public works	<u>transportation and engineering</u>
Sec. 34.06.020. Snow and ice to be removed from sidewalks.	public works	<u>transportation and engineering</u>
Sec. 34.06.050. Appeals.	public works	<u>transportation and engineering</u>
Sec. 34.08.200. Notice to city and other officials.	public works	<u>transportation and engineering</u>

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Sec. 36.01.020. Definitions.	public works	<u>transportation and engineering</u>
Sec. 36.01.060. Emergency and experimental regulations authorized when.	public works	<u>transportation and engineering</u>
Sec. 36.02.030. Violation of chapter; penalty.	public works	<u>transportation and engineering</u>
Sec. 36.03.020. Horns and warning devices required.	public works	<u>transportation and engineering</u>
Sec. 36.03.050. Size and weight of vehicles, trailers, loads and tires; state regulations applicable.	public works	<u>transportation and engineering</u>
Sec. 36.03.490. Turning markers; placement authorized; driver obedience required.	public works	<u>transportation and engineering</u>
Sec. 36.03.500. Restricted right, left or U-turns; signs authorized.	public works	<u>transportation and engineering</u>
Sec. 36.04.030. Locations where prohibited.	public works	<u>transportation and engineering</u>
Sec. 36.04.040. Prohibited near hazardous or congested areas.	public works	<u>transportation and engineering</u>
Sec. 36.04.060. Standing or parking—One-way streets.	public works	<u>transportation and engineering</u>
Sec. 36.04.070. Same—One-way roadways.	public works	<u>transportation and engineering</u>
Sec. 36.04.080. Additional or temporary parking regulations.	public works	<u>transportation and engineering</u>
Sec. 36.04.090. Parking signs required.	public works	<u>transportation and engineering</u>
Sec. 36.04.100. Angle parking.	public works	<u>transportation and engineering</u>
Sec. 36.04.130. Private parking signs prohibited without permit.	public works	<u>transportation and engineering</u>
Sec. 36.04.150. Narrow street parking restrictions.	public works	<u>transportation and engineering</u>
Sec. 36.04.170. Parking restrictions near schools.	public works	<u>transportation and engineering</u>

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Sec. 36.04.190. Special needs bus loading/unloading zones; establishment; parking restrictions.	public works	<u>transportation and engineering</u>
Sec. 36.04.200. Tow-away zones; establishment; parking restrictions.	public works	<u>transportation and engineering</u>
Sec. 36.04.240. Large vehicles; parking restrictions.	public works	<u>transportation and engineering</u>
Sec. 36.04.280. Loading zones.	public works	<u>transportation and engineering</u>
Sec. 36.04.290. Loading and unloading; backing into curb permitted when.	public works	<u>transportation and engineering</u>
Sec. 36.04.310. Bus stops and taxi stands.	public works	<u>transportation and engineering</u>
Sec. 36.04.360. Montana State University Residential On-Street Parking Permit Regulation Program.	public works	<u>transportation and engineering</u>
Sec. 36.04.365. Bozeman Senior High School Residential On-Street Parking Permit Regulation Program.	public works	<u>transportation and engineering</u>
Sec. 36.05.010. Installation; director of public works authority.	public works	<u>transportation and engineering</u>
Sec. 36.05.070. Traffic lanes, crosswalks, and safety zones; when designation authorized.	public works	<u>transportation and engineering</u>
Sec. 36.06.010. Designation; sign placement; traffic movement restricted.	public works	<u>transportation and engineering</u>
Sec. 36.07.010. General rule.	public works	<u>transportation and engineering</u>
Sec. 36.08.010. Determination and designation.	public works	<u>transportation and engineering</u>
Sec. 36.08.020. Intersections with arterial and through streets.	public works	<u>transportation and engineering</u>
Sec. 36.09.050. Routes established.	public works	<u>transportation and engineering</u>

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Sec. 40.02.1100. Rules and regulations adopted; part of contract with customer.	public works	<u>transportation and engineering</u>
Sec. 40.06.010. Adoption of the Montana Public Works Standard Specifications.	director of public works director of public service	<u>director of transportation and engineering</u> <u>director of transportation and engineering</u>
Sec. 40.06.020. Adoption of City of Bozeman Modifications to the Montana Public Works Standard Specifications.	public service	<u>transportation and engineering</u>
Sec. 40.06.030. Adoption of the city design standards and specifications policy.	public service	<u>transportation and engineering</u>
Sec. 40.06.040. Amendment of the city modifications to the MPWWS and city design standards and specifications policy.	public service	<u>transportation and engineering</u>

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BOZEMAN MUNICIPAL CODE SECTION	CURRENT LANGUAGE	REPLACEMENT LANGUAGE
Sec. 40.02.150. Interfering with or polluting water supply prohibited.	public works	<u>utilities</u>
Sec. 40.02.350. Waiver of regulations; conditions.	public works	<u>utilities</u>
Sec. 40.02.1100. Rules and regulations adopted; part of contract with customer.	public works	<u>utilities</u>
Sec. 40.02.1270. Authority to restrict outdoor use of water.	public works	<u>utilities</u>
Sec. 40.02.1290. Sprinkling systems; timing.	public works	<u>utilities</u>
Sec.40.02.1300. Landscaping; seeding; sodding; planting.	public works	<u>utilities</u>
Sec. 40.02.1310. Notice required.	public works	<u>utilities</u>
Sec. 40.02.1330. Exception to maintain sanitation.	public works	<u>utilities</u>
Sec. 40.03.330. Waiver of regulations; conditions.	public works	<u>utilities</u>
Sec. 40.03.910. Definitions.	public works	<u>utilities</u>
Sec. 40.03.930. Discharge prohibitions.	public works	<u>utilities</u>
Sec. 40.03.1115. Local limits.	public works	<u>utilities</u>
Sec. 40.03.1150. Sampling, analysis and inspection.	public works	<u>utilities</u>
Sec. 40.03.1160. Reporting and compliance requirements.	public works	<u>utilities</u>
Sec. 40.03.1240. Notification of violation.	public works	<u>utilities</u>
Sec. 40.03.1250. Consent orders.	public works	<u>utilities</u>
Sec. 40.03.1260. Show cause hearing.	public works	<u>utilities</u>
Sec. 40.03.1270. Compliance orders.	public works	<u>utilities</u>
Sec. 40.03.1280. Cease and desist orders.	public works	<u>utilities</u>

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Sec. 40.03.1290. Administrative fines.	public works	<u>utilities</u>
Sec. 40.03.1620. Sewer connections;deferred payments authorized when.	public service	<u>utilities</u>
Sec. 40.04.070. Definitions.	public works	<u>utilities</u>

Memorandum

REPORT TO: City Commission

FROM: Mike Veselik, Economic Development Program Manager, Parking There
Brit Fontenot, Economic Development Director
Jeff Mihelich, City Manager

SUBJECT: Downtown Bozeman Parking Supply and Demand Management Work Session

MEETING DATE: February 1, 2022

AGENDA ITEM TYPE: Policy Discussion

RECOMMENDATION: Direction to Staff

STRATEGIC PLAN: 4.2 High Quality Urban Approach: Continue to support high-quality planning, ranging from building design to neighborhood layouts, while pursuing urban approaches to issues such as multimodal transportation, infill, density, connected trails and parks, and walkable neighborhoods.

BACKGROUND: Based on an occupancy study conducted in August 2021, the City's Parking Services division is offering new alternatives for how to manage parking supply and demand in downtown Bozeman. On Wednesday, January 26, 2022, the Transportation Advisory Board received a substantially similar memo, report from Walker, and presentation. After questions, public comment, and a board discussion of the presentation, the Board voted 7-0 to recommend the City Commission support paid parking as a strategy to manage parking supply and demand in downtown. More detail can be found in the attached memo.

UNRESOLVED ISSUES: No unresolved issues

ALTERNATIVES: Alternatives as proposed

FISCAL EFFECTS: There are upfront capital costs to any decisions. However, revenue generated from demand management strategies could cover these costs.

Attachments:

[City Commission Memo--Parking Work Session Feb 1 2022--Final.doc](#)

[Pro Forma Report--City Of Bozeman--On-Street Parking.pdf](#)

Report compiled on: January 27, 2022

MEMORANDUM

REPORT TO: Bozeman City Commission

FROM: Jeff Mihelich, City Manager
Mike Veselik, Economic Development Program Manager

RE: Parking Supply and Demand Management Work Session

MEETING DATE: February 1, 2022

AGENDA ITEM: Work Session

RECOMMENDATION: Provide direction to the City Manager and staff regarding the future of parking supply and demand management in the downtown core, specifically about on street paid parking.

BACKGROUND: Parking in downtown Bozeman is a key component of the long-term health, vibrancy, and success of the downtown economy. Further, parking is only one part of a transportation movement. With the creation of the Transportation Advisory Board, the City of Bozeman now has the capacity to examine parking as one component to creating a robust transportation network. Taking steps toward creating supply and managing demand will allow the City to improve the transportation experience for all users.

In 2016, the Bozeman Parking Commission adopted a [Downtown Strategic Parking Management Plan \(DSPMP\)](#). The DSPMP lays out 26 strategies to manage the downtown parking system. Since its adoption in 2016, the Parking Commission and staff have made significant progress on many of the goals. However, some of the most consequential goals remain outstanding.

To solicit new community input on these goals, city staff undertook a community engagement effort in January, February, and March 2021. More than 100 residents and community members participated in several facilitated conversations. The goal of the engagement effort was to collect input from community members that do not attend monthly Parking Commission meetings. Staff received excellent input from the broader community including 1) desire for action rather than further analysis, 2) more active management effort in the downtown, and 3) exploration future supply if circumstances merit. The input from the community informed the work of the Parking Commission and staff through the end of 2021.

At the April 2021 meeting, the Parking Commission adopted a work plan and formed two subcommittees based on the input from the community. The subcommittees consisted of a Policy Subcommittee and a Capacity Subcommittee. While the Policy Subcommittee focused on parking minimums, the Capacity Subcommittee focused on topics relating to 1) reducing demand in the downtown parking management district, 2) creating options for employees, 3) unlocking existing supply, and 4) creating new parking supply. The Capacity Subcommittee drafted a set of priorities for the new Transportation Board to consider in creating capacity. The Parking Commission adopted those priorities via [Resolution 2021-06](#) including:

1. New standards for bike parking
2. Support for the expansion of public transit
3. Encouraging the City to enter into shared use agreements with downtown property owners
4. Creation of an employee permit program
5. Special event parking and transportation services
6. Support for additional research into the construction of new parking supply

OCCUPANCY STUDIES OF DOWNTOWN: The main data point for decision making in parking services for downtown Bozeman is monitoring our occupancy numbers on-street and off-street in the downtown core so that Parking Services can efficiently identify trends in occupancy and take the appropriate actions to mitigate negative effects on the user experience. Prior to this summer, the last manual occupancy count was done in 2017.

The City regularly monitors occupancy in the garage via fixed license plate reader (LPR) technology. Staff is in the process of installing standalone occupancy technology in all the surface lots. Measuring on-street occupancy is the hardest task. Cities across the country struggle with the best method to monitor on-street occupancy consistently without major capital investments.

In June 2020, the City of Bozeman began to design a method for collecting on-street data using the city's mobile LPR technology typically used for enforcement. Since then, staff has collected, analyzed, and shared regular occupancy data for on-street public parking. During this development and trial period, staff noticed discrepancies in the data that were not aligning with observations. Therefore, to determine the accuracy of mobile LPR, staff contracted with Walker Consultants (Walker) to conduct an occupancy study of downtown public parking.

Luckily, as Walker was conducting the study, staff discovered errors with the data that have been corrected. The [map is now available on the city's website](#) and is updated with our most recent data.

Even with the correct data coming in from mobile LPR collection, staff desired to have the most accurate collection method available to inform decisions—a manual occupancy count. A manual count is important because mobile LPR collection has a margin of error of +/- 10 percent. Therefore, a manual count can verify the accuracy of the mobile LPR collection and provide better information to make decisions.

Walker shared [the results of the study](#) with staff and the Parking Commission in September and October, 2021. The study showed occupancy throughout the downtown area approaching or above 85%. [The 85% rule](#) is a widely accepted standard in the parking industry of a “full” block or off-street facility. At 85% occupancy, a parker can expect one open spot per block face in an on-street system or a few spots open in an off-street facility. Parking programs must increase management efforts to ensure parking remains readily available when systems regularly trip the 85% threshold. The best systems will have management tools in place long before the system is regularly at 85% and adjust the tools as needed to ensure parking remains available.

CREATING SUPPLY AND MANAGING DEMAND: Regardless of how well Parking Services is able to manage demand, the City of Bozeman should continue exploring ways to create more options for parkers in the downtown Bozeman area. As new residents continue to move in, tourists choose to enjoy the beauty of our community, and businesses and developments locate downtown, they will look for a place to park their vehicles. Biking, walking, or taking public transit may not always be an option. Therefore, the City should continue to pursue shared-use agreements with willing partners in the downtown and attempt to unlock more private supply. However, that will likely not be enough. The City must take meaningful action to fund the creation of a new parking garage similar in size to the Bridger Park Garage.

The simplest and easiest way to contribute to the construction of a new parking garage is for the City to provide funding to support the effort through an on-street paid parking program. On street paid parking is a way to manage demand and generate revenue to support future parking structures in the downtown area. Further, the users of the parking and transportation system are paying for improvements and expansion to said system. In addition, the 2016 Downtown Strategic Parking Management Plan calls for the City to explore a paid parking solution to expand parking supply when data demonstrates the need. The data

illustrates a need for paid parking as one of many tools in the Parking Services program’s toolbox to manage parking in the downtown Bozeman area.

With this in mind, after the required RFQ process, staff selected Walker Consultants (Walker) for a term contract to provide support to the program in exploring the options for paid on street parking in the downtown core. Walker provided a pro forma study of the revenue that could be generated by charging for on street parking. The figure below shows the rates that could be charged from May 1 through September 30, the time with the highest tourist demand on the system, and the amount of revenue generated. In all three rate scenarios, Walker calculated the cost of debt service on bonds issued to support the construction of a new parking structure. Staff are confident in the accuracy of the model because of Walker’s experience in the industry working with other municipalities and their conservative financial assumptions.



UNINTENDED CONSEQUENCES OF PAID PARKING: An efficient paid on-street parking system could lead to unintended consequences like rent seeking behavior of parkers in the downtown—i.e. parking in unregulated areas outside of the downtown core. To remedy this potential negative outcome, past Parking Commissions and the City Commission adopted [Ordinance 2033](#) in August of 2020 which allows for the creation of parking benefit zones (PBZ). A PBZ is an inclusive permit program that provides permits to residents in [the permit area](#)—eligible neighborhoods extend 1,000 feet from the downtown B-3 zone—first at a low rate and is enforced by the Parking Division. Should additional capacity exist in the system, the City could sell permits at a premium to commuters or others who do not qualify for a resident permit.

Further, paid on-street parking could burden employees who park downtown for work, especially those in service industry jobs such as the hospitality and retail establishments. Staff proposes creating an employee permit program as

recommended in Parking Commission Resolution 2020-06. The program will encourage employers to purchase permits for their employees by offering discounted permits for bulk purchases in the surface lots or parking garage. In addition, should paid on street parking generate enough revenue to cover all operational expenses, excess revenue could be used to subsidize permits for select users.

Staff remains committed to addressing unintended consequences of creating a paid on street parking system as they arise. The system will require fine tuning as we learn how the public reacts to paid-on street parking downtown. Staff, the Transportation Board, the City Commission, and the general public must all work together to perfect the system.

COMMUNITY ENGAGEMENT AROUND PAID PARKING: Staff believes the engagement conducted in the winter of 2021 provided sufficient public input on whether or not to pursue paid on street parking in the downtown core. Additionally, staff continues to discuss the parking system with the Downtown Bozeman Partnership, downtown property owners, business owners, and residents.

Staff will, however, benefit from additional public input on the allocation of any additional revenue generated from paid on street parking beyond the basic costs of operating the system. The options staff would like to present to community members include 1) funding a new garage/additional supply, 2) a grant program to support multimodal transit projects, 3) funding streamline, and 4) subsidizing employee parking permits.

ACHIEVING THE GOALS OF THE CITY OF BOZEMAN: The City Commission has adopted many plans and goals designed to provide a basis for the City to make policy decisions. Implementing paid on street parking to fund projects such as a new garage, more transit, bike and pedestrian transportation options, and an employee permit program meet several City goals including goals 2.2 Infrastructure Investments, 4.2 A High-Quality Urban Approach, 4.4 Vibrant Downtown Districts and Centers, 4.5 Housing and Transportation Choices, 6.3 Climate Action, and 7.3 Best Practices, Creativity, and Foresight. Additionally, implementing paid on street parking allows for the City to encourage additional uses of multimodal transportation. The City can make progress toward goals in the [Strategic Plan \(Urban Design\)](#), [Climate Plan](#), [Downtown Plan](#), and the [Transportation Plan](#).

TRANSPORTATION ADVISORY BOARD MEETING: On Wednesday, January 26, 2022, the Transportation Advisory Board received a substantially similar memo,

report from Walker, and presentation. After questions, public comment, and a board discussion of the presentation, the Board voted 7-0 to recommend the City Commission support paid parking as a strategy to manage parking supply and demand in downtown Bozeman.

CONCLUSION: Staff has conducted data collection showing a need for increased parking supply and a more active management strategy for parking demand. Paid on street parking is a proven method in communities across the country to manage a parking system and as a tool to increase parking supply. Paid on street parking allows for the City to place the cost burden of operating the system on the users of the system rather than assessing individual property owners or businesses. Further, the seasonal approach to paid on street parking allows the City to capture revenue when parking assets are in highest demand, mostly by out of town guests and daily visitors. Finally, revenues generated from paid on street parking provides the City with funds to invest in projects for the future of the transportation system and to support a thriving downtown.



10375 Park Meadows Drive, Suite 425
Lone Tree, CO 80124

303.694.6622
walkerconsultants.com

January 13, 2022

Mike Veselik
Economic Development Program Manager, Parking
City of Bozeman
121 N. Rouse Avenue
Bozeman, MT 59715

Re: Downtown Bozeman Preliminary Parking Proforma
23-008542.00

Dear Mr. Veselik:

Walker Consultants is pleased to submit the enclosed report presenting the preliminary potential parking revenue, operating expenses, and net earnings associated with managing and operating a paid public parking system within the proposed Downtown Core of Bozeman, Montana.

In the enclosed report, we project the preliminary potential annual parking demand for the public portion of the Downtown Core parking system. The projections rely on information compiled from field observations completed in August 2021, calibrating the anticipated seasonality of those demands to historical lodging and enplanement data provided by the City of Bozeman.

We appreciate the opportunity to be of service to you on this project. If you have any questions or comments, please do not hesitate to call.

Sincerely,

WALKER CONSULTANTS

A handwritten signature in black ink, appearing to read "Christina Jones".

Christina Jones, MBA, CAPP
Consultant

A handwritten signature in black ink, appearing to read "Andrew J. Vidor".

Andrew Vidor
Director of Studies



City of Bozeman Preliminary Parking Proforma

January 20, 2021

Prepared for: City of Bozeman



WALKER
CONSULTANTS

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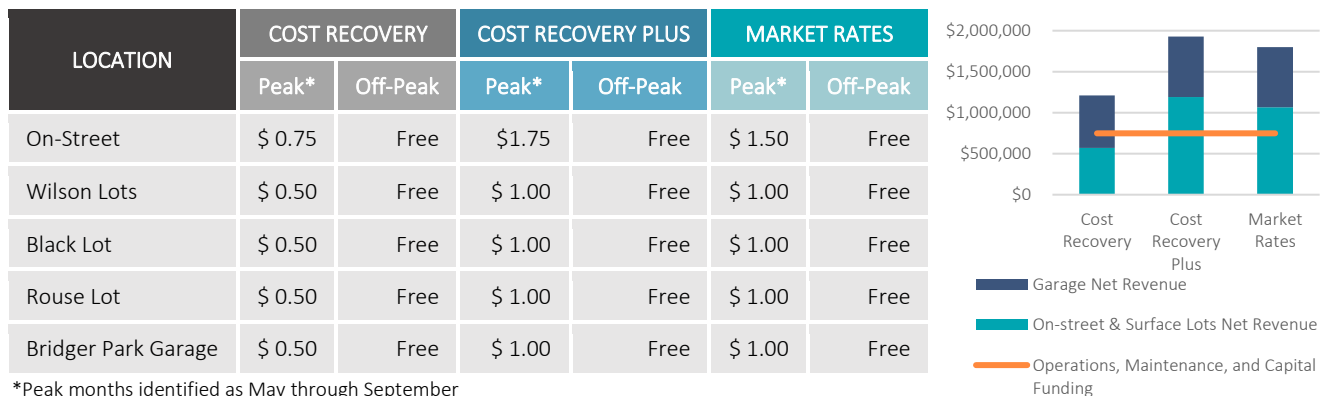
Executive Summary

Identified in the 2021 Study, the Downtown public parking supply consistently reaches and, in many areas, exceeds 85% occupied during much of the typical day, both during the week and on weekends. High, unbalanced utilization of public parking supplies may limit access to the area for residents, employees, and visitors, but it also limits further economic development potential. The City is exploring paid parking to manage parking demands, fund the existing operations and maintenance of the public parking system, and provide a funding source for future investment in additional parking and transportation demand management strategies. Implementation of paid parking can also reduce potential subsidizing of Downtown parking management with citywide property tax revenue from the General Fund. Instead, having those that use and benefit from it directly provide for its financial burden.

This report presents the preliminary modeling completed to explore potential revenue generated by paid public parking within the Downtown Core under several rate scenarios. The scenarios included in the analysis are intended to identify rates that manage parking demands, provide for the ongoing operations and maintenance of the public parking system within the District, fund additional parking, and potentially support investment in transportation demand management strategies and Downtown access and mobility initiatives. Rate scenarios are summarized in **Figure E1** with a graphical representation of their resulting potential net revenue and total expenses. **Figure E2**, on the following page, summarizes the projections per scenario in more detail. In each scenario, seasonal paid parking (collected May through September) was assumed to reduce potential impacts to residents and businesses and their employees. Parking fees charged year-round could substantially increase potential revenues or reduce the rates necessary to achieve cost recovery. For example, Cost Recovery Plus rates could decrease from \$1.75 to \$1.00 per hour on-street with off-street parking reduced from 1.00 to \$0.50 per hour if parking fees are charged year-round and the model still projects enough potential revenue to cover debt service on a new parking structure and provide funding for reinvestment in the community.

The potential net operating income is presented for the overall system and broken down to show the net income associated with the on-street and surface lots separate from the net income associated with the Bridger Garage. When built in 2009, the garage was funded by a combination of federal funding and a TIF bond. A requirement of the federal funding specifies that any revenue generated by the garage that exceeds its operations and maintenance must be used to fund transit. This means only net income generated by the on-street and surface lot spaces can be used to fund debt service on future parking supplies or for reinvestment other than transit.

Figure E1. Hourly Parking Rate Scenarios Evaluated and Resulting Net Revenue and Expense Projections



*Peak months identified as May through September

Figure E2. Potential Net Income per Scenario, Year 1

	COST RECOVERY	COST RECOVERY PLUS	MARKET RATES
Revenue			
Transient Revenue	\$ 607,800	\$ 1,345,900	\$ 1,215,500
Permit Revenue	\$ 609,600	\$ 609,600	\$ 609,600
Citation Revenue	\$ 27,900	\$ 27,900	\$ 27,900
Total Annual Revenue	\$ 1,245,300	\$ 1,983,400	\$ 1,853,000
Credit Card Fees	\$34,400	\$55,600	\$ 51,800
Net Revenue	\$ 1,210,900	\$ 1,927,800	\$ 1,801,200
Operating Expenses			
Labor	\$ 207,100	\$ 207,100	\$ 207,100
Utilities	\$ 42,100	\$ 42,100	\$ 42,100
Insurance	\$ 9,600	\$ 9,600	\$ 9,600
Supplies	\$ 21,400	\$ 21,400	\$ 21,400
Routine Maintenance	\$ 43,600	\$ 43,600	\$ 43,600
License Fees & Permits	\$ 840	\$ 840	\$ 840
Contracted Services	\$ 112,800	\$ 112,800	\$ 112,800
Total Operating Expenses	\$ 437,440	\$ 437,440	\$ 437,440
Net Operating Income (Loss)	\$ 773,460	\$ 1,490,360	\$ 1,363,760
Capital Reserve Funds	\$ 310,800	\$ 310,800	\$ 310,800
Year 1 Net Operating Income (Loss) after Capital Reserve Funds and Debt Service (Peak Only)			
System	\$ 462,600	\$ 1,179,560	\$ 1,052,960
On-Street & Lots	\$ 178,000	\$ 798,400	\$ 671,800
Garage	\$ 284,660	\$ 381,160	\$ 381,160
Year 1 Net Operating Income (Loss) after Capital Reserve Funds and Debt Service (Year-Round)			
System	\$ 1,043,360	\$ 2,465,860	\$ 1,572,360
On-Street & Lots	\$ 663,500	\$ 1,894,600	\$ 1,001,100
Garage	\$ 379,860	\$ 571,260	\$ 571,260

Figure E3. Potential Net Income per Scenario, Year 1 with Debt Service for New Garage

	COST RECOVERY	COST RECOVERY PLUS	MARKET RATES
Revenue			
Transient Revenue	\$ 607,800	\$ 1,345,900	\$ 1,215,500
Permit Revenue	\$ 609,600	\$ 609,600	\$ 609,600
Citation Revenue	\$ 27,900	\$ 27,900	\$ 27,900
Total Annual Revenue	\$ 1,245,300	\$ 1,983,400	\$ 1,853,000
Credit Card Fees	\$34,400	\$55,600	\$ 51,800
Net Revenue	\$ 1,210,900	\$ 1,927,800	\$ 1,801,200
Operating Expenses			
Labor	\$ 207,100	\$ 207,100	\$ 207,100
Utilities	\$ 42,100	\$ 42,100	\$ 42,100
Insurance	\$ 9,600	\$ 9,600	\$ 9,600
Supplies	\$ 21,400	\$ 21,400	\$ 21,400
Routine Maintenance	\$ 43,600	\$ 43,600	\$ 43,600
License Fees & Permits	\$ 840	\$ 840	\$ 840
Contracted Services	\$ 112,800	\$ 112,800	\$ 112,800
Total Operating Expenses	\$ 437,440	\$ 437,440	\$ 437,440
Net Operating Income (Loss)	\$ 773,460	\$ 1,490,360	\$ 1,363,760
Capital Reserve Funds	\$ 310,800	\$ 310,800	\$ 310,800
Debt Service for Garage	\$ 642,500	\$ 642,500	\$ 642,500
Year 1 Net Operating Income (Loss) after Capital Reserve Funds and Debt Service (Peak Only)			
System	(\$ 179,840)	\$ 537,060	\$ 410,460
On-Street & Lots	(\$ 464,500)	\$ 155,900	\$ 29,300
Garage	\$ 284,660	\$ 381,160	\$ 381,160
Year 1 Net Operating Income (Loss) after Capital Reserve Funds and Debt Service (Year-Round)			
System	\$ 400,860	\$ 1,823,360	\$ 929,860
On-Street & Lots	\$ 21,000	\$ 1,252,100	\$ 358,600
Garage	\$ 379,860	\$ 571,260	\$ 571,260

The Seasonal Cost Recovery scenario is not projected to generate a net operating income sufficient to cover the debt service payment of a new parking structure.



01 Project Background

Project Background

As discussed in the September 2021 Downtown Bozeman Parking Study, the downtown public parking system has been a part of several plans and studies over the past decade. A consistent theme of these plans is the high utilization of parking within the Downtown Core Area and the "85% Rule" outlined in the area's Strategic Parking Management Plan. This principle states, "when the parking supply is routinely occupied at 85% or greater during peak periods, more intensive and aggressive management strategies are called for to assist priority customers in finding available parking." Discussed further in the 2021 Study, when considered on its own, this "rule" fails to account for other factors that can and will have a significant impact on the parking system's operations and customer experience; factors such as traffic congestion, duration of stay and turnover, and enforcement practices, among others.

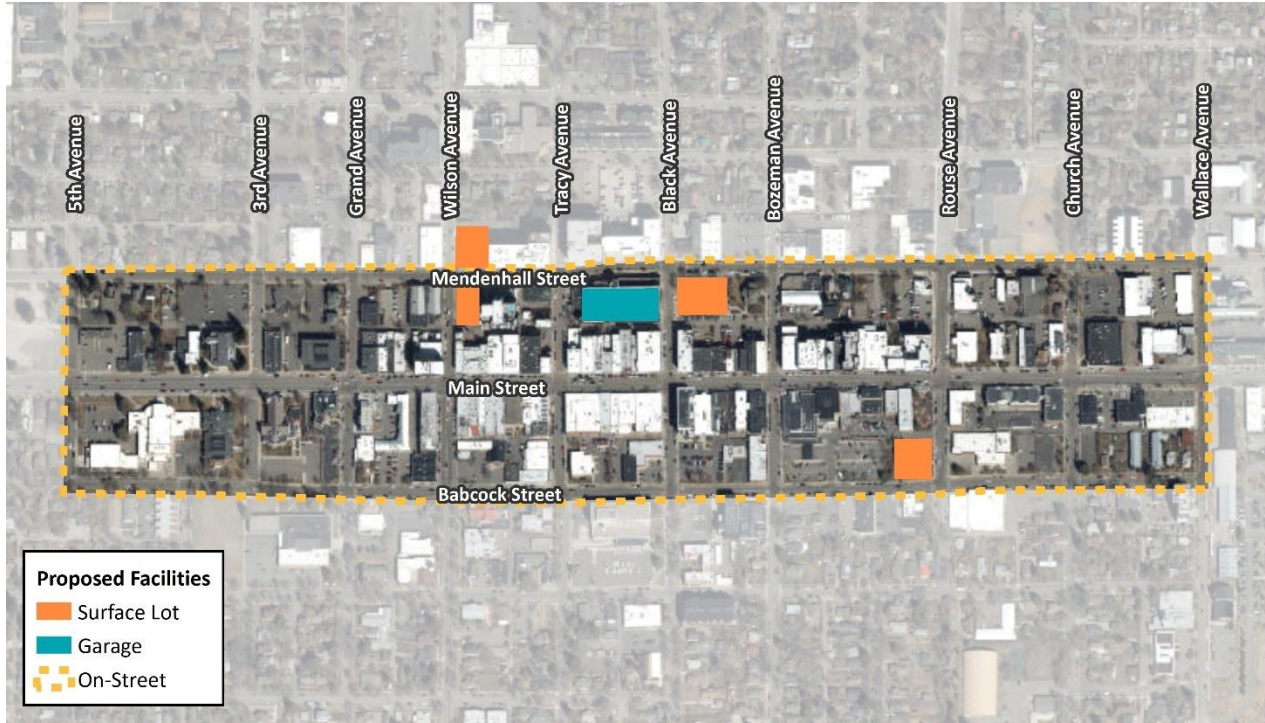
The Downtown public parking supply consistently reaches and, in many areas, exceeds 85% occupied during much of the typical day, both during the week and on weekends, as identified in the September 2021 Study. High utilization and unbalanced demand can limit access to the area for residents, employees, and visitors and further economic development potential. The City is exploring paid parking to manage parking demands, fund existing operations and maintenance of the public parking system, and fund future investment in additional parking and transportation demand management strategies. Paid parking can also reduce potential subsidizing of Downtown parking management with citywide property tax revenue from the General Fund. Instead, having those that use and benefit from it directly provide for its financial burden.

This report presents the preliminary modeling completed to explore potential revenue generated by paid public parking within the Downtown Core under several rate scenarios. The scenarios included in the analysis are intended to identify rates that manage parking demands, provide for the ongoing operations and maintenance of the public parking system within the District, fund additional parking, and potentially provide funding for reinvestment in the community.

Proposed Paid Parking Area

Using the results of the 2021 Study, the Downtown Core has been identified for consideration of paid parking in this preliminary revenue modeling effort. As shown in **Figure 1**, this area comprises 704 on-street spaces, 177 spaces located in four surface lots, and 435 spaces located in the Bridger Garage.

Figure 1. Downtown Core



Parking Demand

Based on the August 2021 field observations, there is potential to expand the paid area one block north and south of the Downtown core to include Lamme Street and Olive Street. However, an expansion of this nature would necessitate the implementation of a residential parking permit zone to ensure residents in these areas are not negatively impacted by additional parking fees. Because field collections occurred during typical peak conditions may not reflect the true year-round impacts of downtown parking on these transition areas. These corridors should be closely monitored for increases in parking demands and potential spillover of downtown parkers looking to avoid fees. Initially, this may be discouraged by using time limits and residential parking permits, as necessary. **Table 1** summarizes the observed parking utilization within the B-3 District collected in August 2021 for each weekday and weekend afternoon observation, which are shown in **Figure 2** and **Figure 3**, respectively.

Table 1. Parking Utilization, August 2021

LOCATION	INVENTORY	WEEKDAY OCCUPANCY	WEEKEND OCCUPANCY
On-Street, Core Area	704	86%	77%
Wilson Lots	69	100%	99%
Black Lot	62	98%	100%
Rouse Lot	46	85%	87%
Bridger Park Garage	435	81%	59%
TOTAL	1,346	85%	73%

Figure 2. Parking Utilization, August 2021 Weekday Afternoon

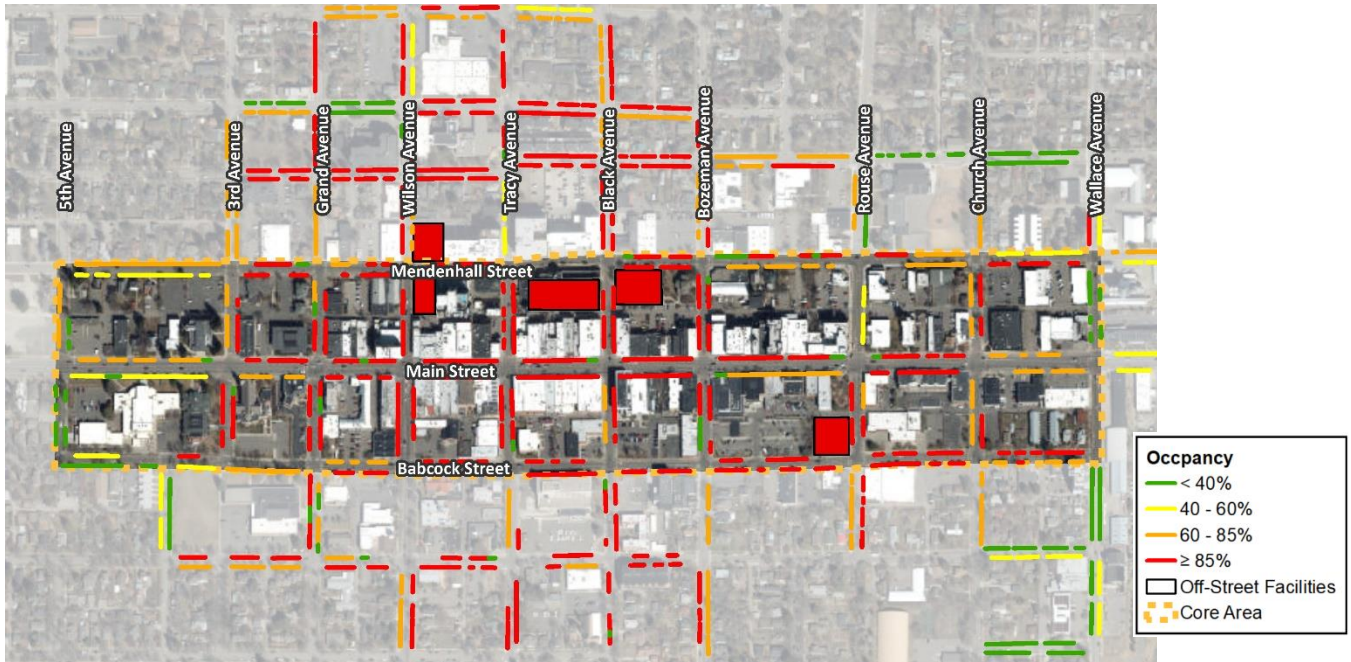
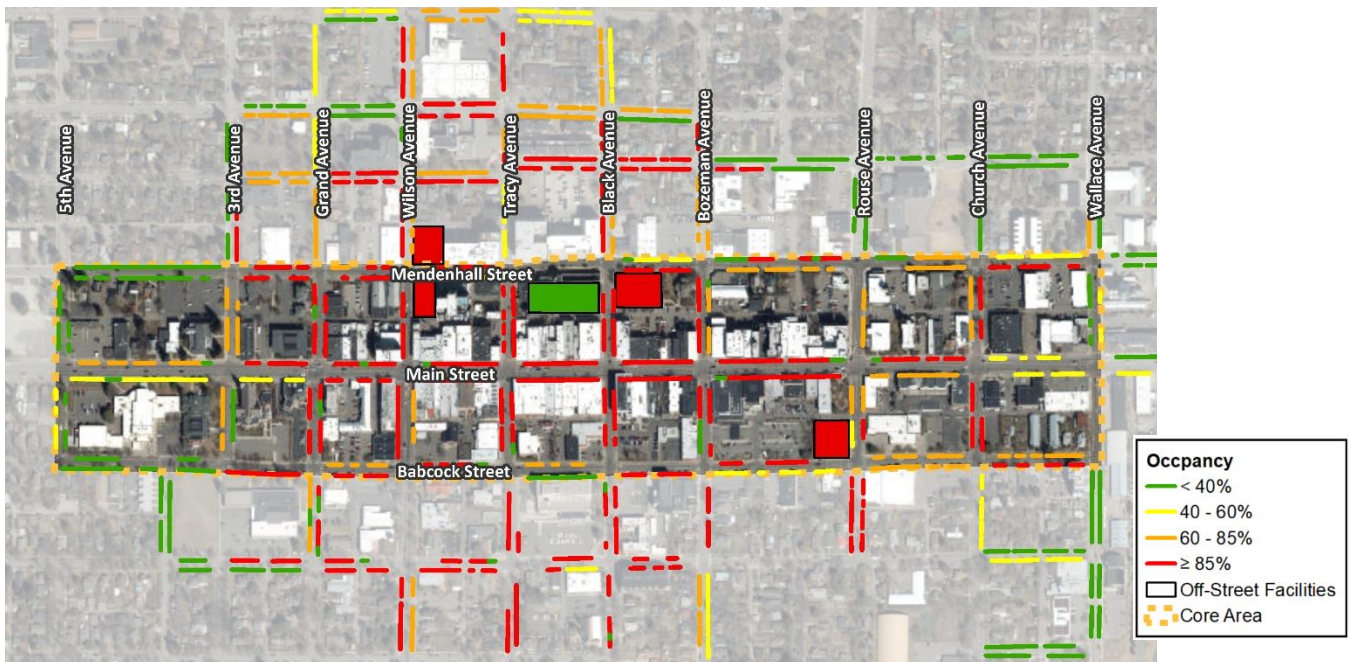


Figure 3. Parking Utilization, August 2021 Saturday Afternoon





02 Preliminary Proforma Assumptions

Preliminary Proforma Assumptions

In projecting the potential revenue associated with the public parking system within the Downtown Core, the analysis relies on several assumptions discussed in this section. As used in this report, an "assumption" is an axiom or proposition included in an analysis to project future performance or events. It is not a guarantee of performance or representation of a fact that will eventually exist or be attained or reached. Because of the assumptions' inherent uncertainty and probable variation, actual results will vary from estimated or projected results, and such variations may be material. Additionally, unforeseen and changed laws, technologies, events, or circumstances may occur after this engagement and completion of services, rendering this document obsolete.

Revenue Assumptions

Future Parking Demands

Based on the field data collection, Walker projected the monthly parking transaction volumes using observed parking demands for a typical August weekday and Saturday, and historical bed tax and enplanement data provided by the City. With both metrics demonstrating a strong correlation with visitor behaviors and consistently trending, monthly factors were created based on the six-year average reflecting 2016 through November 2021, not including March through May 2020. To confirm potential impacts of pandemic behaviors did not disproportionately skew the results, the three-year average of 2019 to 2021 was compared to these monthly factors and their projected trends through 2021. **Table 2** summarizes the resulting monthly factors used in the transient parking volumes in calculating potential revenues. As shown here, July is anticipated to be the peak parking demand month.

Table 2. Monthly Factors Applied to Transient Parking Volumes to Reflect Seasonal Parking Demand Fluctuations

OFF – PEAK				PEAK					OFF - PEAK		
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
62%	63%	70%	49%	57%	85%	100%	98%	76%	62%	47%	60%

Mountain towns and communities acting as gateways to national parks and areas popular for outdoor recreation often experience a seasonal influx of visitors. Due to snow removal requirements in the winter that may add restrictions to on-street parking and encourage the use off-street facilities, it is more common for these communities to rely on seasonal paid parking fee increases during peak visitor months to support the financial needs of the parking system. Seasonal paid parking can also help decrease the impact of visitor parking on residents and area businesses and their employees. For example, the Town of Estes Park provides free and time limited parking in the winter, with parking fees charged throughout their peak summer season. The City of Manitou Springs reduces their initial free period from 3 hours once per day in their off-season to 15 minutes once per day during their peak season. As we considered the impacts and potential revenue generation of the Downtown Bozeman public parking system, seasonal paid parking was modeling to reduce impacts to residents and employees.

In addition to seasonal fluctuations in parking demands, the model anticipates a 10% reduction in volume due to price elasticity. Originally published in 2004 and updated in November 2021, the Victoria Transport Policy Institute's *Transit Price Elasticities and Cross-Elasticities* notes a change from free to priced parking typically reduces drive-alone commuting by 10-30%. The greatest reduction is generally achieved if pricing is implemented with improvements in transit service and rideshare programs or other TDM strategies¹. Of the vehicles anticipated to be lost due to the implementation of paid parking, it is assumed that 25% will want to convert to permits, and 75% will be lost to other modes of access and travel such as carpooling, rideshare, walking, or choosing alternative destinations.

Meter Violations & Citations

The revenue model also accounts for parkers who choose not to pay for their parking with variables for reductions to paid transactions due to violations and roll these violations through to potential citation revenue. Along these lines, it is assumed that 85% of parking sessions will comply and result in a transient revenue-generating transaction. Of those not captured, it is assumed that 75% of violations will be cited, and of those, 75% will be collected. For this effort, meter violations are set at \$35, and no other potential citation revenue is included.

Parking Permits

Typical parking permit volumes and existing availability per facility have been provided by the City and incorporated into the model. The City's feedback shows that permit sales are consistent throughout the year, with several facilities often experiencing a waitlist. No monthly adjustment factors have been applied to these volumes based on the reported consistency of permit sales. Increases result from the transient parking assumptions and the inability of employees working the Downtown Core to move their vehicles to evade parking time limits. Permits are capped at the availability provided by the City.

Table 3 summarizes the existing permit sales per facility, availability, and projected additional demand based on the previously outlined transient parking assumptions. As noted here, there is a projected unmet demand for parking permits that reflects the need for additional public parking supplies both now and in the future to support the continued economic development of the area and the considerable growth in both population and visitors in recent years.

Table 3. Parking Permits per Facility

LOCATION	EXISTING PERMITS	EXISTING AVAILABILITY	CONVERTED TRANSIENT DEMAND
On-Street, Core Area	0	0	28
Surface Lots	77	1	21
Bridger Park Garage	456	57	15
TOTAL	533	58	64

¹ <https://www.vtppi.org/tranelas.pdf>

Other Revenue Assumptions

Aside from parking demands, the field observations collected in August 2021 provided the average duration of stay for vehicles. To account for the ability to pay to stay, vehicles observed to move between concurrent collection periods were treated as one length of stay. For example, an observed vehicle parked at one location for 1 hour and 45 minutes and then moved to another location and was parked for 1 hour and 15 minutes was treated as a single 3-hour transaction for this analysis. Vehicles that left the study area and returned continued to be treated as separate lengths of stay.

Credit cards are anticipated to account for approximately 95% of transient and permit transactions with a 3% transaction fee. Credit card fees are treated as a revenue reduction rather than an expense. Additionally, while typically treated similarly, no sales tax is accounted for in the modeling. While nine federal holidays are assumed in the model, parking is anticipated to be paid seven days per week, with Sunday experiencing approximately 80% of the parking volume observed for Saturday.

Expense Assumptions

Annual operating expense projections for the public parking system within the Downtown Core were developed using Walker's database of historical parking facility operating expenses and existing budget data previously provided by the City. The projected operating expenses assume the parking system will be managed and operated based on existing practices and through expansion of staff, as further detailed below.

The projected labor costs shown in the model are based upon estimated staffing schedules developed by Walker using assumptions provided by the City. In contrast, all other expenses are projected on a cost-per-space basis. A brief description of the line-item categories included in the model follows below:

- Salaries, Benefits & Workers' Compensation: The staffing plan, positions, and wage structure projected are projected to provide for the following positions:
 - Manager: 1.0 FTE, \$40.06 per hour, 27.5% taxes and benefits.
 - Customer Service and Parking Enforcement: 2.0 FTE, \$19.23 per hour, 26.0% taxes and benefits.
 - Maintenance Engineer: 1.0 FTE, \$25.19 per hour, 26.0% taxes and benefits.
- Utilities: Assumes the projected cost of electricity, water, and telephone services.
 - \$0.0979 per kWh, based on the current average commercial rate for Bozeman, MT.
 - \$64.63 annual lighting cost per off-street space.
- Insurance: Includes the cost of general liability, garage keeper's legal liability, crime, umbrella, and auto insurance coverages; *the cost of property insurance coverage is excluded from the model.*
 - Assumed at \$15 per off-street space.
- Supplies: Includes the projected cost of garage and office supplies, parking tickets, forms, postage, replacement keycards for contract parking, lamps, bulbs, and employee uniforms.
 - Assumed at approximately \$12.49 per space in aggregate.

- Routine Maintenance: Includes the anticipated annual expense to maintain the electrical system, re-lamping, life-safety systems, doors and locks, keys, parking equipment service agreements, waste removal, pest control, and routine maintenance.
 - The service agreement for parking access and revenue control systems and emergency service agreement represents a significant portion of the routine maintenance cost at approximately \$14,000 annually.
 - Sweeping and restriping represent approximately \$7.00 per space.
 - Maintenance of the fire prevention, drainage, and electrical systems are projected at approximately \$13,000 annually
 - A CCTV System is included at approximately \$3,000 per year.
 - Office equipment and miscellaneous repairs are estimated at \$150 per month.
 - The cost of maintaining the elevators serving the parking garage is included at approximately \$2,500 annually, not inclusive of elevator permits.
- License, Permits & Fees: Assumes the projected cost for local business licenses and permits, driveway, and other permits paid to the local governing agency or agencies.
 - Licensing and permits for public operations of the parking system are anticipated at approximately \$780 annually and limited to the annual elevator permits for the garage. As a public agency, it is anticipated that the parking system is not subject to any licensing fees or driveway permits.
- Contract Services: Includes the projected expense per space for accounting and consulting services and legal fees.
 - Custodial services for off-street facilities are assumed to continue to be provided at the existing per space cost expanded for all off-street facilities, or approximately \$1,925 annually.
 - Accounting and legal fees of \$3,000 per year are included.
 - Waste removal for the off-street facilities is projected at \$100 per month, with pest control at \$80 per month.
 - Annual structural inspections for off-street facilities are included at \$2,000 annually.
 - Snow removal is included at approximately \$68,774 annually for off-street facilities.

In addition to the typical expenses incurred in the operation of a public parking system, Walker also recommends that parking asset owners set aside funds on an annual basis to help pay for future capital repairs and maintenance needs. This sinking fund is intended to provide for major equipment replacement and structural maintenance and repairs, including items such as the following:

- Elevator replacement
- Fire protection and storm drainage piping replacement
- Lighting fixture replacement
- Parking access and revenue control system (PARCS) replacement
- Parking lot crack sealing, pothole repairs, resurfacing, etc.
- Expansion joint replacements
- Repairing or replacing topping membranes
- Routing and sealing of joints and cracks
- Repair or replacement of expansion/construction joints
- Major structural repairs to stairs, floors, columns, and beams

The typical annual sinking fund set aside recommended by Walker is 1% of the per space construction cost of the facility or \$250 per space.

Parking Access and Revenue Controls

Based on input by City staff, multi-space meters for license-plate-based payments are anticipated for Downtown Bozeman to integrate with existing mobile license plate recognition (LPR) equipment. However, the specific brand and placement and infrastructure needs have yet to be determined. Additionally, the off-street parking facilities' parking access and revenue control systems have not been identified. This effort assumes that approximately 66 payment kiosks at an initial cost of \$12,000 per kiosk that accepts cash and credit cards and \$10,000 per kiosk that accepts only credit cards. In additional payment hardware, fixed LPR supporting a gateless operation at the Bridger Garage is included at a budget of \$19,000. Management software and infrastructure improvements to support these technologies are projected at approximately \$48,000. Variations in technologies chosen to manage the system, optional features, and vendor financing options may differ from these assumptions.



03 Preliminary Proforma Results

Preliminary Proforma Results

Using the assumptions outlined in the previous section, Walker projected parking the potential net income for the public parking system under three rate scenarios. These scenarios included:

Cost Recovery The cost recovery rate scenario identifies minimum rates necessary projected to provide for the operations and maintenance of the existing public parking system and the debt service of a future parking structure.

Cost Recovery Plus The cost recovery plus scenario builds on the base cost recovery structure, increasing rates to provide funding for reinvestment within the community.

Market Rates The market rate scenario evaluates a rate schedule developed based on the parking fees charged by peer and aspirational agencies.

Scenario 1. Cost Recovery

Under the Cost Recovery scenario, parking rates are identified to provide the lowest rate necessary to provide for the parking system's operations and maintenance. With peak season on-street parking priced at \$0.75 per hour and off-street at \$0.50 per hour, and off-peak season parking continued to be provided free with time limits, the parking system is projected to net just over \$462,660 annually, as summarized in **Table 4** on the following page. However, because net operating income from the Bridger Garage must be allocated to transit service, the on-street and surface parking lots must absorb the full burden of any potential reinvestment in the community beyond transit. The net operating income not including the Bridger Garage is projected at approximately \$178,000 per year. This projects approximately \$284,660 annually in potential transit funding from the operations associated with the garage. While this scenario maintains existing permit rates and free parking during the off-season, the rates may severely limit the ability to reinvest in the District's access and mobility future beyond transit services funded by the garage. As discussed more in the Parking Revenue Allocation Options section on **Page 23**, this scenario would not provide for the full amount of the debt service necessary to fund a new parking structure. **Figure 4** summarizes the seasonality of the parking revenue anticipated in the initial stabilized year compared to the system's expenses.

Figure 4. Preliminary Proforma Results, Cost Recovery Year 1

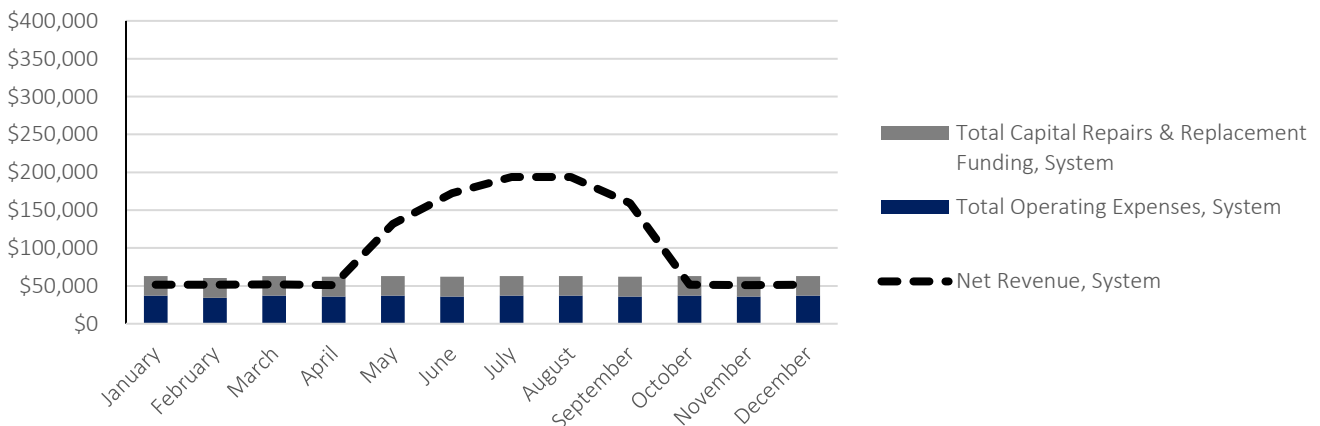


Table 4. Proforma Results, Cost Recovery Year 1

	System	On-street & Surface Lots	Garage
Revenue			
Transient Revenue	\$607,800	\$508,200	\$99,600
Permit Revenue	\$609,600	\$58,800	\$550,800
Citation Revenue*	\$27,900	\$21,100	\$6,800
Total Revenue	\$1,245,300	\$588,100	\$657,200
Credit Card Fees	\$34,400	\$15,900	\$18,500
Net Revenue	\$1,210,900	\$572,200	\$638,700
Operating Expenses			
Labor - Taxes & Benefits	\$207,100	\$140,000	\$67,100
Utilities - Electric & Telephone	\$42,100	\$28,200	\$13,900
Insurance - GL/GKLL	\$9,600	\$6,000	\$3,600
Supplies	\$21,400	\$14,300	\$7,100
Routine Maintenance	\$43,600	\$29,300	\$14,300
License Fees & Permits	\$840	\$0	\$840
Contracted Services	\$112,800	\$63,600	\$49,200
Total Operating Expenses	\$437,440	\$281,400	\$156,040
Net Operating Income (Loss), Before Reserve Funding	\$773,460	\$290,800	\$482,660
Capital Repair & Replacement Fund			
Technology	\$88,800	\$81,600	\$7,200
Parking Supply	\$206,400	\$26,400	\$180,000
Lighting System Replacement	\$15,600	\$4,800	\$10,800
Total Capital Repairs & Replacement Funding	\$310,800	\$112,800	\$198,000
Net Operating Income (Loss), After Reserve Funding	\$462,660	\$178,000	\$284,660

*Citation revenue is representative of only the violations related to the assumptions outlined on page 9.

Should parking be implemented year-round, rather than seasonally, preliminary modeling results in a potential net income of \$1,043,360 with on-street rates at \$0.75 on-street and \$0.50 per hour off-street maintained year-round. In this scenario, \$379,860 in potential net operating income is attributable to the garage, with approximately \$663,500 potential revenue projected for the on-street and surface lots.

Scenario 2. Cost Recovery Plus

Under the Cost Recovery Plus scenario, parking rates are identified to provide the rate necessary to provide for the parking system's identified needs and generate additional positive net revenues intended to reinvest in the District's access and mobility. Expenses include the parking system's operations and maintenance. With peak season on-street parking priced at \$1.75 per hour and off-street at \$1.00 per hour, the parking system is projected to net approximately \$1,179,560 in potential net income. As summarized in **Table 5** on the following page, approximately \$798,400 of this potential net income is attributable to the on-street and surface lot spaces, while \$381,160 is projected to be generated by the garage. This scenario provides reinvestment opportunity in the District's access and mobility future, including potential coverage of debt financing for a new parking structure, and the increased differential in on- and off-street parking locations will encourage efficient distribution of parking demand. While this scenario does present the highest rates evaluated, they are relatively in line with market rates.

Figure 5 summarizes the seasonality of the parking revenue anticipated in the initial stabilized year compared to the system's expenses.

Figure 5. Proforma Results, Cost Recovery Plus

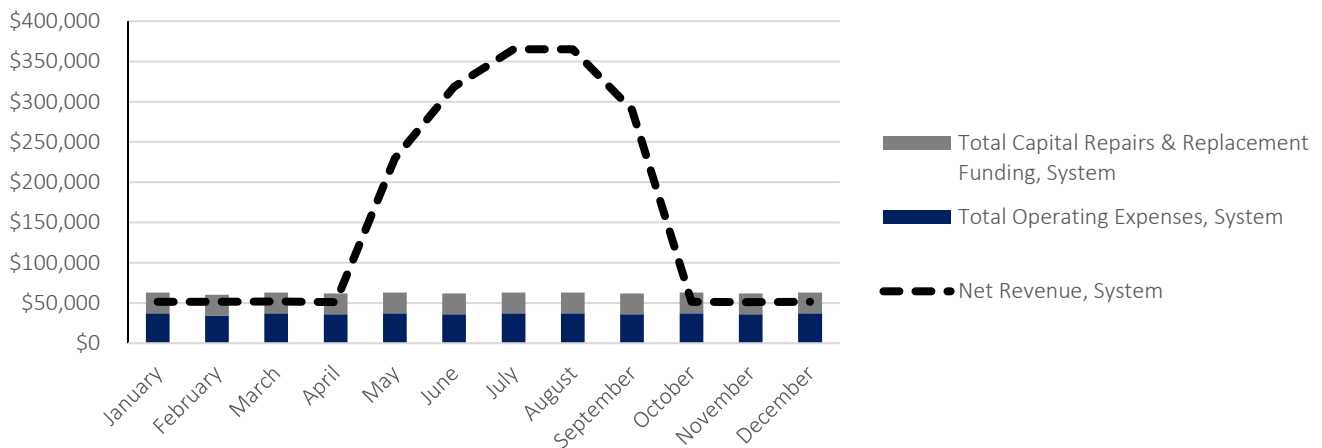


Table 5. Proforma Results, Cost Recovery Plus Year 1

	System	On-street & Surface Lots	Garage
Revenue			
Transient Revenue	\$1,345,900	\$1,146,900	\$199,000
Permit Revenue	\$609,600	\$58,800	\$550,800
Citation Revenue*	\$27,900	\$21,100	\$6,800
Total Revenue	\$1,983,400	\$1,226,800	\$756,600
Credit Card Fees	\$55,600	\$34,200	\$21,400
Net Revenue	\$1,927,800	\$1,192,600	\$735,200
Operating Expenses			
Labor - Taxes & Benefits	\$207,100	\$140,000	\$67,100
Utilities - Electric & Telephone	\$42,100	\$28,200	\$13,900
Insurance - GL/GKLL	\$9,600	\$6,000	\$3,600
Supplies	\$21,400	\$14,300	\$7,100
Routine Maintenance	\$43,600	\$29,300	\$14,300
License Fees & Permits	\$840	\$0	\$840
Contracted Services	\$112,800	\$63,600	\$49,200
Total Operating Expenses	\$437,440	\$281,400	\$156,040
Net Operating Income (Loss), Before Reserve Funding	\$1,490,360	\$911,200	\$579,160
Capital Repair & Replacement Fund			
Technology	\$88,800	\$81,600	\$7,200
Parking Supply	\$206,400	\$26,400	\$180,000
Lighting System Replacement	\$15,600	\$4,800	\$10,800
Total Capital Repairs & Replacement Funding	\$310,800	\$112,800	\$198,000
Net Operating Income (Loss), After Reserve Funding	\$1,179,560	\$798,400	\$381,160

*Citation revenue is representative of only the violations related to the assumptions outlined on page 9.

Should parking be implemented year-round, rather than seasonally, preliminary modeling results in a potential net income of \$2,465,860 with on-street rates at \$1.75 on-street and \$1.00 per hour maintained year-round. In this scenario, \$571,260 in net operating income is attributable to the garage, with just under \$1.9 million potential revenue projected for the on-street and surface lots.

Scenario 3. Market Rates

Under the Market Rate scenario, parking rates are based on those charged at peer and aspirational agencies. Parking rates of four peer agency core main street areas and Montana State University were analyzed to inform market rate conditions. Agencies included in this analysis are Missoula, MT; Bend, OR; Estes Park, CO; and Provo, UT, are were chosen due to one or more of the following reasons:

- population served
- active downtown/main street area
- university presence
- geographic proximity to a national park
- similar climate consideration
- seasonal tourism is driven by outdoor recreation

On-Street Parking Rates

Table 6 outlines on-street public parking rates and restrictions for each agency.

Table 6. On-Street Public Parking Rates per Agency

PEER CITY/TOWN	PRICE CATEGORY	RATE	TIME RESTRICTIONS	NOTES
City of Provo, UT	All Users	Free	2 Hours	Provo is considering implementing on-street paid parking near BYU as of November 2021 and the existing residential parking permit program.
City of Bend, OR	All Users	Free	2 Hours	Downtown Core area
City of Missoula, MT	Visitors	Hour 1 \$1.00 Hour 2 \$1.00 Hour 3 \$1.50 Hour 4 \$2.00 Hour 5 \$2.50 Hour 6 \$3.00 Hour 7 \$3.50 Hour 8 \$4.00	Mon-Sun, 9 AM - 5 PM	\$18.50 Daily max fee Rate for visitors
	Employees & Residents	\$1.00 per hour	Mon-Sun, 9 AM - 5 PM	\$2.00 Daily max fee \$35.00 per month permit available for select locations
Town of Estes Park, CO	Winter	Free	1-3 Hours	Select streets
	Summer	\$2.00 per hour	Mon-Sun, 10 AM - 6 PM	Along Park Lane
		Free	1-3 Hours	Select streets
Average per Hour (First Two Hours)		\$1.50	Excludes special rates for employees and residents	
Average per Hour (Every Hour After 2 Hours)		\$2.64		

Only the City of Missoula charges for on-street public parking year-round of the four agencies reviewed. The City of Missoula currently uses a graduated rate schedule for its core-area on-street public parking, increasing 50 cents for every hour past the first two hours, up to a maximum possible daily parking fee of \$18.50. In Missoula, employees and residents qualify for alternative lower rates.

However, the City of Estes Park charges for on-street parking along select streets during the summer, reflective of their peak visitor period between May and October. However, residents within the Estes Parking R3 School District, with proof of residency, may apply for a Local Permit that provides 60 minutes of free parking per day in paid facilities, including on-street paid areas.

The average rate per hour for on-street parking for the first two hours is \$1.50. The average rate for every hour after the first two hours is \$2.64 per hour. The average daily max rate for paid on-street parking is \$17.25.

All agencies included in the analysis impose a time restriction for its on-street public parking, at least during enforcement hours, ranging from 1 to 4 hours.

Off-Street Parking Rates

Table 7, on the following page, outlines off-street public parking rates observed for the four agencies and Montana State University.

The City of Bend offers an income-qualifying discount for monthly permits in the Centennial Garage and Newport Ave Lot. Those that qualify for the discount must make less than \$17 per hour, including any applicable tips, and there is no requirement for the number of hours the wage is applied in a pay period.

While Estes Park does not provide a monthly permit option, they provide an option for a \$10 overnight parking pass during its seasonal paid period in one of its public parking facilities. The City of Missoula provides parking permit options for both their off-street facilities and select on-street locations. Permits are location specific with off-street facilities ranging from \$40 to \$85 per month, based on if it is a surface lot or structure and demand for the facility. On-street permits are specific to a designated block and cost \$35 per month. Four have current permit availability of the City of Missoula's 26 permitted facilities and blocks. The remaining 22 have reached their maximum permit allocations. **Table 7** includes a sample of several representative parking facilities, but it does not represent all of the City's managed facilities.

Table 7. Off-Street Public Parking Rates per Agency

AGENCY	FACILITY	HOURLY RATE	PERMIT RATE	NOTES	
City of Provo	Town Square Garage	\$2 per entry	NA	Mon-Sun, 6 AM - 2 AM	
	Wells Fargo Tower Garage				
	Utah State Garage	Free	NA	2 hours max	
	Utah County Parking Lot				
	Utah County Garage				
City of Bend	Mirror Pond Lots	\$1 per hour	NA	6 hours max	
	Greenwood Wall Lot	\$1 per hour	NA	4 hours max	
	Troy Field Lot	\$1 per hour up to 6 hours \$ 10-day rate (7+ hours)	NA		
	Newport Lot		\$20 per month		
	Centennial Garage		\$40 per month		
City of Missoula	Bank Street Structure	\$1 per hour	\$75-85 per month	Mon-Fri, 8 AM-5 PM	
	New Park Lot		\$60 per month		
	Kiwanis Park Lot	NA	\$40 per month		
	Engine Lot	NA	\$50 per month	Mon-Fri, 8 AM-6 PM	
	Central Park Structure		\$75-85 per month		
	Park Place Structure	1st hour free then \$1.00 per hour	\$85 per month		
	Roam Structure				
Town of Estes Park	Winter	All Public Surface Lots	Free	NA	
		Visitor Parking Structure			
	Summer	Surface Lots (All but W. Riverside Lot)	Free	Resident permits provide up to 60 minutes per day. They are free but require preregistration. Employee permits are \$40 per year Loading permits are \$80 per year and apply mainly to tour operators. Mail and package delivery and commercial freight for essential goods are exempt.	Mon-Sun, 10 AM-6 PM May 28-Oct 17
		West Riverside Lot	Free, limited to 3 hours		
		Seasonal Paid Public Parking Lots (8 Lots)	\$2 per hour		
		Visitor Parking Structure	Free		
	Montana State University	Parking Garage	\$5 for the 1 st hour, then \$2.50 per hour \$12 daily max	\$630 per year \$365 per Fall or Spring semester only	
Lot 16		NA	\$860 per year	6 AM-8 PM	
Lot 24		NA	\$560 per year \$325 per Fall or Springs semester only		
Harrison St. Lot		\$4 for the 1 st hour, then \$1.00 per hour \$8 daily max	NA	6 AM-6 PM	

With peak season on-street parking priced at \$1.50 per hour and off-street at \$1.00 per hour, the parking system is projected to net a potential \$1,052,960 annually. As summarized in **Table 8** on the following page, approximately \$671,800 of this potential revenue is projected to be generated by the on-street and surface lot spaces. The \$381,160 in potential revenue projected from the garage is required to be invested in transit services per the requirements of its original funding agreement. This scenario provides reduced potential reinvestment opportunity in the District's access and mobility future and the reduced differential in on- and off-street parking locations may not have as strong an influence in efficiently distributing the parking demand as alternative rate structures. Additional investment in signage and wayfinding may also be necessary to achieve the demand distribution goals.

Figure 6 summarizes the seasonality of the parking revenue anticipated in the initial stabilized year compared to the system's expenses.

Figure 6. Proforma Results, Market Rates Year 1

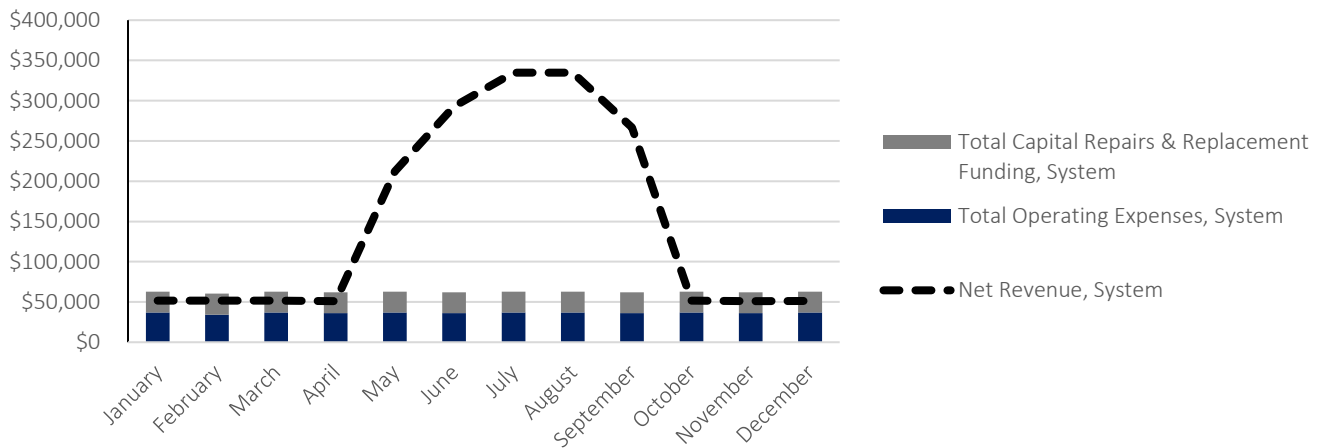


Table 8. Proforma Results, Market Rates Year 1

	System	On-street & Surface Lots	Garage
Revenue			
Transient Revenue	\$1,215,500	\$1,016,500	\$199,000
Permit Revenue	\$609,600	\$58,800	\$550,800
Citation Revenue*	\$27,900	\$21,100	\$6,800
Total Revenue	\$1,853,000	\$1,096,400	\$756,600
Credit Card Fees	\$51,800	\$30,400	\$21,400
Net Revenue	\$1,801,200	\$1,066,000	\$735,200
Operating Expenses			
Labor - Taxes & Benefits	\$207,100	\$140,000	\$67,100
Utilities - Electric & Telephone	\$42,100	\$28,200	\$13,900
Insurance - GL/GKLL	\$9,600	\$6,000	\$3,600
Supplies	\$21,400	\$14,300	\$7,100
Routine Maintenance	\$43,600	\$29,300	\$14,300
License Fees & Permits	\$840	\$0	\$840
Contracted Services	\$112,800	\$63,600	\$49,200
Total Operating Expenses	\$437,440	\$281,400	\$156,040
Net Operating Income (Loss), Before Reserve Funding	\$1,363,760	\$784,600	\$579,160
Capital Repair & Replacement Fund			
Technology	\$88,800	\$81,600	\$7,200
Parking Supply	\$206,400	\$26,400	\$180,000
Lighting System Replacement	\$15,600	\$4,800	\$10,800
Total Capital Repairs & Replacement Funding	\$310,800	\$112,800	\$198,000
Net Operating Income (Loss), After Reserve Funding	\$1,052,960	\$671,800	\$381,160

*Citation revenue is representative of only the violations related to the assumptions outlined on page 9.

Should parking be implemented year-round, rather than seasonally, preliminary modeling results in a potential net income of \$1,572,360 with on-street rates at \$1.50 on-street and \$1.00 per hour maintained year-round. In this scenario, \$571,260 in net operating income is attributable to the garage, with just over \$1 million potential revenue projected for the on-street and surface lots.

Parking Revenue Allocation Options

Reinvesting a portion of the net operating income from paid parking operations is a concept that is being implemented in communities across North America. Proceeds can be used to reinvest in the district(s) from which they are collected. The funds can be used to fund specific transportation demand management initiatives. A Parking Revenue Allocation Policy for the City of Bozeman's parking program should identify how net returns are distributed, and the ability to reinvest a portion of the net income to be reinvested into the area within which they were collected. The policy should identify ways to make these investments and how the funds are managed.

The below list provides examples of how communities have reinvested net operating income generated by their parking departments:

- Additional parking supplies
- Gateway improvements
- Roadway improvements
- Corridor landscaping and design
- New parking supplies
- Reconfiguration and improvements to existing parking supplies
- Streetscaping
- Holiday decorations
- Bicycle infrastructure
- Signage and wayfinding
- Bike/scooter program
- Trail development and maintenance
- Alley improvements such as art installations and lighting upgrades
- Upgraded parking technology to improve customer experience
- Long term planning initiatives
- District security
- Free or subsidized district circulator shuttle services
- Sidewalk improvements
- Provide discounted or free parking or transit for
 - Active and retired members of the military
 - Personal attendants and aides accompanying passengers with mobility or medical needs
 - Seniors
 - Students
 - Individuals with Disabilities
 - Individuals that have a household income at or below an established percentage of the Federal Poverty Level or Area Median Income

The Parking Revenue Allocation Policy could identify general guidelines for fund allocation as percentage of net revenues rather than a set dollar amount. The final allocation and policy should consider the City's goals for economic development and sustainability and align with any Master or Transportation Plan for the community and B-3 District.

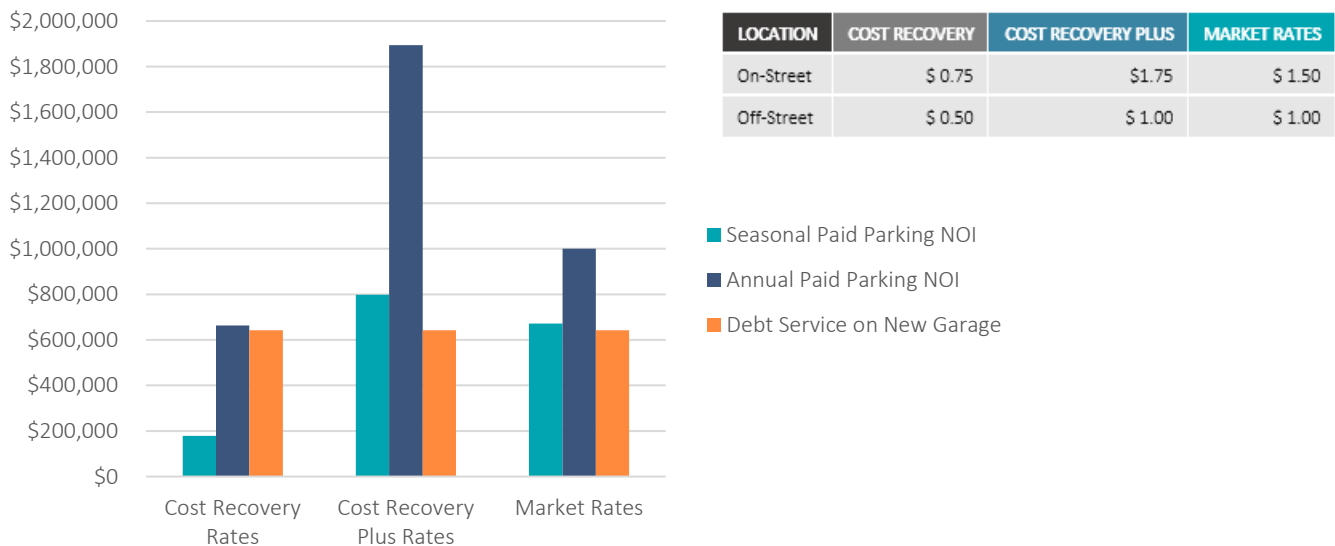
Debt Service for a New Parking Structure

A new parking structure is assumed at the cost of approximately \$16,590,000. The location and structure combination presenting the second highest cost from the Downtown Parking Structure Matrix Cost Projections was chosen to provide a higher expense projection of that would lead to a more conservative evaluation of a rate scenario’s ability to fund the cost. The highest parking structure cost option evaluated in that matrix was noted as privately held land owned by an unwilling partner and was therefore not included.

Similarly, to provide a conservative potential net income projection, the lowest TIF funding contribution projected by the City was included to reduce the amount to be funded. The amount assumed to be provided by TIF funds is \$7,551,940, leaving \$9,038,060 to be funded. Using the financing terms provided by the City of 3.615% and 20 years, an annual level debt service payment of approximately \$642,563 was calculated.

Figure 7 summarizes the ability of the existing parking system to fund the debt service of a new parking structure based on the net income after reserve funding of the on-street and surface lot spaces. Because net income from the garage is restricted, it is not included in this evaluation for debt service coverage. It should be noted, however, that once a new structure is brought online, its operations and maintenance will increase the overall the system’s operations and maintenance expenses, which are not reflected here. To that same end, a new parking structure could accommodate latent and new parking demands not currently reflected due to the existing’s system limited capacity and high utilization.

Figure 7. Debt Service Potential Coverage by Existing Parking System per Scenario





04 Appendices

Appendices

Limiting Conditions

RELIANCE ON INFORMATION PROVIDED BY OTHERS - Any estimates or projections provided by WALKER will be premised upon assumptions provided by the CLIENT. As used herein, an "assumption" is an axiom or proposition included in an analysis to project future performance or events. It is not a guarantee of performance or representation of a fact that will eventually exist or be attained or reached. CLIENT fully understands that WALKER must utilize such "assumptions" to perform feasibility or other analyses. Furthermore, CLIENT fully understands that WALKER is not an auditor or a certified public accountant and will not independently review or investigate misrepresentations, fraud, misappropriation, completeness or accuracy of the information or assumptions provided by CLIENT, its agents, representatives, or others supplying information or data to WALKER for its use in performance of the Services. WALKER may draw certain assumptions from its past work on other projects of similar or like nature, and will do so in a manner consistent with the standard of care within the profession. CLIENT fully understands that, because of the inherent uncertainty and probable variation of the assumptions, actual results will vary from estimated or projected results and such variations may be material. As such, WALKER makes no warranty or representation, express or implied, as to the accuracy of the estimates or projections.

FINANCIAL PROJECTIONS - WALKER may compile, from information and assumptions provided by CLIENT, projections and related prospective statements of income, expenses and cash flow. CLIENT is responsible for representation about its plans and expectations and for disclosure of significant information that might affect the Services. WALKER is not CLIENT's investment advisor or advocate. The actual results achieved will vary from the projections and variations may be material.

CHANGES IN ASSUMPTIONS AFTER COMPLETION OF SERVICES – Unforeseen and changed laws, technologies, events or circumstances may occur after the course of this engagement and completion of Services which may render the Documents obsolete. WALKER has no responsibility to inform CLIENT about changed circumstances impacting projections and does not have any responsibility to update Documents for events and circumstances occurring after delivery of Documents to CLIENT.

CONSEQUENTIAL DAMAGES – To the fullest extent permitted by law, neither the CLIENT nor WALKER, shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the services or projections provided under this agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

NO THIRD-PARTY BENEFICIARY – CLIENT understands that the Documents are prepared for CLIENT's internal management use only and that Documents are for CLIENT's sole benefit and no third-party beneficiary is implied. CLIENT agrees to obtain WALKER's prior written permission before distributing a copy of the Documents to anyone other than a member of its internal management. If CLIENT distributes a copy of the Documents to any person or entity other than its internal management, CLIENT fully

understands that it does so at its own risk, and WALKER assumes no liability or responsibility therefor or the consequences thereof and CLIENT hereby agrees to indemnify and hold harmless from and against any and all claims or causes of actions for damages or loss against WALKER by such person or entity as a result of said person's alleged reliance on the Documents.

USE OF DOCUMENTS - CLIENT agrees not to use documents in a transaction in which one relies on the accuracy of projections, and WALKER assumes no responsibility for CLIENT's actions in its use of the documents in such transactions. Further, any use of documents for modifications or extensions of the services, new projects, or completion of this project by others, without WALKER'S specific written consent, will be at CLIENT's sole risk.

STATUTE OF LIMITATION – Parties agree that all legal action by one party against the other arising out of this Agreement or connected with the Services shall be barred and no such claim shall be initiated by either party after four (4) years have passed from the date the Documents were delivered to the CLIENT, unless applicable statute of limitation sets a shorter period.

LIMITATION OF REMEDIES - WALKER'S liability to CLIENT as a result of acts, errors or omissions of WALKER shall be limited in the aggregate to the fee for the associated effort.

MEDIATION – If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation before resorting to litigation. Costs of any mediation proceeding shall be shared equally by all parties.

MUNICIPAL FINANCIAL ADVISOR – Walker Consultants is not registered with the U.S. Securities and Exchange Commission ("SEC") as a municipal financial advisor. As such, Walker's consultation will be limited to engineering advice based on site and/or economic feasibility; Walker will not be recommending a specific financial structure or vehicle for consideration, nor will Walker recommend a specific financial plan. For those services, the owner/client should seek counsel from a qualified municipal financial advisor. Any opinions or views provided by Walker are not intended to be, and do not constitute, advice within the meaning of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Walker Consultants

Walker has worked with many mountain towns, destination communities, and college towns along the Rocky Mountain range and throughout the United States. Through these engagements, we have learned the unique challenges these communities face. The parking and mobility decisions you make are affected by the environment, Town/Gown relationships, and often competing needs between your residents, students, businesses, and visitors. Additionally, the synergy of programs is even more critical when you have a destination center in your community such as the gateway to Yellowstone National Park and Big Sky. Working with municipalities, state agencies, universities, resorts, and developers, the projects we have had the opportunity to work on span a great deal of variety, including planning, design, operations, and preservation. While the type of work has varied, the common theme focuses on the user of the system.

Founded in 1965, Walker Consultants has completed 325 financial studies supported by over 300 professionals across its 22 offices. Walker is one of the few firms nationwide that has a proven track record of parking system financial analysis. Our firm has been involved in many of the major parking-related monetization arrangements that have closed in the last decade. This includes transactions such as the Ohio State parking concession agreement, the Chicago Park's District asset monetization, the City of Pittsburgh downtown parking monetization, and similar investigations by Indiana University, the City of Cincinnati, the University of Kansas, and the University of Florida.

Based on our work with asset owners and operators, Walker maintains a database of income and expense statements for over 500 stand-alone parking facilities throughout the U.S. This database is leveraged to ensure that our financial analyses reflect realistic estimates of operating expenses for a given market.

From a single facility to much larger systems, Walker is a trusted name in providing due diligence, market analysis, income and expense proformas, and other services for the purposes of bond financing and/or the sale of parking assets. In the past, our work has been specifically requested by well-known financial advisors and underwriters including Goldman Sachs, Morgan Stanley, HSE & Co., Ernst and Young Investment Advisors, and Royal Bank of Canada (RBC).

Revenue Methodology Summary

- Parking volume is based on data collected August 2021. Data was collected during a representative period in the peak summer season.
- Seasonal, monthly calibration applied using and checking against the Bed Tax trends (1987-2021) and enplanements (2016-2021).
- We also looked at the trends not including 2020-2021 to ensure pandemic did not skew trends.
- No background population or tourism growth factor applied to remain conservative.
- Sunday is assumed to operate at approximately 80% of the Saturday volume.
- Assumed 10%, or 1 in 10, current parkers to be price sensitive (approximately 125 vehicles on a typical August weekday).
 - Of these price sensitive parkers, 25% would want to purchase a permit rather than pay hourly (32 parkers on each the weekdays and weekends).
 - Of these price sensitive parkers, 75% would find alternative transportation to the area or an alternative destination (93 parkers on a typical August weekday).
 - Other than conversion of hourly to permit parkers, no additional permit demand was included to remain conservative.
- No additional development of other new parking demand is assumed to remain conservative.
- We assumed 15% of hourly parkers would not pay the meter fee.
 - Of these violators, 75% are assumed to receive a citation.
 - Of those cited, 75% of fines are assumed to be collected.
 - No other enforcement revenue is included to remain conservative.
 - No seasonal adjustment is included in the year-round projections to reflect reduced visitor presence (residents generally need less ongoing education and are more incentivized to pay fines).

Operations and Maintenance Detailed Projections

			Year 1	Garage	On-Street and Surface Lots
OPERATING EXPENSES					
	<i>Spaces</i>		1,337	435	902
Labor - Taxes & Benefits			207,000	67,300	139,700
Sub-Total - Labor (refer labor tab detail)			163,300	53,100	110,200
Sub-Total - Taxes/Benefits/W/C. (refer labor tab detail)			43,664	14,200	29,464
Utilities - Electric & Telephone			42,000	13,700	28,300
Total lamp plus ballast watts		190			
Annual Hours of Operation (hours/day x 365 days/yr.)	24	8,760			
Annual kW hours per fixture (watts x hrs. / 1,000)		1,664			
Local Cost (per kWh)	\$ 0.0979	-			
Annual Cost per Fixture	\$ 162.94				
Lamp Spacing (coverage area / sq. ft.)		900			
Annual Lighting (cost / sq. ft.)	\$ 0.181				
Parking Stall Size (sq. ft.)		357			
Annual Lighting Cost (per space)	\$ 64.63				
Number of Spaces in Parking Structure		612			
Electric (cost / month)	\$ 3,296.37	12	39,600	12,900	26,700
Telephone (cost / month)	\$ 200.00	12	2,400	800	1,600
Insurance - GL/GKLL			9,200	3,000	6,200
Garage Liability (= \$ / space)	\$ 15.00	612	9,180	3,000	6,180
Supplies			21,800	7,100	14,700
Parking Tickets (cost / space/ year)	\$ 2.45	1,337	3,276	1,100	2,176
Printed Forms (cost / space / year)	\$ 2.90	633	1,836	600	1,236
Office Supplies (cost / space)	\$ 3.00	633	1,899	600	1,299
Garage Supplies (cost / space)	\$ 6.00	1,337	8,022	2,600	5,422
Uniforms (cost / employee / year x FTE)	\$ 1,700.00	4.00	6,800	2,200	4,600
Routine Maintenance			43,300	14,100	29,200
Drainage System (cost / sq. ft.)	\$ 0.020	155,295	3,106	250	2,856
Electrical - Relamping (cost / sq. ft.)	\$ 0.010	155,295	1,553	1,500	53
Domestic Backflow Mtc	\$ 250.00	1	250	100	150
Fire - Fire Ext. and cabinets	\$ 2,000.00	1	2,000	2,000	-
Fire System Testing and Monitoring	\$ 1,650.00	1	1,650	1,650	-
H.V.A.C. annual certification and mtc	\$ 2,000.00	1	2,000	3,500	(1,500)
Line Striping (cost / space) 50% of total spaces annually	\$ 7.00	633	4,431	1,400	3,031
License plate recognition (LPR) system (10% of initial cost / year)	\$ 4,700.00	2	9,400	3,100	6,300
Access & Rev. Control Equip. - Service Agreement (10% of initial cost / year)	\$ 2,800	1	2,800	900	1,900
Access & Rev. Control Equip. - Emergency Service (cost / month)	\$ 150.00	12	1,800	600	1,200
Sand and Soil Separator Maintenance	\$ 10,000	1	10,000	10,000	-
Elevator Cabs		2			
Elevator - Maintenance Agreement (cost/ cab/ occurrence)	\$ 125.00	4	1,000	1,000	-
Elevator monitoring & repairs		1	1,480	1,480	-
Office Equipment (cost / month)	\$ 100.00	12	1,200	400	800
Miscellaneous Repairs (cost / month)	\$ 50.00	12	600	200	400
License Fees & Permits			800	800	-
Elevator Permits (annual cost / cab)	\$ 390.00	2	800	800	-
Contracted Services			112,500	48,900	63,600
Security - Unarmed (rate/hr. x annual hours)	\$ 45.00	365	16,425	5,300	11,125
Custodial Service (monthly invoice fee by contract x 12 months)	\$ 1,925.00	12	23,100	4,200	18,900
Accounting Fees (cost/year)	\$ 2,000.00	1	2,000	700	1,300
Legal Fees (cost/year)	\$ 1,000.00	1	1,000	300	700
Snow Removal (annual budget per space)	\$ 129.03	533	68,774	38,000	30,774
Waste Removal (cost / month)	\$ 100.00	12	1,200	400	800
Annual Building Inspection (per structure)	\$ 2,000.00	1	2,000	2,000	-
Total - Operating Expense			436,600	154,900	281,700