

RESOLUTION 06-18503

A RESOLUTION PURSUANT TO BILLINGS, MONTANA CITY CODE, ARTICLE 22-900: SALE, DISPOSAL OR LEASE OF CITY PROPERTY, DESCRIBING THE PROPERTY TO BE SOLD, DECLARING THE INTENT OF THE CITY TO DISPOSE OF THE PROPERTY AND AUTHORIZING CITY OFFICIALS TO PROCEED.

WHEREAS, the City of Billings finds it necessary or desirable to dispose of property it currently owns, located on **Emerald Drive** and described as a portion of Lot 10, Block 5, O'Leary Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file under Document #597508, recorded on February 27, 1958, in the office of the Yellowstone County Clerk and Recorder's office, and more particularly described as:

Beginning at a point, said point being the Northwest corner of Lot 10, Block 5, O'Leary Subdivision; thence N 89°46'00" E a distance of 175.70 feet; thence S 00°00'00" E a distance of 15.00 feet; thence S 89°46'00" W a distance of 175.70 feet; thence N 00°00'00" E for a distance of 15.00 feet to the Point of Beginning. Said property contains 2,636 square feet.

WHEREAS, Article 22-900 BMCC requires the city to declare its intention to dispose of such lands, giving the public the opportunity to be heard regarding such action, and setting a public hearing date, and

WHEREAS, Article 22-900 BMCC also requires that all property owners within three hundred (300) feet of the exterior boundaries of said property, be notified by mail, fifteen (15) days in advance of the time, date, place of public hearing and the existing and proposed use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLING, MONTANA, AS FOLLOWS:

PUBLIC HEARING. The public hearing date has been set for **November 27, 2006**, at 6:30 o'clock p.m. in the Council Chambers, located on the Second Floor of the Police Facility, 220 North 27th Street, Billings, Montana. The City Clerk is hereby directed to publish notice of the public hearing in **The Billings Times** in its regular issue on **November 2nd and 9th, 2006**, and to mail a copy of such notice to all property owners within the three hundred (300) foot notification area.

APPROVED AND PASSED by the City Council of the City of Billings this 23rd day of October, 2006.

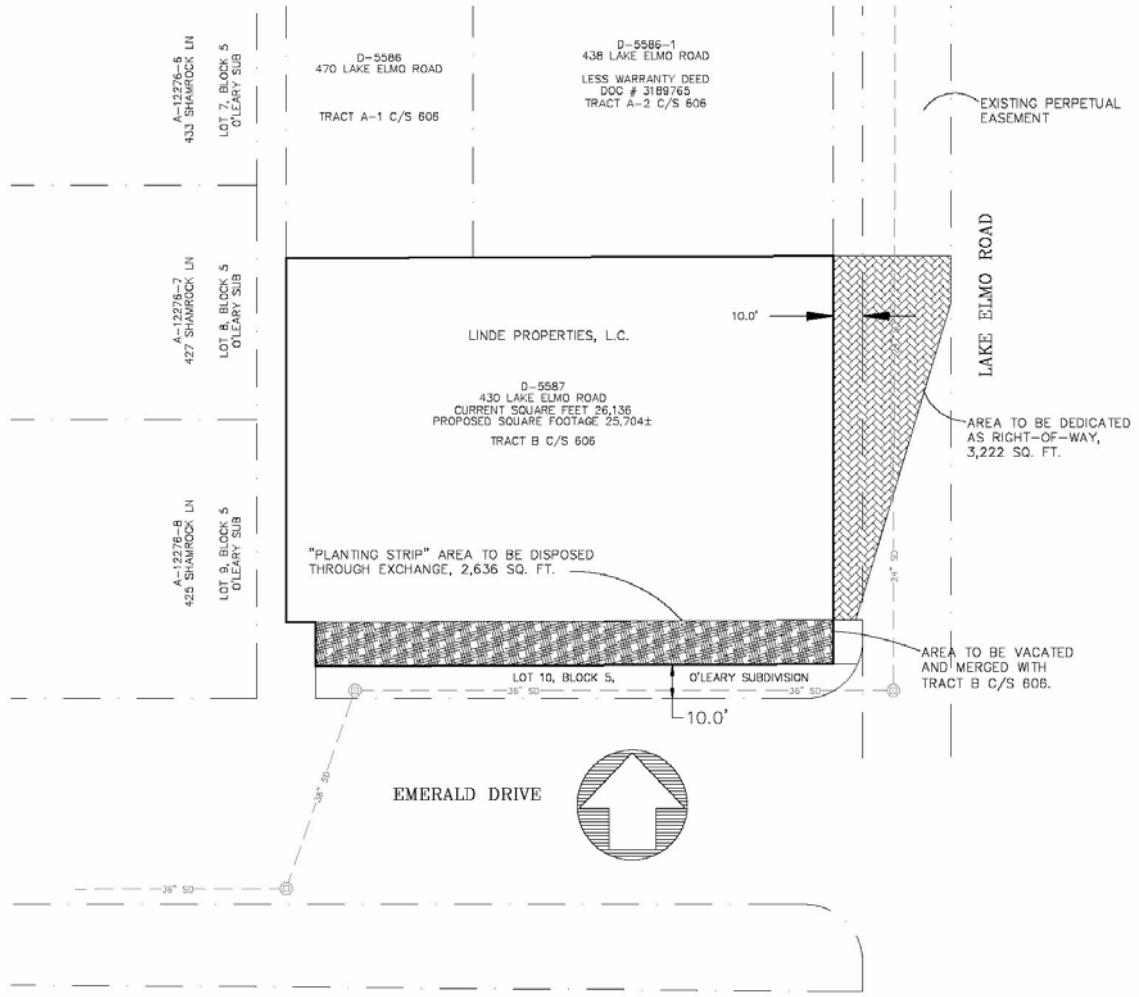
THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

ATTACHMENT A
PROPOSED LOT 10 AND RIGHT-OF-WAY BOUNDARIES



DRAFT: 10/02/06

Attachment B

CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

Project No. 96-09 Parcel No. T.B.D. County of Yellowstone
Designation Lake Elmo Road

RIGHT OF WAY AGREEMENT

Parcel From Subdivision

T.B.D.

Tracts of land situated in Tract B, Amended Plat of Lots 1 & 2, Certificate of Survey No. 606, and in Lot 10, O'Leary Subdivision, Yellowstone County, Montana:

List Names & Addresses of the Grantor

Dr. Brian Linde, O.D.
926 Main Street, Suite 18
Billings, MT 59105

1. **IN CONSIDERATION OF THE AGREEMENTS HEREIN SET FORTH AND THE SPECIFIC AGREEMENTS TO BE PERFORMED BY BOTH PARTIES HERETO AND WRITTEN IN THIS AGREEMENT, THE PARTIES HERETO BIND THEMSELVES TO THE TERMS AND CONDITIONS SET FORTH HEREIN. NO VERBAL AGREEMENTS SHALL BE BINDING UPON EITHER PARTY AND THIS AGREEMENT SHALL BECOME EFFECTIVE UPON EXECUTION BY A DESIGNATED REPRESENTATIVE OF THE CITY OF BILLINGS.**
2. **COMPENSATION FOR LAND AND IMPROVEMENTS** (List acres and/or sq. ft. and improvements in the taking.)

Parcel "A" Land acquired by City: Approximately 1,240 sq. ft., consisting of the east 10 feet of Tract B, Amended Plat of Lots 1 & 2, Certificate of Survey No. 606.

Parcel "B" Land acquired by Milne: Approximately 2,812.50 sq. ft., consisting of the North 15 feet of Lot 10, O'Leary Subdivision.
3. **IT IS UNDERSTOOD AND AGREED** that the exact dimensions and area of the lands to be acquired by the City and by Milne shall be based on a right-of-way plan currently being prepared under City Work Order 96-09 by MSE-HKM.
4. **IT IS UNDERSTOOD AND AGREED** that the acquisition of Parcel "B" by Milne shall constitute full compensation for the acquisition of Parcel "A" by the City.
5. **IT IS UNDERSTOOD AND AGREED** that the final area acquired by Milne shall not be determined until such time as as-built plans are prepared defining the location of the storm drain line installed through Lot 10, O'Leary Subdivision, as constructed under City Work Order #94-11. Further, it is understood and agreed that the City will retain 10 feet of right-of-way north of the centerline of the pipe for future operations and maintenance capabilities.
6. **IT IS UNDERSTOOD AND AGREED** that upon completion of the above-referenced as-built plans and right-of-way plans that an amended Right-of-Way Agreement shall be prepared identifying the specific areas of conveyance for approval by the Billings City Council.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year as written below.

RECOMMENDED FOR APPROVAL


Brian Linde
Linde

12/23/96
(Date)


Tony Beaman
Engineering Division

12/20/96
(Date)