

RESOLUTION NO. 12-19196

A RESOLUTION OF THE BILLINGS, MONTANA CITY COUNCIL  
ESTABLISHING A PROCEDURE FOR ACCEPTING RIGHT-OF-WAY  
CONVEYANCES FOR BENCH BOULEVARD PROPERTIES FROM  
THE STATE OF MONTANA DEPARTMENT OF TRANSPORTATION

WHEREAS, the State of Montana Department of Transportation is the managing agency on the Bench Boulevard widening project that includes two projects. The first of these projects will reconstruct Bench Boulevard from Lincoln Lane to Hilltop Road. The second of these projects will reconstruct Bench Boulevard from Hilltop Road to Highway 87; and

WHEREAS, the existing roadway along this portion of Bench Boulevard is a two-lane, mostly straight, mostly rural facility with lane widths that vary from 11 to 12 feet and shoulder widths that vary from zero to 12 inches and pre-existing right-of-way widths varying from 60 to 100 feet; and

WHEREAS, the Bench Connector project is designed with typical section widths proposed between Lincoln Lane and Hilltop Road with two 14 foot travel lanes, plus, typically, a 5 foot boulevard on both sides of the roadway, a 5 foot sidewalk on both sides of the roadway, a two way left turn lane in the center, and curb and gutter; and

WHEREAS, the State of Montana Department of Transportation is using funds available for the project to purchase additional right-of-way for completion of this work and will convey the properties it acquires to the City of Billings, and

WHEREAS, the first of these projects on Bench from Lincoln Lane to Hilltop Road includes seven parcels remaining to be transferred to city. This section of Bench is estimated to begin construction in early 2013. The second of these projects for Bench, Hilltop Road to Highway 87, contains over 160 parcels that will be purchased by the State of Montana Department of Transportation and transferred to the City of Billings. Each parcel would have to be considered by and approved by the City Council of the City of Billings if its current policy were followed with regard to these transfers; and

WHEREAS, the City Council concurs and has concurred that the additional parcels that will become additions to the Bench Boulevard right-of-way should be accepted by the City of Billings; and

WHEREAS, it is therefore desirable for the City Council to provide a procedure pursuant to which City staff may review each parcel transfer and recommend acceptance without requiring the question for each separate parcel to be staffed and processed at a Regular Meeting of the City Council.

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

1. The Mayor is authorized and instructed to execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement of the deed for each parcel so that it can be recorded in the name of the City of Billings if:

- a. It is a parcel that is being acquired to make possible the completion of the Bench Boulevard projects, specifically, Bench Boulevard–Billings (Project ID: MT 1036(1)) and Bench Blvd–Hilltop to US87 (Project ID: MT 1036(2)) as well as any additional projects within the limits of Lincoln Lane and US Highway 87 that may be developed in the future as a result of splitting the projects into smaller segments,
- b. The State of Montana has
  - (1) negotiated the purchase price with the property owner,
  - (2) obtained a title report reflecting the names all persons or entities that have a legal interest in and to the property,
  - (3) has obtained the signature of all owners on a deed naming the City of Billings as the Grantee and specifying that the recorded deed is to be returned by the Yellowstone County Clerk and Recorder to the Billings, Montana City Clerk, and
  - (4) forwarded the original deed, all necessary written consents, a completed Realty Transfer Certificate and the title report to the City for legal review, and
- c. The City has obtained an opinion from the Office of the City Attorney that all necessary parties have signed the right-of-way deed and consented to the transfer.
- d. The State of Montana Department of Transportation has agreed to indemnify the City of Billings regarding risk and responsibility associated with mortgages and other potential liens on the properties acquired by the State under a separate document.

2. Upon the satisfaction of these requirements and after the Mayor has signed the Acknowledgment and Acceptance, the City Clerk is authorized and instructed to transmit the deed to the Clerk and Recorder of Yellowstone County with instructions to authorize payment of all Clerk and Recorder fees for recording the documents out of the

State of Montana Department of Transportation account at that office, and to transmit an electronic copy of the recorded deed to the State of Montana Department of Transportation.

**APPROVED AND PASSED** by the City Council of the City of Billings, this 13th day of August, 2012.



THE CITY OF BILLINGS:

BY: Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk