

**RESOLUTION NO. 04-18084**

**A RESOLUTION OF THE CITY OF BILLINGS  
APPROVING PETITIONS FOR ANNEXATION AND  
ANNEXING TERRITORY TO THE CITY.**

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the SE1/4 and SW1/4 of Section 33, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:  
Certificate of Survey No. 1876 Amended, Amended Tracts 2A and 3A of Certificate of Survey No. 1876, Recorded October 10, 2003, Under Document No. 3257779, Records of Yellowstone County, Montana; including all adjacent right-of-way of 41<sup>st</sup> Street West and Grand Avenue, which is Tract 2A-2 of said Certificate of Survey No. 1876 Amended. Containing 7.000 gross acres, and 5.938 net acres, more or less  
(Annexation #04-01)

2. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

3. CONDITIONS: The annexation is approved subject to the following conditions:

- **An Annexation Agreement, attached as Exhibit A, shall be executed by the petitioner and the City.**
- **That prior to development of the site, including the issuance of any building permits, the following shall occur:**
  1. A Development Agreement be executed between the owner(s) and the City which shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
  2. A Subdivision Improvements Agreement (S.I.A.) and Waiver of Protest to SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.
- **That 60' of the adjacent Grand Avenue right of way and all of the adjacent 41<sup>st</sup> Street West right of way shall be included in the annexation.**

PASSED by the City Council and APPROVED this 26<sup>th</sup> day of January, 2004.



THE CITY OF BILLINGS:

BY:   
Charles F. Tooley, MAYOR

ATTEST:

BY: Marita Herold  
Marita Herold, CMC/AAE CITY CLERK

EXHIBIT A

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between KING OF GLORY LUTHERAN CHURCH, INC., 4125 Grand Avenue, Billings, Montana 59106, hereinafter referred to as "Owner"; and THE CITY OF BILLINGS, MONTANA, a municipal corporation, c/o City Hall, Billings, Montana 59101, hereinafter referred to as the "City."

WHEREAS, Owner is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows (K.O.G. Tracts):

Tracts 2A-1 and 3A-1, Certificate of Survey No. 1876, Amended, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3257779.

WHEREAS, Owner has submitted to the City a Petition for Annexation to the City for the K.O.G. Tracts; and

WHEREAS, the City desires to annex the K.O.G. Tracts to the City.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties do hereby agree as follows:

1. The K.O.G. Tracts are adjacent to 41<sup>st</sup> Street West and Grand Avenue. Forty-first Street West was previously improved under Private Contracts No. 380 and No. 484. These improvements included full width street, curb and gutter, water, and sanitary sewer. Water and sanitary sewer services were installed to the property line of Tract 2A-1, where the existing Church building is located. The Owner desires to hook up to the City water and sewer services. The Owner acknowledges that they are subject to the current sanitary sewer trunk and lateral construction fees. The Owner participated in the construction of the 41<sup>st</sup> Street water main and service and is not subject to the City water lateral construction fee, but the Owner acknowledges that they are subject to the current water trunk construction fee. The K.O.G. Tracts are subject to the current system development fees. Water and sanitary sewer service will be approved by the City following submittal of water extension and sanitary sewer extension applications and payment of the current applicable water and sanitary sewer fees.
2. Future Grand Avenue Improvements and Waiver. The north half of Grand Avenue is currently improved to City design standards to 41<sup>st</sup> Street West at the southeast corner of the K.O.G. Tracts. It is anticipated that, in the future, Grand Avenue will be widened adjacent to the K.O.G. Tracts to meet City of Billings

urban standards, including but not limited to pavement, curb and gutter, sidewalk, and streetlights.

If the Owner develops Tract 3A-1 (the tract adjacent to Grand Avenue) with an end use other than ancillary parking for the Church, the City may at that time require the Owner to construct, or financially guarantee the construction of, the improvements to the north half of Grand Avenue adjacent to Tract 3A-1.

If the City constructs the Grand Avenue improvements as part of an area wide special improvement district, the Owner hereby waives its right to protest the creation of one or more concurrent or sequential special improvement districts for the purpose of said Grand Avenue improvements. The City and Owner agree that this waiver is independent of all other agreements and is supported by sufficient independent consideration to which the undersigned is a party and shall run with the land and shall be binding upon the undersigned, its successors and assigns.

3. Site Development or Change of Use. The Owner intends to perpetuate the use of the K.O.G. Tracts as a Church and related ancillary and parking facilities. If the Owner changes the use of the existing facility, or develops a new use on the site, the Owner will be subject to review and approval by the City. Prior to any building permits being issued for a new or changed use, the City must first approve a final site plan for the tract or portion of the property to be developed. All site improvements shall be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

4. Binding Effect. The Owner by signature subscribed hereinbelow agrees, consents, and shall be bound by the provisions of this Agreement. The covenants, agreements, and all statements in this Agreement shall run with the land and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.

5. Attorney's Fees. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

6. Amendments and Modifications. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

“OWNER” KING OF GLORY LUTHERAN CHURCH, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MONTANA )  
: ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2003, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of KING OF GLORY LUTHERAN CHURCH, INC., who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public for the State of Montana  
Printed name: \_\_\_\_\_  
Residing in Billings, Montana  
My commission expires: \_\_\_\_\_

“CITY”  
CITY OF BILLINGS  
MONTANA

By \_\_\_\_\_  
Mayor

Attest \_\_\_\_\_  
City Clerk

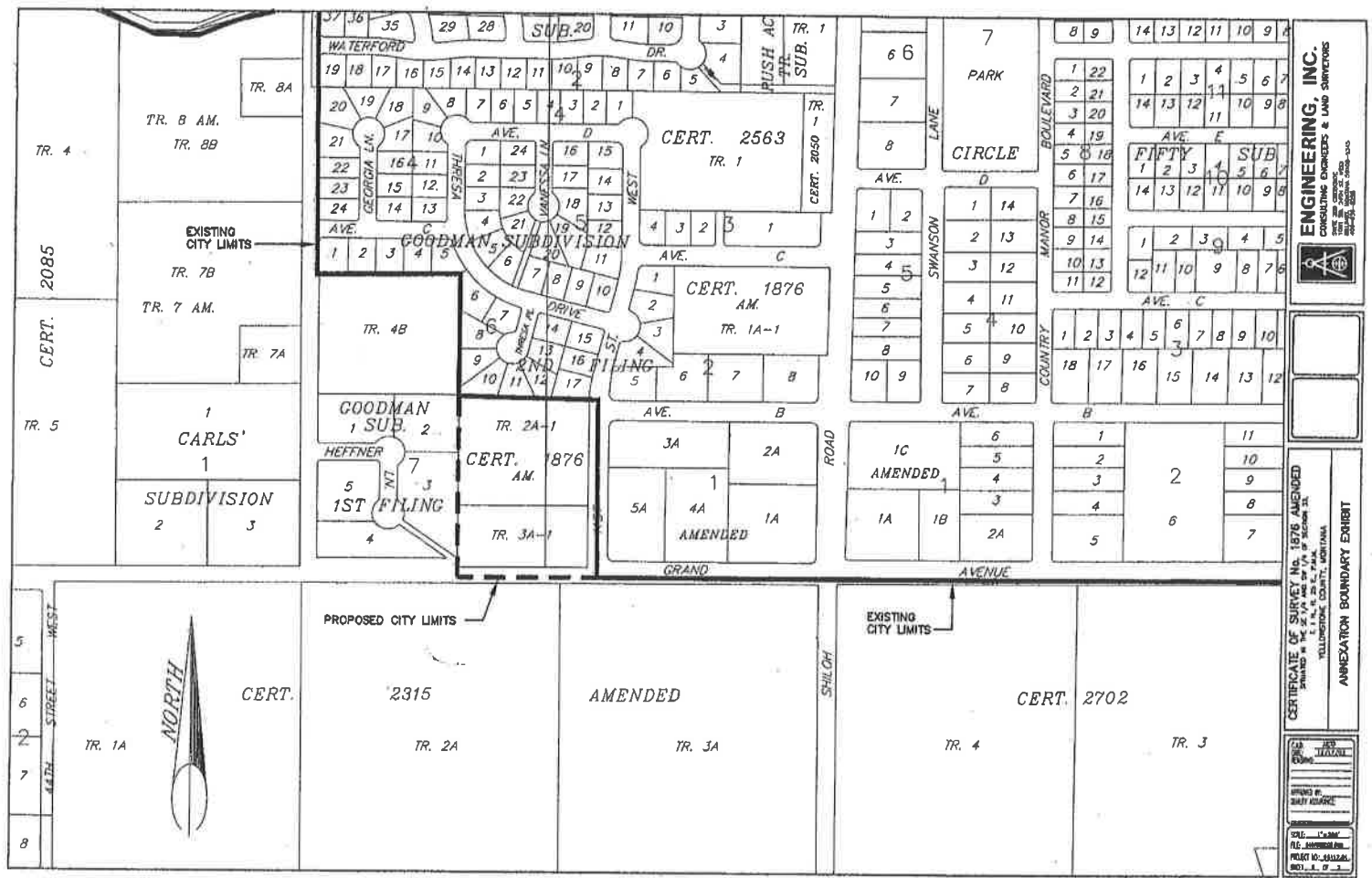
STATE OF MONTANA )  
                          ) : ss.  
County of Yellowstone )

On this \_\_\_ day of \_\_\_\_\_, 2003, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ and \_\_\_\_\_ known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to in the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

\_\_\_\_\_  
Notary Public for the State of Montana  
Printed name: \_\_\_\_\_  
Residing in Billings, Montana  
My commission expires: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney



**ENGINEERING INC.**  
 CONSULTING ENGINEERS & LAND SURVEYORS  
 1000 S. 10th St., Suite 100  
 Tulsa, Oklahoma 74106  
 Phone: (918) 438-1111  
 Fax: (918) 438-1112

---

**CERTIFICATE OF SURVEY No. 1876 AMENDED**  
 ISSUED IN THE COUNTY OF TULSA, STATE OF OKLAHOMA  
 TULLAHOMME COUNTY, OKLAHOMA  
 ANNEXATION BOUNDARY EXHIBIT