

CITY OF GREAT FALLS, MONTANA
A G E N D A R E P O R T

AGENDA # 34
DATE July 16, 2002

ITEM: RECIPROCAL GRANT AND ABANDONMENT OF EASEMENTS FOR ADMIRAL BEVERAGE, 14TH/15TH STREET WATER AND SANITARY SEWER - O.F. 1215

INITIATED BY: PUBLIC WORKS DEPARTMENT/ENGINEERING BRANCH

ACTION REQUESTED: APPROVE RECIPROCAL GRANT AND ABANDONMENT OF EASEMENTS

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

RECOMMENDATION: Staff recommends that the easement document be approved and executed.

MOTION: "I move to approve the Reciprocal Grant and Abandonment of Easements between Admiral Beverage and the City of Great Falls and authorize the City Manager to execute the document."

SYNOPSIS: In order to construct the new 14th/15th Street storm drain, it is necessary to lower a major sanitary sewer main that crosses 15th Street at 12th Avenue North. A portion of the relocation crosses through Admiral Beverage's (Pepsi Cola) property between 15th Street North and Lumber Yard Supply. The sewer main relocation requires realignment across Admiral, thus requiring an easement abandonment and granting of new easement.

The work is part of the 4th/15th Street Water and Sanitary Sewer project, which also includes nine blocks of water main replacement. This work is required because of the highway work, but is being done ahead of the MDT project because it lies outside the MDT project boundaries.

BACKGROUND: In 1993, the Montana Department of Transportation (MDT) nominated an urban highway project (10th Avenue South - River Drive NH 10-1 (14) 0) to overlay and reconstruct approximately 3.4 miles of 14th and 15th Streets between 10th Avenue South and River Drive. The MDT project is currently programmed for construction in 2003 and 2004.

The City's Storm Drain Master Plan identifies numerous drainage deficiencies and problems in the area of the City served by the 15th Street Outfall storm drain. One of the major deficiencies is the lack of capacity in the storm drain located in 15th Street North. In order to correct this, a new 8-foot diameter storm drain will be constructed with the MDT project along the 14th/15th Street corridor from 1st Avenue North to River Drive. The new storm drain requires that the existing Northeast Interceptor sanitary sewer be lowered at 12th Avenue North and across the Admiral property located to the west. Replacement of the sewer main at a greater depth in the existing easement would involve an unnecessary risk of disturbing Admiral's building, and would also require sewage bypass pumping. The new easement to be located along the southern and

western edges of Admiral's property avoids these conflicts and eliminates easement encumbrances for Admiral as well. Admiral Beverage has indicated they will be expanding their present facility with a building addition this summer.

The Reciprocal Grant and Abandonment of Easements abandons a portion of an existing easement and grants a new perpetual right-of-way and a temporary construction easement for the relocation of the NE Interceptor sanitary sewer. The abandonment of the existing easement will not go into effect until the new sewer main is constructed and operational.

As part of the MDT reconstruction project, City staff is currently working with Admiral Beverage to design and construct an improved driveway access off 15th Street North. The new access would serve both the Citizen's Convenience Center and Admiral Beverage at one location. At present, there are two driveways in close proximity to each other along with a raised median in 15th Street North that results in an awkward ingress and egress to the two properties. This issue has been discussed concurrently with the easement negotiations; however, the two issues have no bearing on each other.

Attachments: Reciprocal Grant and Abandonment of Easements Document

RECIPROCAL GRANT AND ABANDONMENT OF EASEMENT

THIS INDENTURE, is made by and between the City of Great Falls, a municipal corporation of the State of Montana, Cascade County, Montana ("City") and Admiral Beverage Corporation of 821 Pulliam Avenue, Worland, WY 82401-2325 ("Admiral").

Abandonment of Easement

and in consideration of the easement granted herein, the City does hereby convey, remise, release, and forever quitclaim unto Admiral all of the City's rights, title, and interest in and to the following described easement:

As recorded on the Minor Plat of 15th Street Bridge Addition and as shown on Exhibit A attached hereto: A strip of land twenty (20) feet wide, ten feet lying on either side and parallel to the centerline in Lot 1, 15th Street Bridge Addition to Great Falls, Cascade County, Montana, more particularly described along the centerline of the easement as follows: Commencing at the northeast property corner of Lot 1; thence S 0° 03' W, 392.27 feet along the east property line of Lot 1; thence southwesterly along a curve with a 20.00 foot radius, 13.54 feet to the true point of beginning of the centerline of the easement; thence N 21° 08' W, 106.24 feet along said centerline; thence N 87° 04' W, 365.78 feet along said centerline to the end of the easement abandonment.

The following conditions attach and pertain to the foregoing abandonment of easement:

1) The effective time of abandonment of easement will be the same time the new sanitary sewer utility to be constructed in the grant of easement (herein) has been accepted and put into operation by the City.

Grant of Easement

In consideration of the City's abandonment of the above easement, Admiral hereby convey, transfer, and grant unto the City a perpetual right-of-way and easement for the maintenance, enlarging, reducing, or removal of underground utility lines, together with all necessary appurtenances thereto, in, under, through, and across the real property hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said utility lines. The metes and bounds of the easement herein granted is described as follows and shown on Exhibit A attached hereto:

Commencing at the southwest property corner of Lot 1; thence S 82° 19' E, 20.18 feet to the point of beginning of the easement metes and bounds description; thence N 00° 00' E, 119.31 feet; thence N 11° 11' E, 20.21 feet; thence S 87° 04' E, 16.10 feet; thence S 00° 00', 90.75 feet; thence S 82° 19' E, 109.52 feet; thence S 86° 54' E, 82.22 feet; thence southerly along a curve with 60.00 foot radius, 37.63 feet; thence N 82° 19' W, 181.65 feet to the point of beginning of the easement metes and bounds description.

The following covenants and conditions attach and pertain to the foregoing grant of easement:

1. The City agrees that in the event of any excavation within said easement for purpose of maintenance or repair, City or its agents shall backfill and/or restore the surface to its existing condition.

2. Admiral shall not make or construct any building or other permanent improvement, except paving, upon the land covered by this easement, and said land shall be kept free of any such permanent obstruction that would impair the maintenance or operation of the underground utilities.

3. The City shall indemnify and hold harmless Admiral from any and all claims, demands and liability arising out of existence of the underground utilities within the easement.

4. The grant of easement shall run with the land and shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

5. A temporary construction easement shall extend a additional thirty feet wide (measured

perpendicularly from the eastern or northern perpetual easement boundary) for the purpose of material storage, operation of equipment, and other activities related to construction of utilities, but shall not interfere with any of the business activities on or near, or interfere with access to, the effected property. The temporary easement shall expire upon completion and City's acceptance of the new sanitary sewer main improvements.

IN WITNESS WHEREOF, the parties have set their hands and seals on the ____ day of _____, 2002.

CITY OF GREAT FALLS, Montana

By _____
John W. Lawton, City Manager

ATTEST:

STATE OF MONTANA)

:ss

COUNTY OF CASCADE)

This instrument was acknowledged before me on the ____ day of _____, 2002, by John W. Lawton, known by me to be the City Manger of the City of Great Falls, Montana.

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

Notary Public for the State of Montana
Residing at _____
My commission expires _____

SEAL:

APPROVED FOR LEGAL CONTENT:

Peggy J. Bourne, City Clerk

David V. Gliko, City Attorney

ADMIRAL BEVERAGE CORPORATION

Kelly Clay, President

ATTEST:

STATE OF WYOMING)

:ss

COUNTY OF)

This instrument was acknowledged before me on the ____ day of _____, 2002, by Kelly Clay.

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

Notary Public for the State of Wyoming
Residing at _____
My commission expires _____

CORPORATE SEAL:

J:\2000\00-121\landdevelopment\121\DWG\00121PEPSEASEMENT\EXHIBIT.dwg, 05/16/2002 10:49:57 AM, TDH, TDH Great Falls

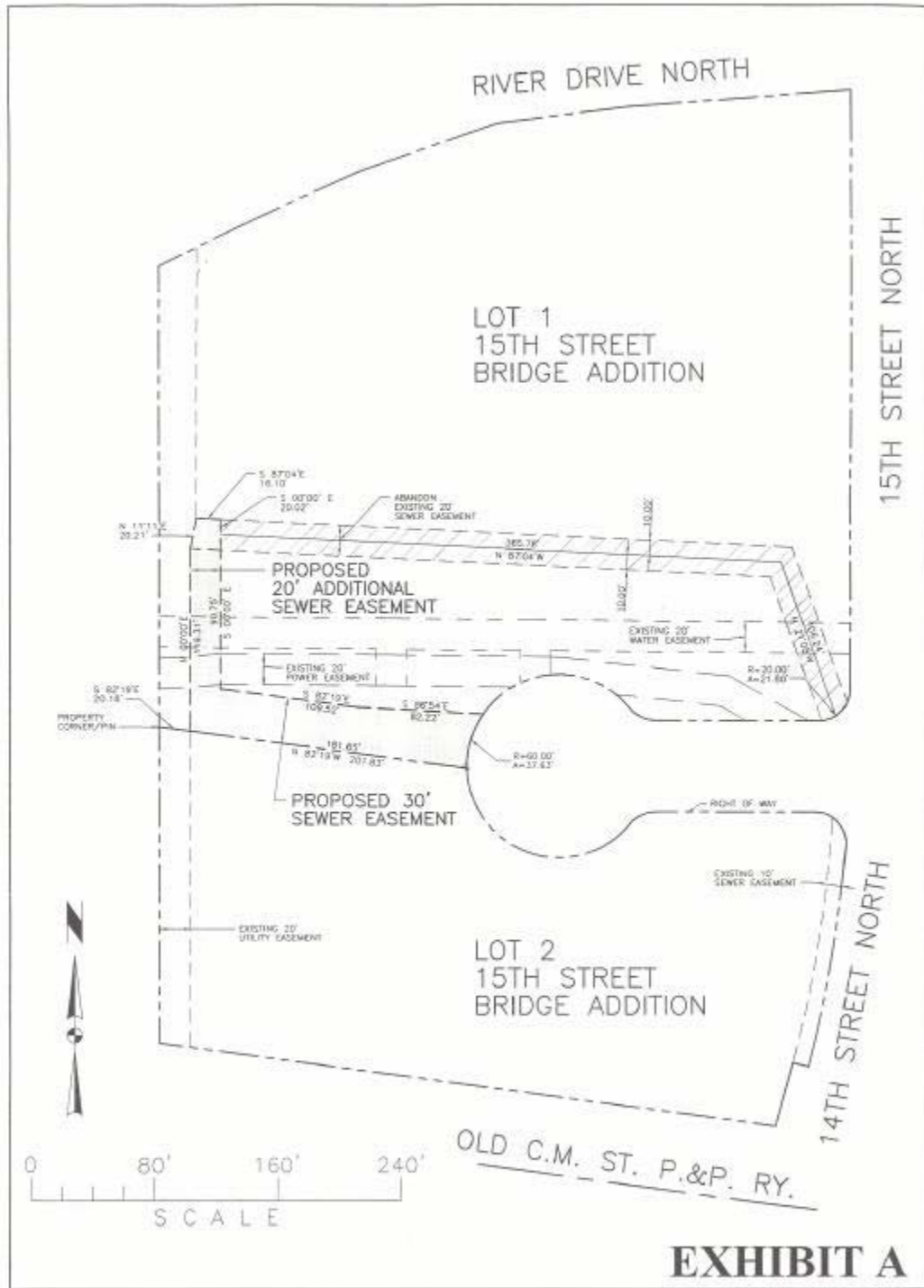


EXHIBIT A