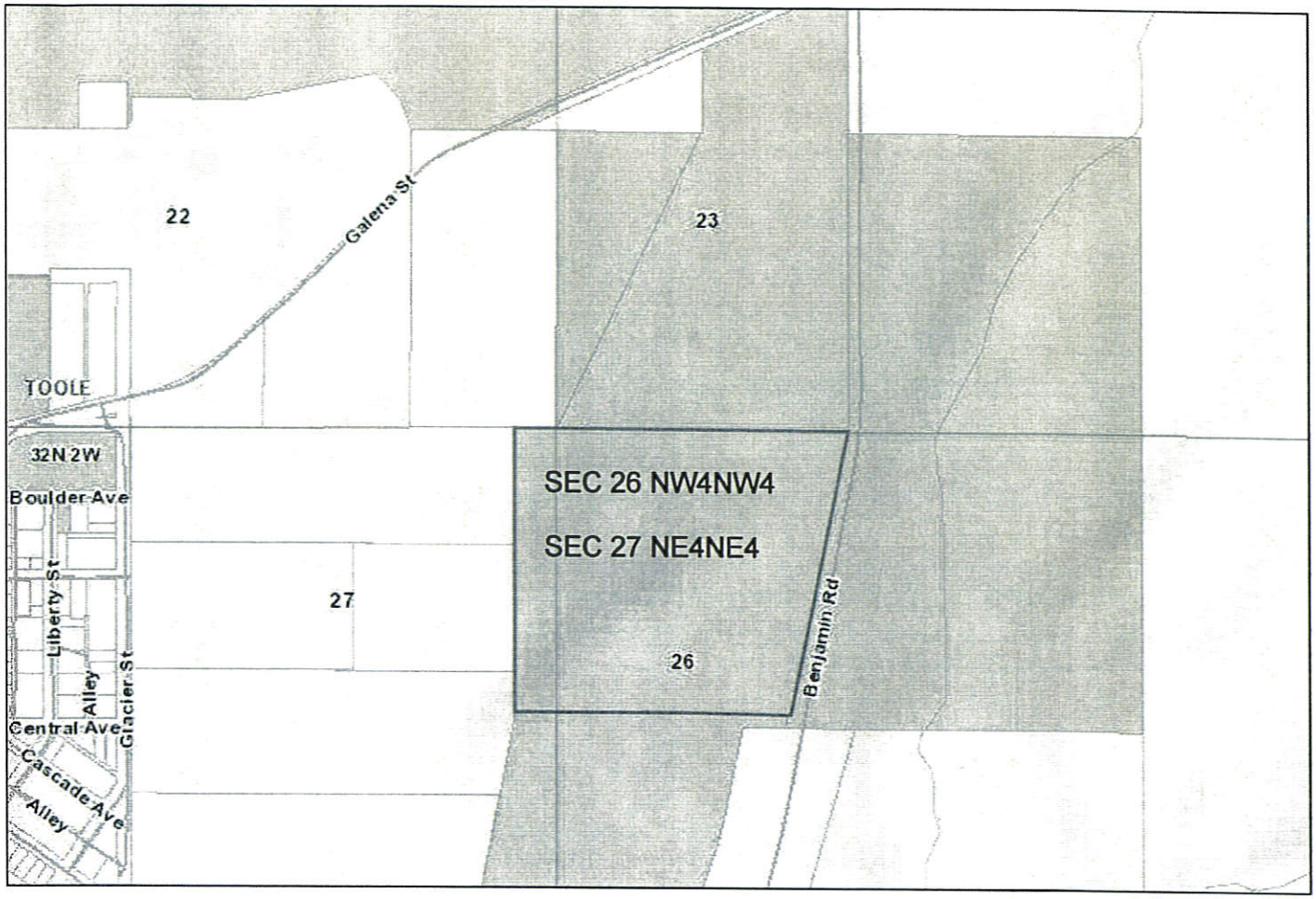
Bill Hunt

From: James Slayton <James.Slayton@kljeng.com>
Sent: Tuesday, July 17, 2018 5:57 AM
To: garym@3rivers.net; Gary McDermott; Lorette Carter <shbcdc@3rivers.net> (shbcdc@3rivers.net); Bill Hunt; jade@shelbymt.com
Subject: NCMRWA easements from City
Attachments: Parcel 0_Easement_7.16.18.pdf; Parcel 0_Exhibit A_Signed_2018 4.pdf; 4605014_PUMP STA_UTILITY TRACT 18x24.pdf; Parcel 0_Agreement_7.16.18.pdf; Parcel 120_Agreement_07.16.18.pdf; Parcel 120_Easement_07.16.18.pdf; Parcel 120_Exhibit A_Signed_2018 3.pdf; Parcel 119_Pipeline Agreement_5.2.2018.pdf; Parcel 119_Pipeline Easement_5.20.2018.pdf; Parcel 119_Exhibit A_Signed_2018 2.pdf

Categories: Green Category

Gary,
The NCMRWA is requesting easements for its upcoming project going north out of Shelby. The required easements are along Benjamin road between the connection to the existing city watermain in the industrial park and the connection to the city water main near the City Shop tank. NCMRWA will also need to purchase 0.19 acres (110'x75') immediately south of the Shelby shop water tank for the purpose of building a pump house. I have attached the documents for your review and will bring printed copies with me today and be happy to explain the documents to you. If you could put this on the agenda for consideration at the next council meeting I would appreciate it.
Thank you

James Slayton PE
KLJ
406-447-3349 Direct
406-439-0245Cell
2969 Airport Road, Suite 1B
Helena, MT 59601-1201
kljeng.com



KLJ Parcel 119

After recording return to:
Steve Wade
Browning, Kaleczyc, Berry & Hoven, P.C.
P.O. Box 1697
Helena, MT 59624

NORTH CENTRAL MONTANA REGIONAL WATER AUTHORITY
EASEMENT

This **EASEMENT** granted this ____ day of _____, 2018, between the City of Shelby of Toole County, Montana, hereinafter referred to as "**GRANTOR**," and the North Central Montana Regional Water Authority, hereinafter referred to as "**GRANTEE**".

GRANTOR is the owner of certain real property situated, lying and being in Township 32 North, Range 2 West, M.P.M., Toole County, Montana, being that part of the NW¼NW¼ of Section 26 and that part of the NE¼NE¼ of Section 27, More particularly described as follows:

> Beginning at section corner common to Sections 22, 23, 26 and 27; thence West 187.07 feet to a point which is the Northeast corner of Certificate Survey No. 273126 and the True Point of Beginning; thence South 0°20'01" East a distance of 1259.00 feet; thence East a distance of 1249.00 feet; thence North 11°00'00" East a distance of 1282.5 feet; thence West 1501 feet to the True Point of Beginning Prior Deed Reference: Book 87 of Deeds, Page 146, filed September 21, 1976.
>
> Commonly known as: Rural Ag Lands, Shelby, MT

These lands are hereinafter referred to as the "PREMISES."

GRANTOR for $10.00 (ten dollars) and other good, valuable, and sufficient consideration which is hereby acknowledged, does hereby grant and convey unto the **GRANTEE**, its successors and assigns, an exclusive and perpetual Easement for the construction, operation and maintenance of a water pipeline and distribution system on, over, under, or across the **PREMISES**:

The **EASEMENT** granted is a 30.00 foot wide perpetual water system utility easement and a 75.00 foot wide temporary construction easement shown on the attached Exhibit A and described as:

> A strip of land 30 feet in width for the construction and maintenance of a waterline over, across and through the parcel described in BK.87D PG.146 and

shown on C.O.S. 275538, located in the NW1/4 of Section 26 and the NE1/4 of Section 27, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

Said easement being the east thirty (30) feet of said BK. 87D. Pg. 146. The easement contains 0.88 acres more or less and is subject to all existing easements and documents of record.

The temporary construction easement shall terminate upon completion of construction of the water system on the **PREMISES**.

This **EASEMENT** grants to the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the exclusive and perpetual right to locate, lay out, survey, construct, and thereafter use, inspect, operate, maintain, repair, patrol, replace and/or remove a municipal, rural and industrial water distribution system including service lines and interconnection facilities (collectively, the "Water System") on, over, under, or across the **PREMISES** described above.

This Easement is subject to all of the following:

1. The grant of **EASEMENT** herein contained is subject to existing rights-of-way of any nature of record of the date hereof.

2. The **GRANTOR** and the Grantor's successors or assigns, shall have the right to cultivate, use, and occupy said **PREMISES** for any purpose which will not, by the determination of the **GRANTEE**, interfere with the easement rights herein granted or endanger any of its property, but said right of cultivation, use and occupancy shall not extend to or include the erection of any structure(s) or the planting of trees on, or the drilling of any wells in, or the removal of material from, or the placement of material on said **PREMISES** without advance written permission from the **GRANTEE**.

3. The **GRANTOR** grants and guarantees the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the perpetual right of ingress and egress during the period of construction and at any such time thereafter as may be necessary for the inspection, operation, maintenance, or replacement of the above-mentioned water system.

4. The **GRANTEE**, its successors and assigns, further agree:

    a. To reclaim the **PREMISES** and any other property of the **GRANTOR** disturbed by the construction, operation, maintenance, repair or replacement of the said water system and to return the **PREMISES** and any other property of the **GRANTOR** as near as reasonably possible to the condition it was prior to the disturbance.

    b. That, if there is non-reclaimed or un-repaired damage to the **PREMISES** or any other property of the **GRANTOR** within the **EASEMENT** as a result of

the construction, operation, maintenance, repair or replacement of the water system, payment for damages will be made by the **GRANTEE** to the current owner or owners on the basis of a damage appraisal or calculations approved by the Authority.

5. In case of permanent abandonment of said water system and rights-of-way by the **GRANTEE**, the **EASEMENT** herein granted shall end, cease and determine and title shall revert to the then owner.

6. In the event **GRANTOR** is an entity, the undersigned represents that all required actions have been completed and that he or she has authority to execute this easement on behalf of **GRANTOR**.

IN WITNESS WHEREOF, the parties hereto have executed this Contract and Grant of Easement as of the date first above written on page one.

CITY OF SHELBY

By:_____
Print Name:_____
Its:_____

STATE OF _____)
: **ss.**
COUNTY OF _____)

On this ____ day of _____, 20__, before me, a Notary Public for the State of _____, personally appeared _____, the authorized representative of City of Shelby, GRANTOR, known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of _____
Residing at: _____
My commission expires: _____, 20_____

//

GRANTEE:

NORTH CENTRAL MONTANA REGIONAL
WATER AUTHORITY

By:_____
Print Name:_____
Its:_____

STATE OF MONTANA)
: ss.
COUNTY OF _____)

On this ____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____, the _____ of North Central Montana Regional Water Authority, GRANTEE. Known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

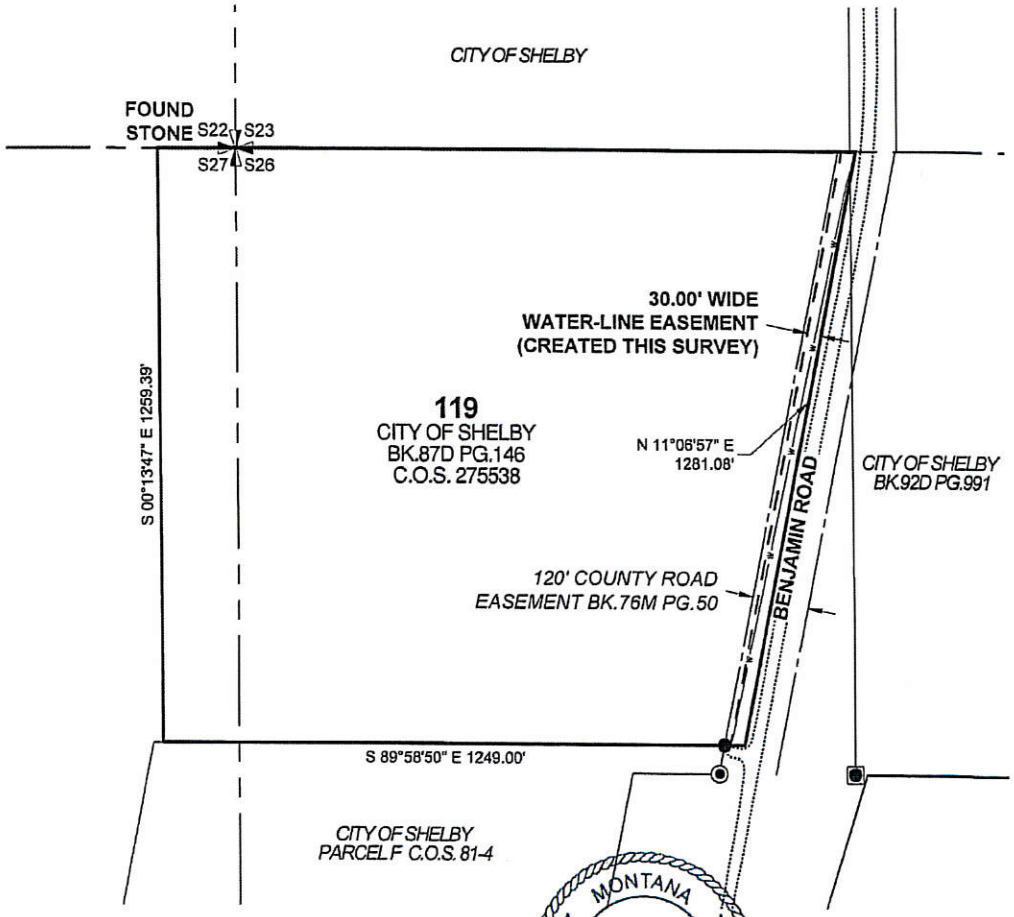
In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of Montana
Residing at: _____
My commission expires: _____, 20_____

EXHIBIT A
WATERLINE EASEMENT DESCRIPTION
PARCEL NO. NCM-AUTHORITY-119
LAND OWNER: CITY OF SHELBY

A strip of land 30 feet in width for the construction and maintenance of a waterline over, across and through the parcel described in BK.87D PG.146 and shown on C.O.S. 275538, located in the NW1/4 of Section 26 and the NE1/4 of Section 27, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

Said easement being the east thirty (30) feet of said BK. 87D. Pg. 146. The easement contains 0.88 acres more or less and is subject to all existing easements and documents of record.



OWNERSHIP DESCRIPTION: BK.87D PG.146
S. 26 & 27 TWP. 32N R. 2W
COUNTY: TOOLE STATE: MONTANA
TYPE: 30' WIDE WATERLINE EASEMENT
TOTAL L.F: 1281 ± TOTAL AREA: 0.88 AC ±

Surveyor's Note:
Easement created this survey falls inside existing Benjamin Road Right-of-way.

LEGEND

- PLSS CORNER AS NOTED
- NW1/16 COR. 5/8" REBAR W/ YPC 8238LS
- Found 5/8" REBAR W/ YPC2989ES
- Found Rebar
- P.L. Pipe Length (Approximate)

Note:
All distances are ground, international feet
All bearings are Geodetic North
Basis of bearings = Geodetic North based on GPS Observation

KLJ

Drawn By	Surveyed By	Approved By	Project No.	Date
B. Lightner	J. Stefanik	M. Ries	4605014	4/16/2018

Apr 18, 2018 - 3:08pm - P:\Private\MT\NCMRWA\Segment W3 - Shelby to Sweet Grass\4605014_Seg W3 Shelby to Sweetgrass\4605014 Seg W3 Shelby Sunburst\Survey\CADD\Local\4605014_LOCAL_SOUTH OF TANK.dwg

© KLJ 2018

PIPELINE AGREEMENT

THIS PIPELINE AGREEMENT ("this Agreement") is entered into as of _____, 2018 (the "Effective Date") by and between the City of Shelby ("Property Owner") and the North Central Montana Regional Water Authority ("Authority"). Property Owner and Authority are sometimes herein referred to as the "Parties."

RECITALS

A. Property Owner owns certain real property located in Toole County, in the State of Montana (the "Property").

B. Authority, a wholesale provider of drinking water, desires to obtain an easement in order for Authority to develop, install, own, and operate a pipeline for the transmission of drinking water on the Property.

C. Property Owner desires to grant to Authority such easements and other rights over the Property on the terms and conditions contained herein.

NOW, THEREFORE, for $176.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Property Owner and Authority hereby agree as follows:

AGREEMENT

1. Easement. The Parties agree to execute and record an Easement (attached) on, over, under and across the Property for the construction, operation and maintenance of a drinking water pipeline and related facilities including the rights of ingress and egress to and from the Property.

2. Term. The term of the Easement shall commence on the Effective Date and shall continue so long as the easement is utilized for the purpose described above. The Parties agree to execute and record such Easement (attached as Exhibit I). In the event the project is not constructed on the Property or for any reason the Easement is no longer needed, the Authority will terminate its interest in the Easement by filing an appropriate release of record.

3. Authority Covenants. Authority covenants, represents and warrants to Property Owner as follows as of the Effective Date:

3.1. Compliance with Law. Authority shall at all times comply in all material respects with all valid laws, ordinances, rules, regulations and statutes of any governmental agency applicable to Authority's operations on and use of the Property.

3.2. Insurance. Authority agrees to maintain liability insurance covering its activities on the Property. Authority agrees to supply Property Owner with such certificates and other evidence of insurance as Property Owner may reasonably request.

3.3. Noxious Weeds. Authority agrees to coordinate with the Property Owner to implement appropriate noxious weed mitigation measures on the Property during the installation and maintenance of the Pipeline.

3.4. Crop Damage. Authority agrees to coordinate with the Property Owner to address crop damage, and will address crop damage, if any, pursuant to its standard Crop Damage Payment Policy. Crop damage valuations will be determined by the Authority using its established valuation protocols at the time of or immediately prior to construction of the Pipeline.

3.5. Liability. Authority agrees to be responsible for repairs to its pipeline and facilities located on the Easement Property unless such damage has been caused by third parties not affiliated with Property Owner or such damage has been intentionally caused by Property Owner, its agents or assigns. Authority reserves the right to pursue costs for repair against third parties not affiliated with Property Owner.

3.6. Ditch Maintenance. Authority agrees to be responsible for repairing ditch settling located on the Easement Property within thirty (30) days after receiving written notice about the problem from the Property Owner. If the Authority is unable to correct the settling within thirty (30) days, the Property Owner may hire a qualified third party contractor to correct the ditch settling, provided such repairs are done in a reasonable manner that does not cause damage to the Pipeline. Authority agrees to reimburse the Property Owner for any reasonable expense the Property Owner incurs to correct ditch settling on the Easement Property.

4. Drinking Water. While the Authority is not a retail provider of drinking water, the Authority agrees to work with Property Owner in obtaining drinking water from the nearest Member Entity of the Authority, subject to the terms and conditions of such Member Entity's water purchase agreement with the Authority. Property Owner shall negotiate directly with such Member Entity for the provision of drinking water. In the event such negotiations successfully facilitate Property Owner obtaining drinking water from such Member Entity, the Authority, in coordination with the Property Owner and said Member Entity will determine if a technical and appropriate engineering location exists for a "turn out" on the Authority's pipeline. Any drinking water provided to Property Owner shall be by the Member Entity, with the Member Entity being responsible for the setting of rates for the drinking water as well as the collection of any payments thereof. The Authority will have no direct relationship with the Property Owner with respect to the providing of drinking water, and the Authority's responsibility will be through any water purchase agreement it may enter into with its Member Entity.

5. Property Owner Covenants. Property Owner covenants, represents and warrants to Authority as follows as of the Effective Date:

5.1. Property Owner's Authority. Property Owner is the sole owner of the Property. Property Owner and each person signing the Easement on behalf of Property Owner have the full and unrestricted power and authority to execute and grant the easements. All persons having any ownership or possessory interest in the Property (including spouses) have signed the Easement.

6. Entire Agreement. This Agreement, together with its attached exhibit, contains the entire agreement between the Parties hereto with respect to the subject matter hereof and any prior agreements, discussions or understandings, written or oral, are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the parties.

7. Governing Law. The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Montana applicable to contracts made and to be performed within Montana and without reference to the choice of law principles of Montana or any other state.

IN WITNESS WHEREOF, Property Owner and Authority enter into this Agreement as of the Effective Date.

Property Owner: _____

By:_____ Title:_____

Authority:

By: _____

Printed name: _____ Its: _____

WAIVER VALUATION

NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM

(1) Parcel/Tract No. NCM-AUTHORITY- 119

(2) Name of Record Owner City Of Shelby
Address 112 1st St. South Shelby MT 59474
Phone No. 406-434-5222

A. **Reporting Standards for Waiver Valuations.** The following minimum reporting standards are required when preparing a waiver valuation report.

1. State the date of inspection (effective date).

December 4, 2017

2. Provide a legal description and size of the subject property:

A strip of land 30 feet in width for the construction and maintenance of a waterline over, across and through the parcel described in BK.87D PG.146 and shown on C.O.S. 275538, located in the NW1/4 of Section 26 and the NE1/4 of Section 27, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

Said easement being the east thirty (30) feet of said Bk. 87D. Pg. 146. The easement contains 0.88 acres more or less and is subject to all existing easements and documents of record.

3. Identify the purpose for the waiver valuation:

To establish the amount of just compensation to be offered to the Record Owner in connection with the acquisition of an easement interest.

4. Describe the property:

Relatively flat ground along an existing gravel road and inside the existing road right-of-way.

5. State an opinion of highest and best use of the property:

This property is inside the right-of-way of an existing gravel road and is not suitable for any use other than the operation and maintenance of the existing road and the installation of utilities.

6. Provide an explanation of how the value/fee was developed:

The Executive Committee of the North Central Montana Regional Water Authority adopted a value of $1000/acre for the entire project as well as a crop damage value based on an average

winter wheat yield of 42 bushels/ac and an average price of $7.11/bushel to assure equitable payment to all affected landowners. As described in (7) below, this value is the basis of the calculation used to estimate an offer to the Record Owner for the acquisition of an easement interest.

7. Provide an opinion of the final value/fee, along with a brief explanation of the rationale or justification:

The Record Owner will still retain up to 90% use of the land after the easement is acquired, an initial offer up to 20% of the indicated value is appropriate. The temporary construction easement is 75 feet wide running immediately adjacent to the above-described permanent easement. The calculation of the crop damages is based on the area of the permanent easement and the temporary construction easement (width of 125 feet total).

VALUATION:

a. Easement interest

$1000/acre x .20 = $200/acre x 0.88 acres = $176

b. Crop damages

100% year 1: $ 298.62/acre x acres =
50% year 2: $ 149.31/acre x acres =
1/3rd year 3: $ 99.54/acre x acres =
Total Crop Damages:

TOTAL COMPENSATION: $176

B. I CERTIFY THAT: In the preparation of this valuation assignment, I have personally inspected the above property and have no present or contemplated future interest therein; that the compensation paid to me for this valuation service is not contingent upon my value conclusions herein set forth; and that all statements herein are true to the best of my knowledge and belief, and

That the record owner has approved the use of a Waiver Valuation, in writing, if the valuation is over $10,000 and under $25,000.

TOTAL COMPENSATION IN THE AMOUNT OF: $176 IS RECOMMENDED.
(Must not exceed $25,000)

C. Prepared by: Brandon Lightner Date of Waiver Valuation_____

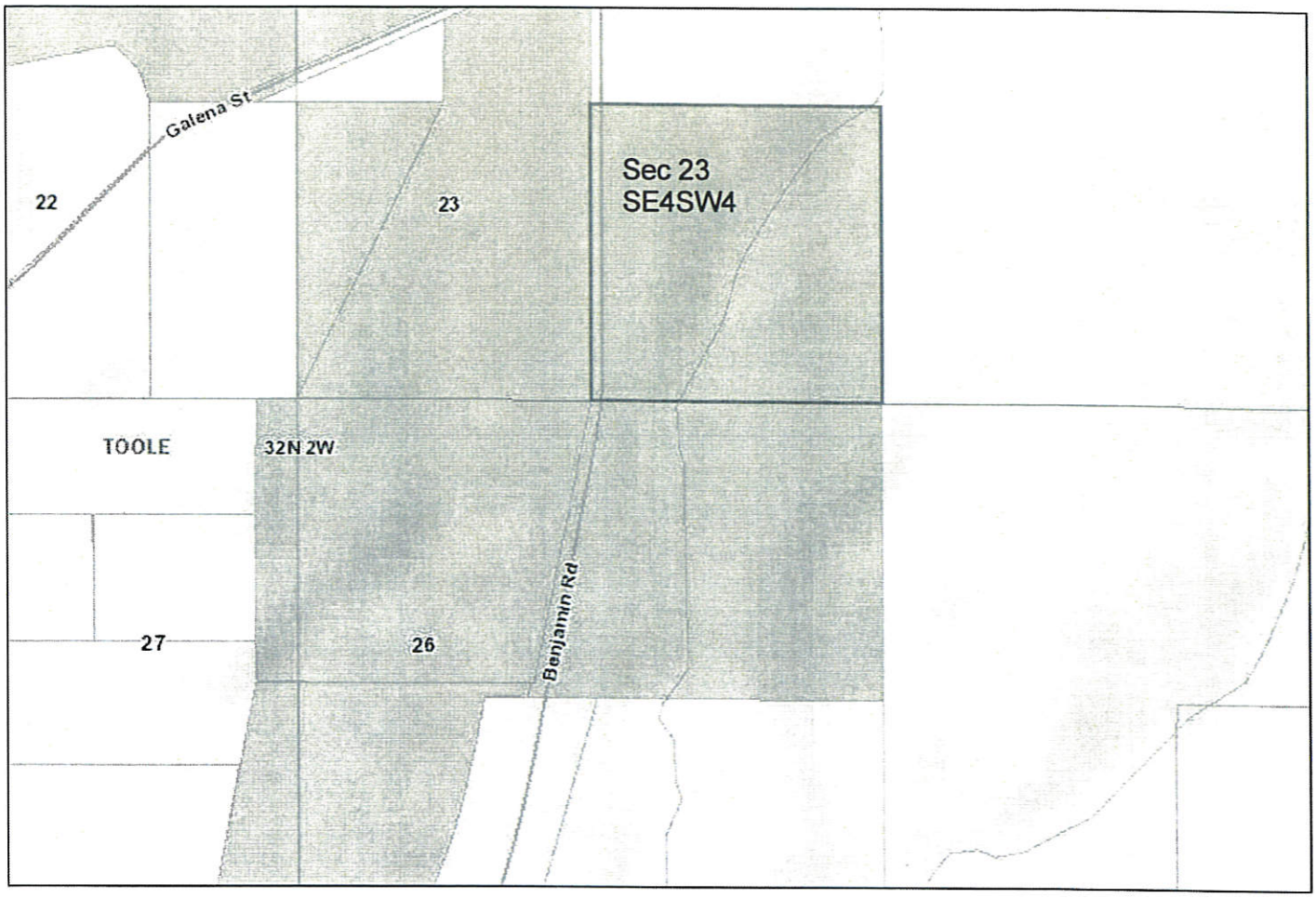
_____
Representing NCMRWA

D. Reviewed by: James Slayton

James Slayton Date of Review 7-17-2018

A photo of the subject property is required for values over $10,000 and under $25,000. Whenever possible, a photo of the subject property is to be included in the report for values up to $10,000.

(Insert Photo)



KLJ Parcel 0

After recording return to:
Steve Wade
Browning, Kaleczyc, Berry & Hoven, P.C.
P.O. Box 1697
Helena, MT 59624

NORTH CENTRAL MONTANA REGIONAL WATER AUTHORITY
EASEMENT

This **EASEMENT** granted this ____ day of _____, 2018, between the City of Shelby of Toole County, Montana, hereinafter referred to as "**GRANTOR**," and the North Central Montana Regional Water Authority, hereinafter referred to as "**GRANTEE**".

GRANTOR is the owner of certain real property situated, lying and being in Township 32 North, Range 2 West, M.P.M., Toole County, Montana, More particularly described as follows:

> Township 32 North, Range 2 West, M.P.M., Toole County, Montana
> Section 23: SE¼SW¼
>
> Commonly known as: Rural Ag Lands, Shelby, MT

These lands are hereinafter referred to as the "PREMISES."

GRANTOR for $10.00 (ten dollars) and other good, valuable, and sufficient consideration which is hereby acknowledged, does hereby grant and convey unto the **GRANTEE**, its successors and assigns, an exclusive and perpetual Easement for the construction, operation and maintenance of a water pipeline and distribution system on, over, under, or across the **PREMISES**:

The **EASEMENT** granted is a 30.00 foot wide perpetual water system utility easement and a 75.00 foot wide temporary construction easement shown on the attached Exhibit A and described as:

> A strip of land 30 feet in width for the construction and maintenance of a waterline over, across and through the SE1/4SW1/4 of Section 23, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

Said easement being the west thirty (30) feet of the SE1/4SW1/4 of said Section 23, Township 32 North, Range 2 West. Said easement contains 0.91 acres more or less and is subject to all existing easements and documents of record.

The temporary construction easement shall terminate upon completion of construction of the water system on the **PREMISES**.

This **EASEMENT** grants to the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the exclusive and perpetual right to locate, lay out, survey, construct, and thereafter use, inspect, operate, maintain, repair, patrol, replace and/or remove a municipal, rural and industrial water distribution system including service lines and interconnection facilities (collectively, the "Water System") on, over, under, or across the **PREMISES** described above.

This Easement is subject to all of the following:

1. The grant of **EASEMENT** herein contained is subject to existing rights-of-way of any nature of record of the date hereof.

2. The **GRANTOR** and the Grantor's successors or assigns, shall have the right to cultivate, use, and occupy said **PREMISES** for any purpose which will not, by the determination of the **GRANTEE**, interfere with the easement rights herein granted or endanger any of its property, but said right of cultivation, use and occupancy shall not extend to or include the erection of any structure(s) or the planting of trees on, or the drilling of any wells in, or the removal of material from, or the placement of material on said **PREMISES** without advance written permission from the **GRANTEE**.

3. The **GRANTOR** grants and guarantees the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the perpetual right of ingress and egress during the period of construction and at any such time thereafter as may be necessary for the inspection, operation, maintenance, or replacement of the above-mentioned water system.

4. The **GRANTEE**, its successors and assigns, further agree:

    a. To reclaim the **PREMISES** and any other property of the **GRANTOR** disturbed by the construction, operation, maintenance, repair or replacement of the said water system and to return the **PREMISES** and any other property of the **GRANTOR** as near as reasonably possible to the condition it was prior to the disturbance.

    b. That, if there is non-reclaimed or un-repaired damage to the **PREMISES** or any other property of the **GRANTOR** within the **EASEMENT** as a result of the construction, operation, maintenance, repair or replacement of the water system, payment for damages will be made by the **GRANTEE** to the current

owner or owners on the basis of a damage appraisal or calculations approved by the Authority.

5. In case of permanent abandonment of said water system and rights-of-way by the **GRANTEE**, the **EASEMENT** herein granted shall end, cease and determine and title shall revert to the then owner.

6. In the event **GRANTOR** is an entity, the undersigned represents that all required actions have been completed and that he or she has authority to execute this easement on behalf of **GRANTOR**.

IN WITNESS WHEREOF, the parties hereto have executed this Contract and Grant of Easement as of the date first above written on page one.

CITY OF SHELBY

By:_____
Print Name:_____
Its:_____

STATE OF _____)
: **ss.**
COUNTY OF _____)

On this ____ day of _____, 20__, before me, a Notary Public for the State of _____, personally appeared _____, the authorized representative of City of Shelby, GRANTOR, known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of _____
Residing at: _____
My commission expires: _____, 20_____

//

GRANTEE:

NORTH CENTRAL MONTANA REGIONAL
WATER AUTHORITY

By:_____
Print Name:_____
Its:_____

STATE OF MONTANA)
: ss.
COUNTY OF _____)

On this ____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____, the _____ of North Central Montana Regional Water Authority, GRANTEE. Known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of Montana
Residing at: _____
My commission expires: _____, 20_____

EXHIBIT A
WATERLINE EASEMENT DESCRIPTION
PARCEL NO. NCM-AUTHORITY- 0
LAND OWNER: CITY OF SHELBY

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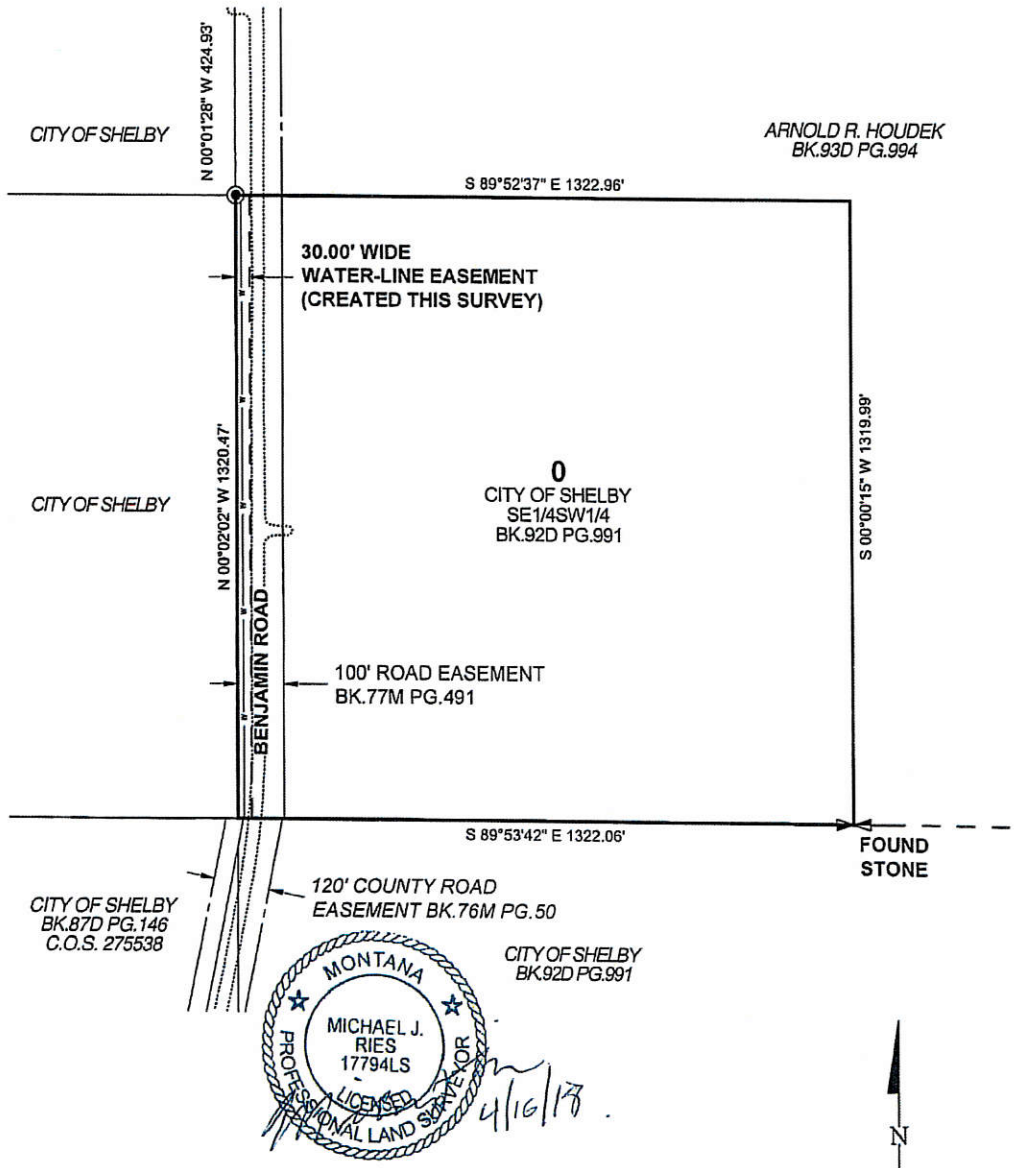

OWNERSHIP DESCRIPTION: SE1/4SW1/4
S. 23 TWP. 32N R. 2W
COUNTY: TOOLE STATE: MONTANA
TYPE: 30' WIDE WATERLINE EASEMENT
TOTAL L.F: 1320 ± TOTAL AREA: 0.91 AC ±

Surveyor's Note:
Easement created this survey falls inside existing Benjamin Road Right-of-way.

LEGEND

- PLSS CORNER AS NOTED
- Found 5/8" REBAR W/ YPC8238LS

Note:
All distances are ground, international feet
All bearings are Geodetic North
Basis of bearings = Geodetic North based on GPS Observation

Drawn By	Surveyed By	Approved By	Project No.	Date
B. Lightner	J. Stefanik	M. Ries	4605014	4/16/2018

Apr 18, 2018 – 3:08pm – P:\Private\MT\NCMWA\Segment W5 – Shelby to Sweet Grass\4605014_Seg W5 Shelby to Sweetgrass\4605014 Seg W5 Shelby Sunburst\Survey\CADD\Local\4605014_LOCAL_SOUTH OF TANK.dwg

© KLJ 2018

PIPELINE AGREEMENT

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RECITALS

A. Property Owner owns certain real property located in Toole County, in the State of Montana (the "Property").

B. Authority, a wholesale provider of drinking water, desires to obtain an easement in order for Authority to develop, install, own, and operate a pipeline for the transmission of drinking water on the Property.

C. Property Owner desires to grant to Authority such easements and other rights over the Property on the terms and conditions contained herein.

NOW, THEREFORE, for $182.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Property Owner and Authority hereby agree as follows:

AGREEMENT

1. Easement. The Parties agree to execute and record an Easement (attached) on, over, under and across the Property for the construction, operation and maintenance of a drinking water pipeline and related facilities including the rights of ingress and egress to and from the Property.

2. Term. The term of the Easement shall commence on the Effective Date and shall continue so long as the easement is utilized for the purpose described above. The Parties agree to execute and record such Easement (attached as Exhibit I). In the event the project is not constructed on the Property or for any reason the Easement is no longer needed, the Authority will terminate its interest in the Easement by filing an appropriate release of record.

3. Authority Covenants. Authority covenants, represents and warrants to Property Owner as follows as of the Effective Date:

3.1. Compliance with Law. Authority shall at all times comply in all material respects with all valid laws, ordinances, rules, regulations and statutes of any governmental agency applicable to Authority's operations on and use of the Property.

3.2. Insurance. Authority agrees to maintain liability insurance covering its activities on the Property. Authority agrees to supply Property Owner with such certificates and other evidence of insurance as Property Owner may reasonably request.

3.3. Noxious Weeds. Authority agrees to coordinate with the Property Owner to implement appropriate noxious weed mitigation measures on the Property during the installation and maintenance of the Pipeline.

3.4. Crop Damage. Authority agrees to coordinate with the Property Owner to address crop damage, and will address crop damage, if any, pursuant to its standard Crop Damage Payment Policy. Crop damage valuations will be determined by the Authority using its established valuation protocols at the time of or immediately prior to construction of the Pipeline.

3.5. Liability. Authority agrees to be responsible for repairs to its pipeline and facilities located on the Easement Property unless such damage has been caused by third parties not affiliated with Property Owner or such damage has been intentionally caused by Property Owner, its agents or assigns. Authority reserves the right to pursue costs for repair against third parties not affiliated with Property Owner.

3.6. Ditch Maintenance. Authority agrees to be responsible for repairing ditch settling located on the Easement Property within thirty (30) days after receiving written notice about the problem from the Property Owner. If the Authority is unable to correct the settling within thirty (30) days, the Property Owner may hire a qualified third party contractor to correct the ditch settling, provided such repairs are done in a reasonable manner that does not cause damage to the Pipeline. Authority agrees to reimburse the Property Owner for any reasonable expense the Property Owner incurs to correct ditch settling on the Easement Property.

4. Drinking Water. While the Authority is not a retail provider of drinking water, the Authority agrees to work with Property Owner in obtaining drinking water from the nearest Member Entity of the Authority, subject to the terms and conditions of such Member Entity's water purchase agreement with the Authority. Property Owner shall negotiate directly with such Member Entity for the provision of drinking water. In the event such negotiations successfully facilitate Property Owner obtaining drinking water from such Member Entity, the Authority, in coordination with the Property Owner and said Member Entity will determine if a technical and appropriate engineering location exists for a "turn out" on the Authority's pipeline. Any drinking water provided to Property Owner shall be by the Member Entity, with the Member Entity being responsible for the setting of rates for the drinking water as well as the collection of any payments thereof. The Authority will have no direct relationship with the Property Owner with respect to the providing of drinking water, and the Authority's responsibility will be through any water purchase agreement it may enter into with its Member Entity.

5. Property Owner Covenants. Property Owner covenants, represents and warrants to Authority as follows as of the Effective Date:

5.1. Property Owner's Authority. Property Owner is the sole owner of the Property. Property Owner and each person signing the Easement on behalf of Property Owner have the full and unrestricted power and authority to execute and grant the easements. All persons having any ownership or possessory interest in the Property (including spouses) have signed the Easement.

6. Entire Agreement. This Agreement, together with its attached exhibit, contains the entire agreement between the Parties hereto with respect to the subject matter hereof and any prior agreements, discussions or understandings, written or oral, are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the parties.

7. Governing Law. The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Montana applicable to contracts made and to be performed within Montana and without reference to the choice of law principles of Montana or any other state.

IN WITNESS WHEREOF, Property Owner and Authority enter into this Agreement as of the Effective Date.

Property Owner: _____

By:_____ Title:_____

Authority:

By: _____

Printed name: _____ Its: _____

WAIVER VALUATION

NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM

(1) Parcel/Tract No. NCM-AUTHORITY- 0

(2) Name of Record Owner City Of Shelby
Address 112 1st St. South Shelby MT 59474
Phone No. 406-434-5222

A. **Reporting Standards for Waiver Valuations.** The following minimum reporting standards are required when preparing a waiver valuation report.

1. State the date of inspection (effective date).

December 4, 2017

2. Provide a legal description and size of the subject property:

A strip of land 30 feet in width for the construction and maintenance of a waterline over, across and through the SE1/4SW1/4 of Section 23, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

Said easement being the west thirty (30) feet of the SE1/4SW1/4 of said Section 23, Township 32 North, Range 2 West. Said easement contains 0.91 acres more or less and is subject to all existing easements and documents of record.

3. Identify the purpose for the waiver valuation:

To establish the amount of just compensation to be offered to the Record Owner in connection with the acquisition of an easement interest.

4. Describe the property:

Relatively flat ground along an existing gravel road and inside the existing road right-of-way.

5. State an opinion of highest and best use of the property:

This property is inside the right-of-way of an existing gravel road and is not suitable for any use other than the operation and maintenance of the existing road and the installation of utilities.

6. Provide an explanation of how the value/fee was developed:

The Executive Committee of the North Central Montana Regional Water Authority adopted a value of $1000/acre for the entire project as well as a crop damage value based on an average

winter wheat yield of 42 bushels/ac and an average price of $7.11/bushel to assure equitable payment to all affected landowners. As described in (7) below, this value is the basis of the calculation used to estimate an offer to the Record Owner for the acquisition of an easement interest.

7. Provide an opinion of the final value/fee, along with a brief explanation of the rationale or justification:

The Record Owner will still retain up to 90% use of the land after the easement is acquired, an initial offer up to 20% of the indicated value is appropriate. The temporary construction easement is 75 feet wide running immediately adjacent to the above-described permanent easement. The calculation of the crop damages is based on the area of the permanent easement and the temporary construction easement (width of 125 feet total).

VALUATION:

a. Easement interest

$1000/acre x .20 = $200/acre x 0.91 acres = $182

b. Crop damages

100% year 1: $ 298.62/acre x acres =
50% year 2: $ 149.31/acre x acres =
1/3rd year 3: $ 99.54/acre x acres =
Total Crop Damages:

TOTAL COMPENSATION: $182

B. I CERTIFY THAT: In the preparation of this valuation assignment, I have personally inspected the above property and have no present or contemplated future interest therein; that the compensation paid to me for this valuation service is not contingent upon my value conclusions herein set forth; and that all statements herein are true to the best of my knowledge and belief, and

That the record owner has approved the use of a Waiver Valuation, in writing, if the valuation is over $10,000 and under $25,000.

TOTAL COMPENSATION IN THE AMOUNT OF: $182 IS RECOMMENDED.
(Must not exceed $25,000)

C. Prepared by: Brandon Lightner Date of Waiver Valuation_____

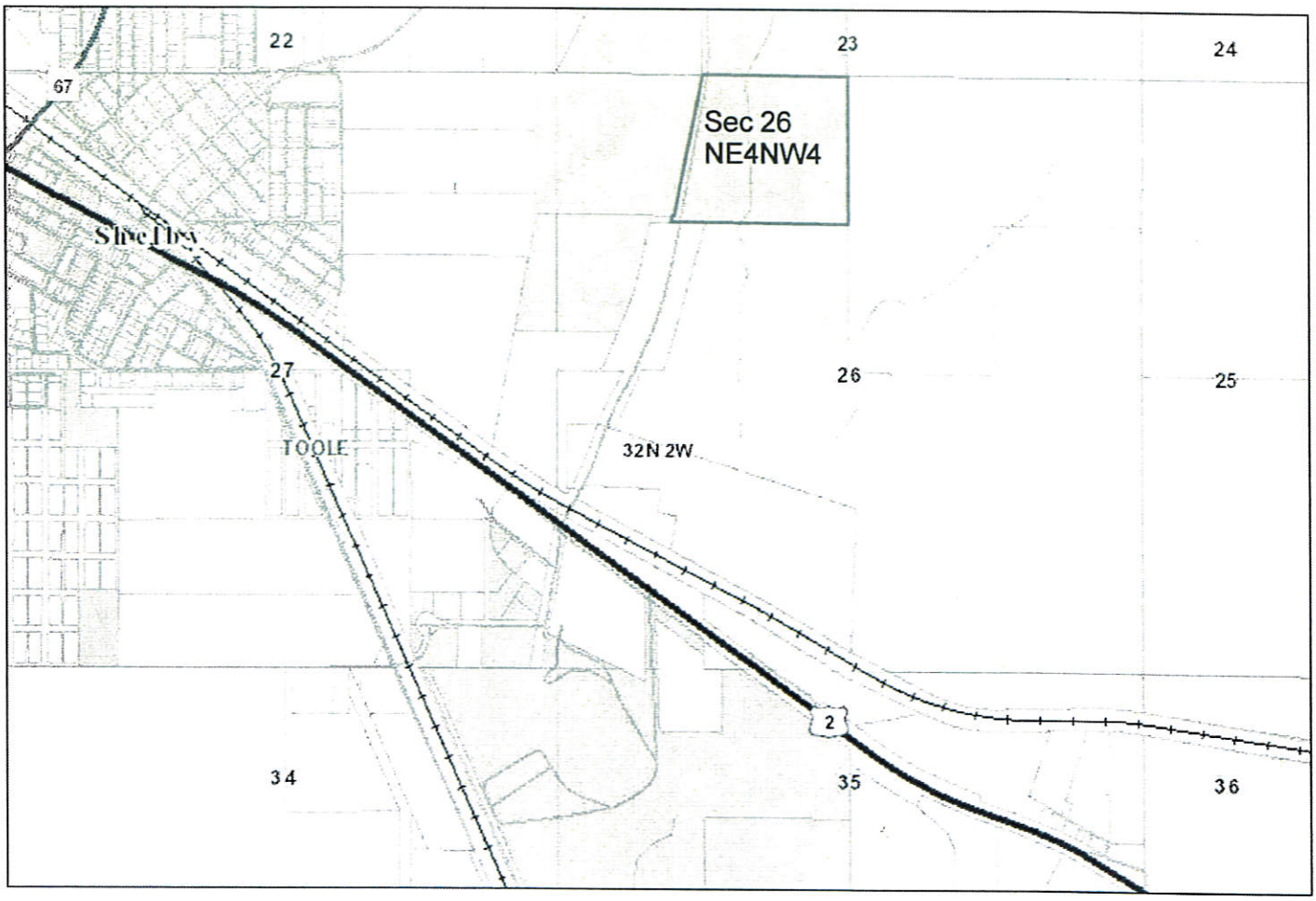
_____
Representing NCMRWA

D. Reviewed by: James Slayton

James Slayter _____ Date of Review _____

A photo of the subject property is required for values over $10,000 and under $25,000. Whenever possible, a photo of the subject property is to be included in the report for values up to $10,000.

(Insert Photo)



Parcel 120

After recording return to:
Steve Wade
Browning, Kaleczyc, Berry & Hoven, P.C.
P.O. Box 1697
Helena, MT 59624

NORTH CENTRAL MONTANA REGIONAL WATER AUTHORITY
EASEMENT

This **EASEMENT** granted this ____ day of _____, 2018, between the City of Shelby of Toole County, Montana, hereinafter referred to as "**GRANTOR**," and the North Central Montana Regional Water Authority, hereinafter referred to as "**GRANTEE**".

GRANTOR is the owner of certain real property situated, lying and being in Township 32 North, Range 2 West, M.P.M., Toole County, Montana, More particularly described as follows:

> Township 32 North, Range 2 West, M.P.M., Toole County, Montana
> Section 26: NE¼NW¼.
>
> Commonly known as: Rural Ag Lands, Shelby, MT

These lands are hereinafter referred to as the "PREMISES."

GRANTOR for $10.00 (ten dollars) and other good, valuable, and sufficient consideration which is hereby acknowledged, does hereby grant and convey unto the **GRANTEE**, its successors and assigns, an exclusive and perpetual Easement for the construction, operation and maintenance of a water pipeline and distribution system on, over, under, or across the **PREMISES**:

The **EASEMENT** granted is a 10.00 foot wide perpetual water system utility easement and a 75.00 foot wide temporary construction easement shown on the attached Exhibit A and described as:

> A strip of land 10 feet in width for the construction and maintenance of a waterline over, across and through the NE1/4NW1/4 of Section 26, Township 32 North, Range 2 West, P.M. Montana, Toole County, being more particularly described as follows:

COMMENCING from the NW section corner of said Section 26; Thence, along the section line between Section 23 and said Section 26, S89°53'41"E, 1333.97 feet to the POINT OF BEGINNING; Thence, along said section line, S89°53'41"E, 10.19 feet; Thence S11°06'57"W, 34.30 feet; Thence N78°53'03"W, 10.00 feet to the east boundary of BK.87D, PG.146; Thence along said east boundary N11°06'57"E, 32.35 feet to the POINT OF BEGINNING. Said easement contains 336 square feet more or less and is subject to all existing easements and documents of record.

The temporary construction easement shall terminate upon completion of construction of the water system on the **PREMISES**.

This **EASEMENT** grants to the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the exclusive and perpetual right to locate, lay out, survey, construct, and thereafter use, inspect, operate, maintain, repair, patrol, replace and/or remove a municipal, rural and industrial water distribution system including service lines and interconnection facilities (collectively, the "Water System") on, over, under, or across the **PREMISES** described above.

This Easement is subject to all of the following:

1. The grant of **EASEMENT** herein contained is subject to existing rights-of-way of any nature of record of the date hereof.

2. The **GRANTOR** and the Grantor's successors or assigns, shall have the right to cultivate, use, and occupy said **PREMISES** for any purpose which will not, by the determination of the **GRANTEE**, interfere with the easement rights herein granted or endanger any of its property, but said right of cultivation, use and occupancy shall not extend to or include the erection of any structure(s) or the planting of trees on, or the drilling of any wells in, or the removal of material from, or the placement of material on said **PREMISES** without advance written permission from the **GRANTEE**.

3. The **GRANTOR** grants and guarantees the **GRANTEE**, its successors, assigns, authorized agents, and contractors, the perpetual right of ingress and egress during the period of construction and at any such time thereafter as may be necessary for the inspection, operation, maintenance, or replacement of the above-mentioned water system.

4. The **GRANTEE**, its successors and assigns, further agree:

    a. To reclaim the **PREMISES** and any other property of the **GRANTOR** disturbed by the construction, operation, maintenance, repair or replacement of the said water system and to return the **PREMISES** and any other property of the **GRANTOR** as near as reasonably possible to the condition it was prior to the disturbance.

b. That, if there is non-reclaimed or un-repaired damage to the **PREMISES** or any other property of the **GRANTOR** within the **EASEMENT** as a result of the construction, operation, maintenance, repair or replacement of the water system, payment for damages will be made by the **GRANTEE** to the current owner or owners on the basis of a damage appraisal or calculations approved by the Authority.

5. In case of permanent abandonment of said water system and rights-of-way by the **GRANTEE**, the **EASEMENT** herein granted shall end, cease and determine and title shall revert to the then owner.

6. In the event **GRANTOR** is an entity, the undersigned represents that all required actions have been completed and that he or she has authority to execute this easement on behalf of **GRANTOR**.

IN WITNESS WHEREOF, the parties hereto have executed this Contract and Grant of Easement as of the date first above written on page one.

CITY OF SHELBY

By:_____
Print Name:_____
Its:_____

STATE OF _____)
: ss.
COUNTY OF _____)

On this ____ day of _____, 2018, before me, a Notary Public for the State of _____, personally appeared _____, the authorized representative of City of Shelby, GRANTOR, known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of _____
Residing at: _____
My commission expires: _____, 20_____

//

GRANTEE:

NORTH CENTRAL MONTANA REGIONAL
WATER AUTHORITY

By:_____
Print Name:_____
Its:_____

STATE OF MONTANA)
: ss.
COUNTY OF _____)

On this ____ day of _____, 2018, before me, a Notary Public for the State of Montana, personally appeared _____, the _____ of North Central Montana Regional Water Authority, GRANTEE. Known to me or satisfactorily proven to be the person(s) who executed the within instrument, and acknowledged that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Notary's Signature: _____
Notary's Name: _____
(Notarial Seal) Notary Public for the State of Montana
Residing at: _____
My commission expires: _____, 20_____