



CITY COUNCIL SPECIAL MEETING AGENDA

The Following is a summary of the items to come before the City Council at its regular session to be held on **Monday, March 31, 2025**, at **5:30 p.m.** at City Hall 418 East Second Street, 2nd Floor
Hybrid (In-person and/or Remotely via Teams)

To attend the meeting via Microsoft Teams and **provide live comment** attendees should go to the web link below.

Meeting Link: [Microsoft Teams Link](#) Meeting Number: **260 339 080 849** Password: **De6G38pM**

For the Audio Conference Call option: call the number below and enter the access code.

- United States Toll Free: **833-563-1751** Access code: **678 020 230#**
- **View live streaming (not to provide comment) on the [City of Whitefish YouTube Channel](#)**
- We encourage individuals to provide written public comment; to the City Clerk, Michelle Howke at mhowke@cityofwhitefish.org or deliver by **4:00 p.m. Monday, March 31, 2025**, to City Hall. Written comments should include name, address, should be short and concise, courteous, and polite. All written comments received by 4:00 p.m. will be provided to the City Council and appended to the packet following the meeting.
- Public comment by those attending the meeting "live" via Microsoft Teams or in-person will be limited to three minutes per individual.

- 1) Call to Order
- 2) Discuss FWP's denial of the City's SPA 124 Permit application to construct a section of trail along the Whitefish River known as the Riverbend/Miles Avenue Trail
- 3) Public Comment
- 4) Direction to City Manager Smith
- 5) Adjourn

**CITY OF WHITEFISH
NOTICE OF SPECIAL MEETING**

NOTICE IS HEREBY GIVEN that Mayor John Muhlfield, pursuant to § 7-5-4102, MCA, hereby calls a special meeting of the City Council on Monday, March 31, 2025, at 5:30 p.m., in the Whitefish City Council Chambers at 418 East Second Street and remotely via Microsoft Teams. The purpose of the special meeting is to discuss the Montana Department of Fish, Wildlife & Parks' denial of the City's SPA 124 Permit application to construct a section of trail along the Whitefish River connecting the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near Veterans Bridge on Second Street and whether the City will agree to modify its plans or seek arbitration of FWP's decision.

Public comment will be taken at the special meeting. We encourage individuals who wish to provide written public comment to provide an email to the City Clerk at mhowke@cityofwhitefish.org by 4:00 p.m. on March 31, 2025, prior to the meeting.



Director's Office
PO Box 200701
Helena, MT
59620-0701
(406) 444-3186
Fax (406) 444-4952
Ref: DO011-25
March 20, 2025

Whitefish City Council
418 E 2nd Street
Whitefish, MT 59937

Dear Council Members,

As you know, the City of Whitefish applied for a Montana Stream Protection Act permit (SPA 124 Permit) to construct a section of trail along the Whitefish River connecting the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near the Veterans Bridge on Second Street.

Based on environmental review (EA) of the project, Montana Fish, Wildlife & Parks must deny the SPA 124 permit application. While this decision was not taken lightly, I applaud your innovative idea to expand the Whitefish River Trail and increase its connectivity throughout your community. That being said, FWP takes seriously its responsibility to balance outdoor recreation and our state's natural resources.

This decision rests on our responsibility to protect and conserve our fisheries and habitat. Our hard-working biologists concluded this project would have long-term adverse impacts to the Whitefish River's bed, banks, and fishery. Impacts include major modifications to in-stream and bank habitat, and decreased bank stability resulting in erosion. The proposed project footprint alone, including piers, asphalt, and the associated retaining walls, would result in direct loss of significant riparian vegetation and increase erosion. In short, this project would fundamentally change the natural, existing state of fish habitat in the project area.

I encourage you to read the EA, Decision Notice, and alternative proposal including suggestions for achieving the goal sought by the Council. At the very least, we can start thinking about and discussing different solutions to complete the Whitefish River Trail, recognizing its importance to the community.

I appreciate the time and effort your community put forth in submitting proposal. As always, my door is always open. Please reach out to me if you have any further questions.

Sincerely,

Adam Strainer
Fisheries Division Administrator



SPA 124 PERMIT DECISION NOTICE
Augmentation of Whitefish River Trail Pedestrian Path
FWP-DN-FSH-R1-25-009

March 20, 2025

ACTION

Decision Notice (DN): Montana Fish, Wildlife & Parks (FWP) shall prepare a DN for the proposed action. The DN must identify the agency decision, the reasons for the decision, and any special conditions surrounding the decision or its implementation.

With this action, FWP hereby adopts the Draft Environmental Assessment prepared for the proposed action as final, and approves Alternative 1, the no action alternative (i.e., SPA 124 Permit Denial).

AUTHORITY: MONTANA ENVIRONMENTAL POLICY ACT

According to the applicable requirements of the Montana Environmental Policy Act (MEPA) and its implementing rules and regulations, before a proposed action may be approved, environmental review must be conducted to identify, consider, and disclose any potential impacts of the proposed action on the affected human environment. The level of environmental review will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors. *Title 75, Chapter 1, Parts 1 through 3, Montana Code Annotated (MCA)*. Based on these factors, FWP determined a Checklist Environmental Assessment (Draft EA) constitutes the appropriate level of review for the proposed action. Therefore, to assess and disclose potential impacts of the proposed action, FWP prepared a Draft EA.

PUBLIC PARTICIPATION PROCESS

Under usual circumstances, FWP makes the Draft EA available for public review and comment. However, in this circumstance, MEPA's required public process for projects of this nature is impacted by a competing statutory deadline. MEPA requires FWP to comply with its terms "*to the fullest extent possible.*" To fulfill the stated policy of MEPA, the agency shall conform to the applicable rules prior to reaching a final decision on proposed actions covered by MEPA. *ARM 12.2.428, Policy Statement Concerning MEPA Rules*. More specifically, *§ 87-5-504, MCA*, states:

"Within 30 days after the receipt of such plans [for a project subject to SPA 124 permitting], the department shall notify the applicant whether or not such construction project or hydraulic project will adversely affect any fish or game habitat. If the department notifies the applicant that such construction will adversely affect any fish or game habitat, it shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect."

Effectively, within 30 days after receipt of an application [for an SPA 124 Permit], FWP must make a final decision on the proposed action/project. Within the applicable 30-day timeframe, the MEPA practitioner or author of the Draft EA must conduct a rigorous process, making it difficult or impossible for FWP to accommodate a public comment period for the Draft EA within the required 30-day time-period. § 87-5-504, MCA.

Therefore, for the purposes of achieving compliance with MEPA, "to the fullest extent possible," FWP prepares a Draft EA for file, sans public comment, and issues a DN identifying the agency decision, reasons for the decision, and any special conditions surrounding the decision or its implementation. Conditions applicable to the selected alternative, including recommendations or alternative plans to eliminate or diminish any adverse effects, are contained in the Draft EA.

DESCRIPTION OF PROPOSED ACTION

The City of Whitefish (City) applied for a Montana Stream Protection Act permit (SPA 124 Permit) to construct a section of the Whitefish River Trail that would connect the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near the Veterans Memorial Bridge on Second Street. The proposed trail augmentation would cross two private properties and extend into the Whitefish River within the riverbed and the ordinary high-water mark. A purported easement exists between the affected private property owner(s) and the City to accommodate future establishment of the proposed Whitefish River Trail augmentation. This analysis was based on the representations made in the SPA 124 Application and does not constitute a legal opinion on easement location or validity.

The SPA 124 Permit is required because the project, as proposed, would impact the bed and banks of the Whitefish River and thereby result in adverse impacts to fish and wildlife and their associated habitats.

PURPOSE AND NEED

The purpose and need or benefit of the proposed project is to provide the residents of Whitefish, and visitors to the area, with:

- Whitefish Trail continuity by connecting the existing trail terminus located on BNSF property near Railway Street with the existing trail terminus located near the Veterans Memorial Bridge on Second Street.
- Americans with Disabilities Act or ADA-compliant trail features to support trail access for everyone, regardless of physical ability.

ALTERNATIVES ANALYZED

Alternative 1: No Action (SPA 124 Permit Denial)

In addition to the proposed action, and as required by MEPA, FWP analyzes the "No-Action" alternative in the EA. Under the No-Action alternative the proposed action would not occur. Therefore, no additional impacts to the human environment would occur. The No Action alternative forms the baseline from which the potential impacts of the proposed action may be measured.

Under the No Action alternative, the Whitefish River Trail Pedestrian Path SPA 124 application would be denied. Therefore, impacts to the human environment analyzed under this alternative involve implementation of FWP's recommended trail location and design.

Alternative 2: Proposed Action (SPA 124 Permit Granted)

Under the Proposed Action, the City of Whitefish would connect the existing trail on BNSF property near Railway Street to the existing trail terminus near the Veterans Memorial Bridge on Second Street with an Americans with Disabilities Act (ADA) compliant pedestrian trail that would be placed in and on the banks of the Whitefish River. Construction of this trail, as proposed, would impact the bed and banks of the Whitefish River and the species that depend on them and their habitat. These impacts are expected to be long term, major and negative.

DECISION

Based on the environmental review provided in the Draft EA and, to the greatest extent possible, in accordance with all applicable laws, rules, regulations, and policies, FWP determined the proposed action (Alternative 2), will have significant adverse impacts on the human environment associated with the proposed action from degradation of fish and game habitat.

To eliminate or minimize impacts to the Whitefish River's bed and banks, FWP recommends the applicant pursue a design that avoids permanent and intensive infrastructure below the ordinary high-water mark. FWP has included, in its Draft EA, a rendering of a trail design that minimizes impacts and accomplishes the applicant's vision of a connected, ADA friendly system.

FWP hereby adopts the Draft EA as final and denies the SPA 124 permit (No Action Alternative). Per MCA 87-5-504, FWP also recommended an alternative plan to diminish the adverse effects Alternative 2 would cause.

Sincerely,

Dave Landstrom

Dave Landstrom
Acting Region One Supervisor
Montana Fish, Wildlife & Parks

DRAFT
ENVIRONMENTAL ASSESSMENT
CHECKLIST

**Augmentation of Whitefish River Trail Pedestrian
Path**

FWP-CEA-FSH-R1-25-009

March 20, 2025



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I. Compliance with the Montana Environmental Policy Act

Before a proposed project may be approved, environmental review must be conducted to identify and consider potential impacts of the proposed project on the human and physical environment affected by the project. The Montana Environmental Policy Act (MEPA) and its implementing rules and regulations require different levels of environmental review, depending on the proposed project, significance of potential impacts, and the review timeline. § 75-1-201, Montana Code Annotated (“MCA”), and the Administrative Rules of Montana (“ARM”) 12.2.430, General Requirements of the Environmental Review Process.

FWP must prepare an EA when:

- *It is considering a “state-proposed project,” which is defined in § 75-1-220(8)(a) as:
 - (i) a project, program, or activity initiated and directly undertaken by a state agency.
 - (ii) ... a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or
 - (iii) ... a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.*
- *It is not clear without preparation of an EA whether the proposed project is a major one significantly affecting the quality of the human environment. ARM 12.2.430(3)(a));*
- *FWP has not otherwise implemented the interdisciplinary analysis and public review purposes listed in ARM 12.2.430(2) (a) and (d) through a similar planning and decision-making process (ARM 12.2.430(3)(b));*
- *Statutory requirements do not allow sufficient time for the FWP to prepare an EIS (ARM 12.2.430(3)(c));*
- *The project is not specifically excluded from MEPA review according to § 75-1-220(8)(b) or ARM 12.2.430(5); or*
- *As an alternative to preparing an EIS, prepare an EA whenever the project is one that might normally require an EIS, but effects which might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine that all the impacts of the proposed project have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The agency may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance (ARM 12.2.430(4)).*

MEPA is procedural; its intent is to ensure that impacts to the environment associated with a proposed project are fully considered and the public is informed of potential impacts resulting from the project.

II. Background and Description of Proposed Project

Name of Project:

The City of Whitefish (City) has applied for a Montana Stream Protection Act (SPA 124) Permit to construct a section of the Whitefish River Trail that would connect the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near the Veterans Memorial Bridge on Second Street (Figure 1). The proposed trail augmentation would cross two private properties and extend into the Whitefish River within the riverbed and the ordinary high-water mark (OHWM). A purported easement exists between the Riverbend Home Condominiums (RHC) private property owner(s) and the City to accommodate, in part, future establishment of the proposed Whitefish River Trail augmentation. This analysis was based on the

representations made in the SPA 124 Application and does not constitute a legal opinion on easement location or validity. This analysis is based on the representations made in the SPA 124 Application. The SPA 124 Permit is required because the project, as proposed, would negatively impact the bed and banks of the Whitefish River and thereby result in adverse impacts to fish and wildlife and their associated habitats.

The proposed trail augmentation connecting the existing terminus of the Whitefish River Trail would be 644 feet in length and vary in width between six and ten feet. Three hundred ninety-three feet of the proposed trail augmentation would be built paralleling the Whitefish River on its bank. The remaining 255 feet would be built within the channel and OHWM of the Whitefish River. Sections of the proposed trail that are located on land would consist of a 10-foot-wide asphalt surface with a 1-foot-wide gravel shoulder on each side while on the property. The trail would transition to a 6-foot-wide trail on the RHC. Portions of the asphalt trail would include extensive stacked rock retaining walls and handrails. The instream portion of the proposed trail augmentation would consist of a 10-foot-wide concrete surface placed on a steel I-beam structure mounted to 32 helical piers driven approximately 90 feet into the streambed. This section of trail would also include a 4.5-foot-tall rail along each side (Attachment 1).

Existing conditions vary along the path of the proposed trail augmentation. The Whitefish River is relatively low gradient and low velocity in the affected area; however, the channel constriction caused by the Veterans Memorial Bridge increases water velocity. Starting at the junction with the existing trail on BNSF property located north of the Miles Avenue Condominiums (MAC), the proposed asphalt trail would drop onto the riverbank and parallel the river downstream toward the boundary between the MAC and the Riverbend Home Condominiums (RHC). At the RHC property line, the proposed trail would transition to six feet wide, drop farther down the river's bank and cross onto the RHC property. Near the RHC property line the trail would enter the river channel and transition from asphalt pavement to an elevated concrete trail. Proceeding downstream, the trail would exit the river channel just downstream of the easternmost RHC condo near the southern extent of the RHC property and transition back into 6-foot-wide asphalt surfaced trail before connecting to the existing underpass.

The bed and banks of the Whitefish River are comprised of glacial lake deposits with occasional deposits of gravel. Based on a geotechnical report compiled by TD&H Engineering (Attachment 3), the applicant's contractor, subsurface conditions at the site consist of lean clay, sand and silt with high moisture content and poor density/consistency. The riverbank along the MAC property is well-vegetated with woody shrubs and mature trees including cottonwoods. This section of the riverbank does not show signs of instability other than minor erosion along the edge of the river channel. Moving downstream onto the RHC property the riverbank shifts to lawn grass with a few large bushes and trees.

The RHC are built into the bank of the river; at the downstream RHC, the building foundation marks the edge of the river. The RHC condominiums have decks that extend out over the bank and into the river channel. This section of riverbank and channel show numerous signs of instability, including a section where the river has eroded to the RHC foundation and a section of riverbank where rock was added, presumably for erosion control. Directly across the river from the proposed trail augmentation, steel sheet pile has been driven into the riverbank to prevent an existing building and parking lot from slumping into the river. Bank instability is prevalent both upstream and downstream of the proposed project site.

If approved, the proposed project would require a Request for Proposal (RFP) to determine actual trail construction methods and details. Following completion of the RFP process and determination of construction

details, the City will make final trail specifications available to the public for review. If this occurs, impacts associated with construction practices would be addressed in a second 124 permit.

Affected Area / Location of Proposed Project:

- Legal Description
 - Latitude/Longitude: 48.41153, -114.34340
 - Section, Township, and Range: 36, 31N, 21W
 - Town/City, County, Montana: Whitefish, Flathead
- Location Map

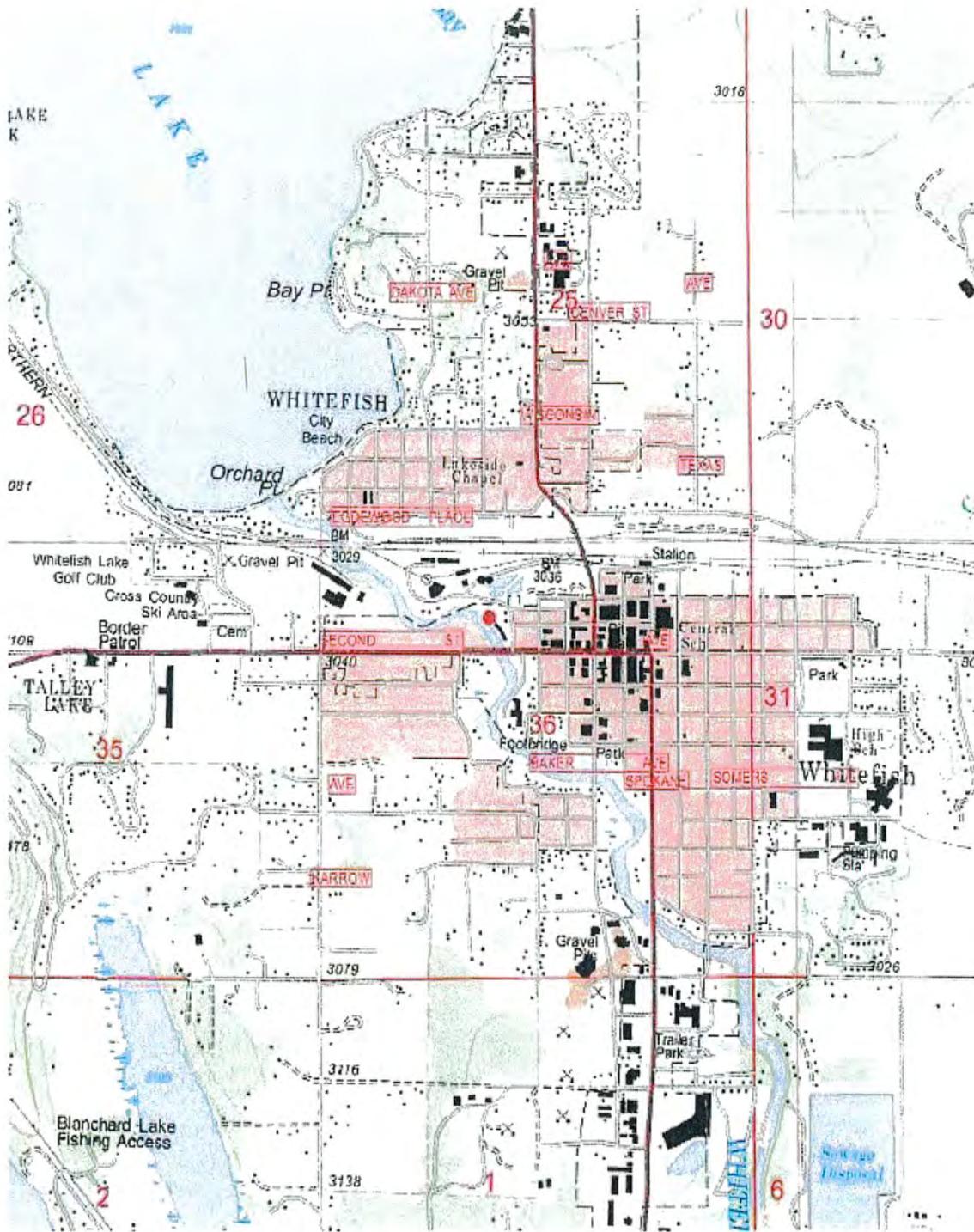


FIGURE 1 – This map shows the location of the proposed project. The red marker is at the property line.

III. Purpose and Need

The EA must include a description of the benefits and purpose of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.

The purpose and need or benefit of the proposed project is to provide the residents of Whitefish, and visitors to the area, with:

- Whitefish Trail continuity by connecting the existing trail terminus located on BNSF property near Railway Street with the existing trail terminus located near the Veterans Memorial Bridge on Second Street (see Attachment 1).
- Americans with Disabilities Act or ADA-compliant trail features to support trail access for everyone, regardless of physical ability.

The City proposed to begin work on February 1, 2025, and to complete the proposed project by December 31, 2025.

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

IV. Other Agency Regulatory Responsibilities

FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).

*A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 1** below. **Table 1** provides a summary of state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.*

Table 1: Federal, State, and/or Local Regulatory Responsibilities

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
Montana Fish, Wildlife & Parks	SPA 124 Permit	Any project including the construction of new facilities or the modification, operation, and maintenance of an existing facility that may affect the natural existing shape and form of any stream or its banks or tributaries.
Montana Department of Environmental Quality	318 Authorization	Any activity in any state water that will cause unavoidable short-term violations of water quality standards. "State water" includes any body of water, irrigation system, or drainage system, either surface or underground, including wetlands, except for irrigation water where the water is used up within the irrigation system and the water is not returned to other state water.
Montana Department of Natural Resources and Conservation	Navigable Rivers Land Use License, Lease or Easement	The construction, placement, maintenance, or modification of a structure or improvements in, over, below, or above a navigable river. If in doubt, contact the Department of Natural Resources and Conservation Land Office nearest

		to the project area for a determination of the navigability of the river. This permit program does not apply to mining, mineral, or oil and gas activities in navigable rivers.
U.S. Army Corps of Engineers	Section 404 Permit	Any activity that will result in the temporary or permanent discharge or placement of dredged or fill material into waters of the United States, including wetlands. Fill material includes, but is not limited to rock, sand, soil, clay, plastics, timber, mats, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash, garbage, or waste material. Dredged material is material excavated or dredged from any water of the United States.
Flathead County	Floodplain permit	Any development including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, and excavation; new construction/development, placement, or replacement of manufactured homes; and new construction, additions, or substantial improvements to residential and commercial buildings.

V. List of Mitigations, Stipulations

Mitigations, stipulations, and other enforceable controls required by FWP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions FWP may rely on to limit potential impacts associated with the proposed Project. ARM 12.2.432(3)(g).

Table 2: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	
SPA 124 Permit - General Requirements (see Appendix 1) and project-specific requirements (see Section VI, Table 3, and Table 4)	FWP	SPA 124	To protect and preserve fish and wildlife resources, and to maintain streams and rivers in their natural or existing stage. The SPA 124 Permit, General Conditions, provide best management practices in the form of enforceable controls to limit potential adverse impacts from the proposed project. Fines may be levied for violating these general requirements	

			and/or corrective action may be required to remedy non-compliance.

VI. SPA 124 Permit Action

Any applicable river work in Montana that is not otherwise excluded from MEPA review pursuant to the applicable requirements of ARM 12.2.454, Actions that Qualify for a Categorical Exclusion, and has the potential to alter the stream channel or bank, requires a project-specific SPA 124 Permit prior to the start of work. The SPA 124 Permit is prepared and issued by FWP's Fisheries Division and includes both the General Conditions described in Attachment 2 and any additional Special Conditions deemed necessary to protect and preserve the affected waterway, associated fish or wildlife, and their habitat (see Table 3).

87-5-501. State policy. It is hereby declared to be the policy of the state of Montana that its fish and wildlife resources and particularly the fishing waters within the state are to be protected and preserved to the end that they be available for all time, without change, in their natural existing state except as may be necessary and appropriate after due consideration of all factors involved.

87-5-502. Notice of construction or hydraulic projects. An agency of state government, county, municipality, or other subdivision of the state of Montana, hereafter called applicant, shall not construct, modify, operate, maintain, or fail to maintain any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries by any type or form of construction without first causing notice of such planned construction to be served upon the department on forms furnished by the department as soon as preliminary plans are completed but not less than 60 days prior to commencement of final plans for construction. Such notice shall include detailed plans and specifications of so much of said project as may or will affect any such stream in any manner specified above.

87-5-504. Notice of department findings and alternative plans. Within 30 days after the receipt of such plans, the department shall notify the applicant whether or not such construction project or hydraulic project will adversely affect any fish or game habitat. If the department notifies the applicant that such construction will adversely affect any fish or game habitat, it shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect.

Table 3: Modification of Proposed Project – SPA 124 Permit Special Conditions for Approval (Alternative 2) Approval

Activity	Special Condition	Description

VII. Alternatives Considered

Alternative 1: SPA 124 Permit Denial which serves as the No Action Alternative

In addition to Alternative 2, the proposed project, and as required by MEPA, FWP analyzes the "No-Action" alternative, in effect due to SPA 124 Permit denial, in this Draft EA. Under the "No Action" alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured. In this case, the SPA 124 permit application would be denied, the Whitefish River Trail Pedestrian Path would not be constructed and the existing paths on BNSF property and at the Veterans Memorial Bridge would not be connected. Any potential impacts that would result from the proposed action would not occur.

Also required by 87-5-504, MCA, Montana Fish, Wildlife and Parks "shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect".

Whitefish River Trail Augmentation Alternative:

This alternative (see image below) would route the trail along the top of the bank to the west of the Miles Avenue Condominiums (MAC) and to the east of the Riverbend Homeowners Condominiums (RHC). Near the southeast corner of the RHC the trail would drop onto the riverbank and pass through two switchbacks before connecting with the existing trail at the Veterans Memorial Bridge underpass. This alternative is conceptual and would require additional engineering and a SPA 124 permit. This alternate route would meet the City of Whitefish's stated purpose and need to develop an ADA accessible path between the Veterans Memorial Bridge underpass and the Whitefish River Trail near Railway Street to keep pedestrians and cyclists off the city's busy streets.



Alternative 2: SPA 124 permit granted for the Proposed Project

See Section II, Background and Description of Proposed Project and Section III, Purpose and Need, for detailed information regarding Alternative 2, the proposed project.

	Yes*	No
Were any additional alternatives considered and dismissed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

VIII. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct**, **secondary**, and **cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** “are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action.” ARM 12.2.429(18).

- **Cumulative impacts** “means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.” ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent, duration, frequency, and severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429, mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project.
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation.
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section VI** above.

FWP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

Under the No Action alternative, the Whitefish River Trail Pedestrian Path SPA 124 application would be denied, the Whitefish River Trail Pedestrian Path would not be constructed and the existing paths on BNSF property and at the Veterans Memorial Bridge would not be connected. Any potential adverse impacts to the human environment would not occur.

- **Alternative 2: Modified Proposed Project. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See **Table 5** (Impacts on Physical Environment) and **Table 6** (Impacts on Human Population) below. Also, see Table 3, above, for specific information regarding modification of the proposed project.

Table 5 - Potential Impacts of Alternative 2, the Proposed Project, on the Physical Environment

PHYSICAL ENVIRONMENT Resource	Duration of Impact		Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate		Major
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The proposed trail augmentation connecting the existing terminus of the Whitefish River Trail would be 10 feet wide and 648 feet in length (Figure 1 and Attachment 1). Three hundred ninety-three feet of the proposed trail augmentation would be built paralleling the Whitefish River on its bank. The remaining 255 feet would be built partially or completely within the channel of the Whitefish River.</p> <p>Asphalt surfaced trail Terrestrial and Avian Community: There will be long-term moderate negative impacts to terrestrial and avian habitats due to construction of the asphalt portion of this pedestrian trail. Impacts include the direct loss of riparian vegetation across the 5,000+ sf footprint of asphalt path and associated retaining walls. The riparian woodland at the upstream end of the project includes one of the few intact sections of native riparian vegetation along this section of the Whitefish River. Construction of a path through the center of this stand, in addition to direct removal of vegetation, will fragment the stand and limit its use by common wildlife species such as whitetail deer and nesting and migratory songbirds.</p> <p>Aquatic Life: Impacts to aquatic species and their habitats associated with this project vary along these sections of the path depending on distance from the river and the existing conditions the path traverses. The primary threats posed by these sections of the trail is streambank destabilization and riparian habitat degradation.</p>

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>Construction of the asphalt trail could negatively impact stability in several ways. Riverbank trail construction would require removal of woody vegetation along much of the project footprint. The roots of woody shrubs and trees grow deep and hold together fine, unconsolidated soils. This project would also add substantial weight to the bank particularly with the extensive retaining walls necessary to stabilize banks adjacent to the trail, increasing the likelihood of the streambank slumping into the river. These sections of trail are proposed to be surfaced with asphalt which is impermeable. Impermeable surfaces concentrate surface runoff oversaturating soils and increasing instability where permeable layers meet impermeable layers. The sheet pile supporting the parking lot directly across the river is an example of a bank failure due to impermeability and added weight.</p> <p>Elevated concrete surfaced trail</p> <p>Terrestrial and Avian Community: There will be long-term moderate negative impacts to the terrestrial and avian community associated with the construction of the elevated decked portion of this walking trail. Decking structure and railings will obstruct wildlife movement along said section of shoreline. Bridge deck shading will eliminate much of the emergent wetland found along the western third of the proposed bridge deck and negatively impact productivity of submerged aquatic vegetation. The boardwalk structure will also eliminate shallow water foraging and shoreline roosting by waterfowl along the boardwalks' 255 ft length.</p> <p>Aquatic Life: Aquatic Life: This portion of the proposed project is in the river and is expected to have similar</p>

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>impacts along its length. Primary concerns along this section of trail include bank destabilization and modifications to instream habitat.</p> <p>The proposed elevated concrete surfaced trail would require driving 32 helical piers approximately 90 feet into the streambed to support a welded steel substructure and precast concrete running surface. The lowest portion of the steel substructure is 1.5 feet above the ordinary high-water elevation. The piers could be the primary cause of negative impacts to bank stability. Installation of the piers will alter both surface and subsurface flows and could increase erosive pressures on the stream bank and the bed that supports it. Additionally, the piers will catch debris moving downstream, further deflecting flows. Debris stuck on the piers, even for a short period of time could apply much greater erosive pressure to the streambank or streambed.</p> <p>As mentioned above, there are numerous signs of instability in this area including active erosion at the downstream condominiums. Increasing rates of erosion could increase the likelihood of a more substantial bank failure such as slumping. The stability of the riverbank condominiums is dependent upon the riverbank that supports them.</p> <p>Additional erosion would require bank stabilization to halt it. Hardening the riverbank is associated with numerous negative impacts to aquatic species and their habitats. The presence of this structure will likely impede erosion control increasing the negative impacts to the river. Larger scale failure of the bank or condominiums would negatively impact instream habitat upstream,</p>

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									downstream, and at the project site and require substantial work to restore. Installation of the bridge deck and steel substructure will provide overhead cover important for many fish species. In this case it is likely to be used by invasive northern pike. Both portions of this project have the potential to chronically increase turbidity and sedimentation through erosion and surface runoff, negatively impacting water quality and instream habitat. Therefore, impacts to terrestrial, avian, and aquatic life and their habitats are expected to be long-term, major, and negative.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If permitted, this project is likely to increase erosion due to deflection of water currents. Erosion will increase turbidity and sedimentation. Surface runoff concentrated by the impermeable surfaces of this project may also increase turbidity. Larger scale bank failure such as slumping, would have substantial impacts on turbidity and may introduce other pollutants into the river. Impacts to the water quality would therefore be expected to be long-term, major, and negative. This project is not expected to alter water quantity or distribution.				
Geology	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed trail augmentation connecting the existing terminus of the Whitefish River Trail would be 10 feet wide and 648 feet in length (Figure 1.). Three hundred ninety-three feet of the proposed trail augmentation would be built paralleling the Whitefish River on its bank. The remaining 255 feet would be built partially or completely within the channel of the Whitefish River. The entire project is proposed to be constructed on bed and banks of the Whitefish River which are comprised of glacial lake deposits with occasional deposits of gravel				

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>(Attachment 3). Subsurface conditions at the site consist of lean clay, sand and silt with high moisture content and poor density/consistency.</p> <p>Construction of the asphalt trail could impact stability in several ways. Riverbank trail construction would require removal of woody vegetation along much of the project footprint. The roots of woody shrubs and trees grow deep and hold together fine, unconsolidated soils. The proposed project would also add substantial weight to the bank particularly with the extensive retaining walls necessary increasing the likelihood of slumping streambank slumping into the river. These sections of trail are proposed to be surfaced with asphalt which is impermeable. Impermeable surfaces can concentrate surface runoff oversaturating soils and increasing instability where permeable layers meet impermeable layers.</p> <p>The proposed elevated concrete surfaced path would require driving 32 helical piers approximately 90ft into the streambed to support a welded steel substructure and precast concrete running surface. The lowest portion of the steel substructure is 1.5 feet above the ordinary high-water elevation. The piers could be the primary cause of negative impacts to bank stability. Installation of the piers would alter both surface and subsurface flows and could increase erosive pressures on the stream bank and the bed that supports it. Additionally, the piers would catch debris moving downstream, further deflecting flows. Debris stuck on the piers, even for a short period of time could apply much greater erosive pressure to the streambank or streambed. As mentioned above, there are</p>

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures</p> <p>numerous signs of instability in this area including active erosion at the downstream condominiums. Increasing rates of erosion could increase the likelihood of a more substantial bank failure such as slumping. The stability of the riverbend condominiums is dependent upon the riverbank that supports them.</p> <p>Increased slumping and erosion would negatively impact geologic features such as the stream bed and its banks and likely require repair or restoration work that may further negatively impact geologic resources. Impacts to the local geology would therefore be expected to be long-term, major, and negative.</p> <p>The proposed trail augmentation connecting the existing terminus of the Whitefish River Trail would be 10 feet wide and 648 feet in length (Attachment 1). Three hundred ninety-three feet of the proposed trail augmentation would be built paralleling the Whitefish River on its bank. The remaining 255 feet would be built partially or completely within the channel of the Whitefish River. The entire project is proposed to be constructed on bed and banks of the Whitefish River which are comprised of glacial lake deposits with occasional deposits of gravel (Attachment 3). Subsurface conditions at the site consist of lean clay, sand and silt with high moisture content and poor density/consistency.</p> <p>Construction of the asphalt trail could impact soil stability in several ways. Construction of these sections of trail would require removal of woody and grassy vegetation along much of the project footprint. The roots of woody shrubs and trees grow deep and hold together fine, unconsolidated soils and grasses stabilize surface soils.</p>				

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>This project will also add substantial weight to the bank particularly with the extensive retaining walls necessary to stabilize upland banks adjacent to the trail, increasing the likelihood of the streambank slumping into the river. These sections of trail are proposed to be surfaced with asphalt which is impermeable. Impermeable surfaces can concentrate surface runoff oversaturating soils and increasing instability where permeable layers meet impermeable layers. Concentrated runoff could also lead to surface soil erosion.</p> <p>The proposed elevated concrete surfaced path would require driving 32 helical piers approximately 90ft into the streambed to support a welded steel substructure and precast concrete running surface. The lowest portion of the steel substructure is 1.5 feet above the ordinary high-water elevation. The piers could be the primary cause of negative impacts to soil stability on the bank. Installation of the piers would alter both surface and subsurface flows and could increase erosive pressures on the soils of the stream bank and the bed that supports it. Additionally, the piers will catch debris moving downstream, further deflecting flows. Debris stuck on the piers, even for a short period of time could apply much greater erosive pressure to the streambank or streambed.</p> <p>As mentioned above, there are numerous signs of instability in this area including active erosion at the downstream condominiums. Increasing rates of erosion could increase the likelihood of a more substantial bank failure such as slumping, further impacting the streambanks soils. Impacts to the soil quality, stability,</p>

PHYSICAL ENVIRONMENT Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	and moisture would therefore be expected to be long-term, major, and negative. Vegetation would be permanently removed from the footprint of the project along the asphalt portion of the path, the shoulders, the site of the retaining walls and the stairs. The trees adjacent to the downstream RHC units would require trimming to accommodate the bridge. Shading due to the bridge deck will negatively impact vegetation including wetland vegetation. Impacts to the vegetation cover, quantity, and quality would therefore be expected to be long-term, major, and negative.
Aesthetics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Impacts to aesthetics from this project vary depending on the property. At the upstream MAC property, the streambank is well vegetated, primarily with native species and appears natural. Development of this site would add an asphalt trail, large rock retaining walls on each side of much of the trail, handrails, and stairs leading to the river. Downstream at the RHC, the bank is occupied by condominiums on the upper slope and grassy lawn and cobble on the lower slope. Upstream and downstream of the condos, the bank is comprised of lawn grass and some trees. Onshore portions of this part of the trail would transition from lawn grass to asphalt. The instream portion of the trail would change aesthetically from a river to an elevated trail resembling a bridge. This would substantially change the view from the RHC. Impacts to the local aesthetics would therefore be expected to be long-term, major, and negative.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Impacts to air quality may occur from vehicles or equipment used during repairs or maintenance. This EA

PHYSICAL ENVIRONMENT Resource	Duration of Impact				Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major		
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		does not cover impacts associated with construction activities. Impacts to the air quality would therefore be expected to be short-term, mostly negligible, and negative. The banks of the Whitefish River are known to be fragile and prone to failure. This is evident throughout town including the vicinity of the proposed project. Erosion can be found along the RHC, and a slumping bank on the opposite side of the river required steel sheet pile installation to prevent further bank failure. Impacts to the unique, endangered, fragile, or limited environmental resources would therefore be expected to be long-term, major, and negative.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		There are no known historical or archaeological surveys at this site. Impacts to historical and archaeological sites would therefore not be expected.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		No significant adverse impacts to demands on environmental resources of land, water, air, and energy would be expected because of the proposed project. The proposed project is to construct a section of the Whitefish River Trail that would connect the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near the Veterans Memorial Bridge on Second Street. Fuel would be required to operate vehicles and machinery used to complete the proposed project; however, the amount of fuel required would be minimal. Therefore, any adverse impacts to demands on the environmental resource of energy would be short-term, consistent with existing impacts, and negligible.

Table 6 - Potential Impacts of Alternative 2, the Proposed Project, on the Human Population

HUMAN POPULATION Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	This project is intended to connect existing trails at Railway Street and the Veterans Memorial Bridge underpass with an ADA compliant pedestrian trail. Currently, trail users are using Miles Avenue to connect these sections and either using the existing underpass and stairs or crossing Second Street. Neither of these options comply with ADA standards and is limiting some users. Connecting these two trails with an option that is ADA compliant improves equitableness. Impacts to Social structures and mores would therefore be expected to be long-term, major, and positive.				
Cultural uniqueness and diversity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	This project is intended to connect existing trails at Railway Street and the Veterans Memorial Bridge underpass with an ADA compliant pedestrian trail. Currently, trail users are using Miles Avenue to connect these sections and either using the existing underpass and stairs or crossing Second Street. Neither of these options comply with ADA standards and is limiting some users. Connecting these two trails with an option that is ADA compliant increases the diversity of user groups that can use this trail. Impacts to diversity would therefore be expected to be long-term, major, and positive. This project is not expected to impact cultural uniqueness.				
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The Whitefish Trail system is often used by recreationists such as walkers and bike riders. Others use the trail system to access recreational resources adjacent to the				

HUMAN POPULATION Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									trail system such as city parks, the Whitefish River and City Beach. Connecting these two sections of trail will improve access to and quality of recreational resources. Impacts to Access to and quality of recreational activities would therefore be expected to be long-term, major, and positive. There is no designated wilderness in the vicinity of the proposed project; therefore, this project is not anticipated to impact wilderness activities.
Local and state tax base and tax revenues	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The City's Capital Improvements Programs FY 2024 -FY 2028 Report estimates the cost of the proposed project to be \$2,100,00.00. Connecting these two trails may make access to commercial facilities downtown and upstream more convenient. Increasing business and associated tax revenues. Impacts to local and state tax base and tax revenues would therefore be expected to be long-term, major, and variable.
Agricultural or Industrial production	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There is no agricultural or industrial production in the vicinity of the proposed section of trail. Commuters may use this section of trail to access agricultural or industrial resources elsewhere in town. Impacts to Agricultural or Industrial production would therefore be expected to be long-term and negligible.
Human health and safety	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed trail would be built to ADA compliant standards that would improve safety for people with disabilities. Additionally, many users currently use Miles Avenue to connect these two trails. Miles Avenue slopes downward towards second street which the city of Whitefish considers a safety hazard. Directing use off Miles Avenue would address the City's concern. Impacts to human health and safety of pedestrians would

HUMAN POPULATION Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									therefore be expected to be long-term, moderate and positive. Additionally, the Whitefish River is used by water-based recreationists throughout most of the year. The instream portion of the proposed trail requires 32 helical piers be driven into the riverbed to support a steel substructure and concrete running surface. The lowest portion of the steel substructure is 1.5 feet above the ordinary high-water elevation. If installed, these structures would allow water to pass through them but could trap and hold larger objects such as boats or people. This type of obstruction is commonly known as a strainer. The severity of a strainer will depend on flows and debris which may accumulate on the structure. Impacts to human health and safety of water-based recreationists would therefore be expected to be long-term, moderate, and negative.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Installation and construction of the proposed project would require numerous professionals from the construction industry. These jobs would be short term and only last throughout the project's construction. Additionally, this section of trail would require more monitoring and maintenance due to its instream section. Impacts to Quantity and distribution of employment would therefore be expected to be short-term, moderate, and positive.
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Construction of the proposed project is not likely to impact the distribution or density of population or housing. Impacts to Distribution and density of population and housing would therefore not be expected.
Demands for government services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	If constructed this project would require frequent monitoring and maintenance due to the instream section of trail. Debris accumulation on the piers or undersides of

HUMAN POPULATION Resource	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									the steel substructure and concrete deck could deflect currents into the bank applying additional erosive pressure. Accumulated debris would need to be removed immediately requiring additional government services. Impacts to demands for government services would therefore be expected to be long-term, moderate, and negative.
Industrial, agricultural, and commercial activity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Providing a more convenient trail connection between the Railway Street trail and the Veterans Memorial Bridge may increase use of this section of the River Trail. Some of these users may use the trail to access industrial, agricultural or commercial facilities. Impacts to industrial, agricultural, and commercial activity would therefore be expected to be long-term, moderate, and positive.
Locally adopted environmental plans and goals	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Connecting the existing trails at Railway Street Trail and the Veterans Memorial Bridge is part of the City of Whitefish's Connect Whitefish Bicycle and Pedestrian Master Plan. Impacts to locally adopted environmental plans and goals would therefore be expected to be long-term, moderate, and positive.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any other appropriate social and economic circumstances would be expected because of the proposed project. FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project. Therefore, no impacts would be expected because of the proposed project.
Climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed action would not result in significant adverse direct, secondary, or cumulative climate change impacts. Any impacts of the proposed action would be consistent with current impacts (i.e., the no action alternative).

Table 9: Determining the Significance of Impacts on the Quality of the Human Environment

<p>If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement. An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, an EIS is not required. An EIS is required if an impact has a significant adverse effect, even if the agency believes that the effect on balance will be beneficial. ARM 12.2.431.</p> <p>According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	<p style="text-align: center;">Criteria Used to Determine Significance</p> <p>1 The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p> <p>2 The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur</p> <p>3 Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts</p> <p>4 The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values</p> <p>5 The importance to the state and to society of each environmental resource or value that would be affected</p> <p>6 Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions</p> <p>7 Potential conflict with local, state, or federal laws, requirements, or formal plans</p>
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IX. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

The proposed trail augmentation would cross two private properties and extend into the Whitefish River within the river channel and the OHWM. A purported easement exists between the affected private property owner(s) and the City to accommodate future establishment of the proposed Whitefish River Trail augmentation. This analysis was based on the representations made in the SPA 124 Application and does not constitute a legal opinion on easement location or validity.

Table 10: Private Property Assessment (Takings and Damages)

		Yes	No
PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives:			
The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.			

X. Public Participation

The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:

Under usual circumstances, FWP makes all Draft EAs available for public comment, as MEPA requires FWP to comply with its terms "to the fullest extent possible." To fulfill the stated policy of MEPA, the agency shall conform to the applicable rules prior to reaching a final decision on proposed actions covered by MEPA. *ARM 12.2.428, Policy Statement Concerning MEPA Rules.* However, in this circumstance, MEPA's public process is impacted by a competing statutory deadline. More specifically, § 87-5-504, MCA, states:

"Within 30 days after the receipt of such plans [for a project subject to SPA 124 permitting], the department shall notify the applicant whether or not such construction project or hydraulic project will adversely affect any fish or game habitat. If the department notifies the applicant that such construction will adversely affect any fish or game habitat, it shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect."

Effectively, within 30 days after receipt of an application [for an SPA 124 Permit], FWP must make a final decision on the proposed action/project. Within the applicable 30-day timeframe, the MEPA practitioner or author of the Draft EA must conduct a rigorous process, making it difficult or impossible for FWP to accommodate a public comment period for the Draft EA within the required 30-day time-period. § 87-5-504, MCA.

- *An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).*

- Public notice will be served on the Montana Fish, Wildlife and Parks website at: [https://fwp.mt.gov/news/public-
notices](https://fwp.mt.gov/news/public-
notices). Public notice will announce the availability of the Draft EA, summarize its content, and solicit public comment.
- Copies will be distributed to neighboring landowners to ensure their knowledge of the proposed project and opportunity for review and comment on the proposed action.
- FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the Draft EA to those persons for review and comment (ARM 12.2.433(3)).
- FWP issues a biweekly press release containing all FWP public commenting opportunities.

XI. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
FWP must conduct EIS level review for the proposed action	<input type="checkbox"/>

XII. EA Preparation and Review

	Name	Title
EA prepared by:	Kenny Breidinger	Biologist, Fisheries Division, FWP R1
EA reviewed by:	Michael E Hensler	R1 Fisheries Program Manager

Attachment 2

SPA 124 Permit General Conditions

FWP M1600V



THE OUTSIDE IS IN US ALL

Stream Protection Act 124 Permit General Conditions

1. Complete work affecting a streambed or stream bank in an expeditious manner to avoid unnecessary impacts to the stream.
2. Limit the clearing of vegetation to that which is absolutely necessary for construction of the project. Take precautions to preserve existing riparian vegetation. Salvage and reuse native vegetation where possible.
3. Install and maintain erosion control measures where appropriate to protect aquatic resources. Do not clear and grub land adjacent to streams prior to installing proper erosion and sedimentation controls. Conduct all work in a manner that minimizes turbidity and other disturbances to aquatic resources.
4. Plan temporary construction facilities to:
 - a. Minimize disturbance to stream banks, stream bank vegetation, and the streambed by locating staging or storage facilities at least 50' horizontally from the highest anticipated water level during construction:
 - b. not restrict or impede fish passage in streams; and
 - c. not restrict any flow anticipated during use.
5. Provide sediment controls for drainage from topsoil stockpiles, staging areas, access roads, channel changes, and instream excavations.
6. Isolate work zones from flowing and standing waters to prevent turbid water and sediments from being discharged into streams or other drainages that flow directly into the stream. Divert flowing waters around the work zone.
7. Do not spill or dump material into streams. Store and handle petroleum products, chemicals, cement and other deleterious materials in a manner that will prevent their entering streams.
8. Do not permit wash water from cleaning concrete-related equipment or wet concrete to enter streams.
9. Do not operate mechanized equipment in any stream or flowing water unless special authorization is obtained. If special authorization is granted, the following conditions apply:
 - a. Power-wash all equipment allowed in a stream prior to entering the stream channel.
 - b. Clean and maintain all equipment so that petroleum-based products and hydraulic fluids do not leak or spill into the waterway.
10. Reclaim streambeds and stream banks as closely as possible to their pre-disturbed condition.
11. Restore disturbed stream banks to their natural or pre-disturbed configuration to match adjacent ground contours or as specified in the project plans. Stabilize, reseed, and re-vegetate disturbed areas. Install and maintain long-term biodegradable erosion-control measures to protect these areas until adequate vegetation has been established.
12. Restore temporary access routes and any temporarily disturbed areas to original conditions, including original contours and vegetation.
13. Dispose of any excess material generated from the project above the ordinary high-water mark and in an area not classified as a wetland.

Attachment 3

Geotechnical Report Compiled by TD&H Engineering

GEOTECHNICAL DISCUSSIONS

This memo presents the results of our preliminary geotechnical assessment for the Riverbend / Miles Avenue trail project to be located within the northwestern area of Whitefish, approximately 0.6 mile southeast of Whitefish Lake, and immediately adjacent to Whitefish River. The purposes of the preliminary assessment was to evaluate potential subsurface conditions at the proposed site and to develop preliminary schematic design level foundation options. The following describes the subsurface conditions expected in the project area based on nearby historical projects and anticipated foundation systems for the trail based on project constraints.

The information presented below is intended to provide preliminary project planning information for use in the early stages of evaluating project feasibility. **At this time, no project specific subsurface investigation has been performed to validate these assumptions;** thus, none of the information provided is intended to be used in any engineering design applications and must be verified through a conventional geotechnical field investigation of the property. **Such investigations are critical to the completion of accurate geotechnical analyses and will be necessary to provide site specific comprehensive design recommendations.**

ANTICIPATED SUBSURFACE CONDITIONS

The site is in an area comprised of predominantly glacial lake deposits (Qgl) with the occasional occurrence of gravel deposits (Qgr) according to the geological map below. The glacial lake deposits generally comprise of sand, silt, and clay. The gravel deposits generally comprise of gravel with variable deposits of boulders, sand, silt, and clay. The variable deposits are indications of alluvial terrace, abandoned channel, floodplain, alluvial fan, and glacial outwash. In our experience, similar gravel deposits typically consist of variable amounts of sand and gravel in a fine-grained silt or lean clay matrix.



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Gravel (Qgr, QTgr)—Variable deposits that range from pebble to boulder size and include sand, silt, and clay. Dominantly alluvial terrace, abandoned channel and floodplain, remnant alluvial fan, and local glacial outwash.

Glacial deposit (Qgd)—Dominantly till, outwash, and local glacial lake deposits. Shown only in western and south-central Montana. Laurentide glacial deposits are indicated with a map pattern (legend, plate 1).

Glacial lake deposit (Qgl)—Light brown laminated silt, fine-grained sand, and clay. Shown only in northwestern and central-western Montana.

Piegan Group (Ypg) ("Middle Belt carbonate")

Wallace Formation (included in Ypg) (Restricted to what was formerly "middle Wallace")—Tan-weathering, dolomitic quartzite and siltite, and black argillite with calcite ribbons (molar tooth structure) in graded pinch-and-swell couples and couplets. Thickness as much as 2,500 m (8,202 ft).

Helena Formation (Yh and included in Ypg)—*Northwestern Montana* (formerly "lower Wallace"): cycles of basal white quartzite or intraclast beds overlain by couplets of green siltite and argillite, capped by dolomite beds. Calcite pods and ribbons (molar tooth structure) common. *West-central Montana*: gray to dark gray limestone and dolomitic limestone with siltite partings. Thickness as much as 2,000 m (6,562).

Geologic Map of Montana, Edition 1.0 (2007)
Montana Bureau of Mines & Geology

The subsurface soil conditions appear to be moderately inconsistent based on historical and nearby projects that included exploratory drilling and sampling. In general, the subsurface soil conditions encountered consist of layered lean clay, silt, and sand. The proportions of each soil type, thickness, and depths of the layering are usually inconsistent due to irregular depositing of the historical glacial lake. Generally, the consistency and relative density of these layers improve with depth, typically starting below an approximate elevation of 2960 feet above mean sea level (MSL). The layering of these soils is anticipated to continue down to an approximate elevation of 2900 feet above MSL.



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according to previous and nearby explorations. Underlying the layers of lean clay, silt, and sand is a medium dense to very dense gravel. Generally, gravel was not encountered at elevations higher than 2920 feet above MSL.

LEAN CLAY

Lean clay in this area is typically very soft to stiff and may include trace amounts of gravel and sand. The lean clay has been previously observed to have thick layers of 0 to 1 blow count per foot (bpf). The lean clay is typically classified as low to medium plasticity as indicated by historical Atterberg test results in the laboratory. The moisture contents are usually measured from 20 to 50 percent and higher percentages may be measured since the project is adjacent to Whitefish River.

SILT

Similar to lean clay, the silt is typically very soft to stiff. However, it may include higher percentages of sand with trace amount of gravel. The silt layers have previously been observed to result in blow counts as low as 2 bpf indicating soft soils. The consistency of the silt increased at deeper depths (ranging from 2920 to 2960 feet above MSL) to as high as 25 bpf. The silt is typically classified as granular non-plastic to low plasticity according to historical Atterberg test results in the laboratory. The moisture contents are usually measured from 20 to 40 percent and higher percentages may be measured since the project is adjacent to Whitefish River.

SAND

Sand in this area is typically very loose to very dense and is likely to include high proportions of silt with small amounts of gravel. The sand layers have previously been observed to result in blow counts as low as 2 bpf indicating very loose soils and increased to as high as 25 bpf at deeper depths (ranging from 2920 to 2960 feet above MSL). The sand is typically classified as granular non-plastic according to historical Atterberg test results in the laboratory. The moisture contents are usually measured from 10 to 35 percent and higher percentages may be measured since the project is adjacent to Whitefish River.

GRAVEL

Gravel in this area is typically medium dense to very dense and is likely to include proportions of sand and silt. The gravel has previously been observed at greater depths (ranging from 2900 to 2920 feet above MSL) underlying the lean clay, silt, and sand layers described above. Occasionally, thin layers of gravel were encountered at shallower depths. However, the occurrence, depth, and thickness of these layers varied significantly and it is unknown if gravel



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will be encountered at depths shallower than 60 feet for this project.

Ground water elevations at this site are likely related to the surface elevation of the adjacent Whitefish River. Fluctuations of the river level will result in fluctuations of ground water at the site. However, some minor variations between the water levels may be observed due to the plastic soils present and the relatively low permeability of similar soils. The presence or absence of observed ground water may be directly related to the time of construction. Numerous factors contribute to seasonal ground water occurrences and fluctuations, and the evaluation of such factors is beyond the scope of this report.

ENGINEERING ANALYSIS

Site grading and excavation are not anticipated for this project according to the conceptual site plan and the elevated walkway. It is also anticipated that site grading and excavation are limited to minimize the disturbance to the adjacent Riverbend condominiums and properties. Therefore, recommendations were not provided regarding site grading, excavation, and fill placement. However, if the assumption is incorrect, TD&H Engineering should be notified, and recommendations will be provided.

Considering the subsurface conditions for this area of Whitefish, we anticipate conventional shallow foundations to not be suitable for support of the elevated precast concrete trail. Potential settlements and overall shallow foundation performance have not been evaluated for this site because the site conditions and subsurface soils present are generally high risk.

Preliminary Helical Piers Assessment (RECOMMENDED Foundation)

Helical piers are the recommended foundation option that will minimize disturbance to the site and prevent the need for dewatering. Helical piers are a form of screw pile which utilizes a steel shaft fabricated from either solid square or tubular steel. A single or series of plates are welded to the shaft and commonly vary in diameter from 6 to 16 inches with thicknesses of $\frac{3}{8}$ -inch or $\frac{1}{2}$ -inch depending on soil conditions and the proposed application. Using this type of foundation, each structural column is supported by a single or series of helical piers and building walls are placed on grade beams supported by a series of piers. Applied structural loads are transmitted to the subsurface soils almost completely through end bearing of the helical plates. A series of plates (increasing in diameter from the tip of the pier) can be used to increase the overall bearing area and can increase the capacity of the pier. Helical piers are ideal for application where both tensile (uplift) and compressive (gravity) forces need to be resisted within the foundation. Helical piers experience little or no impact from expansive soils when installed to proper depths; however, the ultimate load for typical helical piers is limited to approximately 150 kips and similar systems are not ideal for large heavily loaded structures. Helical pier spacing of at least five times the



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diameter of the largest plate is recommended. A spacing as tight as three diameters has been used; however, this installation required battering of the pier elements and necessitates specialized equipment capable of controlling the installation angle.

Helical piers for this project must extend through the upper active zone of expansive soils (typically 15 feet) and into the underlying sand for adequate capacity and resistance to expansive forces. Assuming the site elevation is 3,010 feet above MSL according to Google Earth Pro and based on our assessment, we anticipate adequate installation torque to be achieved with overall anticipated piers lengths on the order of 70 to 100 feet.

For this project, the use of a 3.875-inch diameter round shafted helical pier with a wall thickness of 0.276-inch and a double 12"-14" or a triple 10"-12"-14" helix combination is recommended. Based on our experience and the theory of elasticity, a deep foundation system using helical piers extending to sufficient depth to satisfy the minimum torque requirements within the medium dense sand is not anticipated to experience settlements exceeding $\frac{3}{4}$ -inch provided they are designed and constructed following our recommendations. Differential settlements between pier locations should be on the order of one-half this magnitude.

SUMMARY

In summary, our geotechnical assessment indicates that the project area adjacent to Whitefish River consists of layered sand, silt, and clay with high moisture contents and poor density/consistency. Groundwater levels are expected to fluctuate with the Whitefish River levels, potentially impacted by the presence of plastic soils and low permeability.

For foundation construction, traditional shallow foundations are deemed unsuitable; instead, helical piers are the recommended foundations to minimize site disturbance and avoid the need for dewatering. Helical piers offer an effective solution accommodating both tensile and compressive forces and are less affected by expansive soils when installed correctly. The proposed design includes round shafted helical piers with 10-12-14" helix configuration targeting a depth of 70 to 100 feet to ensure adequate load capacity within the medium dense sand layer. It is expected that settlements will not exceed $\frac{3}{4}$ -inch if the helical piers are designed and installed according to our specifications, with differential settlements between piers further reduced to half this value.

For any deviations from the expected site conditions or plan, TD&H Engineering should be consulted to provide additional recommendations or adjustments to the foundation design.



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February 3, 2025

Kenny Breidinger
Montana Fish Wildlife, and Parks
490 N. Meridian Road
Kalispell, MT 59901

Re: City of Whitefish – Riverbend / Miles Avenue Multi-Use Path Connection

Dear Kenny,

Attached please find an updated *Joint Application for Proposed Work in Montana’s Streams, Wetlands, Floodplains, and Other Water Bodies*. As you know, the City of Whitefish plans to develop a pedestrian and bicycle path to connect the existing Whitefish River Trail near Railway Street with the path at Veterans Memorial Bridge.

Currently, the Whitefish River Trail has a disconnect between Veterans Memorial Bridge on Highway 93 and Railway Street. The proposed project would allow the city to develop an ADA accessible path between these points. The proposed path alignment and width has been modified from the original submission to ensure compliance with the six-foot easement held by the City of Whitefish.

As part of this project, the City of Whitefish is requesting a 124-permit from Montana Fish, Wildlife, and Parks. Community support for the Whitefish Trail System and this project in particular is very strong. The City of Whitefish is committed to this project and providing a safe ADA accessible trails system for the community.

Please contact Brad Bennett at bbennett@waterenvtech.com or (406) 309-6085 if you have any questions regarding the permit application. Thank you for your attention to this application.

Sincerely,

A handwritten signature in blue ink that reads 'B-Bennett'.

Brad Bennett
Senior Hydrogeologist

Attachments

- Attachment 1: Joint Application for Proposed Work in Montana’s Streams, Wetlands, Floodplain & Other Water Bodies*
- Attachment 2: Engineering Plan and Profile Drawings – Permit Plan Set*
- Attachment 3: Landscape and Revegetation – Planting Plan Set*

- Attachment 4: *Project Photo Journal – Existing Conditions*
- Attachment 5: *Easement Documents*
- Attachment 6: *Safe Trails Whitefish Petition and Letter of Support*

Attachment 1

Joint Application for Proposed Work in Montana's
Streams, Wetlands, Floodplains, and Other Water Bodies

Revised: 5/12/2021 310 Form 270 and Instructions may be downloaded from: http://dnrc.mt.gov/licenses-and-permits/stream-permitting	CD/AGENCY USE ONLY		Application # Click to enter text.	Date Received _____	Date _____
	Date Accepted _____	Date _____	Initials _____	Initials _____	Date FW: to _____
<i>This space is for all Department of Transportation and SPA 124 permits (government projects).</i>					
Project Name	Click to enter text.				
Control Number	Click to enter text.	Contract Letting Date	_____		
MEPA/NEPA Compliance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If yes, #C5 of this application does not apply.		

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS & OTHER WATER BODIES

This is a standardized application to apply for one or all local, state, or federal permits listed below.

- Refer to instructions to determine which permits apply and submit a signed application to each applicable agency.
- Incomplete applications will result in the delay of the application process.
- The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.
- **Other laws may apply.**

	<u>PERMIT</u>	<u>AGENCY</u>	<u>FILL OUT SECTIONS</u>	<u>FEE</u>
	310 Permit	Local Conservation District	A - E and G	Inquire locally
X	SPA 124 Permit	Department of Fish, Wildlife and Parks	A - E and G	No fee
X	318 Authorization 401 Certification	Department of Environmental Quality	A - E and G	\$250 (318); \$400 - \$20,000 (401)
X	Navigable Rivers Land Use License, Lease, or Easement	Department of Natural Resources and Conservation, Trust Lands Management Division	A - E and G	\$50, plus additional fee
X	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers (USACE)	A - G F1-8	Varies (\$0 - \$100)
X	Floodplain Permit	Local Floodplain Administrator	A - G	Varies by city/county (\$25 - \$500+)

A. APPLICANT INFORMATION

APPLICANT NAME (person responsible for project): City of Whitefish – Public Works

Has the landowner consented to this project? Yes No

Mailing Address: 418 E 2nd Street, Whitefish, MT 59937

Physical Address: 418 E 2nd Street, Whitefish, MT 59937

Cellphone: Work Phone: 406-863-2455 E-Mail: cworkman@cityofwhitefish.org

LANDOWNER NAME (if different from applicant): Click here to enter name or N/A.

Mailing Address:

Physical Address: Click here to enter physical address or N/A.

Cellphone: Click here to enter or N/A. Home Phone: Click here to enter or N/A. E-Mail: Click here to enter or N/A.

CONTRACTOR/COMPANY NAME (if applicable): Water & Environmental Technologies

PRIMARY CONTACT NAME: Brad Bennett

Mailing Address: 102 Cooperative Way, Suite 100, Kalispell, MT 59901

Physical Address: 102 Cooperative Way, Suite 100, Kalispell, MT 59901

Cellphone: Click here to enter or N/A. Work Phone: 406-309-6085 E-Mail: bbennett@waterenvtech.com

B. PROJECT SITE INFORMATION

1. NAME OF **STREAM** or **WATER BODY** at project location Whitefish River
Project Address/Location: Miles Avenue, Whitefish, MT Nearest Town Whitefish, MT
County Flathead Geocode: 07-4292-36-2-07-01-0000, Common Area of 07-4292-36-2-07-20-7102 through 7138
NE1/4 of the NW 1/4 of, Section 36 Township 31 N, Range 22 W
Latitude 48.41153 N Longitude -114.34340 W Refer to section B1 in the instructions.
2. Is the proposed activity within **SAGE GROUSE** areas designated as general, connected, or core habitat?
Yes No Attach consultation letter if required. Refer to section B2 in the instructions.
3. Is this a **STATE NAVIGABLE WATERWAY**? The state owns beds of certain navigable waterways.
Yes No If yes, send a copy of this application to the appropriate DNRC land office. Refer to section B3 in the instructions.
4. **WHAT IS THE CURRENT CONDITION** of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands. What vegetation is present? Refer to section B4 in the instructions.
The proposed project site is currently best described as two segments. The southern portion between the Riverbend Home Condominiums (RHC), adjacent to the Whitefish River, and the existing path beneath Highway 93 and the northern portion which crosses the Miles Avenue Condominiums (MAC) common area and connects to the existing asphalt path of the Whitefish River Trail to the north.

The RHC portion of the project is characterized by a combination of turf grass, mature willow trees, and two wetland areas between the back deck of the RHC to the ordinary high-water mark (OHWM) of the Whitefish River. In the southern portion of the RHC, areas between the decks and Whitefish River are comprised of rounded cobbles without established vegetation. The back decks of the RHC are constructed between one and 15 feet from the OHWM (2,998.3 feet amsl) and occur at a typical elevation of approximately 3,005 feet amsl, approximately 7 feet above the OHWM. The slope between the decks and the OHWM is relatively steep with typical slopes of ten to 35 percent. Sheet C2.1 of **Attachment 2** illustrates the location of the RHC and existing trees along the bank of the Whitefish River. On the southern end of the project, much of the area between the RHC and OHWM has been impacted by recent environmental cleanup efforts and little vegetation has been established.

Currently, the MAC portion of the project, near the bank of the Whitefish River is stable. Cottonwood trees, alder, willow, and snowberries are established. An approximately 20-foot-wide natural bench occurs at an elevation of 3,005 feet amsl with relatively steep topography (14 to 50 percent slopes) occurring on both the down and upslope side of the natural bench. The upper bank rises relatively steeply to an approximate elevation of 3,015 feet near the back yards of the MAC, which are currently being landscaped with a combination of turf grass and shrubberies. A stormwater outfall, permitted by the Flathead County Conservation District through permit number FL-2022-007, discharges to the Whitefish River near the southern edge of this portion of the project and utilizes rip rap near the outfall. Revegetation of the disturbed area within the stormwater corridor is currently taking place. Sheets C2.2 and C2.3 of **Attachment 2** illustrate the location of the RHC and existing trees along the bank of the Whitefish River. A restoration plan (planting plan) has been developed by Northwest Design Studio for this project and is provided as **Attachment 3**. A photo journal documenting the existing conditions of the site along the route of the proposed path is provided as **Attachment 4**.

C. PROPOSED PROJECT OR ACTIVITY INFORMATION

1. **TYPE OF PROJECT** (check all that apply) Refer to section C1 in the instructions.
 - Agricultural and Irrigation Projects:** Diversions, Headgates, Flumes, Riparian fencing, Ditches, etc.
 - Buildings/Structures:** Accessory Structures, Manufactured Homes, Residential or Commercial Buildings, etc.
 - Channel/Bank Projects:** Stabilization, Restoration, Alteration, Dredging, Fish Habitat, Vegetation or Tree Removal, or any other work that modifies existing channels or banks.
 - Crossings/Roads:** Bridge, Culvert, Fords, Road Work, Temporary Access, or any project that crosses over or under a stream or channel.
 - Mining Projects:** All mining related activity, including; Placer Mining, Aggregate Mining, etc.
 - Recreation related Projects:** Boat Ramps, Docks, Marinas, etc.

Other Projects: Cistern, Debris Removal, Excavation/Pit/Pond, Placement of Fill, drilling or directional boring, Utilities, Wetland Alteration. Other project type not listed here _____

2. IS THIS APPLICATION FOR an annual maintenance permit? Yes No
(If yes attach annual plan of operation to this application) – Refer to section C2 in the instructions.

3. WHY IS THIS PROJECT NECESSARY? STATE THE PURPOSE OR GOAL of the proposed project. Refer to section C3 in the instructions.

The City of Whitefish has developed a network of well-maintained bicycle and pedestrian trails. These facilities link key destinations inside and outside of town and provide safe, convenient, and comfortable recreation and transportation opportunities for bicyclists and pedestrians. Currently, the Whitefish River Trail has a gap between Veterans Memorial Bridge on Highway 93 and Railway Street. Users of the Whitefish River Trail are required to climb the stairs at the Veterans Memorial Bridge underpass, cross Miles Avenue to the east side of the road, and travel north on Miles Avenue to Railway Street before rejoining the Whitefish River Trail. The proposed project would allow the city to develop an ADA accessible path between Veterans Memorial Bridge underpass and the Whitefish River Trail near Railway Street. Further, the proposed project develops a safe and convenient route, keeping pedestrians and cyclists off the City’s busy streets.

4. PROVIDE A BRIEF DESCRIPTION of the proposed project plan and how it will be accomplished. Refer to section C4 in the instructions.

The City of Whitefish plans to develop a pedestrian and bicycle path between the existing Whitefish River Trail and the Veterans Memorial Bridge. In total 644 linear feet of path is required to create the path at ADA acceptable grades. A total of 393 feet of the proposed path will be located outside of the OHWM and shall be constructed at-grade with an asphalt surface of ten feet in width, transitioning to six feet in width before the MAC/RHC property boundary. The asphalt path shall transition to a six-foot concrete bridge, which will expand to ten feet in areas where the bridge extends up to four feet over the low water of the Whitefish River. A total of 255 linear feet of concrete bridge, located at or within the OHWM, and encroaching over the low water mark of the river, shall be constructed utilizing a ten-foot-wide concrete bridge over a six-foot-wide steel structure. The final 49 feet of the concrete bridge shall transition from ten feet wide to six feet wide as the alignment moves away from the low water mark of the river. The final 50 feet of the path, connecting the proposed concrete bridge to the existing path near 2nd Street Bridge, shall be a six-foot-wide asphalt path.

Sheet C2.0 of **Attachment 2** illustrates the project in its entirety. The proposed alignment was determined specifically to maintain ADA accessible grades throughout the project while minimizing impacts to the Whitefish River and the private residences adjacent to the proposed path. The existing concrete path beneath Veterans Memorial Bridge shall be extended via a trail with asphalt surface. Above the OHWM, the proposed trail will transition to an above grade concrete bridge that utilizes helical piers and a steel structure to keep the bridge deck above the OHWM. Near the northern edge of the RHC buildings, the trail transitions to an at-grade asphalt path.

The concrete bridge trail will be constructed utilizing a foundation of helical piers and a steel stringer with pre-cast concrete deck planks. A total of 30 piers shall be installed to serve as the foundation for the concrete bridge path. As shown in the design drawings provided as **Attachment 2**, a pair of helical piers located six feet apart shall be installed in parallel every 20-feet along the path. The preliminary design calls for helical piers to be installed to an estimated depth of 90-feet to ensure adequate bearing capacity. A substructure of steel “I-beams” (12.2-inches tall and 4.0-inches wide) will link the helical piers and provide a foundation for the pre-cast concrete deck planks. The pre-cast deck planks are anticipated to be four-feet wide, six-feet long, and six-inches thick. A 4.5-foot steel handrail shall be installed on the bridge trail segment of the project. A four-foot-wide lockable gate shall be utilized to allow private access (and prevent public access) to the existing private dock that will be transected by the proposed bridge. New, removable gangway ramps shall be utilized to allow private access from RHC to their private dock. Access to the private dock is illustrated in the design drawings provided as **Attachment 2**.

The proposed asphalt trail shall be constructed at-grade and will maintain a maximum slope of five percent. The northern section of asphalt trail begins at an elevation of 3,001 feet amsl and connects with the existing path at an elevation of 3,019 feet amsl. To maintain an ADA accessible slope of 1:12 (about five degrees of incline), the trail will start near grade on the natural bench and encroaches or cuts into the upland bank which requires use of retaining walls. Chief Cliff Dry Stack stone retaining walls will be utilized to minimize encroachment and maintain slope stability. Where retaining walls are proposed on the down-slope side of the trail, steel handrails shall be utilized. The asphalt path will be ten feet in width except at the transitions to the proposed bridge as shown in **Attachment 2**.

Design plans are provided in support of this application. Details regarding the proposed alignment, materials, and construction of the proposed path are provided in **Attachment 2**.

5. WHAT OTHER ALTERNATIVES were considered to accomplish the stated purpose of the project? Why was the proposed alternative selected? Refer to section C5 in the instructions.

No action alternative – A no action alternative was considered. This alternative was rejected, as this does not provide the connectivity of the Whitefish River Trail, precludes ADA accessible pathways, and requires pedestrians to cross busy streets.

Alternative 1 – An alternate pathway was considered between Veterans Memorial Bridge and the Whitefish River Trail near Railway Street. However, no ADA suitable routes were identified, and no easements are in place to accommodate an alternate alignment.

Alternative 2 (Preferred Alternative) – The preferred alternative was ultimately selected because it meets the project goal of connecting key destinations and provides safe, convenient, and comfortable recreation and transportation opportunities for bicyclists and pedestrians that is ADA compliant and eliminates the gap in the Whitefish River Trail between Veterans Memorial Bridge on Highway 93 and Railway Street.

6. NATURAL RESOURCE BENEFITS OR POTENTIAL IMPACTS. Please complete the information below to the best of your ability.

* Explain any temporary or permanent changes in erosion, sedimentation, turbidity, or increases of potential contaminants. What will be done to minimize those impacts?

The riverbank is generally stable and covered in riparian vegetation or manicured lawns. Prior to construction, structural erosion and sediment controls will be installed around disturbed sites to prevent sediment from entering surface waters to the extent possible. Following installation of the concrete bridge, no long-term sediment loading issues will occur and the riverbank is anticipated to remain stable. During construction, a supply of erosion control measures will be kept on hand to respond to sediment emergencies.

Site clearing, staging/stockpile areas, and access routes will be located to minimize overall disturbance and preclude erosion from entering the river. The staging area will be near Miles Ave. The staging area location will provide a sufficient buffer for surface waters.

All equipment fueling, maintenance, and staging areas will be in non-wetland areas upgradient of the OHWM. The staging area will be located near Miles Avenue and will contain a spill prevention kit. All equipment used in or near water work areas will be cleaned of external oil, grease, dirt, mud, plant material and other debris, which may harbor invasive plants or animals. All equipment will be inspected before mobilization to the site, any leaks or accumulation of grease will be cleaned before interacting with areas near the OHWM. Equipment may include a tracked dump truck, thumbed excavator, skid-steer, and loader. All equipment shall be rated “fish-friendly” as it is used in restoration efforts on other construction projects.

- Will the project cause temporary or permanent impacts to fish and/or aquatic habitat? What will be done to protect the fisheries?

The project will be implemented in a timely manner. If disturbances have the potential to affect water quality, then structural erosion and sediment controls will be installed to prevent turbidity. Due to the construction methods proposed and use of helical piers, minimal permanent impacts to fish, and aquatic habitat is expected. The proposed bridge will provide shading, thermal refugia and add man-made habitat diversity to the shoreline within the affected area.

- What will be done to minimize temporary or permanent impacts to the floodplain, wetlands, or riparian habitat?
All equipment fueling, maintenance, and staging areas will be in non-wetland areas upgradient of the OHWM and floodplain to provide sufficient buffer to surface waters. Areas of disturbance around the path will be revegetated with native vegetation, which will help infiltrate stormwater post construction. Conservation measures include adhering to permit conditions, project design standards, work area isolation, erosion control measures, pollution and invasive species control measures, and site restoration standards. A restoration plan (planting plan) has been developed by Northwest Design Studio for this project and is provided as **Attachment 3**.

- What efforts will be made to decrease flooding potential upstream and downstream of project?
This project is not anticipated to adversely affect landowners upstream and downstream of the proposed project area. The proposed project has been designed to follow the City of Whitefish floodplain regulations. The use of helical pier foundations minimizes the volume of fill required to complete the project and allows typical flood waters to flow beneath the concrete bridge path structure.

- Explain potential temporary or permanent changes to the water flow or to the bed and banks of the waterbody. What will be done to minimize those changes?

Design and construction measures and the use of helical piers limit the overall impact to the bed and banks of the Whitefish River. Potential temporary disturbances will be minimized using perimeter controls and structures erosion control measures to limit vegetative disturbances and potential sediment migration during construction. Minimal effects to water flow are anticipated. Following installation of the proposed trail, a small portion of the eastern bank of the Whitefish River will be covered by an elevated concrete path which may limit vegetation potential due to shading.

- How will existing vegetation be protected and its removal minimized? Explain how the site will be revegetated. Include weed control plans.

Prior to construction, perimeter controls will be installed to limit the project’s footprint. Topsoil will be salvaged and stockpiled in designated staging areas for use during restoration activities. Following construction, disturbed areas will be recontoured with salvaged topsoil placed at the surface to achieve final grades.

Restoration efforts will be conducted immediately following construction. Native upland, drought tolerant, plantings will be used in disturbance areas above the OHWM. Seeding is not anticipated below the OHWM; however, a wetland seed mixture will be used if necessary. A restoration plan (planting plan) has been developed by Northwest Design Studio for this project and is provided as **Attachment 3**.

The Applicant will monitor seeded areas for seedling establishment and the presence of noxious weed species. Steep slopes and other areas with highly erosive soil will be monitored to ensure vegetation stabilization is achieved. Bare ground will be reseeded as necessary and erosive formations such as rills and gullies will be refilled and restabilized. Weed control will be limited to hand pulling and mechanical methods for the first growing season as widespread chemical control during the seedling establishment period can hinder overall revegetation success. Chemical control is also discouraged near adjacent surface waters. Monitoring and maintenance will be on-going.

D. CONSTRUCTION DETAILS

1. PROPOSED CONSTRUCTION DATES. Include a project timeline. Start date 2/1/2025
 Finish date 12/31/2025 How long will it take to complete the project? Approximately 10 weeks from start date Is any portion of the work already completed? Yes No (If yes, describe previously completed work.)

Refer to section D1 in the instructions.

No construction or site preparation has occurred.

2. PROJECT DIMENSIONS. Describe length and width of the project. Refer to section D2 in the instructions.
 The project proposes to construct an additional 644 linear feet of path, 6.0 to 10.0-feet in width. A total of 389 feet of the proposed path are located outside of the OHWM and shall be constructed at-grade with an asphalt surface. The remaining 255 feet is located over the OHWM and shall be constructed utilizing a concrete bridge over a steel structure with a helical pier foundation.

Design plans are provided in support of this application. Details regarding the proposed alignment, materials, and construction of the proposed path are provided in **Attachment 2**.

3. EQUIPMENT. List all equipment that will be used for this project. How will the equipment be used on the bank and/or in the water? Note: All equipment used in the water must be clean, drained and dry. Refer to section D3 in the instructions.

The equipment for this project includes: skid steer, excavator, front-end loader, dump trucks, asphalt paver, roller, and backhoes. Smaller equipment such as skid-steers and mini excavators will be used to construct the bike/ped path, utilizing equipment attachments to install the helical piers. A small (3-inch) asphalt layer will be installed to achieve final grades within the paved portions of the bike/pedestrian path. Depending upon contractor preferences, a small barge may be utilized to complete portions of the concrete bridge path.

Will equipment from out of state be used? YES NO UNKNOWN

Will the equipment cross west over the continental divide to the project site? YES NO UNKNOWN

Will equipment enter the Flathead Basin? YES NO UNKNOWN

4. **MATERIALS.** Provide the total quantity and source of materials proposed to be used or removed. Note: This may be modified during the permitting process therefore it is **recommended you do not purchase materials until all permits are issued.** List soil/fill type, cubic yards and source, culvert size, rip-rap size, any other materials to be used or removed on the project. Refer to section D4 in the instructions.

Cubic yards/Linear feet	Size and Type	Source
Helical Piers - est. 2,700 ft	3.5-inch x 0.300 wall – Galv. Steel	Imported
Steel Stringers - est. 830 ft	W12-19 - Steel “I”-Beam	Imported
Concrete Deck Planks - 2,450 ft ²	4.0-ft x 6.0/10.0-ft x 0.5ft – Pre-Cast	Local Contract
Aggregate – 215 yd ³	3/4-inch minus base	Local Gravel Pit
Asphalt - 3,305 ft ² /26.2 yd ³	Asphalt Concrete	Local Vendor
Redi-Rock Walls – 305 linear feet	Dry Stacked Stone	Local Vendor

E. REQUIRED ATTACHMENTS

1. **PLANS AND/OR DRAWINGS** of the proposed project. **Include:**

- Plan/Aerial view
- an elevation or cross section view
- dimensions of the project (height, width, depth in feet)
- location of storage or stockpile materials dimensions and location of fill or excavation sites
- drainage facilities
- location of existing/proposed structures, such as buildings, utilities, roads, or bridges
- an arrow indicating north
- Site photos

2. **ATTACH A VICINITY MAP OR A SKETCH** which includes: The water body where the project is located, roads, tributaries, other landmarks. Place an “X” on the project location. Provide written directions to the site. This is a plan view (looking at the project from above).

Refer to **Attachment 2** provided with this joint application.

3. **ATTACH ANNUAL PLAN OF OPERATION** if requesting a **Maintenance 310 Permit.**

4. **ATTACH AQUATIC RESOURCE MAP.** Document the location and boundary of all waters of the U.S. in the project vicinity, including wetlands and other special aquatic sites. Show the location of the ordinary high-water mark of streams or waterbodies **if requesting a Section 404 or Section 10 Permit.** Ordinary high-water mark delineation included on plan or drawings and/or a separate wetland delineation.

Refer to **Attachment 2** provided with this joint application.

F. ADDITIONAL INFORMATION FOR U.S. ARMY CORPS OF ENGINEERS (USACE) SECTION 404, SECTION 10 AND FLOODPLAIN PERMITS.

Section F should only be filled out by those needing Section 404, Section 10, and/or Floodplain permits. Applicants applying for Section 404 and/or Section 10 permits complete F 1- 8. Applicants applying for Floodplain permits, complete all of Section F. Refer to section F in the instructions.

FOR QUESTIONS RELATING TO SECTION F, QUESTIONS 1-8 PLEASE CONTACT THE USACE BY TELEPHONE AT 406-441-1375 OR BY E-MAIL.

1. Identify the specific **Nationwide Permit(s)** that you want to use to authorize the proposed activity. Refer to section F1 in the instructions.

Nationwide Permit 42 – Recreational Facilities.

2. Provide the **quantity of materials** proposed to be used in waters of the United States. What is the length and width (or square footage or acreage) of impacts that are occurring within waters of the United States? How many cubic yards of fill material will be placed below the ordinary high-water mark, in a wetland, stream, or other waters of the United States? Note: Delineations are required of wetlands, other special aquatic sites, and other

waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Refer to section F2 in the instructions.

Permanent disturbance areas were calculated and include the acreages of impacts within wetlands and below the OHWM. Permanent wetland disturbance was calculated by overlaying the preliminarily delineated wetland areas intersecting the proposed path, the total wetland disturbance is currently estimated at 0.0004 acres. The total footprint affecting waters of the United States (WOTUS), below the OHWM, is 0.0019 acres. It is anticipated that some wetland and aquatic vegetation impacts will be associated with the long-term shading effects associated with the bridge; however, the total amount of fill material associated with bridge will be minimized by the helical pier construction method. The total permanent footprint of the 30 helical piers will be approximately 94.2 square feet or 0.002164 acres. Temporary wetland and OHWM impact areas, include areas disturbed during path construction and are estimated to total 0.02 acres, or approximately five feet per linear foot of above grade concrete bridge trail.

Wetland and OHWM boundaries are shown on Sheets C2.0, C2.1, C2.2 in **Attachment 2**.

3. How will the proposed project avoid or minimize **impacts to waters of the United States**? Attach additional sheets if necessary. Refer to section F3 in the instructions.

BMPs will be installed as necessary to minimize the impacts from sedimentation and erosion; and site restoration will follow construction. The project will be implemented in a timely manner, limiting the temporal loss of aquatic habitat. The general permit conditions associated with NWP 42 – Recreational Facilities, will be met during construction.

Design and construction measures and the use of helical piers limit the overall impact to WOTUS. Areas of disturbance around the path will be revegetated with native vegetation, which will help stabilize soils and infiltrate stormwater mitigating impacts to wetlands and WOTUS. Conservation measures include adhering to permit conditions, project design standards, work area isolation, erosion control measures, pollution and invasive species control measures, and site restoration standards. A restoration plan (planting plan) has been developed by Northwest Design Studio for this project and is provided as **Attachment 3**.

All equipment fueling, maintenance, and staging areas will be in non-wetland areas upgradient of the OHWM and floodplain to provide a sufficient buffer to surface waters.

4. Will the project impact greater than 0.10-acre of wetland and/or more than 300 linear feet of stream or other waters? If yes, describe how the applicant is going to **compensate (mitigation bank, in-lieu fee program, or permittee responsible)** for these unavoidable impacts to waters of the United States. Refer to section F4 in the instructions.

Compensatory mitigation is not anticipated. Impacts to wetlands are anticipated to be less than 0.10 acres and streambed impacts will not exceed 3/100-acre.

5. Is the activity proposed within any component of the **National Wild and Scenic River System**, or a river that has been officially designated by Congress as a **“study river”**? Refer to section F5 in the instructions.

Yes No

6. Does this activity require permission from the USACE because it will alter or temporarily or permanently occupy or use a **USACE authorized civil works project? (Examples include USACE owned levees, Fort Peck Dam, and others)**? Refer to section F6 in the instructions.

Yes No

7. List the **ENDANGERED AND THREATENED SPECIES** and **CRITICAL HABITAT(s)** that might be present in the project location. Refer to section F7 in the instructions.

According to the U.S. Fish and Wildlife Service IPaC website the following mammals, insects, and plant species may be potentially affected by the proposed project: Bull Trout, Canada Lynx, Grizzly Bear, North American Wolverine, Monarch Butterfly, and Spalding’s Catchfly. Note: The project is not located within Bull Trout Critical Habitat.

8. List any **HISTORIC PROPERTY(S)** that are listed, determined to be eligible or are potentially eligible (over 50 years old) for listing on the National Register of Historic Places.” Refer to section F8 in the instructions.

There are no known historical sites within the project boundary.

9. List all applicable local, state, and federal permits and indicate whether they were issued, waived, denied, or pending. Note: All required local, state, and federal permits, or proof of waiver must be issued prior to the issuance of a floodplain permit. Refer to section F9 in the instructions.

- 124 Permit – Pending
- 318 Authorization – Pending
- Section 404 Permit – Pending
- Local Floodplain Development Permit (FDP) – Pending
- DNRC – Land Use Easement – Pending

10. List the NAMES AND ADDRESSES OF LANDOWNERS adjacent to the project site. This includes properties adjacent to and across from the project site. (Some floodplain communities require certified adjoining landowner lists).

- NAME OF Adjacent Landowner: BNSF Railway 500 Depot Street, Whitefish, MT 59937
- NAME OF Adjacent Landowner: Miles Whitefish Investment LLC - 5360 N. Academy Blvd, Suite 250 Colorado Springs, CO 80917
- NAME OF Adjacent Landowner: Riverbend Condo HOA 857 Grand Drive, Bigfork, MT 59911
- NAME OF Adjacent Landowner: West 2nd Street LLC 164 Kallner Lane, Whitefish, MT 59937
- NAME OF Adjacent Landowner: Wilkinson Living Trust 20 2nd Street W, Whitefish, MT 59937

11. Floodplain Map Number 30029C1090J Refer to section F11 in the instructions.

Project area within a mapped Flood Zone AE.

12. Does this project comply with local planning or zoning regulations? Refer to section F12 in the instructions.

- Yes No

G. SIGNATURES/AUTHORIZATIONS

Some agencies require original signatures. **After completing the form**, make the required number of copies and **then sign each copy**. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized. Refer to section G in the instructions.

APPLICANT (Person responsible for project):
Print Name: _____

LANDOWNER:
Print Name: _____

Signature of Applicant Date

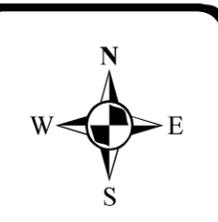
Signature of Landowner Date

*CONTRACTOR'S PRIMARY CONTACT (if applicable):
Print Name: Brad Bennett (WET)

Signature of Contractor/Agent Date

*Contact agency to determine if contractor signature is required.

Figure



NO.	DESCRIPTION	DATE	DRAFT	REVIEW
1	MAP CREATION			
2				
3				
4				
5				

NOTES

SITE VICINITY

RIVERBEND PARK

JOB#: _____ DATE: 1/9/2025

FIGURE 1

Path: M:\0_Kalispell\UG08-23 Riverbend Park\GIS\Riverpark Vicinity Map\Riverpark Vicinity Map.aprx, Author:

Project



Attachment 2

Engineering Plan and Profile Drawings – Permit Plan Set

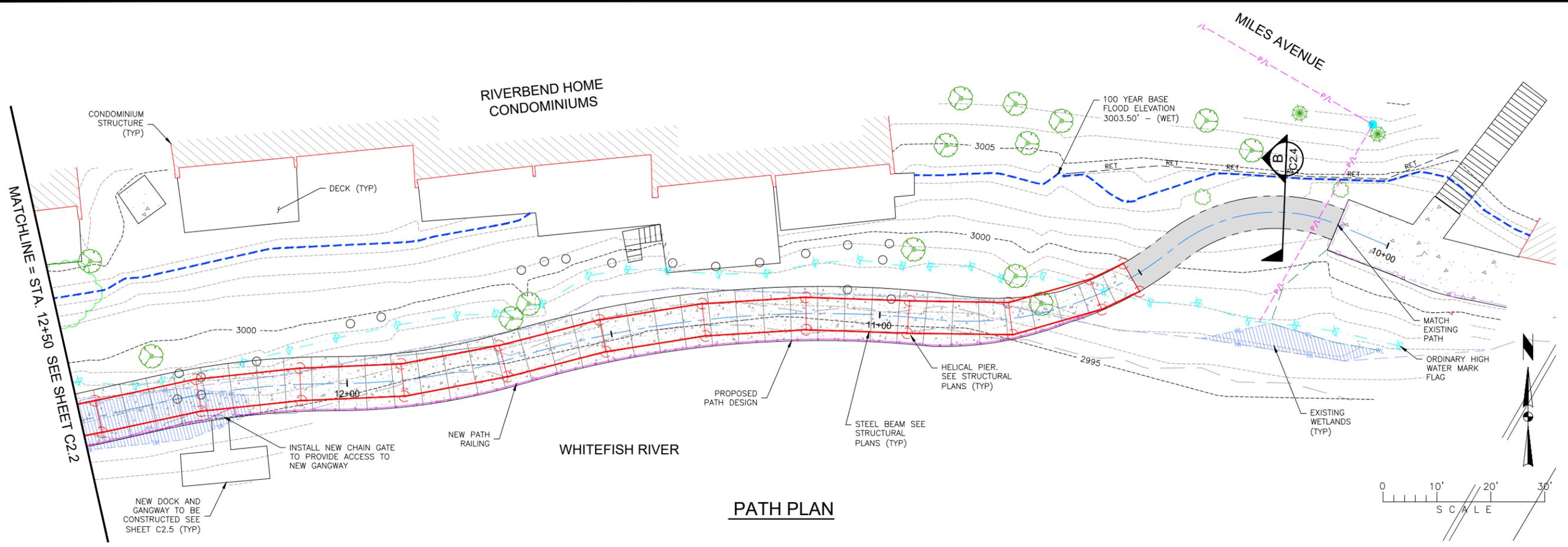
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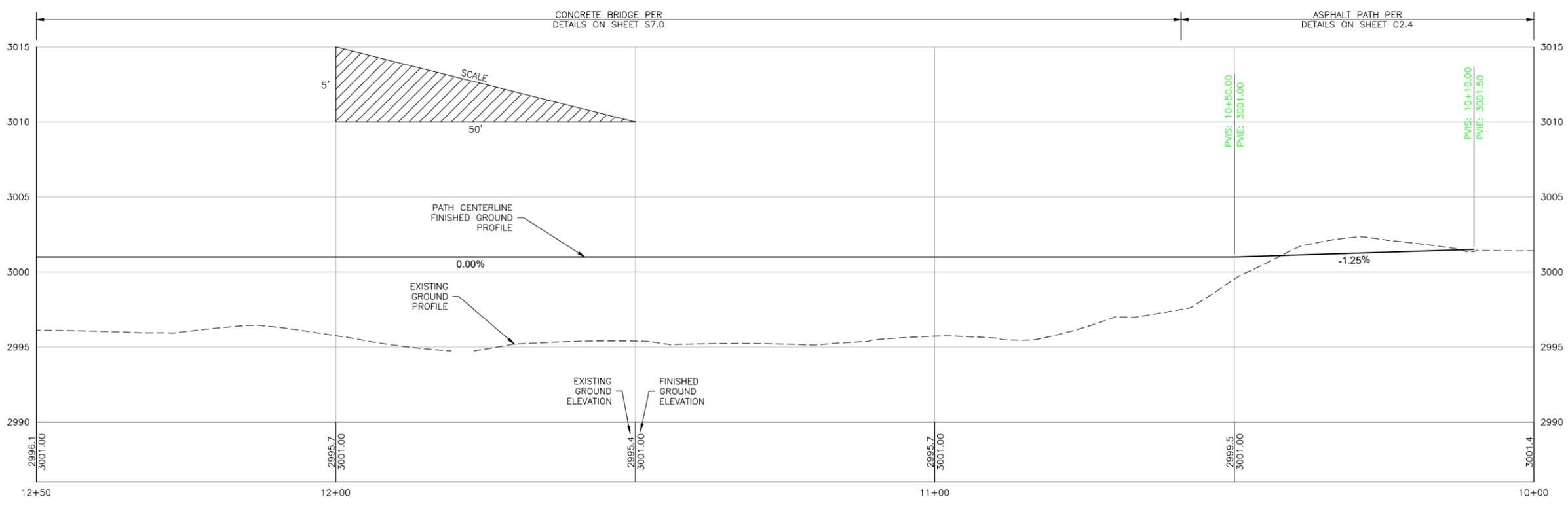


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 DESIGNED BY: NWDS/TDH
 QUALITY CHECK: DAP
 DATE: 02.03.2025
 JOB NO. K23-026
 FIELDBOOK

RIVERBEND PEDESTRIAN & BIKE PATH
 WHITEFISH, MONTANA
 124 PERMIT EXHIBIT
 PATH STA. 10+00 TO STA.12+50 - PLAN & PROFILE



PATH PLAN



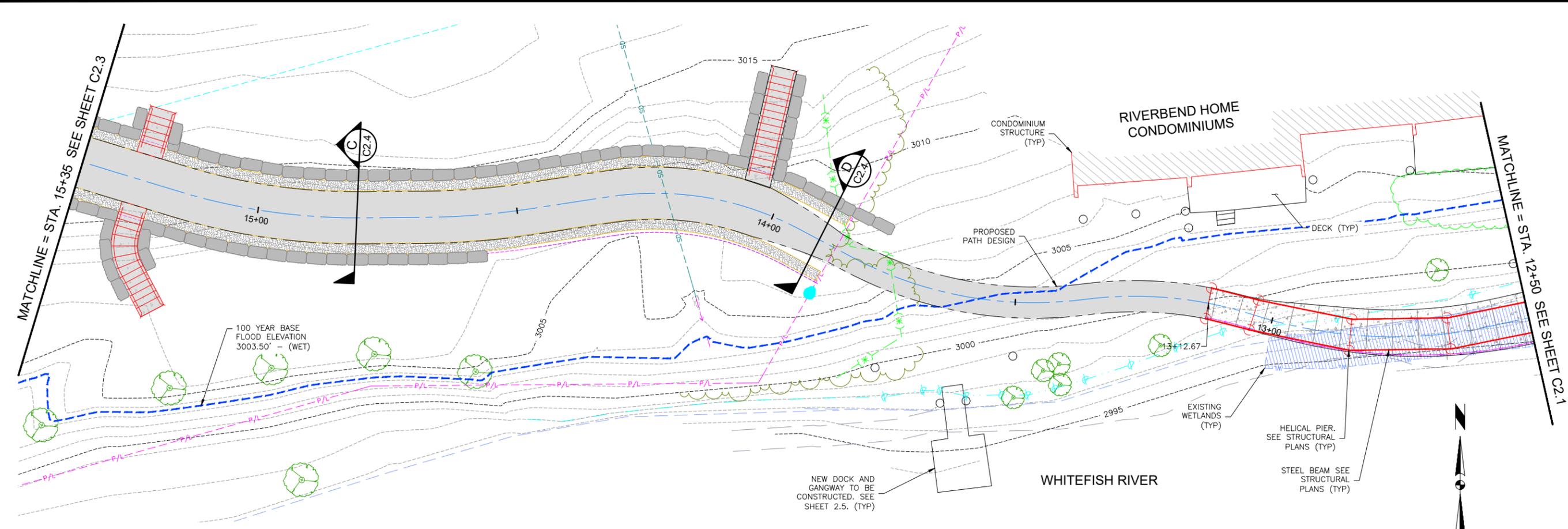
PROFILE

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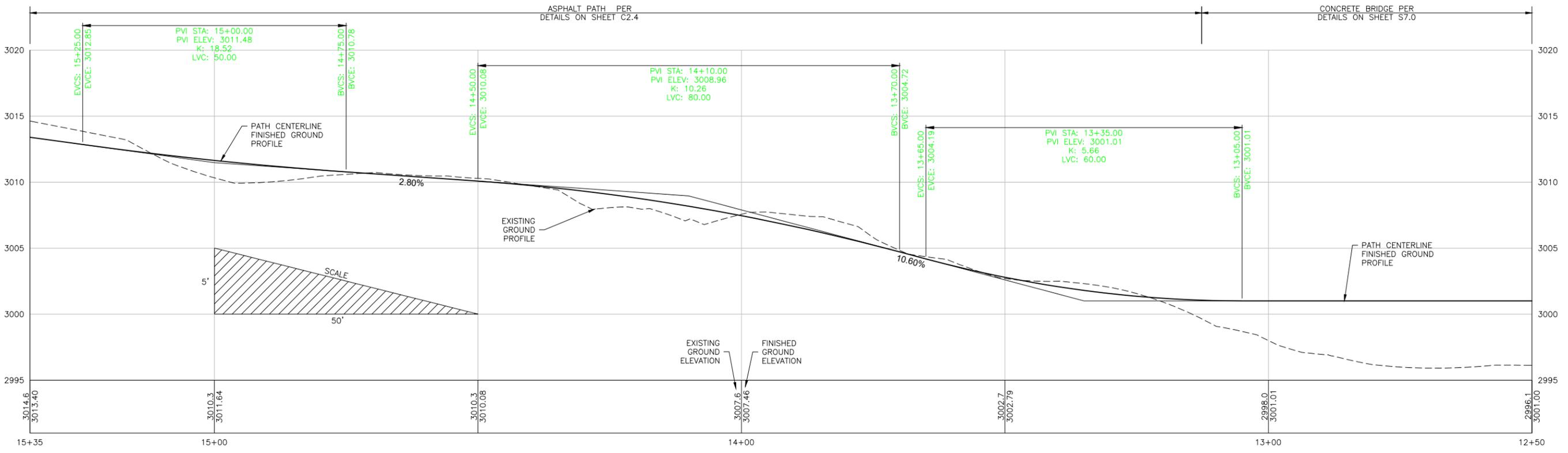
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PATH PLAN



PROFILE

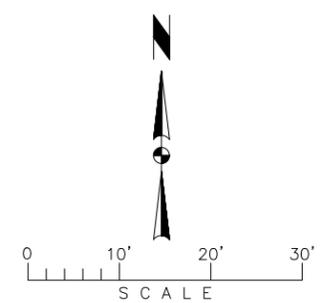
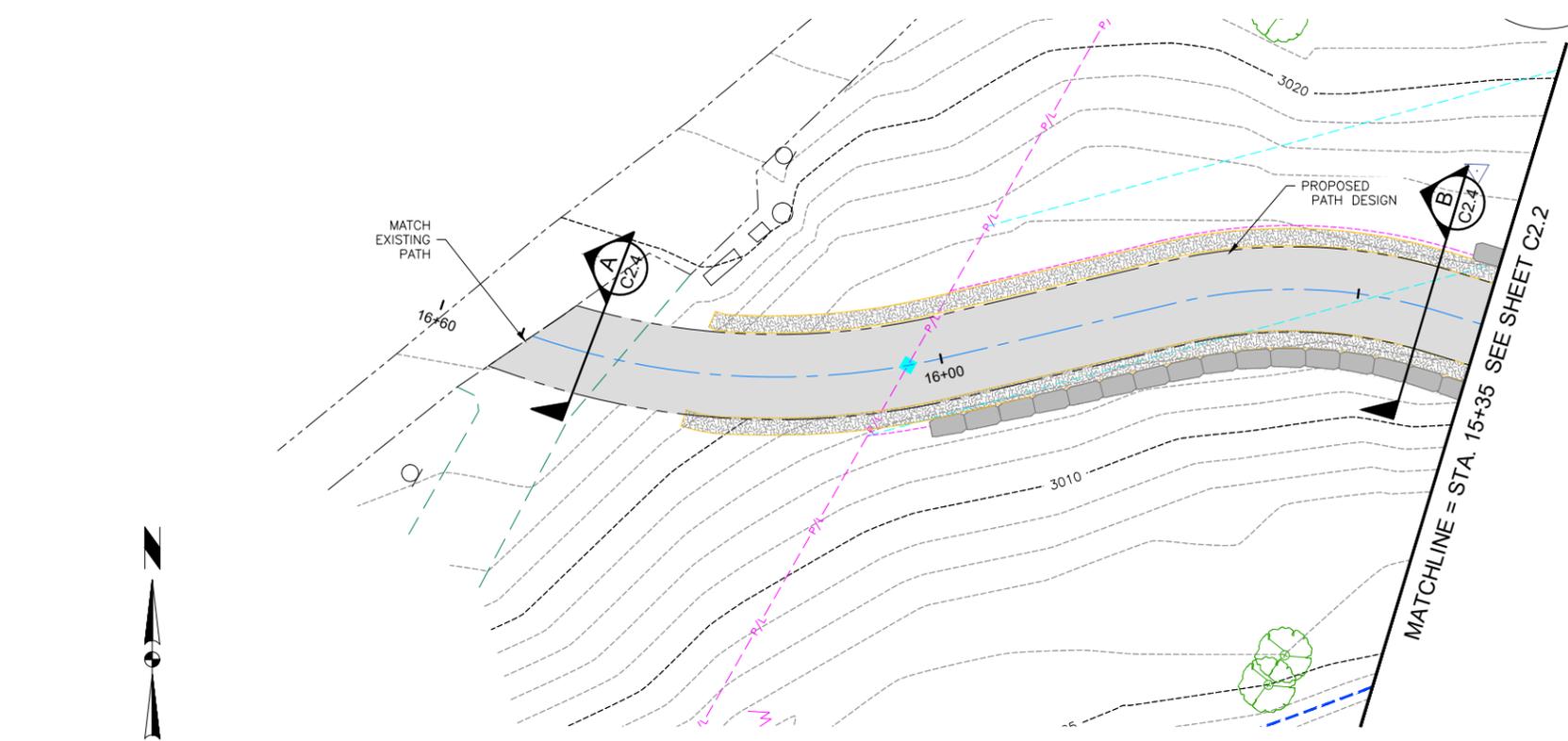
RIVERBEND PEDESTRIAN & BIKE PATH
 WHITEFISH, MONTANA
 124 PERMIT EXHIBIT
 PATH STA. 12+50 TO STA. 15+35 - PLAN & PROFILE

NOT FOR CONSTRUCTION

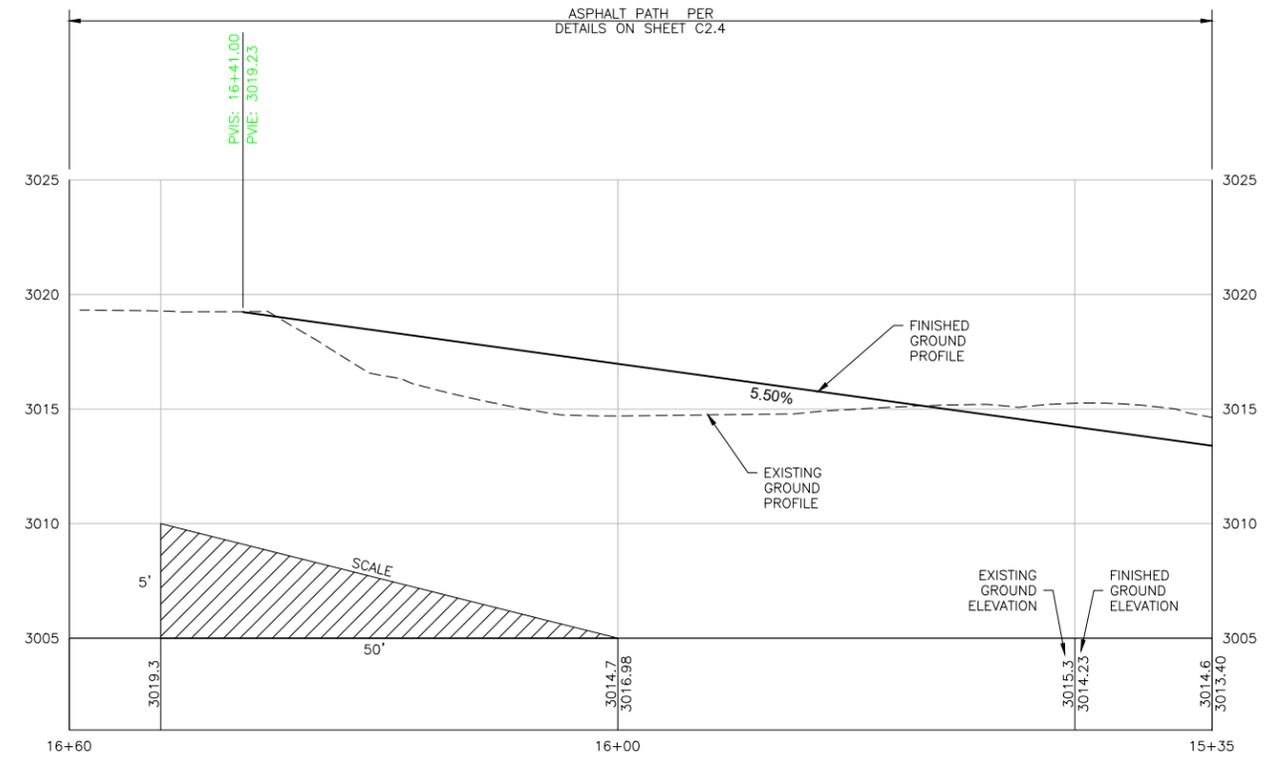
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JOB NO: K23-026
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PATH PLAN



PROFILE

RIVERBEND PEDESTRIAN & BIKE PATH
WHITEFISH, MONTANA
124 PERMIT EXHIBIT
PATH STA. 15+35 TO STA.16+60 - PLAN & PROFILE

DOCK SECTIONS

EZ Dock's polyethylene dock sections offer unmatched performance when it comes to modular docking solutions. Our revolutionary design is durable, slip-resistant, and low maintenance to help ensure an enjoyable time on the water. Each dock and port section includes a decking surface and float structure in a single, integrated unit. Our proprietary flotation chamber and pylon design provides enhanced buoyancy and stability to reduce movement even in rough water and stormy conditions. Constructed with extra-heavy and extra-thick walls for optimal strength. No frame or expensive decking required.

- **100% virgin linear low-density polyethylene (LLDPE)**
- **UV Ray resistant**
- **Slip-resistant pattern**
- **Unique pylon (chamber) design grabs the water like an upside down cup**
- **Rotationally molded, to allow no seams or connection points**
- **62.5 lbs. (28.3) per square foot, including dead load (standard)**
- **Standard - 14 5/8" (0.37m) tall**
- **Low Profile- 7 5/8" (0.19m) tall**

Part #	Model	Color	Dimensions (w x l x h)	Weight	Flotation	Notes
204060 204060-EZGR	Baby Dock Section	Beige Grey	39" x 58-1/2" x 14-5/8" 0.99m x 1.48m x 0.37m	95 lbs. 43 kg	1000 lbs. 453.6 kg	
204010 204010-EZGR	40" Dock Section	Beige Grey	39" x 117" x 14-5/8" 0.99m x 2.97m x 0.37m	167 lbs. 76 kg	2000 lbs. 907.1 kg	
206010 206010-EZGR	60" Dock Section	Beige Grey	58-1/2" x 117" x 14-5/8" 1.48m x 2.97m x 0.37m	257 lbs. 117 kg	3000 lbs. 1360.7kg	
208010 208010-EZGR	80" Dock Section	Beige Grey	78" x 117" x 14-5/8" 1.98m x 2.97m x 0.37m	295 lbs. 134 kg	4000 lbs. 1814.4 kg	
208008 208008-EZGR	100" Dock Section	Beige Grey	98" x 78" x 14-5/8" 2.49m x 1.98m x 0.37m	339 lbs. 154 kg	3100 lbs. 1406.1 kg	
158010 158010-EZGR	80" Low Profile Dock Section	Beige Grey	78" x 117" x 7-5/8" 1.98m x 2.97m x 0.19m	250 lbs. 113 kg	1900 lbs. 861.8 kg	
260120 260120-EZGR	Half Hex Dock Section	Beige Grey	58-1/2" x 59" x 117" x 14-5/8" 1.48m x 1.5m 2.97m x 0.37m	189 lbs. 86 kg	2000 lbs. 907.1 kg	
300503 300503-EZGR	Tri Section	Beige Grey	58-1/8" x 58-1/8" x 80-13/16" x 14-5/8" 1.48m x 1.48m x 2.05m x 0.37m	80 lbs. 36 kg	750 lbs. 340.2 kg	
301100 315100 Low Pro	"Dog Bone" Coupler Set w/ Hardware	Black		7 lbs. 3 kg	N/A	

GANGWAYS ALUMINUM

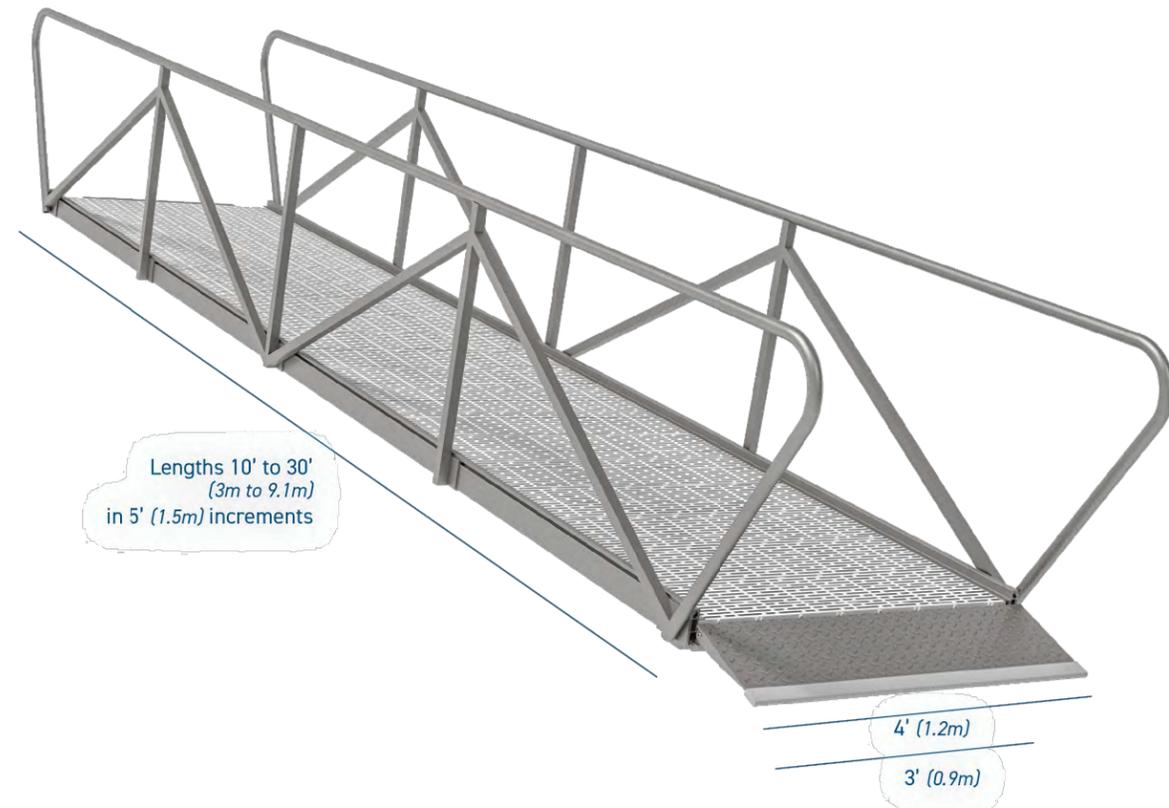
EZ Dock is pleased to announce the availability of our new G500 series gangways hinge kits and dock to shore transition ramps. All G500 gangway frames are made of lightweight aluminum materials that are carefully welded in the USA by skilled welders. G500 gangways weigh 25% less (approx.) than G400 series gangways. ADA compliant railings can be assembled at the job site (Mounting hardware is provided.)

Available in popular 36" (0.9m) and 48" (1.2m) widths and lengths ranging from 10' (3m) to 30' (9.1m) in 5' increments, the new gangways come with the buyer's choice of factory installed beige or grey ThruFlow decking to create a consistent look with other EZ Dock products.

ThruFlow panels are durable and maintenance free allowing you to spend more time enjoying your deck or dock, than working on it. They also feature a heat-resistant, non-slip surface for safety and comfort. This decking is covered by ThruFlow's Lifetime Limited Warranty. ThruFlow panels are revolutionary in their ability to allow light to pass through protecting the delicate aquatic life below. They also allow wind and water to safely pass through them, helping to prevent damage that may be incurred by high waves and wind.

Slip resistant aluminum decking with heat sink bottoms to draw heat away from the decking surface is also available as a decking option.

All decking panels are installed at the factory to provide a clean, flush appearance. All new decking must be installed to meet local, state, and federal building codes or other regulations that apply to these products at the installer's discretion and responsibility.



NOT FOR CONSTRUCTION

REV	DATE	REVISION



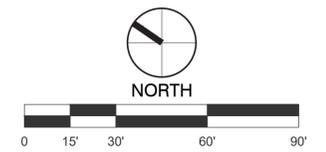
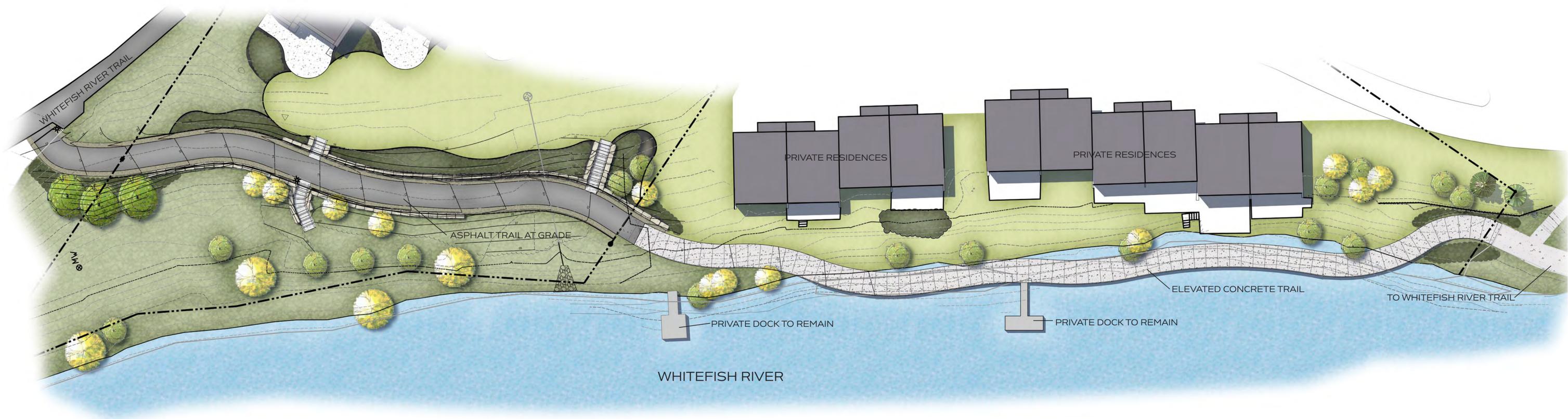
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RIVERBEND PEDESTRIAN & BIKE PATH
 WHITEFISH, MONTANA

124 PERMIT EXHIBIT
 EZ DOCK DETAILS

Attachment 3

Landscape and Revegetation – Planting Plan Set



RIVERBEND / MILES AVENUE MULTI-USE PATH CONNECTION

SITE PLAN

REFERENCE NOTES SCHEDULE

SYMBOL	LANDSCAPE DESCRIPTION	QTY	DETAIL
(L-101)	TUFF LAWN.	3,151 SF	
(L-102)	NATIVE RESTORATION MIX. SEE NATIVE MIX SCHEDULE	3,848 SF	
(L-103)	BLACK STEEL PLANTER EDGER	24 LF	5/L4-02



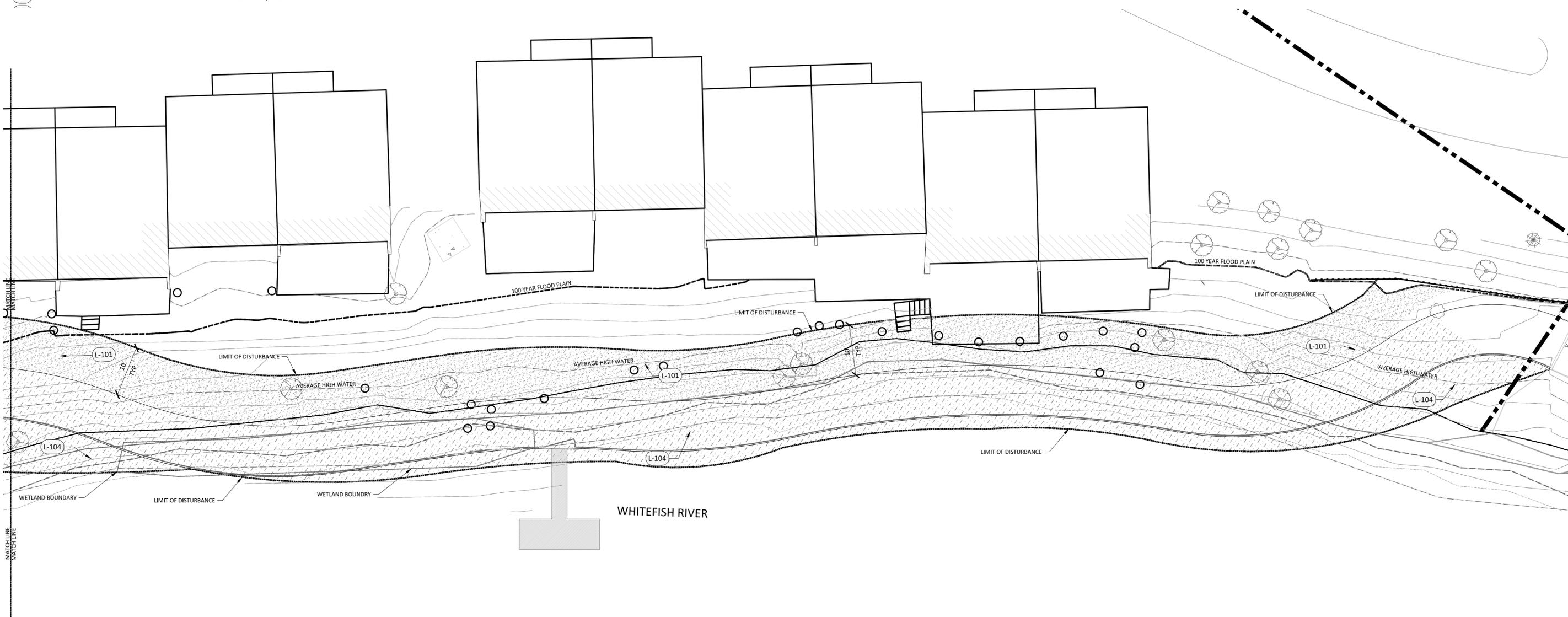
NW DESIGN STUDIO

940 SPOKANE AVE
SUITE 3
WHITEFISH, MT 59937
PHONE 406-862-4755

TD&H ENGINEERING
450 Corporate Dr, Suite 101
Kalispell, MT 59901
406.751.5246
www.tdengineering.com

CALL BEFORE YOU DIG
CALL MONTANA 800-368-5868 AT LEAST 48 HOURS BEFORE DIGGING. CALL 811 OR 800-755-8344.

RIVERBEND CONDO PATH
102, 106, 110, 114, 118, 122, 126, 130, 134, 138 MILES AVE
WHITEFISH, MT 59937
ALL UNITS IN RIVERBEND HOMES CONDO IN SEC 36 OF T31N, R22W FLATHEAD COUNTY



RESTORATION PLANT SCHEDULES - NATIVE MIX

PLUG SCHEDULE
Acreage Estimate: 0.09 Acre or 3846 square feet
Estimate Description: All disturbed areas outside of refined landscape areas.

Shrub Spacing Target: 8 foot spacing (8'x8' space) = 64 SF = 60,093.75 0.09 acres
Sub-Shrub Spacing Target: 6' spacing (6'x6' space) = 36 SF = 106,833.3333 0.09 acres
Perennial Forb Spacing Target: 4' spacing (4'x4' space) = 16 SF = 240,375 0.09 acres
TOTAL PLUGS/ACRES = 407

BOTANICAL NAME	COMMON NAME	SIZE	QTY	PLS/SF	SEEDS/ POUND	POUND/ ACRE	POUND/ 25.5 AC	% OF MIX
SHRUBS	Acer glabrum	Rocky Mountain Maple	Plug	5	x	x	x	15%
	Amelanchier alnifolia	Servicberry	Plug	19	x	x	x	31%
	Rosa woodii	Woods Rose	Plug	13	x	x	x	22%
	Symphoricarpos albus	Common Snowberry	Plug	19	x	x	x	22%
SUB SHRUBS	Arctostaphylos uva-ursi	Kinnikinnick	Plug	27	x	x	x	25%
	Mahonia repens	Creeping Oregon Grape	Plug	27	x	x	x	25%
	Spiraea betulifolia	Birchleaf Spirea	Plug	53	x	x	x	50%
GRASSES	Oryzopsis asperifolia	Mountain Rice Grass	Plug	120	x	x	x	75%
	Calamagrostis rubescens	Pinegrass	Plug	60	x	x	x	25%
TOTAL				407				

RESTORATION PLANT SCHEDULES - WETLAND MIX

PLUG SCHEDULE
Acreage Estimate: 0.12 Acre or 5067 square feet
Estimate Description: All disturbed areas outside of refined landscape areas.

Shrub Spacing Target: 8 foot spacing (8'x8' space) = 64 SF = 79,171.875 0.12 acres
Sub-Shrub Spacing Target: 6' spacing (6'x6' space) = 36 SF = 140.75 0.12 acres
Perennial Forb Spacing Target: 4' spacing (4'x4' space) = 16 SF = 316.6875 0.12 acres
TOTAL PLUGS/ACRES = 537

BOTANICAL NAME	COMMON NAME	SIZE	QTY	PLS/SF	SEEDS/ POUND	POUND/ ACRE	POUND/ 25.5 AC	% OF MIX
SHRUBS	Cornus sericea	Redosier Dogwood	Plug	36	x	x	x	20%
	Alnus tenuifolia	Thicket Alder	Plug	28	x	x	x	35%
	Salix bebbiana	Bebb's Willow	Plug	36	x	x	x	45%
TOTAL			79					100%

SEEDING SCHEDULE

Acreage Estimate: 0.09 Acre or 3846 square feet
Estimate Description: All disturbed areas outside of refined landscape areas.

Sub Shrubs, Perennial Forbs, and Grasses Seeding Target: 157 PLS/ SF = 6,830,500 PLS/ acres = 614,745 PLS/ acre

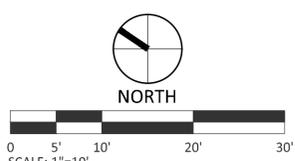
BOTANICAL NAME	COMMON NAME	PLS/ ACRE	PLS/ 0.09 AC	PLS/SF	SEEDS/ POUND	POUND/ ACRE	POUND/ 0.09 AC	% OF MIX
Calamagrostis canadensis	Bluejoint Reedgrass	1,844,235	165,981	43	3,750,000	0.49	5.4644	27%
Elymus glaucus	Blue Wildrye	819,660	73,769	19	124,500	6.09	67.71	22%
Deschampsia cespitosa	Turfed Hairgrass	1,502,710	135,244	35	1,500,000	1.00	11.13	22%
Bromus carinatus	Mountain Bromegrass	409,830	36,885	10	64,000	6.40	71.15	6%
Elymus trachycaulus	Slender Wheatgrass	614,745	55,327	14	155,000	3.87	42.96	9%
Pseudocymoptera spicata	Bluebunch Wheatgrass	546,440	49,180	13	140,000	3.90	43.37	8%
Elymus smithii	Western Wheatgrass	409,830	36,885	10	110,000	3.73	41.40	6%
Achillea millefolium	Western Yarrow	683,050	61,475	16	2,770,000	0.25	2.74	10%
TOTAL		6,830,500	614,745	160 seeds			285.92	100%

SEEDING SCHEDULE

Acreage Estimate: 0.12 Acre or 5067 square feet
Estimate Description: All disturbed areas outside of refined landscape areas.

Sub Shrubs, Perennial Forbs, and Grasses Seeding Target: 360 PLS/ SF = 6,830,500 PLS/ acres = 819,660 PLS/ acre

BOTANICAL NAME	COMMON NAME	PLS/ ACRE	PLS/ 0.12 AC	PLS/SF	SEEDS/ POUND	POUND/ ACRE	POUND/ 0.12 AC	% OF MIX
Carex vesicaria	Blister Sedge	1,844,235	211,908	44	192,000	9.61	80.0449	27%
Carex pediformis	Woody Sedge	819,660	98,359	19	235,000	3.47	28.94	12%
Eleocharis palustris	Common Spikerush	1,502,710	180,325	36	620,000	2.42	20.20	22%
Puccinellia nuttalliana	Nuttall's alkali grass	409,830	49,180	10	2,788,700	0.15	1.22	6%
Carex utriculata	Beaked Sedge	614,745	73,769	15	360,000	1.73	14.23	9%
Juncus balticus	Baltic Rush	546,440	65,573	13	8,000,000	0.07	0.57	8%
Glyceria striata	Fowl Manna Grass	409,830	49,180	10	2,388,000	0.18	1.49	6%
Beckmannia syzigachne	American Slough Grass	683,050	81,966	16	1,240,000	0.55	4.59	10%
TOTAL		6,830,500	819,660	162 seeds			151.79	100%



Revisions:



Drawn By: C.W.
Date: 4-29-2024
Project Number: 23-37

PLANTING PLAN

LS402



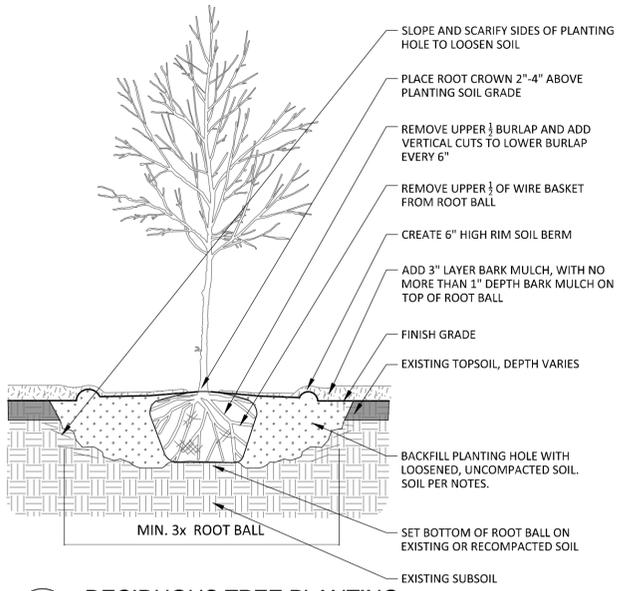
NW DESIGN STUDIO

940 SPOKANE AVE
SUITE 3
WHITEFISH, MT 59937
PHONE 406-862-4755

TD&H ENGINEERING
450 Corporate Dr, Suite 101
Kalispell, MT 59901
406.751.5246
www.tdengineering.com

CALL BEFORE YOU DIG
CALL BEFORE YOU DIG AT LEAST 48 HOURS BEFORE DIGGING. CALL 811 OR 800-755-8344.

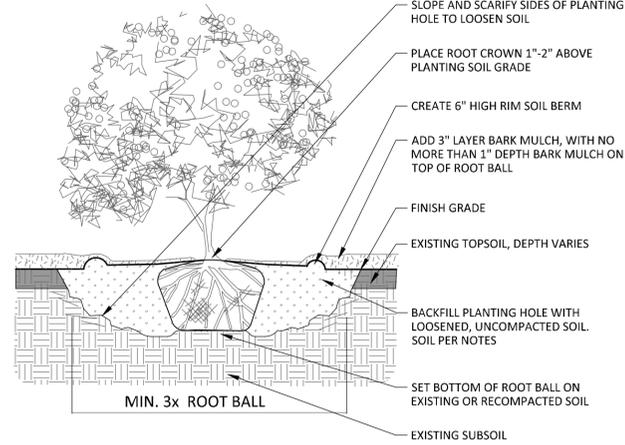
RIVERBEND CONDO PATH
102, 106, 110, 114, 118, 122, 126, 130, 134, 138 MILES AVE
WHITEFISH, MT 59937
ALL UNITS IN RIVERBEND HOMES CONDO
IN SEC 36 OF T31N, R22W
FLATHEAD COUNTY



1 DECIDUOUS TREE PLANTING

1/2" = 1'-0"

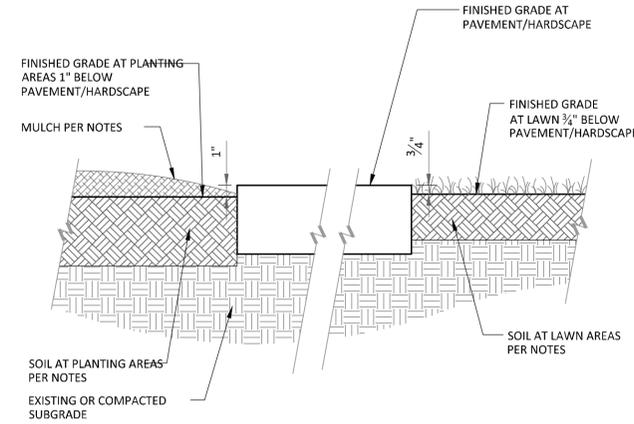
P-CO-(06.10)-06



2 SHRUB PLANTING

1/2" = 1'-0"

P-CO-(06.10)-08

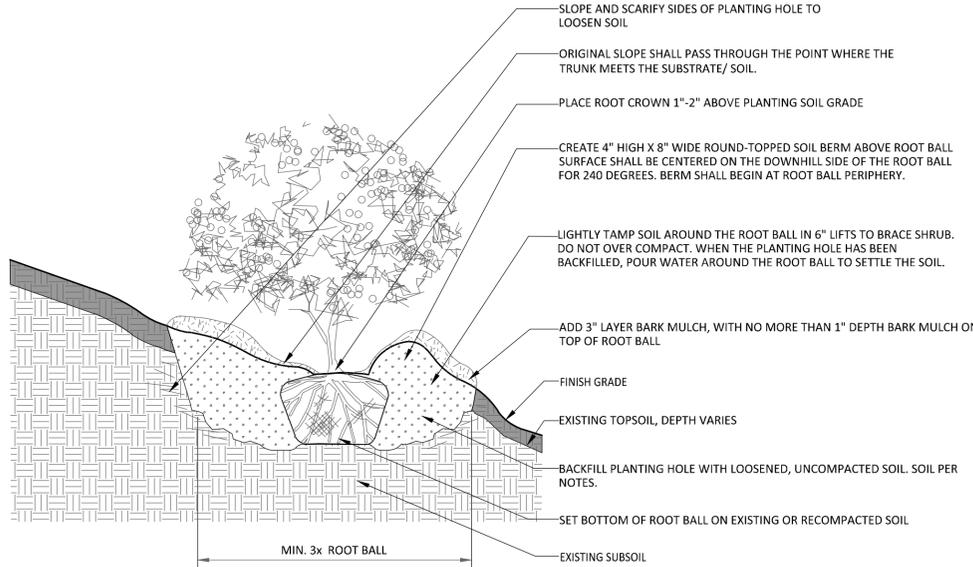


3 SOD INSTALLATION

1 1/2" = 1'-0"

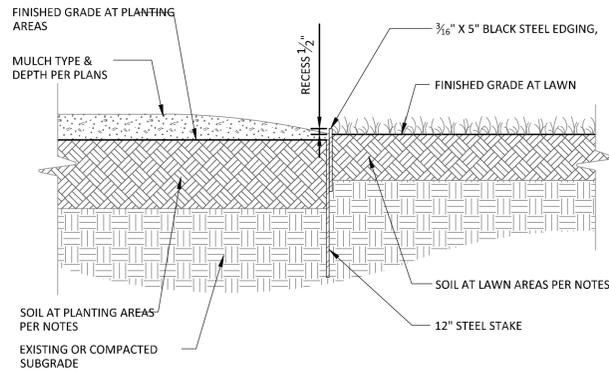
P-CO-(06.10)-10

- NOTES:
- PROVIDE ALL EDGING ACCESSORIES AS NECESSARY FOR PROPER INSTALLATION.
 - INSTALL PER MANUFACTURER'S SPECIFICATIONS



4 SHRUB PLANTED ON SLOPE DETAIL

NOT TO SCALE



5 BLACK STEEL LAWN EDGING

1 1/2" = 1'-0"

P-CO-(06.10)-05

Revisions:



Drawn By: C.W.
Date: 4-29-2024
Project Number: 23-37

PLANTING PLAN

LS403

Attachment 4

Project Photo Journal – Existing Conditions

	<p>PHOTOGRAPH NUMBER:</p> <p>P-01</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Existing path crossing beneath 2nd Street along Whitefish River.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-02</p>
	<p>PHOTOGRAPHER:</p> <p>Jay Slocum</p>
	<p>PHOTO DATE:</p> <p>June 6, 2023</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Facing the southern wetland, just upstream from the 2nd St. Bridge.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-03</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
	<p>PHOTO DESCRIPTION:</p> <p>Existing termination point of southern portion of the Whitefish River Trail.</p>

	<p>PHOTOGRAPH NUMBER:</p> <p>P-04</p>
	<p>PHOTOGRAPHER:</p> <p>Jay Slocum</p>
	<p>PHOTO DATE:</p> <p>June 30, 2023</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
	<p>PHOTO DESCRIPTION:</p> <p>Northern extent of Riverbend Home Condominiums HOA property, facing east.</p>

	PHOTOGRAPH NUMBER: P-05
	PHOTOGRAPHER: Jay Slocum
	PHOTO DATE: June 30, 2023
	PHOTO LOCATION: Miles Ave, Whitefish, MT
PHOTO DESCRIPTION: Northern extent of Riverbend Homes Condominiums HOA property, facing south to the 2 nd Street bridge.	

	PHOTOGRAPH NUMBER: P-06
	PHOTOGRAPHER: Jay Slocum
	PHOTO DATE: June 30, 2023
	PHOTO LOCATION: Miles Ave, Whitefish, MT
PHOTO DESCRIPTION: Deck of Riverbend Homes Condominiums nearest to Whitefish River.	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-07</p>
	<p>PHOTOGRAPHER:</p> <p>Jay Slocum</p>
	<p>PHOTO DATE:</p> <p>June 30, 2023</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Along the Ordinary High-Water Mark (OHWM), facing north to the northern wetland.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-08</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Site of elevated walkway portion looking east.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-09</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Riverbend Homes Condominiums at location of concrete bridge walkway.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-10</p>
	<p>PHOTOGRAPHER:</p> <p>Jay Slocum</p>
	<p>PHOTO DATE:</p> <p>June 30, 2023</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>At Riverbend Homes Condominiums HOA southern dock along the OHWM, facing south to 2nd Street.</p>	

	PHOTOGRAPH NUMBER: P-11
	PHOTOGRAPHER: Brad Bennett
	PHOTO DATE: April 26, 2024
	PHOTO LOCATION: Miles Ave, Whitefish, MT
PHOTO DESCRIPTION: Portion of paved asphalt trail below Miles Avenue Condominiums HOA looking north.	

	PHOTOGRAPH NUMBER: P-12
	PHOTOGRAPHER: Brad Bennett
	PHOTO DATE: April 26, 2024
	PHOTO LOCATION: Miles Ave, Whitefish, MT
PHOTO DESCRIPTION: Existing bank conditions at Miles Avenue Condominiums HOA property looking south near existing Whitefish River Trail.	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-13</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>

PHOTO DESCRIPTION:

Existing bank conditions at northern dock, photo taken near property boundary between Riverbend Home Condominiums and Miles Avenue Condominiums property boundary looking southwest.

	<p>PHOTOGRAPH NUMBER:</p> <p>P-14</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>

PHOTO DESCRIPTION:

Existing bank conditions, Miles Avenue Condominiums stormwater outfall.

	<p>PHOTOGRAPH NUMBER:</p> <p>P-15</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Existing Miles Avenue Condominiums stormwater outfall protection within the paved asphalt portion of the trail.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-16</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Existing bank conditions, looking south toward Riverbend Home Condominiums.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-17</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Tie in point to northern portion of Whitefish River Trail, facing north.</p>	

	<p>PHOTOGRAPH NUMBER:</p> <p>P-18</p>
	<p>PHOTOGRAPHER:</p> <p>Brad Bennett</p>
	<p>PHOTO DATE:</p> <p>April 26th, 2024</p>
	<p>PHOTO LOCATION:</p> <p>Miles Ave, Whitefish, MT</p>
<p>PHOTO DESCRIPTION:</p> <p>Tie in point to northern portion of Whitefish River Trail, facing south.</p>	

Attachment 5

Easement Documents



November 20, 2019

City of Whitefish
Attention: Craig Workman
418 E. 2nd Street
Whitefish, MT 59937

Ref: 05-28015(19-64204)

A copy of the executed Agreement must be available upon request at the job site allowing authorization to do the work. Please contact the Roadmaster **at least ten (10) days in advance of entry for each location.** Their information can be found in your agreement.

BEFORE YOU DIG, CALL 1-800-533-2891. PLEASE BE ADVISED WHEN CALLING THE DIG # PROVIDED, THAT YOU MUST SELECT OPTIONS 7.

Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the premises completes the safety orientation program at the website www.BNSFcontractor.com prior to entering upon the premises. The certification is good for one year, and each person entering the premises must possess the card certifying completion.

If you need additional information, please contact me at (817) 230-2626.

Sincerely,

Melissa Leal
Associate Permit Manager
melissa.leal@am.jll.com

cc: maia.lasalle@bnsf.com
matthew.jones@bnsf.com

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT**, made this 10th day of June 2022, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF WHITEFISH** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated May 20, 2005, Licensor's Contract No. BF40715, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to a pedestrian walkway and bicycle path at Line Segment 0036, Mile Post 1219.91 in Whitefish, County of Flathead, State of Montana.

AGREEMENT:

IN CONSIDERATION of the sum of Eight Hundred and No/100 Dollars (\$800.00) to be paid to Licensor by Licensee upon execution of this Supplemental Agreement as a one-time charge for preparation and administration of this Supplemental Agreement, it is mutually agreed that the following modification(s) will be made to the Original Contract:

1. **Exhibits.** The drawing attached as Exhibit "A" to the Original Contract is hereby deleted and replaced with the new Exhibit "A," containing Drawing No. 35424A – 35424B, dated February 8, 2022, attached to this Supplemental Agreement, and made of part hereof. All references to Exhibit "A" in the License shall mean and refer to Exhibit "A" attached to this Supplemental Agreement and incorporated herein by reference (the "Premises") three (3) parcels marked in blue as shown on Exhibit "A"- have been added to the Premises.

2. Section 12(b) of the Original Contract is hereby deleted in its entirety and replaced with the following:

Licensee shall, at its sole cost and expense, construct and maintain the Path and all other improvements in such a manner and of such material that it will not at any time be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. **Such maintenance shall include the installation and maintenance of erosion control measures, including, but not limited to, vegetation on any embankments within the Premises.** Licensee shall furnish or cause to be furnished all labor, materials, tools and equipment required to construct the Path and all other improvements. Further, the Path and all other improvements shall be constructed, installed and maintained in conformity with: (i) the plans and specifications shown on the print attached hereto as Exhibit "A" (which, if present, are to be deemed part of the Drawings and Specifications) and (ii) the Work Letter Agreement attached hereto as Exhibit "B".

3. New Base Rent shall be Six Thousand Two Hundred and Sixty (\$ 6,260) payable annually and in advance. Such Base Rent shall be subject to a minimum annual escalation of three (3) percent on the anniversary date of the Effective Date of this License.

Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Brokerage, Inc.
4200 Buckingham Road, Suite 110
Fort Worth, TX 76155

By:



Shane Krueger
Vice President – Permits & Special Projects

CITY OF WHITEFISH

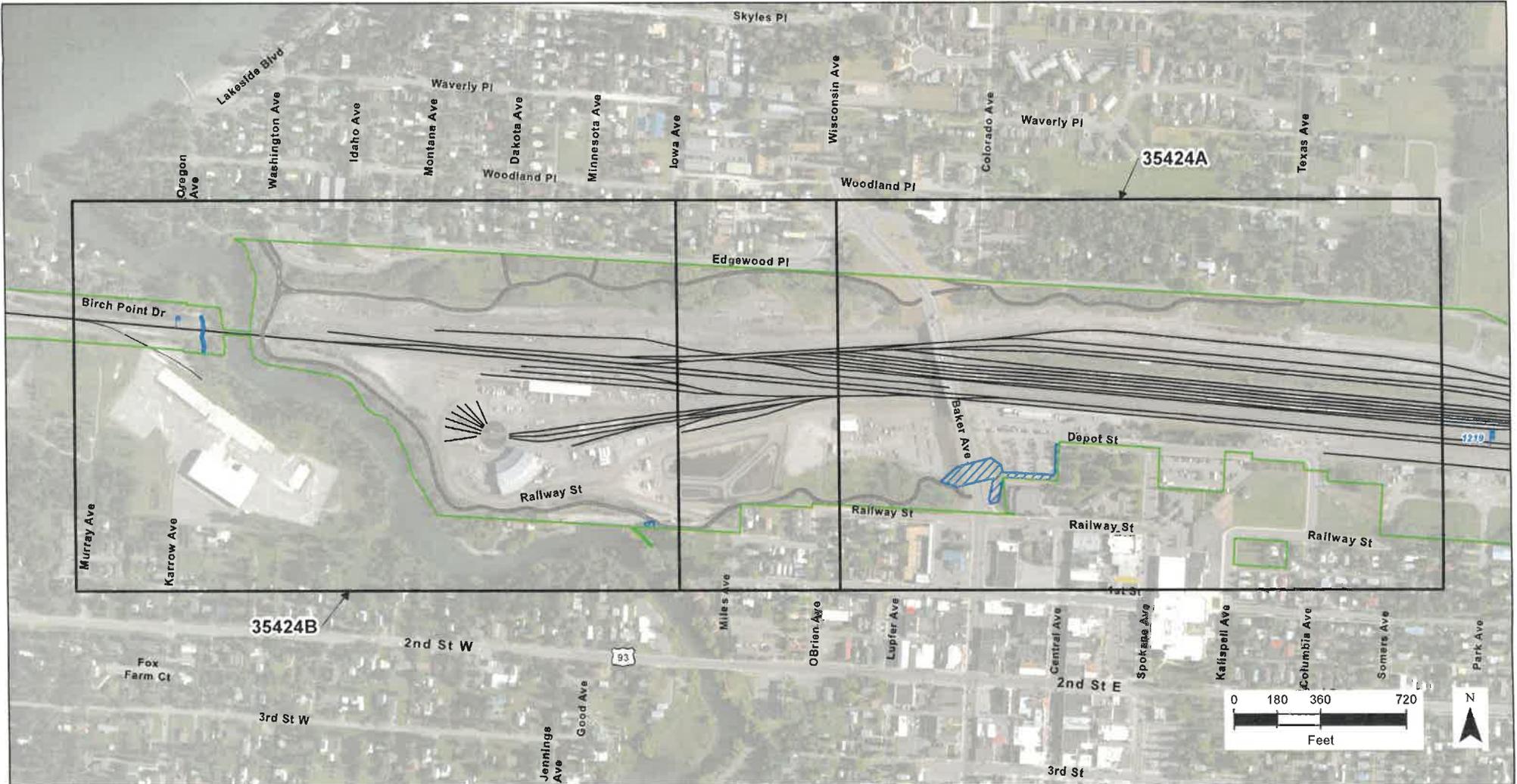
418 E. 2nd Street
Whitefish, MT 59937

By:



Title:





ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND
CITY OF WHITEFISH
WHITEFISH, MT



COORDINATE SYSTEM: MT

TRACKING NO. 05-28015

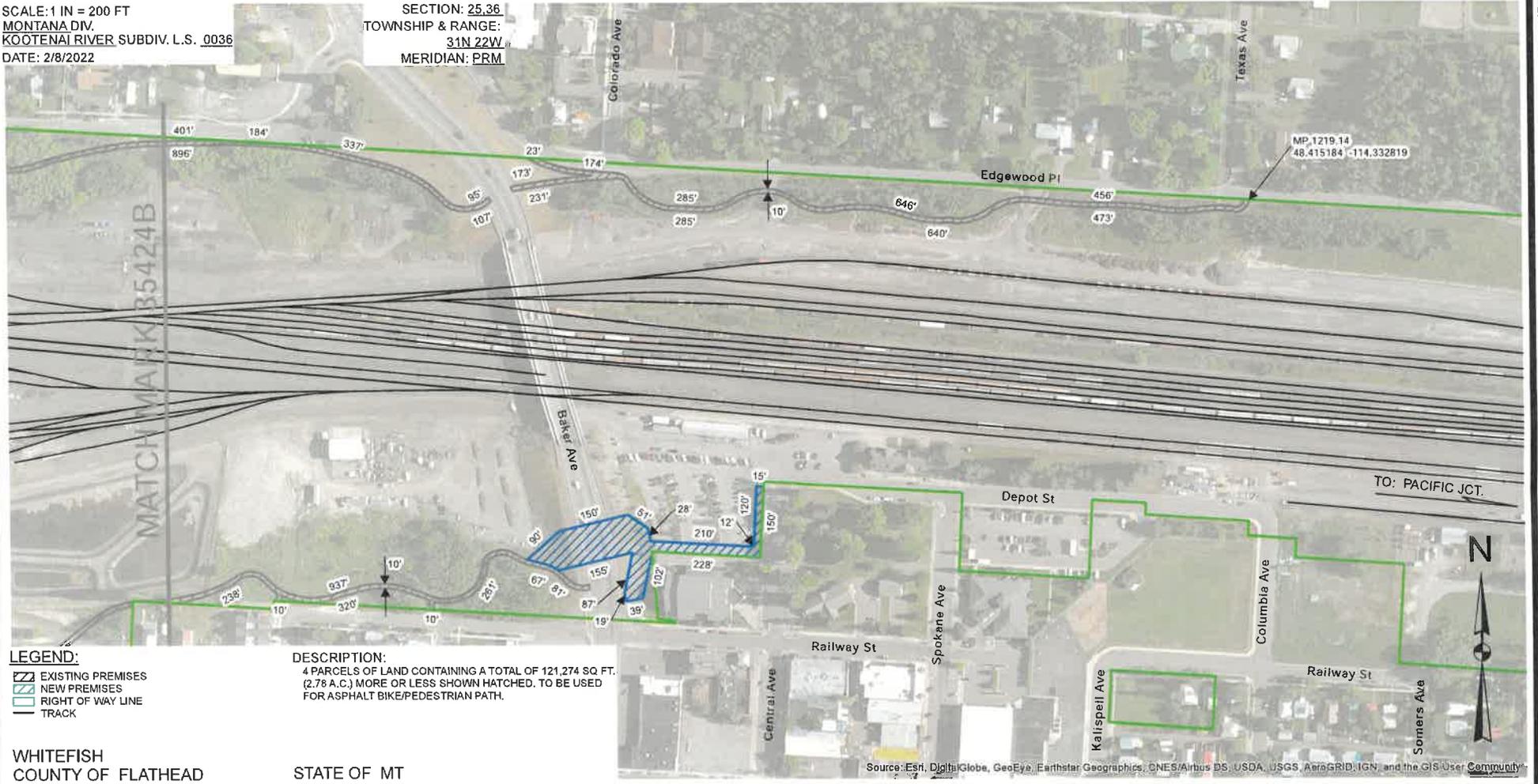
EXHIBIT "A"
ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND

CITY OF WHITEFISH

SCALE: 1 IN = 200 FT
MONTANA DIV.
KOOTENAI RIVER SUBDIV. L.S. 0036
DATE: 2/8/2022

SECTION: 25,36
TOWNSHIP & RANGE:
31N 22W
MERIDIAN: PRM

TRIM LINE



LEGEND:

- EXISTING PREMISES
- NEW PREMISES
- RIGHT OF WAY LINE
- TRACK

DESCRIPTION:

4 PARCELS OF LAND CONTAINING A TOTAL OF 121,274 SQ. FT. (2.76 A.C.) MORE OR LESS SHOWN HATCHED. TO BE USED FOR ASPHALT BIKE/PEDESTRIAN PATH.

WHITEFISH
COUNTY OF FLATHEAD

STATE OF MT

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

REVISION 5

DRAWN BY: JNC DRAWING NO. 35424A

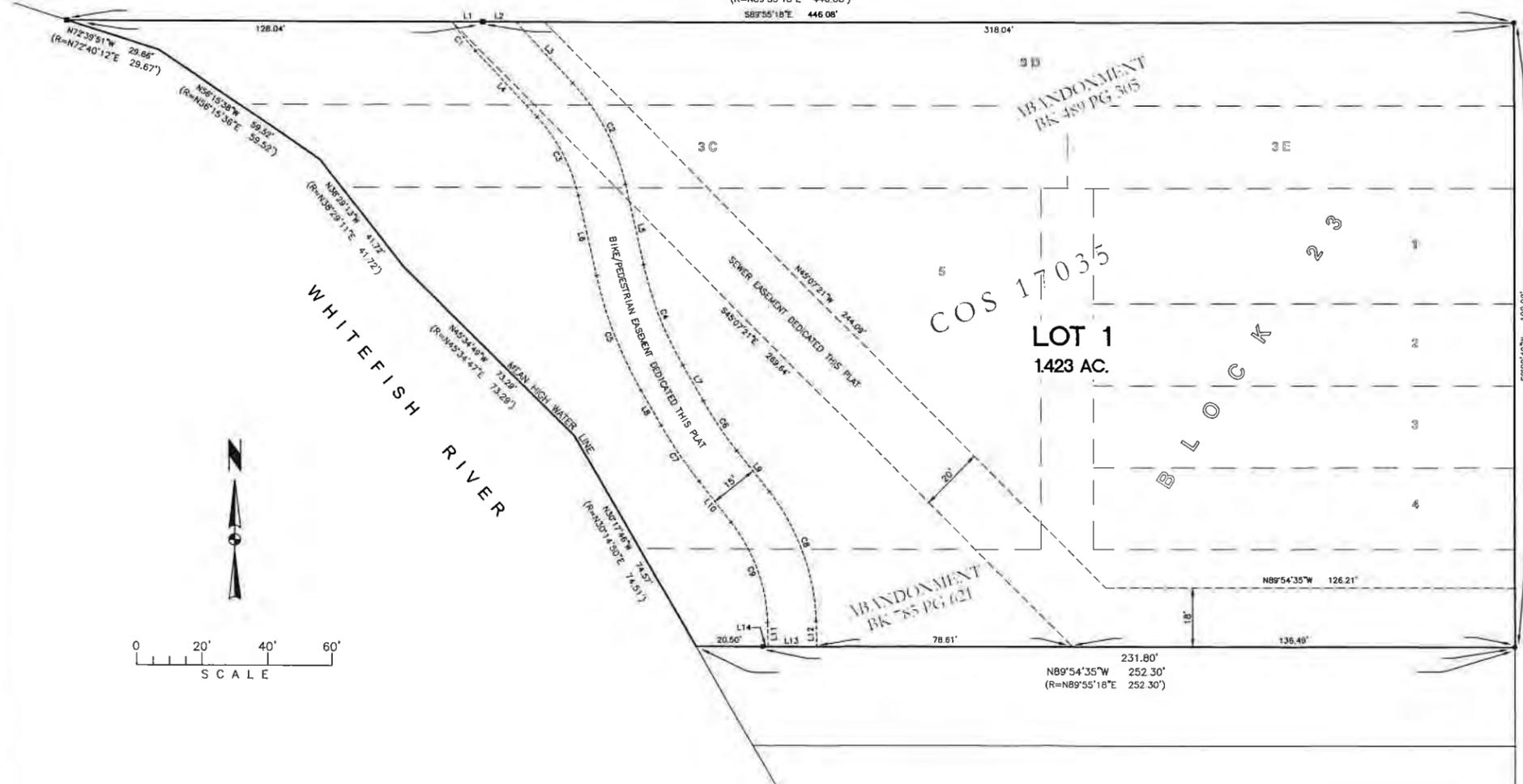
MAP REF. s52989

OWNERS: MILES WHITEFISH INVESTMENT, LLC
BY: TD&H ENGINEERING
450 CORPORATE DRIVE - SUITE #101
KALISPELL, MT 59901
PHONE: (406) 751-5246
DATE: JULY, 2022

MILES AVENUE SUBDIVISION

BEING AN AMENDED PLAT OF LOTS 1, 2, 3, 4, 5, AN ABANDONED PORTION OF RAILWAY STREET, FIRST STREET, AND THE ALLEY EAST OF LOT 5 AND WEST OF LOTS 1-4 OF BLOCK 23 OF WHITEFISH, MONTANA, LOCATED IN THE NE1/4 OF THE NW1/4, SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., CITY OF WHITEFISH, FLATHEAD COUNTY, MONTANA.

BASIS OF BEARINGS: C.O.S. NO. 17035
(R=N89°55'18"E 446.08')
S89°55'18"E 446.08'



PURPOSE:
LOT AGGREGATION

BASIS OF BEARINGS:
CERTIFICATE OF SURVEY NO 17035

LEGEND

- FOUND 5/8" REBAR W/CAP "SULLIVAN 9095LS"
- FOUND 5/8" REBAR W/CAP "HANGER 9344LS"
- SUBJECT PROPERTY BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- - - OLD PROPERTY BOUNDARY
- - - SEWER EASEMENT DEDICATED THIS PLAT
- - - BIKE/PEDESTRIAN EASEMENT DEDICATED THIS PLAT
- (R=S89°59'40"W 129.94') RECORD BEARING & DISTANCE (C.O.S. NO. 17035)

CURVE	RADIUS	DELTA	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	95.50'	6°52'42"	11.46'	S39°44'01"E	11.46'
C2	66.50'	30°10'38"	35.02'	N28°04'30"W	34.62'
C3	51.50'	30°10'38"	27.12'	N28°04'30"W	26.81'
C4	109.50'	17°19'30"	33.11'	S21°38'56"E	32.98'
C5	124.50'	17°19'30"	37.65'	S21°38'56"E	37.50'
C6	129.50'	8°10'48"	18.49'	S34°24'05"E	18.47'
C7	144.50'	8°10'48"	20.63'	S34°24'05"E	20.61'
C8	66.50'	36°56'46"	42.88'	N20°01'06"W	42.14'
C9	51.50'	36°55'17"	33.19'	N20°01'50"W	32.62'

LINE #	BEARING	DISTANCE
L1	S89°55'18"E	9.58'
L2	S89°55'18"E	10.07'
L3	S43°09'49"E	25.50'
L4	S43°09'49"E	27.52'
L5	S12°59'11"E	25.02'
L6	S12°59'11"E	25.02'
L7	S30°18'41"E	12.52'

LINE #	BEARING	DISTANCE
L8	S30°18'41"E	12.52'
L9	S38°29'29"E	15.96'
L10	S38°29'29"E	15.96'
L11	S1°21'49"E	7.38'
L12	S1°21'49"E	7.78'
L13	S89°54'35"E	15.00'
L14	N89°24'53"E	1.69'

CERTIFICATE OF DEDICATION

We, the undersigned property owners, do hereby certify that we have caused to be surveyed and platted into lots and easements as shown by the plat and certificate of survey hereunto the following described tract of land, to wit:

A tract of land located in the Northeast quarter of the Northwest quarter of Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, being more particularly described as follows:

Tract 1 of Certificate of Survey No. 17035, on file at the Office of the Clerk and Recorder of Flathead County, Montana.

The above described tract of land is to be known and designated as MILES AVENUE SUBDIVISION, and containing 1.423 acres

We, the undersigned property owners, hereby certify that the purpose for this division of land is the aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established; therefore, this division of land is exempt from review as a subdivision pursuant to Section 76-3-207(1)(f), MCA.

We further certify that Lot 1 is exempt from sanitary review pursuant to ARM 17.36 605(3), which states "Aggregation of parcels are not subdivisions subject to review, except that an aggregation is subject to review under 76-4-130, MCA, if any parcel included in the aggregation has a previous approval issued under Title 76, chapter 4, part 1, MCA."

MILES WHITEFISH INVESTMENT, LLC

By: Casey Malmquist
Casey Malmquist, Managing Partner of MILES WHITEFISH INVESTMENT, LLC

State of Montana

County of Flathead ss

On this 13th day of September, 2022 before

me, the undersigned, a Notary for the State of Montana personally appeared Casey Malmquist known to me to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged to me that they executed the same

My commission expires _____



Notary Public for the State of _____

CERTIFICATE OF SURVEYOR

Richard J. Swan
REGISTRATION NO. 9525 LS

APPROVED 7-25, 2022

EXAMINING LAND SURVEYOR REG. NO. 73285

STATE OF MONTANA
COUNTY OF FLATHEAD SS

FILED ON THE 20th DAY OF September, 2022

TIME: 8:56 AM / Fees: \$28.50

Debbie Pierson
CLERK AND RECORDER

BY: [Signature]
DEPUTY

RECEPTION NO. 20220021545 / Plat No. 7022083

Plat # 20220083 Abstract# N/A
20220021545 Fees: \$28.50 by: JS
by TD&H
Date 9/20/2022 Time 8:56 AM
Debbie Pierson, Flathead County Montana

BOOK 785 PAGE 623

GRANT OF EASEMENT

~~OCTOBER~~ THIS INDENTURE, made and entered into this 7TH day of May, 1983, by TALLMAN & McDONALD CONSTRUCTION CORPORATION of Whitefish, Montana, as GRANTOR, and the CITY OF WHITEFISH, a municipal corporation of Montana, as GRANTEE, whose mailing address is P.O. Box 158, Whitefish, Montana.

W I T N E S S E T H :

That for value received, receipt of which is hereby acknowledged, the Grantor hereby grants, sells and conveys unto the Grantee, ~~its~~ successors and assigns, a perpetual public easement over, across and through the following described land situated in the City of Whitefish, Flathead County, Montana, which said easement and lands are described as follows, to-wit:

An easement for the establishment of a public walkway and bicycle riding path over, across and through a 6 foot strip of land commencing at a point on the South boundary line of that certain sewer line easement owned by the Grantee approximately 25 feet North of the North boundary line of Block 40, Original Townsite of Whitefish, Montana, and approximately 25 feet East of the Whitefish River; thence in a Southeasterly direction over, across and through and meandering the Southwesterly part of said Block 40 along the Whitefish River bank to the Southeasterly point of said Block 40, the precise and exact location of said easement within and along the Southwesterly boundary of said Block 40 to be determined by the Grantor and Grantee; and thence any construction of said walkway and bicycle path hereafter by the Grantor shall evident the permanent site and location of said easement.

TO HAVE AND TO HOLD the said easement unto said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has hereunto caused its corporate name to be subscribed by its proper officers thereunto duly authorized and its corporate seal duly affixed the day and year first above written.

TALLMAN & McDONALD CONSTRUCTION CORPORATION

By [Signature] President



[Signature]
Secretary

That for value received, receipt of which is hereby acknowledged, the Grantor hereby grants, sells and conveys unto the Grantee, its successors and assigns, a perpetual public easement over, across and through the following described land situated in the City of Whitefish, Flathead County, Montana, which said easement and lands are described as follows, to-wit:

An easement for the establishment of a public walkway and bicycle riding path over, across and through a 6 foot strip of land commencing at a point on the South boundary line of that certain sewer line easement owned by the Grantee approximately 25 feet North of the North boundary line of Block 40, Original Townsite of Whitefish, Montana, and approximately 25 feet East of the Whitefish River; thence in a Southeasterly direction over, across and through and meandering the Southwesterly part of said Block 40 along the Whitefish River bank to the Southeasterly point of said Block 40, the precise and exact location of said easement within and along the Southwesterly boundary of said Block 40 to be determined by the Grantor and Grantee; and thence any construction of said walkway and bicycle path hereafter by the Grantor shall evident the permanent site and location of said easement.

TO HAVE AND TO HOLD the said easement unto said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has hereunto caused its corporate name to be subscribed by its proper officers thereunto duly authorized and its corporate seal duly affixed the day and year first above written.

TALLMAN & McDONALD CONSTRUCTION CORPORATION

By [Signature] President



[Signature]
Secretary

STATE OF MONTANA)
 : ss
County of Flathead)

On this 17th day of May, 1983, before me, a Notary Public for said State, personally appeared RICHARD F. McDONALD and WAYNE K. SHADMAN, known to me to be the president and secretary respectively of the corporation that executed this instrument and acknowledged to me that such corporation executed the same.



[Signature]
Notary Public for the State of Montana
Residing at Whitefish, Montana
My Commission expires: 8-26-86

283 785

BOOK 785 PAGE 624

BOOK 785 PAGE 624

STATE OF MONTANA,

County of Flathead

Filed for record at the request of *Les Fisher*

this 13 day of Oct 19 83 at 10:32 o'clock A M and recorded in VOL. 285

PAGE 623 Records of Flathead County, State of Montana.

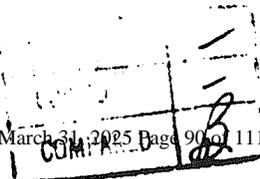
Fee \$ _____ Pd.

Linda J. Hindman
Flathead County Clerk and Recorder

RECEPTION NO. 83-19062

Rebekah Klein
Deputy

RETURN TO City of Whitefish
Box 158 Whitefish Mt 59937



Attachment 6

Safe Trails Whitefish Petition and Letter of Support



MAY 3, 2024

City of Whitefish, Montana

418 E 2nd St. Whitefish Montana 59937

To the City of Whitefish Montana,

Safe Trails Whitefish stands in continual support of all efforts taken by the City of Whitefish to complete our Whitefish River Trail system, and specifically the current 124 permit process which will recreate the connection on the Riverbend/Miles Ave. section of our multi-use path system.

The proposed path redevelopment is the only viable route for our pedestrian transportation infrastructure to follow that provides a safe route for all user groups. The increase in traffic, growing population and street grades makes the current street detour to connect points of our path system impassable to a majority of users. Years of collaboration and work between city staff, land managers, business, developers, and landowners have presented this outstanding solution of replacing a once standing section of our trail that will benefit the entire Whitefish Community.

This multi-use path segment is imperative to our resident's health and safety.

Safe Trails Whitefish is proud to deliver a petition and letter of support with over 400 residents and path user's signatures as support for reestablishing this path section.

Sincerely,

Safe Trails Whitefish

Join Safe Trails Whitefish in Supporting a Connected and Safe Whitefish River Trail



Started March 15, 2024

Why this petition matters



Started by [Safe Trails Whitefish](#)

The City of Whitefish, Montana, is a forward-looking community that continually strives to improve the lives of its residents while nurturing the culture that makes it an excellent place to live, work, and play. Among the top priorities of the City of Whitefish and its residents is a complete, connected, multiple-use path and trail system to serve all ages and abilities.

One of the most important segments of the Whitefish River Trail – the Riverbend/Miles Avenue Connection is at a critical stage.

A 124 permit is currently supporting this crucial connection. This proposed path development is the only feasible route ensuring safety for all user groups within our pedestrian transportation infrastructure. With an increase in traffic, a growing population, and challenging street grades, the current street detour to connect points of our path system has become impassable for many residents. It's imperative that we uphold this permit to ensure safe and accessible routes for everyone in our community.

A fully developed, safe, and connected Whitefish River Trail is not only an integral backbone to our town's pedestrian pathways; it's a cornerstone for enhancing the health and well-being of our entire community. This is one of the important moments to make an impact— lend your voice in support of completing the Riverbend/Miles Ave section of our river trail. Sign the petition today!



Share this petition in person or use the QR code for your own material.

[Download QR Code](#)

Name	City	State	Postal Code	Country	Signed On
Safe Whitefish				US	3/15/2024
Julie Tickle	Whitefish	MT	59937	US	3/29/2024
Kate Berry	Whitefish	MT	59901	US	4/11/2024
Lauren King	Whitefish	MT	59937	US	4/11/2024
Morgan Delaney	Whitefish	MT	59937	US	4/11/2024
Maura Hamilton	Austin	TX	78752	US	4/11/2024
Catlin Kaltschmidt	Denver	CO	80205	US	4/11/2024
Carrie Gerstenberger	Whitefish	MT	59937	US	4/11/2024
Caroline Henzelman	Whitefish	MT	59937	US	4/11/2024
Heather Thompson	Eastsound	WA	98245	US	4/11/2024
Brent Rodgers	Whitefish	MT	59937	US	4/11/2024
Jill Lawrance	Whitefish	MT	59937	US	4/11/2024
Jessie Farnes	Whitefish	MT	59937	US	4/11/2024
Kathryn Hayes	Whitefish	MT	59937	US	4/11/2024
Abby Fitch	Whitefish	MT	59937	US	4/11/2024
Dominguez Lynn	Whitefish	MT	59937	US	4/11/2024
Tiffany Counts	Whitefish	MT	59937	US	4/11/2024
Caley Brown	Whitefish	WA	59936	US	4/11/2024
Rachel Thompson	Whitefish	MT	59937	US	4/11/2024
Jessie Pappenfus	Columbia Falls	MT	59912	US	4/11/2024
Scotty Harry	Whitefish	MT	59937	US	4/11/2024
Jennifer Idol	Whitefish	MT	59937	US	4/11/2024
Ellis Harry	Whitefish	MT	59937	US	4/11/2024
Michelle Mersberger	Whitefish	MT	59937	US	4/11/2024
Chris Crismon	Whitefish	MT	59937	US	4/11/2024
Helena skonieczny	Kalispell	MT	59901	US	4/11/2024
Kevin Bauman	Whitefish	MT	59937	US	4/11/2024
Joe McGlenn	Whitefish	MT	59937	US	4/11/2024
Laura Porisch	Whitefish	MT	59937	US	4/11/2024
Regan Peschel	Whitefish	MT	59937	US	4/11/2024
Megan Starling	Whitefish	MT	59937	US	4/11/2024
Dawn Kinney	Whitefish	MT	59937	US	4/11/2024
Angus Matheson	Kalispell	MT	59937	US	4/12/2024
Justin Truong	San Francisco	CA	94112	US	4/12/2024
Haley Mortenson	Whitefish	MT	59947	US	4/12/2024
Cameron Blake	Whitefish	MT	59901	US	4/12/2024
Deirdre Cook	Whitefish	MT	59937	US	4/12/2024
Jennifer Elden	Whitefish	MT	59937	US	4/12/2024
Keith Gardner	Whitefish	MT	59937	US	4/12/2024
Hannah Knisley	Whitefish	MT	59802	US	4/12/2024
Lucky Loncar	Whitefish	MT	59937	US	4/12/2024
Andrea Goodrich	Brooklyn	NY	11211	US	4/12/2024
Claire Oswald	Whitefish	MT	59937	US	4/12/2024

Nathan Voris	Bigfork	MT	59911	US	4/12/2024
Rachel Desimone	Whitefish	MT	59937	US	4/12/2024
Anna Laidler	East Stroudsburg	PA	18301	US	4/12/2024
Joshua Curphey	Peterborough		PE7	US	4/12/2024
Heather McEvoy	Columbia falls	MT	59912	US	4/13/2024
Lisa Castillo	Dallas	TX	75227	US	4/13/2024
T wilsonburger	Milwaukee	WI	53223	US	4/13/2024
Karie DeHan	Denver	CO	80209	US	4/13/2024
Anthony Scrimenti	Guilderland	NY	12084	US	4/13/2024
Patricia Johnson	Whitefish	MT	59937	US	4/14/2024
Erika Rikhiram	Clermont	FL	34711	US	4/14/2024
Leeanna Cochran				US	4/14/2024
Ryan Edmonds	Whitefish	MT	59937	US	4/14/2024
Angie Kerr	Springfield	VA	22152	US	4/14/2024
Jennifer Rollins	Wichita	KS	67206	US	4/14/2024
Michael Tomaseck	EWING	NJ	8628	US	4/15/2024
joey thomas	Franklin	NH	3235	US	4/15/2024
Michelle Warmink	Whitefish	MT	59937	US	4/15/2024
Sharon Allison	Medicine Hat		T1C	Canada	4/15/2024
Melissa Kawka	Chicago	IL	60647	US	4/15/2024
Gloria Kerr	Richland	WA	99354	US	4/16/2024
Aurora Esquivel	Henderson	NV	89074	US	4/16/2024
Robin Flatt-Homa	Greeley	CO	80634	US	4/16/2024
Emma Castaway	Ontario	CA	91762	US	4/16/2024
Alberta Rangel	Romoland	CA	92585	US	4/16/2024
Kristin Vass	New York	NY	10080	US	4/16/2024
pamela martinez	Houston	TX	77008	US	4/16/2024
Kristina Porcalla	Farmington	MI	48335	US	4/16/2024
Haidi Martinez	San Mateo	CA	94403	US	4/16/2024
Rithwik Aligpally	Apex	NC	27502	US	4/16/2024
Alyssa Gardner	Phoenix	AZ	85009	US	4/16/2024
Alyssum Ahler	Whitefish	MT	59937	US	4/16/2024
Othello Rogers	Clayton	NC	27520	US	4/16/2024
Heather Isaac	Vista		92084	US	4/17/2024
Benjamin Cuevas	Las Cruces	NM	88007	US	4/17/2024
Tina White	Hayesville	NC	28904	US	4/17/2024
Hilda Silva	Mount Vernon	WA	98273	US	4/17/2024
Edgar Espino	Mabank	TX	75156	US	4/17/2024
Khris Galindo	Phoenix	AZ	85017	US	4/17/2024
Connie Chavez	San Diego	CA	92220	US	4/17/2024
Madeline Westbrook	Whitefish	MT	59937	US	4/18/2024
Peter Mcpetertonfrompetersville				US	4/18/2024
Jeremy Cutlip	Philadelphia	PA	19143	US	4/18/2024
Bailee Morales	Olean	NY	14760	US	4/18/2024

James Rice	Acworth	GA	30101 US	4/18/2024
Wayne Koch	Applegate	CA	95703 US	4/18/2024
Mark Hagen	Whitefish	MT	59937 US	4/18/2024
Heather Rennie	Seattle	WA	98160 US	4/18/2024
Krista Oge Kober	Whitefish	MT	59937 US	4/18/2024
Linnea Benson	Whitefish	MT	59937 US	4/18/2024
Austin Ward	Corvallis	OR	97330 US	4/18/2024
C N	Portland	OR	97210 US	4/18/2024
Matt Gebo	Whitefish	MT	59937 US	4/18/2024
Kay-Lee Davis			US	4/18/2024
Mark Crowley	Kalispell	MT	59901 US	4/18/2024
Marcia Medler	Whitefish	MT	59937 US	4/18/2024
Mary Kay	Scottsdale	AZ	85251 US	4/18/2024
Jane Hyman	Columbia Falls	MT	59913 US	4/19/2024
Janet paek	Kalispell	MT	59937 US	4/19/2024
Stephen Keimach	Whitefish	MT	59937 US	4/19/2024
Hector Zamora	South Gate	CA	90280 US	4/19/2024
Jamie Frank	Whitefish	MT	59937 US	4/19/2024
Dylan Bornkamp	South Bend	IN	46615 US	4/19/2024
Marlis Cherry	Seattle	WA	98102 US	4/19/2024
Katie Siebrasse	Kalispell	MT	59901 US	4/19/2024
Esperanza Aguilar	Sheboygan	WI	53081 US	4/19/2024
Ashley Purdy	Kalispell	MT	59901 US	4/19/2024
Jimmy Simon	York	PA	17402 US	4/19/2024
Andrew Floyd			US	4/19/2024
Sandy Rao	Frisco	TX	75035 US	4/19/2024
Erica Angelos	Whitefish	MT	59937 US	4/19/2024
nate stark	Davis	CA	95616 US	4/19/2024
Nicole Betancour	Mission	TX	78574 US	4/20/2024
Adam Kaluba	Burleson	TX	76028 US	4/20/2024
Alex Whitney	Bloomfield	CT	6002 US	4/20/2024
Bridgett Braun	Ely	NV	89301 US	4/20/2024
Megan Gates	Johnstown	PA	15906 US	4/20/2024
Amanda Chevalier	New Haven	IN	46774 US	4/20/2024
Arizona Tallent	Shelby	NC	28152 US	4/20/2024
Linda Hubble	Kalispell	MT	59901 US	4/23/2024
Ricky Schmidt	Kalispell	MT	59901 US	4/23/2024
Skye Smith	Kalispell		59901 US	4/23/2024
Madeline Daniel	Butte	MT	597018 US	4/24/2024
Brad Bulkley	Whitefish	TX	75204 US	4/24/2024
wendy smith	Hillsboro	OR	97124 US	4/24/2024
Les Sloan	Spokane	WA	99206 US	4/24/2024
Joseph Lanfrankie	Round Rock	TX	78665 US	4/24/2024
Suzanne DeVore	Whitefish	MT	59937 US	4/25/2024

David Bareno	Kalispell	MT	59901 US	4/25/2024
Tallie Steiner	Whitefish	MT	59937 US	4/25/2024
Julia White Hoppe Mines	Kalispell	MT	59901 US	4/25/2024
Angie Bera	Kalispell	MT	59901 US	4/25/2024
Lynn Lewis	Kalispell	MT	59901 US	4/25/2024
Marcella Williams	Whitefish	MT	59937 US	4/25/2024
Tom Sato	Whitefish	MT	59937 US	4/25/2024
Ali Herdrich	Denver	CO	80211 US	4/25/2024
Jonathan Middleton	Columbia Falls	MT	59912 US	4/25/2024
Travis Stensby	Whitefish	MT	59937 US	4/25/2024
Zowie Caouette	Columbia Falls	MT	59912 US	4/25/2024
Erin Jarrett-Izzi	Whitefish	MT	59937 US	4/25/2024
Meggen Wilson	Whitefish	MT	59937 US	4/25/2024
Marty Flores	Kalispell	MT	59901 US	4/25/2024
Hannah Farrell	Whitefish	MT	59937 US	4/25/2024
Valerie Sullivan	whitefish	MT	59937 US	4/25/2024
Hunter Cripe	Columbia Falls	MT	59912 US	4/25/2024
Sarah MacCormick	Kalispell	MT	59901 US	4/25/2024
Becky Goss	Whitefish	MT	59937 US	4/25/2024
Hillary Gallagher	Whitefish	MT	59937 US	4/25/2024
Holly Stevenson	Kalispell	MT	59901 US	4/25/2024
Michelle Berry	Whitefish	MT	59937 US	4/25/2024
Ducane T	Kalispell	MT	59901 US	4/25/2024
Chad Wold	Seattle	WA	98160 US	4/25/2024
Dawn Stratton	Kalispell	MT	59901 US	4/25/2024
Shelley Laing	Fort Lauderdale	FL	33334 US	4/25/2024
M. Browning	Chandler	AZ	85224 US	4/25/2024
Jacob Stevenson	Bigfork	MT	59911 US	4/25/2024
Julie Steigler	Whitefish	MT	59937 US	4/25/2024
Blanca Goguen	Whitefish	MT	59937 US	4/25/2024
Tania Fuentealba	Whitefish	MT	59937 US	4/25/2024
Kit Ztuffz	Houston	TX	77052 US	4/26/2024
Arielle Jasso	El Paso	TX	79912 US	4/26/2024
Charlie Meienberg	Eureka	MT	59917 US	4/26/2024
Charlie Hoving	Whitefish	MT	59937 US	4/26/2024
Adam Pitman	Whitefish	MT	59937 US	4/26/2024
Jen Sybrant	Kalispell	MT	59901 US	4/26/2024
Tamara Lundberg	Whitefish	MT	59937 US	4/26/2024
Maryam Baft	Lake Forest	CA	92630 US	4/26/2024
Eric Marland	Whitefish	MT	59937 US	4/26/2024
Paula Jean	Kalispell	MT	59901 US	4/26/2024
Deborah Wood	Kalispell	MT	59901 US	4/26/2024
Nicholas Fleming	Whitefish	MT	59937 US	4/26/2024
Emily Fleming	Whitefish	MT	59937 US	4/26/2024

David Shearon	Kalispell	MT	59901 US	4/26/2024
Christina Shearon	Boone	NC	28607 US	4/26/2024
David Loman	Kalispell	MT	59901 US	4/26/2024
Tristan Clegg	Kalispell	MT	59901 US	4/26/2024
Samantha McGowan	Whitefish	MT	59937 US	4/26/2024
Macy Hammontree	Massillon	OH	44646 US	4/26/2024
Steve Bossler	Massillon	OH	44646 US	4/26/2024
Kim DeAnda	Whitefish	MT	59937 US	4/26/2024
Betty Dalrymple	Odessa	TX	79762 US	4/26/2024
Jonathan Miller	Fort Wayne	IN	46808 US	4/26/2024
Kristen Reinkemeyer	Milton	MT	59937 US	4/26/2024
karina giraldo	Whitefish	MT	59937 US	4/26/2024
John Repke	Whitefish	MT	59937 US	4/26/2024
Casey Malmquist			US	4/26/2024
Richard Hildner	Kalispell	MT	59901 US	4/26/2024
Suzanne Hildner	Whitefish	MT	59937 US	4/26/2024
Heidi Rachel	Massillon	OH	44646 US	4/26/2024
Bruce Boody	Kalispell	MT	59901 US	4/26/2024
Mallory Phillips	Whitefish	MT	59937 US	4/26/2024
Carolyn Harris	Las Vegas	NV	89101 US	4/26/2024
Vallorie Arnold	Clinton	AR	72031 US	4/26/2024
samantha michelmore	Whitefish	MT	59937 US	4/26/2024
Jerry Mouse Martinez	Estero	FL	33929-017 US	4/27/2024
keith melanson	Kalispell	MT	59901 US	4/27/2024
Christine DAmico	Greensboro	NC	27407 US	4/27/2024
Leilany Colon	Magnolia	NJ	8049 US	4/27/2024
K Tseng	Kalispell	MT	59901 US	4/27/2024
Dawson VanArtsdale	Kalispell	MT	59901 US	4/27/2024
Grace Regala	Columbia Falls	MT	59912 US	4/27/2024
Amie Callaway	Whitefish	MT	59937 US	4/27/2024
Liz Heneghan	Columbia Falls	MT	59912 US	4/27/2024
Paige Fitzgerald	Whitefish	MT	59937 US	4/27/2024
Virginia James	Whitefish	MT	59937 US	4/27/2024
Aubrey Erickson	Kalispell	MT	59901 US	4/27/2024
Catherine Haug	Kalispell	MT	59901 US	4/27/2024
Andrew Arens	Kalispell	MT	59901 US	4/27/2024
Lacey Arens	Kalispell	MT	59901 US	4/27/2024
Jaimen Chisholm	Kalispell	MT	59901 US	4/28/2024
rondean jackson	Jamaica	NY	11425 US	4/28/2024
Robert Piorkowski			US	4/28/2024
Manuel Sanabria	Rosenberg	TX	77471 US	4/28/2024
Evelyn Mcdaniel	Irving	TX	75038 US	4/28/2024
Dr Beverly Griffin PhD		CA	US	4/28/2024
Adele Zimmerman	Kalispell	MT	59901 US	4/28/2024

Sally Roy	Whitefish	MT	59937 US	4/28/2024
Emma Bryson	Denver	CO	80231 US	4/28/2024
Hartwell Theresa	Kalispell	MT	59901 US	4/28/2024
Lauren Fohl	Whitefish	MT	59937 US	4/28/2024
Ian Hasson	Whitefish	MT	59937 US	4/28/2024
James Hasson	Whitefish	MT	59937 US	4/28/2024
Lisa Fohl	Whitefish	MT	59937 US	4/28/2024
Elizabeth Hasson	Whitefish	MT	59937 US	4/28/2024
David Hasson	Whitefish	MT	59937 US	4/28/2024
Nlck Fohl	Whitefish	MT	59937 US	4/29/2024
Katie Mefford	Indianapolis	IN	46260 US	4/29/2024
Erin Sabin	Whitefish	MT	59927 US	4/29/2024
Thomas Yeoman	Whitefish	MT	59937 US	4/29/2024
Doug Flory	Winchester	VA	22601 US	4/29/2024
Antoinette Flory	Whitefish	MT	59937 US	4/29/2024
Meredith Somerset	Camden	SC	29020 US	4/29/2024
Brittany Melin	Kalispell	MT	59901 US	4/29/2024
Tawnya Bingham	Denver	CO	80204 US	4/29/2024
Tara Brown	Whitefish	MT	59937 US	4/29/2024
asdren musa	Podujeve		US	4/29/2024
Sean Lujan	Whitefish	MT	59937 US	4/29/2024
Jeff Hegland	Whitefish	MT	59937 US	4/29/2024
Austin Lillie	Whitefish	MT	59937 US	4/29/2024
Penny Porterfield	Whitefish	MT	59937 US	4/30/2024
Emily Smith	Whitefish	MT	59937 US	4/30/2024
Erin Boedeker	Whitefish	MT	59937 US	4/30/2024
Olivia Bugg		WA	US	4/30/2024
Marilyn Brandt	Whitefish	MT	59937 US	4/30/2024
Ellie Stanisich	Butte	MT	59701 US	4/30/2024
Peter Ganfield	Whitefish	MT	59937 US	4/30/2024
Scott Miller	Whitefish	MT	59937 US	4/30/2024
Erika Veas	Billings	MT	59102 US	4/30/2024
Wendy Coyne	Kalispell	MT	59901 US	4/30/2024
Muffie Cohen	Mercer Island	WA	98040 US	4/30/2024
Elisabeth Harry	Kalispell	MT	59901 US	4/30/2024
Monique Green	Philadelphia	PA	19107 US	4/30/2024
Maggie Fuehrer	Whitefish	MT	59937 US	4/30/2024
Graywyn Bareno	Whitefish	MT	59937 US	4/30/2024
Gardner Lindsey	Whitefish	MT	59937 US	4/30/2024
Shelby Cabigas	Grand Junction	CO	81501 US	4/30/2024
Julie Sebby	Whitefish	MT	59937 US	4/30/2024
Jenny Hvizdak	Whitefish	MT	59937 US	4/30/2024
Patty Wick	Scottsdale	AZ	85255 US	4/30/2024
Jill Bridgeman	Whitefish	MT	59937 US	5/1/2024

Faisa Elmi	Anaheim	CA	92801 US	5/1/2024
Ross Bridgeman	Whitefish	MT	US	5/1/2024
Bertha Maldonado	Pasco	WA	99301 US	5/1/2024
Kelly medler	Kalispell	MT	59901 US	5/1/2024
Sheila Scheetz	Sidney	MT	59270 US	5/1/2024
Mia Hadelich	Kirkland	WA	98034 US	5/1/2024
John Metcalfe	Whitefish	MT	59937 US	5/1/2024
Peggy miller	Ferryville	WI	54628 US	5/1/2024
Webdy McFadden	Whitefish	MT	59937 US	5/1/2024
Ned Dunn	Whitefish	MT	59937 US	5/1/2024
Craig Clark	Richmond	VA	23220 US	5/1/2024
karen whitby	Whitefish	MT	59937 US	5/1/2024
Schuyler Johnston	Whitefish	MT	59937 US	5/1/2024
Janis Walburn	Whitefish	MT	59937 US	5/1/2024
Jacob Knotts	Waynesboro	PA	17268 US	5/1/2024
Christopher Bogner	Buffalo	NY	14220 US	5/1/2024
Mackenzie Gaddy			US	5/1/2024
Carol Atkinson	Whitefish	MT	59937 US	5/1/2024
Christopher Hunt	Warrenton	VA	20186 US	5/1/2024
Dawn Cope	Kalispell	MT	59901 US	5/1/2024
Randy Carspecken	Kalispell	MT	59901 US	5/1/2024
Alex Moore	Los Angeles	CA	90006 US	5/1/2024
Megan Dickerson	Kalispell	MT	59901 US	5/1/2024
Carla Belski	Whitefish	MT	59937 US	5/2/2024
Candace Shaeffer	Whitefish	MT	59937 US	5/2/2024
Alana Preziosi	Swedesboro	NJ	8085 US	5/2/2024
Doug Smith	Whitefish	MT	59937 US	5/2/2024
Kathryn Salciccioli	Farmington	MI	48336 US	5/2/2024
Shania Boyd	Yakima	WA	98902 US	5/2/2024
Tony Traina	Whitefish	MT	59937 US	5/2/2024
Nicole Wiles	Hays	NC	28635 US	5/2/2024
Knight Emma	Whitefish	MT	59937 US	5/2/2024
Marjorie Wilson	Whitefish	MT	59937 US	5/2/2024
Barbara Greengart	Oceanside	NY	11572 US	5/2/2024
John Wilson	Whitefish	MT	59937 US	5/2/2024
Cris Coughlin	Whitefish	MT	59937 US	5/2/2024
Theresa Muraoka	Whitefish	MT	59937 US	5/2/2024
Steve Sutherland	Whitefish	MT	59937 US	5/2/2024
Kate Cassidy	Whitefish	MT	59937-275 US	5/2/2024
Kerin Gayner	Kalispell	MT	59901 US	5/2/2024
Meg Godsey	Whitefish	MT	59937 US	5/2/2024
Donna Holmstul	Whitefish	MT	59937 US	5/2/2024
Susan Robison	Whitefish	MT	59937 US	5/2/2024
Susan Lieser	Whitefish	MT	59937 US	5/2/2024

Patty Holmes	Denver	CO	80202 US	5/2/2024
Jenanne Solberg	Aurora	CO	80012 US	5/2/2024
Martin A Laskey	Whitefish	MT	59937 US	5/2/2024
Sarah Fitzgerald	Whitefish	MT	59937 US	5/2/2024
Randy Gayner	Whitefish	MT	59937 US	5/2/2024
Susan Drynan	Kalispell	MT	59901 US	5/2/2024
Teddy Layne	Cleveland	TN	37311 US	5/2/2024
Alysa Mandl	Kalispell	MT	59901 US	5/2/2024
Kathy Spangenberg	White fish	MT	59937 US	5/2/2024
Sheila Ann Shapiro	Whitefish	MT	59937 US	5/2/2024
Christina Corwin	Kalispell	MT	59901 US	5/2/2024
Kathleen McMahon	Kalispell	MT	59901 US	5/2/2024
Joshua Caudell	Newport News	VA	23602 US	5/2/2024
Nancy Allan	Kalispell	MT	59901 US	5/2/2024
Teresa Feury	Kalispell	MT	59901 US	5/2/2024
Kim Sands	Whitefish	MT	59937 US	5/2/2024
Paul Markillie	Grand Blanc	MI	48439 US	5/2/2024
Melisa Phelps	Whitefish	MT	59937 US	5/2/2024
Chris Holt	Whitefish	MT	59937 US	5/2/2024
Peggy Kragh	Whitefish	MT	59937 US	5/2/2024
Gordon Poston	Kingstree	SC	29556 US	5/2/2024
Martha Rendahl	Whitefish	MT	59937 US	5/2/2024
Lini Reading	Whitefish	MT	59937 US	5/2/2024
Cody Mccarthy	Whitefish	MT	59901 US	5/3/2024
Raiden Hoffmann	Burlington	KY	41005 US	5/3/2024
Vivian A Hirsch	Whitefish	MT	59937 US	5/3/2024
Paup Rappaport	Denver	CO	80205 US	5/3/2024
Judy Merickel	Whitefish	MT	59937 US	5/3/2024
Josh Knight	Phoenix	AZ	85016 US	5/3/2024
MIA BLAISDELL	Winder	GA	30680 US	5/3/2024
Jen Trattner	Kalispell	MT	59901 US	5/3/2024
Christine Bleyhl	Whitefish	MT	59937 US	5/3/2024
Mamie flinn	Denver	CO	80219 US	5/3/2024
Kelly Davidson	Whitefish	MT	59937 US	5/3/2024
Michelle Scott	Whitefish	MT	59937 US	5/3/2024
Tracy Anderson	Kalispell	MT	59901 US	5/3/2024
John Phelps	Kalispell	MT	59901 US	5/3/2024
Corey Phillips	Cincinnati	OH	45240 US	5/3/2024
Elaine Smoot	Colorado Springs	CO	80917 US	5/3/2024

Reasons for signing

See why other supporters are signing, why this petition is important to them, and share your reason for signing (this will mean a lot to the starter of the petition).

 **Gardner Lindsey**
3 days ago

I love this town and love to recreate! I use the trails soooo much in the summer and want them to be safe for me and my family.

♡ 0

[Report](#)

 Write a reply... [Reply](#)

 **Meredith Somerset**
4 days ago

We need this connection!

♡ 0

[Report](#)

 Write a reply... [Reply](#)

 **Lauren King**
3 weeks ago

It will make riding with my kiddos safer!

♡ 1

[Report](#)

 Write a reply... [Reply](#)



Kristen Reinkemeyer

1 week ago

We need better and safer river/trail access for everyone!

♡ 0

[Report](#)



Write a reply...

Reply



Julie Steigler

1 week ago

I use all the walking paths and trails. This trail would connect the trail by my house and I would really enjoy using it.

♡ 0

[Report](#)



Write a reply...

Reply



Maura Hamilton

3 weeks ago

I love this town and our trails!

♡ 1

[Report](#)



MAY 3, 2024

City of Whitefish, Montana

418 E 2nd St. Whitefish Montana 59937

To the City of Whitefish Montana,

I stand with Safe Trails Whitefish in support of the current 124 permit creating a connection in the Riverbend/Miles Ave. section of our Whitefish River multi-use path system.

The proposed path development is the only viable route for our pedestrian transportation infrastructure to follow that provides a safe route for all user groups. The increase in traffic, growing population and street grades makes the current street detour to connect points of our path system impassable to a majority of users. Years of collaboration and work between city staff, land managers, business, developers, and landowners have presented this outstanding solution benefiting the entire Whitefish Community.

This multi-use path segment is imperative to our resident's health and safety.

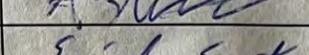
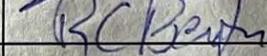
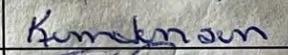
Sincerely,

Safe Trails Whitefish

See additional signatures in support:

Safe Trails Whitefish

Signatures of support for completion of the Whitefish River path system.

Print Name	Signature	address	email
1 Madeline Westbrook		71	MT
2 Nicole Fairclough		4	MT
3 Paul Taylor		"	
4 Greg Adams		3	9737
5 Alex Siciric			
6 Erich Spitz		10	MT
7 Joe O'Connor		1	
8 Ron Baxter		30	MT
9 Kim Jensen		30	MT
10 Richard Raines			
11			
12			
13			
14			
15			
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18			
19			
20			

For more signature details email
Safe Trails Whitefish

For more signature details email
Safe Trails Whitefish

Safe Trails Whitefish

Signatures of support for completion of the Whitefish River path system.

	Print Name	Signature	address	email
1	Jake Tickle		For more signature details email Safe Trails Whitefish	For more signature details email Safe Trails Whitefish
2	BRADFORD BESS			
3	Kyle Cram			
4	Brian Holmes			
5	Kate Boumans			
6	Danielle Verdier			
7	Jessica Berzins			
8	Chelsea Watercraft			
9	MARISSA RODENCK			
10	Marty Flores			
11	Andra TSA			
12	MATTHEW SATHER			
13	THOMAS SHEA			
14	Sherene Ricci			
15	JEREMY CRANFORD			
16				
17				
18				
19				
20				

Location/event collected:

Page _____ of _____

Safe Trails Whitefish

For complete signature information contact Safe Trails Whitefish

Signatures of support for completion of the Whitefish River path system.

Print Name	Signature	address	email
1 Jackie Solem			jsolem@com
2 Zena Bonds			z.bonds@mail.com
3 Ryland Armstrong			ryland.armstrong@com
4 Tyler Richards			tyler.richards@com
5 Ben Baskford			ben.baskford@com
6 Maddie Young		371	m.young@com
7 Andrea Bury			andrea.bury@com
8 Carrie Cullage		104	carrie.cullage@com
9 Matt Kathleen Schott			matt.schott@com
10 JENNIFER GARDNER			j.gardner@com
11 BERT BRUNNEN			bert.brunnen@com
12 Hal Woomer			hal.woomer@com
13 Renee McNulty			reneemcnulty@com
14 Jeff Fish			jeff.fish@com
15 Kristy Dooling		162	kristy.dooling@mail.com
16 Richard Dooling			richard.dooling@com
17 YVONNE MAY		74	yvonne.may@com
18 Jake Christensen			jake.christensen@com
19 Katherine Kenally			katherine.kenally@com
20 Shannon Hoge		220	shannon.hoge@mail.com

Location/event collected: Clean the Fish

Date collected: 4/27/24

Safe Trails Whitefish

Signatures of support for completion of the Whitefish River path system.

Print Name	Signature	address	email
1 Jeff Raper		P.O. 719 Kalispell	Jeff.Raper@mt.gov
2 JULIE SANDERUDE		10 112, WF	
3 Scott Sanderude		"	sanderude@mt.gov
4 SEAN KELLY		111 I WF, MT	SKelly@mt.gov
5 Kathryn Kelly		11 Idaho Ave WF, MT	Kelly.Kathryn@mt.gov
6 Mike Fitzgerald		Tunife Ave WF	mfz@mt.gov
7 Gus Buffington		148	gus@mt.gov
8 Miriam Lewis		363 Lanen	miriam@mt.gov
9 Tawni Evans		vers A	tawnev@mt.gov
10 Susan Moll		E. Lak	susan@mt.gov
11 Gaylon Moll		"	gaylon@mt.gov
12 Amy Cosby		Boyl WF	amycosby@mt.gov
13 Kyle Tubbs		"	kyle@mt.gov
14 JESSICA TUBBS		191 MILP	jtubbs@mt.gov
15 TOBY SCOTT		PS Box 367	toby@mt.gov
16 Gary Cameron		21	gary@mt.gov
17 Sam Harvey		"	sam@mt.gov
18 John Harvey		24 WF	john@mt.gov
19 Al Spear		85 Main A.	al@mt.gov
20 Kitty Simpson		826	kitty@mt.gov

Location/event collected: Clean the Fish
 Date collected: 4/27/24

Safe Trails Whitefish

Signatures of support for completion of the Whitefish River path system.

Print Name	Signature	address	email
1 Grace Kepler		61 Trail	grace.kepler@...com
2 June Callaway		125 Vista	...@gmail.com
3 Miki Flint		11	miki.flint@...com
4 Eli Bergeson		2	...@gmail.com
5 Isaac Kindeloe		1	...@gmail.com
6 Rachael Wilmot		2	Rachael.Wilmot@...com
7 Gwen Carson		10	gwen@...com
8 Trini Carreon			
9 Andy Harding			andy.harding@...com
10 Shannon Leahy			shannon.leahy@...com
11 Dan Hebele			dan.hebele@...com
12 Rebecca Burns		60	rebecca.burns@...com
13 Scott Tunison			scott.tunison@...com
14 Christine Warner			christine.warner@...com
15 Billian Moss			billian.moss@...com
16 Lori Olson			lori.olson@...com
17 Amber Hauck			amber.hauck@...com
18 Amy Hamer			amy.hamer@...com
19 Shea Sizemore			shea.sizemore@...com
20 Drew Keneany			drew.keneany@...com

Location/event collected: Clean the Fish
 Date collected: 4/27/24

The following pages were handed out at the City Council meeting the night of the meeting. They are included here as an addendum to the packet.

Michelle Howke

From: Doug Adams <dougmda@gmail.com>
Sent: Monday, March 24, 2025 6:59 PM
To: Michelle Howke
Subject: Public Comment - SPA 124-Permit

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Michelle,
I hope life is treating you well. Please forward my comments to the council and mayor.
Thanks,
Doug

Dear Mayor and Councilors:

If I understood the newspaper article correctly, the unacceptable portion of the trail route is the portion that overhangs the Whitefish River. Was this section designed to overhang as a concession to the condo owners? If so, I suggest that you redesign it so that the entire trail stays at the top of the riverbank instead of cantilevering over the river. The easement has always been unfortunately narrow, but it's my understanding that the trail can be built without overhanging the embankment. And I would think that it would be cheaper.

Thanks for your efforts,
Doug Adams
Whitefish

Michelle Howke

From: Bruce Boody <bruceboody@outlook.com>
Sent: Monday, March 31, 2025 2:37 PM
To: Michelle Howke
Cc: John Phelps
Subject: Whitefish City Council Special Meeting MAC and RHC segment of Whitefish River Bicycle/Pedestrian Trail

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Dear Mayor and Councilors,

To say that the decision by MT FW&P to Deny the 124 Permit for this project is dis-heartening, is a gross understatement. This process has been under-way for many, many years (20 and counting). I am sending this comment to advocate for your continued support for the Connect Whitefish Trail system, especially the river trail portions, which are the 'backbone' of the system.

As Whitefish continues to grow, the need for the trail system will also grow. The trails are the best way to sustainably connect the community. Given the constraints of the highways, railroad, terrain, the built environment and water bodies, the river trail is critical to the safety and function of our transportation network. This segment in particular, also received the highest priority rating in the latest Growth Policy update. The community has spoken again and again about the necessity of the trails/system.

The City highly values and cares about the physical and visual environment, and has worked hard to find balanced solutions to its transportation challenges. This proposed RHC and MAC project is a result of much investigation and research. It is disappointing to see yet another response from MT FW&P that fails to acknowledge the efforts of the City to find a balance for nature and the human/ built environment. I encourage the City to continue to take the lead in ultimately finding the best solution for the city's transportation needs.

Though MT FW&P continues to call this a 'recreation trail', it is far more than that. For the entire 30 or 40 years of progress on the trial system, Whitefish has treated the trails as an essential part of the City-wide Transportation network, a network serving our community of folks of all ages and abilities.

Please 'stay the course', appeal this MT FW&P decision and keep pursuing the complete 'Connect Whitefish' Bicycle /Pedestrian System.

Thank you for all your efforts on this long-term project.

Bruce Boody, ASLA
Landscape Architect
P.O. Box 1363

Michelle Howke

From: Steve B <stevebritt961@gmail.com>
Sent: Sunday, March 30, 2025 7:54 PM
To: Michelle Howke
Subject: Riverbend Condo Owner / Bike Path over Whitefish River

You don't often get email from stevebritt961@gmail.com. [Learn why this is important](#)

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I support FWP and the proposed route, as it has minimal to no impact on the WF River. This alternative still provides the City with an ADA-accessible bike path that can be enjoyed by all users.

Importantly, it avoids the risks associated with the current proposal that crosses the river. During the high water season, much of that path would be submerged, making it unusable. In low water conditions, the structure could pose a safety hazard for those floating the river, as they may need to navigate around or even risk becoming trapped beneath it.

There's no need to harm the river when a viable, safer, and equally functional alternative exists

126 Miles Ave
Riverbend Condominiums

Best regards,

Steve Britt (owner)

Michelle Howke

From: Randy Carspecken <randy_carspecken@yahoo.com>
Sent: Monday, March 31, 2025 7:34 AM
To: Michelle Howke
Subject: Support for River Trail

You don't often get email from randy_carspecken@yahoo.com. [Learn why this is important](#)

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Dear Whitefish City Council,

My name is Randy Carspecken and my wife Dawn Cope and I live at 107 Railway St in Whitefish which we have owned since 1988 and where we've observed the nearby bike and pedestrian path for years. I have also been a DREAM adaptive sports volunteer since 1999 and know this broken link just below our house in our pedestrian / bike trail system has prevented our handicapped DREAM participants from using our otherwise lovely city trail system. We also continue to observe the hazardous mix of walkers & bikers and BNSF traffic on Miles Ave. We have admired the walkway suspended above the water along the shoreline of a city lake in Sudbury Ontario and after seeing our Whitefish River dredged to remove the railroad contamination it seems the minimal disruption of driving a few helical piers pales in comparison to the river disruptions in the past.

Thank you Whitefish City Council for all your contributions to our lovely town.

-- Randy

[Sent from Yahoo Mail for iPhone](#)

Michelle Howke

From: Craig Clark <mtcraigclark@gmail.com>
Sent: Monday, March 31, 2025 6:05 AM
To: Michelle Howke
Subject: Whitefish River Trail Pedestrian Path

You don't often get email from mtcraigclark@gmail.com. [Learn why this is important](#)

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City Council,

I, like most people, was disappointed to learn that the Montana FWP rejected the City's 124 permit request for the favored option to connect the Whitefish River trail pedestrian path. This connecting piece addresses a critical safety issue for path users, both locals and visitors. It is not a matter of if, but when, someone gets hit crossing US 93 or Miles Ave. I walk over the Memorial Bridge walking in and out of town, and have witnessed some close calls!

I feel the second (next) best option for the path is to utilize the existing easement between the existing townhomes and the river. This easement was always planned for a future path, and was granted by the City to the builder in exchange for access to Miles Ave. for ingress/egress for the units. It looks to me like one homeowner has extended their deck over the easement area. This is illegal. Utilizing the existing path easement behind the existing townhouses would allow for a relatively straight line between the end of the existing path and the existing Whitefish River trail making the new connecting trail segment easy for hikers, bikers, and folks with less mobility to use. The route will also keep all trail users, including kids, away from regular and BNSF traffic on Miles Ave., and from walking and/or biking through the long townhome parking lot. One large Willow tree looks to possibly be in the way, Maybe the path could go around it, or the Willow could be trimmed. I believe (hope!) the existing path easement is above the high water mark, so the FWP might look favorably at this option.

Seems like a no brainer to me,

Craig Clark
56 2nd Street W
Whitefish, MT 59937

Michelle Howke

From: Rissa Cloud <simpleretreat@yahoo.com>
Sent: Monday, March 24, 2025 11:32 AM
To: Michelle Howke; Rissa Cloud
Subject: Att: Adam Strainer & Dave Landstrom ~ Where were you when the Train Depot leaked chemicals for years? There are rusting pipes in the river now.

Follow Up Flag: Follow up
Flag Status: Flagged

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M. Howke:

Attention- Adam Strainer & Dave Landstrom ~ Where were you when the Train Depot leaked chemicals for years? There are rusting pipes in the river now.

The residents of the apartment get enough kayak-traffic privacy-loss, so I am glad it will not be done for practical reasons, except there needs to be a better marked road crossing on both sides of crossing **such as prior flashing lights to warn the mix of vehicles that stopping needs to occur.**

Esp since one side heading west is downhill and trucks or campers besides cars don't have a clue families with babies and kids on bikes are risking their lives.

The deer cross here to in groups.

Good wishes,
Rissa Cloud

Michelle Howke

From: DeHerrera <deherrera13@charter.net>
Sent: Saturday, March 29, 2025 10:47 AM
To: Michelle Howke
Subject: Public Comment - SPA 124-Permit

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Dear City Council and Mayor,

I was extremely disappointed by the decision by Fish, Wildlife, and Parks to not approve the City's application for the trail segment along the Whitefish River.

I will focus my comment specifically on my strong belief that the FWP decision is biased and not defensible. From a purely fish habitat perspective, the basic rationale is valid and was made by their very capable Fish Biologists. However, the decision does not address the real life situation that the Whitefish River is not a high value fishery - it is actually very poor. And the decision does not adequately recognize the extraordinary efforts that were incorporated into the trail project to minimize impacts to fisheries and water quality values.

The decision shows an extreme bias by trading off an extremely valuable public recreation and safety opportunity for a nonexistent fishery. This decision does not pass the red face test. The job of a decision maker is to make resource decisions that consider all perspectives and values. In my opinion this decision was written in a very biased way which doesn't really consider the true values, i.e the great extent of public benefits this trail segment will provide. As such it should be challenged to the highest levels necessary, including the Governor's Office if necessary.

Sincerely,

Jimmy DeHerrera
339 Fairway Dr
Whitefish, MT 59937

Get [Outlook for Android](#)

Michelle Howke

From: Lane Hovey <lanehovey13@gmail.com>
Sent: Friday, March 28, 2025 4:50 PM
To: Michelle Howke
Subject: Public Comment on Denial of WF River Trail Stream Permit

You don't often get email from lanehovey13@gmail.com. [Learn why this is important](#)

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Hello Michelle,

Regarding the FWP denial of the WF River Trail stream permit, I'd like to provide written public comment for the special meeting:

"The Whitefish River Trail is more than simply an interconnected route of trails throughout town. The current trail design, in many sections, provides a sense of proximity to the natural beauty we live amongst, and a degree of separation from man-made structures and traffic. The FWP alternative design routes the trail directly amongst established residential structures and parking facilities, rather than alongside the natural beauty of the Whitefish River. Additionally, the switchback ramp in the alternative design is an inconvenient intrusion to the natural 'flow' of the trail.

I agree that maintaining the long-term structural and ecological integrity of the Whitefish River is important. However, I think it is appropriate to pursue a design that balances the trade-offs - a design that takes reasonable steps to mitigate risk, but still routes the trail along the river bank. In my opinion, an appeal of the FWP decision is a welcome opportunity to pursue the best possible trail design for our community."

-Lane Hovey, Whitefish resident & big fan of the WF River trail system

Lane Hovey
lanehovey13@gmail.com
515-402-7613

Michelle Howke

From: Mike Jostrom <mjostrom@gmail.com>
Sent: Monday, March 31, 2025 3:23 PM
To: Michelle Howke
Cc: Sue Jostrom
Subject: Input concerning Whitefish River Trail, Veterans Bridge connection

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Greetings Mayor Muhlfeld and the Whitefish City Council,

Thank you for the opportunity to comment on the FWP rejection of the Whitefish City Trail proposal. Let me first say that the Whitefish River Trail and other Whitefish City trails are a tremendous asset to the community. My wife and I live at 522 Scott Avenue and enjoy the Whitefish River Trail to the lake on a near daily basis, both on foot and by bicycle. Congratulations on your commitment to follow through with the vision for these trails and especially the connection between Veterans Bridge and Miles Ave, and other needed connections as well. Thank you for your consideration of my comments, which are in three parts.

- 1). If the city is inclined to seek arbitration with FWP on your original proposal, I highly encourage you to do so. Yes, the river and the aquatic habitat it provides is of extreme importance, but it is certainly not pristine habitat. Perhaps FWP could be reminded that a few short years ago, this stretch of river was reclaimed from over a century of abuse under a superfund project. The project was able to proceed with high public support, reminding us of the synergy between public visibility and appreciation and the biological amenity that is provided.
- 2). If this is not possible, the city should take FWP up on its offer to develop a suitable alternative that allows a connection to be made without having to cross highway 93 with one's wheelchair or bicycle.
- 3). The current situation is an unacceptable safety hazard. If nothing proactive can be done for the ADA connection, a safe crossing of Hwy 93 must be devised that would provide this safety for wheeled vehicles.

Again, thank you for your commitment to follow through on the Whitefish trails vision for this connection as well as other needed connections. These efforts should be considered a high value priority for the City of Whitefish.

Thank you,
Mike Jostrom
(206) 819-9806

Sent from my iPad

Michelle Howke

From: Greg Strong <gistrong@sbcglobal.net>
Sent: Friday, March 28, 2025 10:23 AM
To: Michelle Howke
Subject: Trail Path Special Session

You don't often get email from gistrong@sbcglobal.net. [Learn why this is important](#)

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Dear Mayor and Council Members,
I ask that you appeal your streambed application which was denied for insufficient reasons (likely political) and utilize your riverside easement even if it means having it 100% on land if it is once again arbitrarily denied. FWP's proposal is stupid.
Thank you for all your work for the benefit of your citizens.
Greg
Whitefish Resident.

Greg Strong
406-407-8125

Michelle Howke

From: Gregory Valazza <gvalazza@hotmail.com>
Sent: Monday, March 31, 2025 2:59 PM
To: Michelle Howke
Subject: Bike trail special session

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Michelle,

I just wanted to thank the city for doing all they can to complete the walking/biking path through the city. I'm 100% behind doing whatever we can to complete this missing link... Even before we bought our house here in Whitefish in 2016, it was clear that completing the river trail would have a huge impact on the local community.

Thanks,
Greg Valazza
150 Dodger Lane
Whitefish, MT

Michelle Howke

From: Madeline Westbrook <madelinewestbrook15@gmail.com>
Sent: Monday, March 31, 2025 4:00 PM
To: Michelle Howke
Subject: Comment for Hearing for Pedestrian Pathway

You don't often get email from madelinewestbrook15@gmail.com. [Learn why this is important](#)

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Madeline Westbrook
71 Elderberry Loop Unit C
Whitefish Montana 59937

I am writing to urge the City of Whitefish to appeal the permit application for the 124 permit that was denied by FWP. There was a clear lack of specific details. Accessible and Inclusive pedestrian pathways are critical to the well-being of a vibrant community. As a city that is heavily dependent on a tourism economy it is important to have an accessible pathway to access all of the amazing part of this community. It is my hope that the City Council will challenge the FWP decision and explore all option including legal to extent the pathway on the existing easement. Although the alternative plan is appreciated it is not universally designed and would exclude members of our community. The existing pathway is dangerous, inaccessible, and frustrating.

Michelle Howke

From: Karen Whitby <kwhitby@gmail.com>
Sent: Friday, March 28, 2025 10:46 AM
To: Michelle Howke
Subject: Public Comment - SPA 124-Permit

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Dear Council Members,

This decision by FWP (although we appreciate their focus on protecting our rivers) is disappointing with all the effort you have accomplished thus far.

1. Since the Riverbend Condo owners were aware of the easement in front of their properties when purchased, (in their deeds) it seems the city has the right to proceed with the path within that easement area?
2. A second option might be to continue the bike path west along Miles Avenue (along existing sidewalk but widen sidewalk) and install a crossing light at the bridge ?
3. Install a tunnel under 93 west to Miles Avenue? (suppose this is too \$\$) Thank you for your attention.

Karen Whitby
231 Somers Avenue
Whitefish. MT 59937

Michelle Howke

From: Lisa Britt <lisa4ta@hotmail.com>
Sent: Monday, March 31, 2025 6:02 PM
To: Michelle Howke
Subject: Comment for City Council Meeting-Teams is not working

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Microsoft Teams is not working, and a few of us are unable to join the meeting online. I wanted to participate in public comment, but in case I am unable to connect, I have attached my speech for consideration.

If possible, I would greatly appreciate it if someone could read it on my behalf.

Thank you for your time and assistance.

Best,
Lisa Britt, 126 Miles Ave

Good evening, members of the City Council. My name is Lisa Britt, and I am a proud resident, avid cyclist, and outdoor enthusiast. Like many in our community, I cherish the Whitefish Trails. These trails allow people to experience nature, navigate our city safely by foot and bicycle, and help preserve the natural beauty that makes Montana so special.

That's why I strongly support the alternative plan proposed by the Montana Department of Fish, Wildlife, and Parks. This plan is more cost-effective, preserves the integrity of the Whitefish River, and aligns with our community's values.

I urge the council not to pursue arbitration regarding the previously denied river path. This proposed trail raises significant concerns:

1. **Environmental Impact** – Constructing a path in the river would erode its banks and disrupt wildlife habitats. We must prioritize conservation over convenience.
2. **Seasonal Challenges & Safety Risks** – During high-water months, much of the path would be submerged, making it unusable and potentially hazardous. When water levels drop, the structure could become an obstacle for river users, increasing the risk of accidents and entrapment.
3. **Aesthetic & Practical Concerns** – A path in the river would be an unnecessary eyesore, detracting from the natural beauty we strive to protect. More importantly, it is simply not needed. A better alternative already exists—one that enhances connectivity without damaging the river ecosystem.

I urge the council to support the alternative plan—one that balances accessibility, safety, and environmental stewardship. Let's ensure that our trail system remains a source of pride, not regret.

Michelle Howke

From: Tommy S <tshea7876@gmail.com>
Sent: Monday, March 31, 2025 7:06 PM
To: Michelle Howke
Subject: Bike Path Comment 3-31-25

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Hey Michelle,

Here's my comment for the meeting today (thanks for letting me submit this late. I'd have been there in person but I've been on hold with SSA for the whole afternoon):

I would like to encourage the council to explore every opportunity to get the path built one way or another, though preferably it would be level along the river. If the ramp is the only option then sobeit, however I think it should be known how difficult it is for someone to push a manual wheelchair up a ramp that long, even if it is ADA standard. I'm in pretty good shape and I would need a break or two to get up it. I'd estimate it's a similar effort required to 150+ squats as an able bodied person. The path along the river is legal, can be done responsibly, and has been promised by the easement for more time than I've been alive. Thank you for hearing my comment.

Thomas Shea
100 4th St.
#206
WF, MT 59937

Michelle Howke

From: Bruce Boody <bruceboody@outlook.com>
Sent: Thursday, March 27, 2025 4:59 PM
To: Michelle Howke
Cc: Rachel Schmidt; Richard Hildner; Diane Conradi; Mike Fitzgerald; Casey Malmquist; John Repke
Subject: Re: What to do about 124 / River Bend / Meeting on Monday?
Attachments: RBC trail to WFCCouncil 11-01-21.docx; Full Riverbend Trail Draft.pdf

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RE: City of Whitefish Notice of Special Meeting.

I will plan on attending the Special Meeting this coming Monday March 31, 2025.

Attached is my [letter of support for this River Trail section, dated November 1, 2001](#). Also included is an attachment titled [Full Riverbend Trail Draft \(PDF file\)](#) containing much of the background information, all sent to the Council on 11-01-21.

The issues have not changed substantially in the past 4 years. However, I was disappointed to see that the Final Decision issued by Region 1, MT F,W and Parks, did not adequately address many of these under-lying issues.

As in my cover letter of 11-01-21, I am hopeful that the Council will continue to insist that the final design and EA respond to all these important issues and concerns, and make this and other future segments of the "Whitefish River Trail" meet the needs of the community as well as addressing the environmental concerns.

Regards,

Bruce Boody ASLA

From: Richard Hildner
Sent: Thursday, March 27, 2025 3:31 PM
To: Julie Tickle
Cc: Rachel Schmidt; Diane Conradi; Mike Fitzgerald; Bruce Boody; Casey Malmquist; John Repke
Subject: Re: What to do about 124 / River Bend / Meeting on Monday?

[Whitefish Pilot Article](#)



Alert Sent On: 03/24/2025 06:00:06 PM MDT

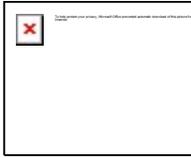
NOTICE IS HEREBY GIVEN that Mayor John Muhlfeld, pursuant to § 7-5- 4102, MCA, hereby calls a special meeting of the City Council on Monday, March 31, 2025, at 5:30 p.m., in the Whitefish City Council Chambers at 418 East Second Street and remotely via Microsoft Teams. The purpose of the special meeting is to discuss the Montana Department of Fish, Wildlife & Parks' denial of the City's SPA 124 Permit application to construct a section of trail along the Whitefish River connecting the existing trail on BNSF property near Railway Street downstream to the existing trail terminus near Veterans Bridge on Second Street and whether the City will agree to modify its plans or seek arbitration of FWP's decision.

Public comment will be taken at the special meeting. We encourage individuals who wish to provide written public comment to provide an email to the City Clerk at mhowke@cityofwhitefish.gov by 4:00 p.m. on March 31, 2025, prior to the meeting.

[March, 31, 2025 Special Meeting Packet](#)

Warm Regards,
Julie

*Check out our episode of [Making Good!](#)



JULIE TICKLE, Exec. Director
DREAM Adaptive Recreation
office: (406) 885-9539 | cell: (406) 200-8412
w. www.dreamadaptive.org | e. jtickle@dreamadaptive.org



On Tue, Jan 14, 2025 at 3:04 PM Rachel Schmidt <schmidtoutsidethebox@gmail.com> wrote:

Howdy!

Here is our 2025 meeting schedule through May!

The first date is the one scheduled meeting each month; the second date is a reserve date if we have something rolling that needs additional attention and additional work.

Feb 7 (21)

March 7 (21)

April 4 (18)

May 9 (23)

Shout with questions!

Cheers!

Rachel Schmidt
Be-OTB, LLC.
406-261-4039
be-otb.com

November 1, 2021

RE: Riverbend Condominiums, Proposed City (public) Bike/Pedestrian Trail

Mayor Muhlfeld and City Councilors,

This letter is to encourage your support for completing this critical segment of the Whitefish City Trail system. The easement for this property was granted to the City in 1983. I attended that public meeting and was so proud of the Council and staff for working to attain this easement. As this was the first of many the City would need to complete the 'River Trail' portion, it was a very important step forward and a far-sighted look to the future for all the City residents.

Since the granting of that first easement, the City has acquired many more easements and constructed several segments of the River Trail. As the Bike-Ped Committee has always recognized, since the first Bike-Ped Master Plans (starting in the late 80's), the River Trail is THE way to safely connect all the neighborhoods and then link them to the downtown, parks and schools. It is so much more than a recreational trail, it is a safe and vital transportation link for the entire community, for people of all ages and abilities. The Public Benefits of this project are enormous and potentially affect every citizen and visitor to the community.

All the River Trail segments built to date meet the accessibility standards (generally 5% grade) and this segment from Kay Beller Park north to connect to the BNSF Loop trail, has been planned to continue that standard. To date the City has also achieved some very important grade separated crossings of BNSF Railroad at the trestle and of U.S. Hwy. 93/ Second Street immediately south of the Riverbend Condos. The City is also planning to do the same at the river crossing on Spokane Ave./Hwy.93 South.

The City's staff and several different City Councils have worked for many years to complete this Riverbend Condos' segment. Several consulting design and engineering firms have also worked with the City to find the right solution for this segment. There have been several proposed solutions, however, this current plan, taking advantage of the grade separated trail that exists under the 2nd St./Hwy 93 north bridge is the design that best fulfills the immediate and long term needs of the community. As traffic counts continue to rise, implementing this segment becomes more important as it will offer a safe, vital transportation link.

For many years different designs have been put forth and studied against all the constraints inherent in this section of the River Trail. At this point it is apparent that a trail between the Condos and the river is the best design solution. Please put your support behind this effort and move this project into the final design and permitting phases.

Thank you,



Bruce Boody PLA,ASLA
PRINCIPAL LANDSCAPE ARCHITECT

Bike/Pedestrian Trail Connectivity Along Whitefish River

A Draft Report to the Park Board and Whitefish City Council

**Prepared by the Bicycle and Pedestrian Path Advisory
Committee**

September 3, 2021

Bike/Pedestrian Trail Connectivity Along Whitefish River

Introduction:

This report is submitted by the City of Whitefish (“the City”) Bicycle and Pedestrian Path Advisory Committee (the “Bike/Ped Committee” or just “Committee”). The City council created the committee by ordinance in 2002 and tasked it with providing advice and recommendations to the City regarding the development of pedestrian and bicycle trails pursuant to the City’s current masterplan.

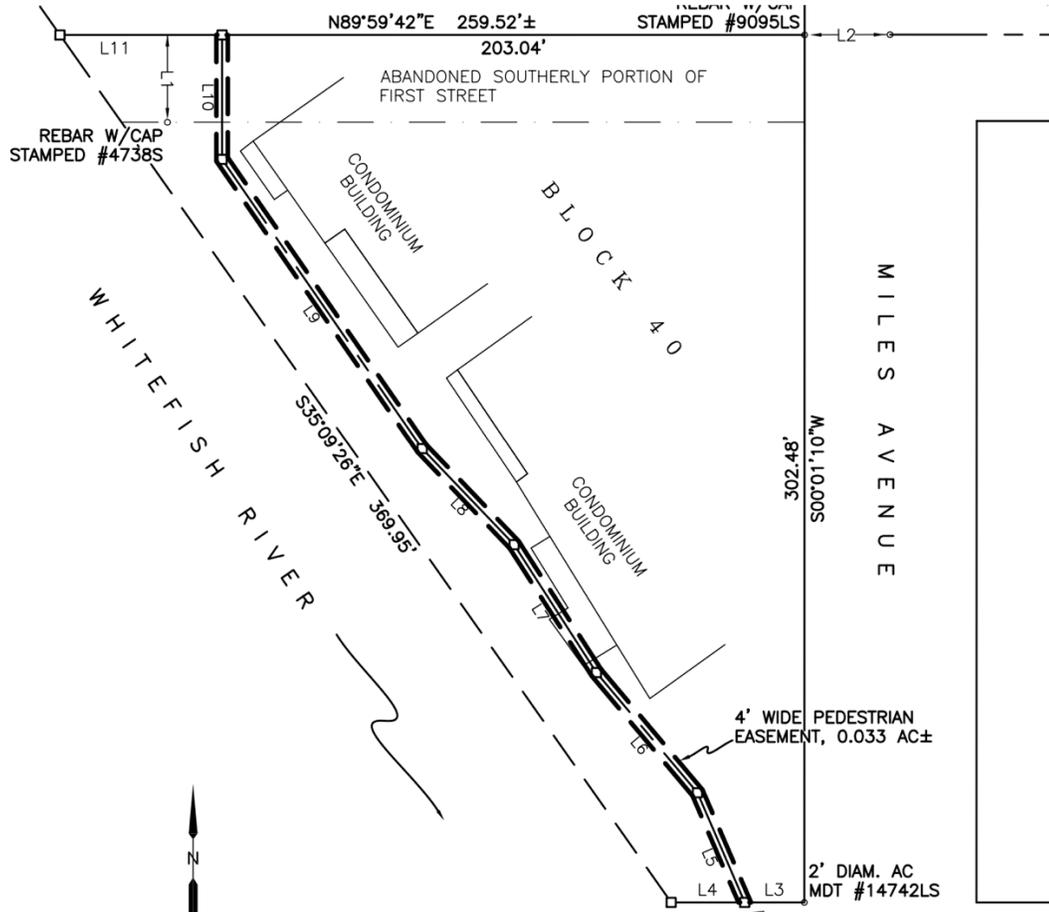
The primary artery in the masterplan trail network is the River Trail. The River Trail is a planned and partially completed 3.3-mile-long main trunk line that runs beside the Whitefish River and extends from City Beach to Highway 40. Many planned sections of the River Trail are in areas that are largely developed with homes and businesses. In many cases, it is not an easy task to route the River Trail between the river and existing structures. It requires imagination, flexibility and perseverance, but similar projects have been completed in hundreds of cities throughout the country. Roughly 25 years of hard work by many community members, City staff, and other entities, along with millions of dollars, have gone into studying, developing and constructing significant portions of this trail.

After analysis spanning more than a decade, the committee has prepared this report with the intent of finally taking the necessary steps to close a major gap in the City’s bike/ped system.

One key section of the River Trail that has not yet been completed is the Riverbend section (see description below). Completion of the River Trail and completion of the Riverbend section were identified as the top priorities for the Whitefish bike/ped network in the 2017 Connect Whitefish Master Plan precisely because it would provide a safe, accessible connection between two extensive, existing sections at the core of the River Trail system. The Bicycle and Pedestrian Path Advisory Committee recommends completion of the Riverbend section and is requesting the City now move forward.

Description of the Riverbend Section

The Riverbend section is a 563-foot stretch of riverbank north of Veterans Bridge along the east bank of the Whitefish River. The section spans two property parcels. The Riverbend Condominium parcel contains 370 feet of river frontage and the lot to the north contains 193 feet of frontage. Construction on both parcels is necessary to create a continuous River Trail in the area.



□ ***Survey detail of Riverbend property. (This survey shows only the Riverbend condo property and not the parcel to the north. The trail route shown is from an earlier design proposal. A new routing is to be determined.)***

The northern parcel allows for construction of a trail with ample setback from the river. The owner of the northern parcel supports construction of the trail, provided that the trail is completed on the southern property. The southern property is owned by the Riverbend Condominium Association (“the HOA”). The HOA is opposing the construction of a path between the condominium buildings and the river, even though the City owns a trail easement along and across their property. Also, due to the fact that the condominiums were constructed relatively close to the river, a pathway along the river in that location requires special permitting and possibly special construction requirements.

Given the situation described above, this report is focused on the southern parcel of the Riverbend Section.

Together, the two sections of trail will complete the heart of Whitefish’s bike and pedestrian system, providing residents and visitors with safe and accessible ways of navigating the town, while reducing traffic loads on congested roads and physically removing cyclists and pedestrians from the risk of crossing Highway 93 and the risk of moving through the City alongside cars, trucks, and commercial vehicles.



□ *Google Earth overhead image of Veterans Bridge and the Riverbend condos just north of the bridge and on the east side of the river.*

The Connect Whitefish Bicycle & Pedestrian Master Plan commissioned by the City and published in January 2017 includes three Tiers of implementation priority. The Whitefish River Trail—Kay Beller Park to BSNF Loop (C1), called the “backbone of the bike/ped network”—is included in Tier 1 (0-5 years), high priority in the network plan. The rationale and objectives of the recommendation presented in this report for the Riverbend section are consistent with the Master Plan.

While Riverbend’s HOA has put forth objections to the location of the trail between the condominiums and the river (see Appendices 1 and 2), the legal easement remains intact and the Committee is of the opinion that this route should continue to be pursued. An alternative route through the HOA’s property, a “switchback” route connecting the Veteran’s bridge underpass to Miles Ave., has been proposed, but there are several drawbacks to this option, including construction difficulties, inconvenience to users, lack of disability access, and the use of Miles Ave. that this alternative would require. These issues are detailed in Appendix 7.

Concerns regarding river disturbance during path construction have been brought up. The Committee has done extensive research on similar projects in Whitefish as well as projects across the state that received FWP approval. Appendices 4 and 5 detail these projects, their minimal impact compared with public benefits, and the clear ability of river recovery, as with the years-long BNSF contamination clean-up.

The Committee has done extensive research on FWP-approved paths throughout Montana, and believes that several design options are available, including but not limited to elevating sections of a path.

Recommendation

The Committee is recommending that the City immediately pursue the completion of the River Trail by 1) asserting the validity of its existing easement between the Riverbend Condominiums and the river; 2) commissioning or creating a design for the trail from Veteran’s Bridge to the BNSF Loop with community input, including input from those representing users with mobility challenges; and 3) amending its application for a permit from FWP based on the new proposed design and using the information in this report pertaining to FWP approvals in similar situations as support for the application.

This document explains the Committee’s reasoning behind its recommendation and provides information supporting its implementation.

Rationale for Building the Riverbend Section of Trail

1. PUBLIC SAFETY: Crossing Highway 93 is unsafe

According to a 2019 count from MDT, this section of highway averaged 10,508 vehicles per day. It is very likely that the vehicle count is substantially higher today and will remain so in the future. In addition, the crossing is located at a point where drivers are exiting or entering town, leading to increased speeds and lower expectations of non-automobile users being on the road.

Fortunately, the City had the foresight to work with MDT when planning the reconstruction of Veteran’s Bridge. The bike/ped underpass built by MDT at state expense provides an extremely safe crossing of Highway 93 in that location. However, because the trail does not come from or continue along the river to the north of the underpass, this safe



River path looking toward MDT underpass from Kay Beller Park toward Veterans Bridge.

crossing is underutilized. When approaching Highway 93 at this location, River Trail users wishing to continue their walk/ride must either cross Highway 93 at grade, or use the underpass and stairway. Using the underpass and stairway is unrealistic for cyclists (particularly children and families), inconvenient for walkers, and impossible for people with certain disabilities or other mobility issues. As a result, most users choose to cross at grade. Compared to using the underpass, a crossing at grade is inherently and substantially less safe. That is especially true at this location, which is seeing increasingly higher levels of all types of traffic with drivers that are often not familiar with the surroundings.

Highway 93 is a state highway, and as such, all decisions about the grade crossing are made by MDT. At the City's request, MDT striped the crossing in September 2020. The striping was completely worn off by March 2021 and the crossing remained essentially unmarked for the summer. The City has also asked MDT for a controlled (signalized) crosswalk at this location and MDT is currently evaluating the intersection to see if it warrants additional safety improvements. MDT built the Highway 93 underpass at Veteran's Bridge at the City's request and at the state's expense with a written agreement with the City providing that the City would later extend the River Trail via the underpass utilizing the easement for a riverfront trail specifically in that location.

Regardless of the method, a striped or controlled crossing is still substantially less safe than using an underpass. Marking or controlling a crosswalk does not force drivers to stop. It is impossible for a person—especially a child—expecting to use a crosswalk to know whether or not an oncoming car contains a driver who is not paying attention to the entire ecosystem of the road and its users, such as happens with smartphone use while driving. This is in addition to the usual risks that people wishing to cross a highway face when sharing the road with heavily congested traffic.

The issue of safety at this crossing could not be more serious. The rate of pedestrian and cyclist fatalities and injuries in the U.S. has been increasing for several years. Just two years ago a teenager was hit by a driver at a marked pedestrian crossing on Baker Ave., prompting approval from the state for installation of a lighted pedestrian crossing button. It is only a matter of time before someone is hurt, or worse, in a similar fashion at the location where Miles Ave. intersects Highway 93.

Each year, according to the Federal Highway Administration, pedestrian and bicyclist fatalities comprise about 16 percent of all traffic fatalities with approximately 5,000 pedestrian deaths and 800 bicyclist deaths. Another 65,000 pedestrians and 48,000 bicyclists are injured in roadway crashes annually. These numbers have been rising in recent years. Pedestrian and bicyclist safety improvements depend on an integrated approach that involves the 4 E's: Engineering, Enforcement, Education, and Emergency Services. "Emergency Services" should be the absolute last resort. The first is to engineer infrastructure that makes injury and death much less likely.

The bottom line is that one of the top recommendations in the 2017 Connect Whitefish Master Plan is the need for safer road crossings. While other crossings in town with striped crosswalks and pedestrian buttons also expose pedestrians and cyclists to inattentive drivers, the Miles Ave./Veterans Bridge crossing has another option via the existing underpass that is substantially safer than an at-grade crossing.

2. PUBLIC SAFETY: Using Miles Ave. is uniquely unsafe

As mentioned above, users of the River Trail have a choice, albeit possibly a difficult one, when they approach Highway 93 at Veterans Bridge. Users could make the extra effort to use the underpass or cross at grade, but without a trail along the river north of the bridge, users can't avoid use of Miles Ave.

Miles Ave. is extremely steep, with a grade of about 9-10% (as measured by the committee), the sidewalk (only on the east side) is narrow, and there is substantial traffic with poor sightlines including the entrance/exit for the Riverbend condos.

A cyclist, especially a child, riding south and downhill on Miles Ave. toward Highway 93 could easily have difficulty stopping and accidentally roll into Highway 93 traffic—or cars entering the Riverbend condos via the driveway immediately adjacent to Highway 93. Going north and uphill on Miles, most cyclists move onto the road because the sidewalk is too narrow to maneuver easily. Not only does this force users into a road where drivers don't expect them, it exposes them to drivers turning from Highway 93 onto Miles Ave., and then accelerating quickly due to the steep grade. Pedestrians routed onto Miles Ave. from both directions must share the steep, narrow sidewalk and cross two commercial driveways and two residential driveways between Highway 93 and 1st St and then deal with the undefined intersection of Miles, Railway, and the BNSF service road. All of this presents even greater challenges to users with disabilities.

Miles Ave. is also the main route to and from the BNSF maintenance facility, with its unique and often large vehicles.

As the Railway District continues to develop high-density residential properties (including those for short-term rentals) as well as retail, Miles Ave. will experience increased neighborhood traffic. Furthermore, Miles Ave. itself will become increasingly busy as a bypass to congestion in the downtown area. Southbound drivers crossing the viaduct and wishing to access the west side of town will increasingly choose to drive through the Railway District rather than wait at the intersection of Highway 93 and Baker Ave. In other words, the option of simply using a crosswalk and Miles Ave. to “connect” the trail system will become even less safe over time.

In short, Miles Ave. as it is currently configured is not a suitable option for purposely and permanently routing bike and pedestrian traffic.

Further Safety considerations are addressed in Appendix 3.

3. ACCESSIBILITY: The trail system should be for all

The proposed Miles Ave. route will effectively exclude people with mobility issues from having full access to the trail system. Advocates for these members of our community suggest that Miles Ave. is unnavigable for people with disability or mobility issues. It is too steep for wheelchair users, and even a powered wheelchair would have trouble

accessing the sidewalk. The City's River Trail system is not meant to exclude users with disabilities. Unless the Riverbend section is built, with input from people in the disability community, that is exactly what will continue to happen.

The same issue extends to using the stairway on the north side of Veteran's Bridge. The stairway is the only option for entering or exiting the underpass on the north side, rendering the underpass unusable for River Trail users with mobility issues and forcing them to cross Highway 93 at grade. (It should also be noted that cyclists, especially children and families have difficulty with the stairway.)

4. PRECEDENT: Future MDT support of bike/ped trail projects

When MDT undertook the replacement of Veteran's Bridge, the City asked that a bike/ped underpass be constructed under the east end of the bridge.

The design of the River Trail passing under Highway 93 at two locations relied upon MDT's future plans to rebuild both highway bridges. At its November 6, 2000, meeting the Whitefish City Council unanimously voted to direct City staff to request that MDT design both future bridges to include a passage under the highway for the River Trail. MDT agreed, and the design of the Highway 93 West Bridge included a 10-foot-wide concrete path under the bridge.

The recently completed draft Highway 93 South Corridor Plan envisions a replacement of the culvert bridge where Highway 93 crosses the Whitefish River between 9th and 13th Streets. Under this plan, the reconstruction would include bike/ped pathways under a bridge that will span the river. While these new trails would be an exciting addition to the Whitefish network, they are clearly more useful if they are part of a continuous River Trail system and the case for including these trails in the reconstruction is much stronger. Failure to fully utilize what is already in place at Veteran's Bridge, weakens the case for MDT support of more trail work in their projects within Whitefish.

5. PRECEDENT: The City should honor past agreements

When the City approved the Riverbend Condominiums, and in exchange for the Riverbend easement, it abandoned an unconstructed portion of First Street that was 270 feet long and stopped at the very edge of the Whitefish River. The Riverbend developer needed more land to accommodate the structures it intended to build and to provide additional parking. This land, if it had remained City property, would have provided the City and the community with a 60-foot-wide access route to the river, plus enjoyment of 61 feet of river frontage. The City also abandoned a nearby alley that was 16 feet wide and 110 feet long. The area of the section of First Street that the City abandoned was 15,870 square feet (0.36 acres) and the area of the alley was an additional 1,760 square feet (0.04 acres)

The current City Council has an obligation to honor the intent of the original 1983 agreement with the developer of the condos both on the grounds of continuity of governance (despite changes in individuals involved) and of equity that ensures City

residents that a valuable asset will not be given up for nothing. It would make absolutely no sense for the City to abandon a 15,780-square-foot (0.36 acres) access to the river, plus 61 feet of river frontage, in exchange for nothing.

Current City policies regarding construction near the river were put in place long after the Riverbend easement for a trail along the river was established. Furthermore, those policies provide that “walkways and trails” are an allowed activity in the buffer zone along rivers, streams, and lakes. The Riverbend trail is allowed under current policy and therefore cannot be viewed as inconsistent with the scope or intent of the policy.

The City should also honor its written agreement with MDT to connect the underpass to a trail going northward. Given the length of time that it generally takes to secure easements, permits and funding to expand the bike/ped system, failure to assert existing agreements could seriously inhibit any progress.

6. PRECEDENT: Future development of the trail network

Failure of the City to demonstrate a strong commitment to a comprehensive bike/ped network will demotivate developers and possibly make future negotiations more challenging. If the trail is not continuous, it diminishes the value of the trail in any particular location. Developers will be less inclined to support integration of a trail easement on their property if the future value of trail network access from that property is low. The Riverbend situation is an immediate example. The owner/developer of the property north of the condominiums has indicated he is ready to grant an easement on his property, but only if the City enforces its easement on the condominium property.

7. OPPORTUNITY: Trail support from the adjacent property owner is conditional and time-sensitive

The owner of the property to the north of the Riverbend Condos is currently willing to provide an easement and a pathway on his property that would connect the BNSF Loop Trail to the River Trail. However, he is understandably only willing to do so if the Riverbend section is resolved. If the City abandons its rights to build a trail along the river at Riverbend, then it would make no sense to build a trail on the property to the north. Even small delays in taking immediate action on Riverbend puts the availability of the trail on the adjacent north property at risk, as ownership may change or the current owner may give up on the prospect of a trail.

8. LIVABILITY: Travel, traffic and environmental benefits

Whitefish has pursued the River Trail and other multiuse trail systems as part of a commitment to making the City accessible and usable for everyone, including people who don't or can't drive. The 2017 Connect Whitefish Master Plan includes, for example, the desire for people to “walk safely and comfortably to work, schools,” etc. This goal is

admirable and will have benefits far beyond what the City can foresee. A 2012 study of 20,000 schoolchildren in Denmark, for example, found that children who walk or bike to school had higher test scores, better concentration, and better executive function.

The trail system removes cars from the road, reducing pollution, noise, and congestion. It provides easy access to the City's wealth of green spaces, promoting physical and mental health for children and adults.

The trail system has done an excellent job of providing residents and visitors with the ability to navigate around town without exposing themselves to the risks of sharing the road with cars. But without the Riverbend connection, that ability is curtailed. Families who live on the west side of town and who can easily access that section of the River Trail, for example, are forced to use the dangerous highway crossing or travel down to the intersection of Highway 93 and Baker Ave. if they wish to go to City Beach, undermining the purpose of the trails.

Livable communities and an active lifestyle are values that Whitefish actively promotes, but in order to provide them it needs to remain committed to building the infrastructure that gives people options.

Whitefish's population, both full-time and visitor, will continue to grow. When it comes to transportation infrastructure, the City's first priority should be to provide as many non-car options as possible and to make them as safe as possible. Without full commitment to the trail system where and when it can be built, that priority will be undermined and people's lives will be put at risk.

The Committee is therefore of the opinion that pursuing the Riverbend section of the River Trail is not optional. It is vital to the accessibility, usability, and safety of the bike and pedestrian system as a whole.

9. NO VIABLE ALTERNATE ROUTE

The HOA has proposed an alternate route on their property. This route would go from the north end of the Veteran's Bridge underpass up through the southern portion of their property to the southeast end of their paved parking area.

Below is an engineer's rendition of what a possible switchback route will look like:



□ *Sketch of possible “switchback” routing for the Riverbend path*

For several reasons, this route is unacceptable. First, the steep slope of this route will require several switchbacks. The switchbacks and the trail itself will be difficult, if not nearly impossible, for cyclists and users with mobility issues to safely navigate. Second, it will require that users are routed to/from Miles Ave. or, as has also been proposed, routed through the HOA parking area for a connection to a trail on the northern parcel. Neither of these sections of the alternate route would be safe or prudent. The Bike/Ped Committee believes that the inconvenience of this route would cause trail users to avoid it. The owner of the northern parcel has indicated he would not be willing to construct a trail on his site that has a southern terminus anywhere other than along the river. Finally, choosing this alternate route would likely close the door on any possibility of a trail along the river in that section.

Implementation Obstacles Addressed

HOA Challenges to Existing Riverbend Easement

The Riverbend HOA has expressed opposition to the easement and siting of the trail. (See Appendix 2.) However, not only does Whitefish hold a legal easement to build the trail explicitly along the river, the City abandoned extremely valuable property—a portion of

First Street—to the original developer in exchange for the easement. Without use of the abandoned street there would be fewer condominiums today.

Riverbend Condominium residents have benefited from property that originally belonged to the City—which means it belonged to the people of Whitefish—but the legal agreement was that the development would provide something of value in return, the easement to build the lynchpin connector in the City’s trail system. The developer deeded that easement to the City, and the developer and the City mutually agreed that it would best to fix the location of the permanent easement in the future, when they could determine what route would connect future paths on both sides of the condo property. There is a clear obligation on the part of Riverbend HOA to honor this legal, binding contract. All current members of the HOA would have (or certainly could have) had full knowledge of the existence of the easement when they purchased their condo.

Construction Proximity to River

Several years ago a representative of FWP discussed possible designs of the Riverbend trail with City staff. At that time he discouraged the City from considering an elevated boardwalk and encouraged the City to pursue an asphalt surface path. The City had no choice but to design a surface path, and the City applied to FWP for approval. An FWP representative said that he was likely to deny the proposed surface path, but also said that an elevated boardwalk would not be permitted.

Recently the committee discovered that FWP has approved multiple bike/ped paths that Great Falls then constructed using a boardwalk elevated over the banks of the Missouri River and the Sun River. FWP had also approved Great Falls’s construction of a path immediately above a riverbank as well as paths under existing highway bridges that displaced some of the river during high flows.

As a result, the committee proposes that the City’s application to FWP be amended to utilize a boardwalk elevated over the bank of the Whitefish River where necessary. Details of this proposal occur later in this report.

CLOSING STATEMENT

The Bike/Ped committee respectfully requests that the City’s Park Board approve the committee’s report and forward it on to the City Council with a recommendation for approval.

The Bike/Ped committee respectfully requests that the City Council take the actions described below. This project has been characterized by fits and starts and whenever an obstruction has appeared, the City has lost months or years in dealing with it. It would be helpful to the committee and to the eventual success of this project if the Council would approve in advance a number of steps that may be necessary. They are as follows:

1. Authorize the City to file an amended application for a 124 permit with FWP, describing a new proposed path.

2. Authorize the City to prepare an amended Environmental Assessment if FWP requires one.
3. If a negative decision is received from FWP, authorize the City to appeal, if necessary, to others in the chain of command within the FWP.
4. If the Riverbend HOA will not agree to the City's latest proposal, authorize the City to file a lawsuit in Flathead County District Court and request that the court rule that the Riverbend owners have breached their obligation of good faith and fair dealing and as a result their consent is no longer needed in order for the easement location to be fixed by the court, and for the City to begin construction.
5. Authorize the City to go forward with all necessary designing and planning steps in order to begin construction of the path.
6. Require the City to obtain the City Council's approval to initiate construction when all necessary funding has been identified and is available.

List of Appendices:

Appendix 1 consists of all documents evidencing the 1983 transaction that exchanged portions of City right-of-way for a trail easement.

Appendix 2 is a legal opinion that concludes that (1) in 1983 the City obtained a valid and enforceable bike/ped easement from the developer of the Riverbend condos, and (2) the current Riverbend owners have a legal and enforceable obligation to negotiate in good faith on the location of the trail.

Appendix 3 describes MDT's construction of the Highway 93 West underpass for the City and safety concerns in that section of highway.

Appendix 4 describes the City's application to FWP for a 124 permit allowing a 4-foot-wide gravel path.

Appendix 5 describes FWP's recent approval of bike/ped path construction by Great Falls directly on or over the banks of the Missouri and Sun Rivers, and includes examples of similar projects from around the country.

Appendix 6 describes how in the last 10 years other agencies have been approved to conduct massive excavation (compared to the City's proposal) in the Whitefish River.

Appendix 7 explains why the alternative route involving switchbacks is not feasible and not safe.

APPENDICES

Appendix 1: ORIGINAL EASEMENT

Attached are the original 1983 easement with the developer of Riverbend Condominiums and minutes of City Council meeting detailing Riverbend obligations.

Appendix 2: LEGAL OPINION

Please see attached legal opinion and exhibits.

Appendix 3: CONSISTENCY and SAFETY

The City has recently taken extensive steps to improve safety for people attempting to cross Baker Ave. Although for several years the City has had a user-activated crossing signal at the crosswalk at the Baker/First St. intersection, the City was not satisfied with the level of safety at that location. To allow pedestrians and bicyclists to travel under Baker Ave. with no risk whatsoever, the City has completed a \$1.4 million underpass project.

The reasons for the Baker underpass are identical to the reasons supporting the underpass for the Highway 93 West bridge. MDT's 2019 traffic counts near the Baker/First Street intersection (11,145 average daily traffic in 2019) are virtually the same as the traffic counts (10,508) near the Highway 93 West bridge (measured near Karrow Ave.). One would expect the City to do its best to provide the same level of safety to persons needing to travel under the highway bridge as it has for persons needing to cross under Baker Ave.

Anyone who has used one of the existing sections of the River Trail (which is now more than 80% complete) has enjoyed the ambience that the City hoped to create. The exceptional experience that the River Trail provides includes three steel bridges over the river, four parks along the trail, and multiple trails that branch out from the River Trail.

Those who wrote the 1999 master plan were well aware of the goal of crossing under the highway (twice), and aware of the Riverbend section, which was needed for one of the underpasses to work. At that time the Riverbend easement was the first and only trail easement that the City owned. The Riverbend segment can be seen as a portion of the River Trail on the map contained in the 1999 master plan, which was adopted by the park board and by a unanimous City council.

Appendix 4: FWP, river trail approvals, and river impact

The committee acknowledges that the City faces some other hurdles to completing the trail. The unfortunate siting of the Riverside Condominiums leaves tight spacing for the legal easement, and FWP has expressed some concern about impact on the river itself. However, the Committee has conducted extensive research on these questions, and is of the opinion that they are not insurmountable. There are several examples of FWP-approved

river trails around the state that have had far more impact than this section of the River Trail would.

When MDT constructed an underpass for the Highway 93 West bridge, there was nowhere to place the path other than in the riverbed, and so the path displaced, or narrowed, the river by 10 feet. A foundation or footing under the path required riprap and gravel to a depth of approximately 1 yard, topped by a 5-inch-thick concrete sidewalk and retaining wall. It was necessary to excavate a portion of the riverbed to accommodate the gravel. The highway bridge was constructed during 2013-2014, and the underpass has been available for use by the City for over six years.

In order to obtain all necessary agency approvals prior to beginning construction, on November 12, 2012, MDT applied to the Department of Fish, Wildlife & Parks, the US Army Corps of Engineers, the DEQ, the DNRC, and to the City, as the local Floodplain Administrator and as required by the City's Water Quality Protection Regulations.

The City Floodplain Administrator approval specifically mentioned that (1) the underpass that MDT would build for the City complied with all City floodplain regulations, (2) erosion would be prevented by the use of standardized materials such as fiber rolls and silt fencing, and (3) there would be no adverse long-term environmental effects from its construction. The City's administrator of its Water Quality Protection Regulations stated that the infrastructure improvements of this type are exempt from review under those regulations.

MDT's application to the agencies included the bridge and specifically described the 10-foot-wide concrete path to be built for the City. All agencies approved the application, with no discussion at all about any issues arising from placement of the bike/ped path 10 feet into the river. FWP granted its approval on January 4, 2013, less than 60 days from the application date. The approval was subject to its standard conditions, without any conditions unique to the bridge or the underpass.

The City and MDT worked together in a number of ways during the course of the project. Their joint obligations were spelled out in several written agreements. An agreement signed on November 12, 2012, stated that MDT would construct the underpass and the City agreed that it would extend the path northward from the bridge. Specifically, it said: "The City will construct a connection to local street/bike paths on the north side of the Whitefish River Bridge from the north border of MDT right of way to connect the path to the existing Whitefish path network." This agreement provided that it cannot be altered without MDT's written consent. A copy of this agreement is attached at the end of this appendix. Clearly MDT obligated the City to actually use the underpass.

Consistent with the new master plan's key recommendations, the City applied to FWP for a "124 permit" authorizing construction of a 4-foot-wide gravel trail between the Riverbend Condominiums and the river. The City did not anticipate any difficulty obtaining the 124 permit from FWP. City representatives had discussed the Riverbend trail previously with Mark Deleray, of FWP, who recommended a surface path and who always indicated that FWP would work with the City to find an acceptable solution. A new individual, however, handled the City's application. Despite the very positive

recommendation from the lengthy Environmental Assessment prepared by the City, and from the public, he advised the City that he was likely to deny the permit. The three reasons given for denial were (1) portions of the trail were too close to the river, (2) the elevation of the trail was too low and the trail could be inundated in high river flows, and (3) as far as he knew FWP had never approved a project like this.

The FWP employee who handled the City's application failed to consider that (1) the 10-foot-wide concrete path that FWP approved and MDT built for the City was much closer (actually in the river) than the City's proposal, (2) the elevation of a 70-foot length (out of 370 feet) of the City's proposed trail was only inches lower than the trail MDT constructed, and (3) in approving the concrete trail under the new bridge seven years earlier, FWP essentially approved a pedestrian and bicycle path in the river, similar to what the City proposed, except the City's trail would be out of the river rather than in it. In fact, the MDT-built trail that FWP approved was designed specifically as a jumping off point for the Riverbend segment.

In writing and in meetings with the FWP representative, City staff and Bike/Ped Committee members provided many solid reasons justifying approval of the Riverbend trail. Some of the reasons are set forth below.

1. The River Trail was designed to go under the highway because of the extreme danger of forcing trail users of all ages and skill levels to cross Highway 93, with its 10,508 (1999 figures) average daily vehicle trips.
2. MDT constructed the underpass (at considerable expense) specifically so that the public could travel farther along the river.
3. FWP personnel were well aware when FWP approved the highway bridge underpass that the City intended to develop the River Trail northward along the river.
4. The City's entire bike/ped system, under development for 25 years, relied on the completion of the River Trail.
5. The Riverbend section was essential to closing the gap in the River Trail.
6. At no time during design and construction of the underpass did FWP personnel give any indication that it would not allow the trail to continue northward.
7. The River Trail is more than 80% complete, and an enormous amount of time and millions of dollars have gone into its development.
8. Public comment was overwhelmingly in favor of the Riverbend section of the trail.
9. The Environmental Assessment prepared by an extremely qualified engineering firm concluded that the trail would be an extremely important project for the public good, and the engineers could not identify any significant environmental impacts from the construction or ongoing maintenance of the trail.

10. The City was contractually obligated to MDT to carry the River Trail on northward from the underpass.
11. Without the Riverbend section, that portion of the River Trail was no longer ADA accessible, and people with disabilities would have to stop before reaching that point in the River Trail.
12. The City offered to construct a path in any manner and using any materials requested by FWP.
13. The City was willing to conduct off-site mitigation to offset any perceived harm to the river and its banks.
14. The City has been assured by individuals experienced in trail construction that the Riverbend section could be constructed without any harm to the river.
15. This is not the only section of the River Trail that must be built relatively close to the river. If FWP denies a permit for the Riverbend section, it will likely deny permits for several other sections of the River Trail, with the result that the River Trail will remain a collection of small, unconnected segments.

One of the primary reasons given by the local office of FWP for not granting the City's application for a 124 permit is that FWP has never approved a bike/ped project as close to a river as the Riverbend section. That is not correct, however. The committee has discovered that the Region 4 FWP office in Great Falls has approved as many as eight bike/ped projects that are as close or closer to a river than the Riverbend path. The Region 4 FWP office has also approved paths constructed directly in a river, and has also approved paths that are elevated over a river using supports that are anchored into the riverbank.

Three of these projects, which were built by the City of Great Falls, are described in Appendix 5.

Appendix 5: SIMILAR FWP-APPROVED PROJECTS ADJACENT TO RIVERS

The Elevated Sun River Connector Trail

In approximately June of 2016 the City of Great Falls completed the Sun River Connector Trail, an elevated section of a bike/ped trail that overhangs the ordinary high-water mark of the Sun River. The entire length of the trail is .52 miles. The trail is elevated over the river for 574 feet. The remainder of the trail is built on or immediately near the riverbank. In order to support it the city constructed a sheet piling retaining wall 1034 feet long. The equipment used included excavators, compactors, sheet pile drivers, and graders. Concrete trucks poured concrete for the footings.

Below are pictures showing the riverbank before the elevated trail was installed and also a picture showing the completed trail. An engineer who provided the pictures and information confirmed that FWP approved the project (a copy of the FWP application is attached at the end of this document) and that building on the riverbank and out over the river was not in any way controversial.



□ *Sun River Connector Trail running alongside Missouri River in Great Falls (top photo shows extent of trail running alongside the highway in close proximity to the river); bottom left is the area before trail build; bottom right is pathway after elevated walkway was installed.*

The Bay Drive Underpass and Trail

The City of Great Falls constructed the Bay Drive Underpass and Trail in 2006. It was approved by FWP This project involved building an underpass beneath a highway bridge and building an elevated trail that parallels the Missouri River above a steep embankment. The total length of the trail is not clear from the application, but the elevated section is at least 500 feet long. To support the trail, concrete trail supports were installed

approximately 5-10 feet from the edge of the water in a steeply sloped riverbank. The concrete supports extended from the bottom of the trail deck down into the underlying sandstone bedrock. A concrete trail was constructed under the highway bridge.

Equipment used included excavators, and a small crane was used to drill the holes for the concrete supports. Concrete placement was done by a concrete pump truck.

Pictures showing several stretches of the completed trail and underpass are below:



□ *Bay Drive underpass and trail continuing under bridge in close proximity to the Missouri River.*

An additional trail located on the Missouri Riverbank in Great Falls

Below are several pictures showing an additional bike/ped path in Great Falls that parallels River Drive North and that was constructed directly beside the river. The committee has less information about this path, and from the pictures it appears to have been constructed some time ago. The city plans to repave the trail this coming summer. According to an engineer involved, Montana State Parks Fisheries Division was contacted about permitting, but it determined that a stream bank permit was not needed to repave the asphalt trail.



- *Bike/ped trail in Great Falls paralleling River Drive North in close proximity to the Missouri River.*

The Bike/Ped Committee believes it will be able to convince FWP to issue the 124 permit, particularly with the new information discussed in this report. FWP is a single state-wide agency, which is divided into a number of regions for operational reasons. Like any government agency, it has to treat similar applications in a similar manner. One region can't refuse to permit a project that is the same as one that another region routinely approves. Nor can any region allow one agency (MDT) to construct a project involving extreme temporary disturbance and then refuse to permit another agency (the City) to construct another project right beside the first, which project will have little or no negative effect to the river.

The public believes in the River Trail, and has shown great patience in waiting for it. Public opinion can be utilized to help move the City's application along.

River trail projects around the country

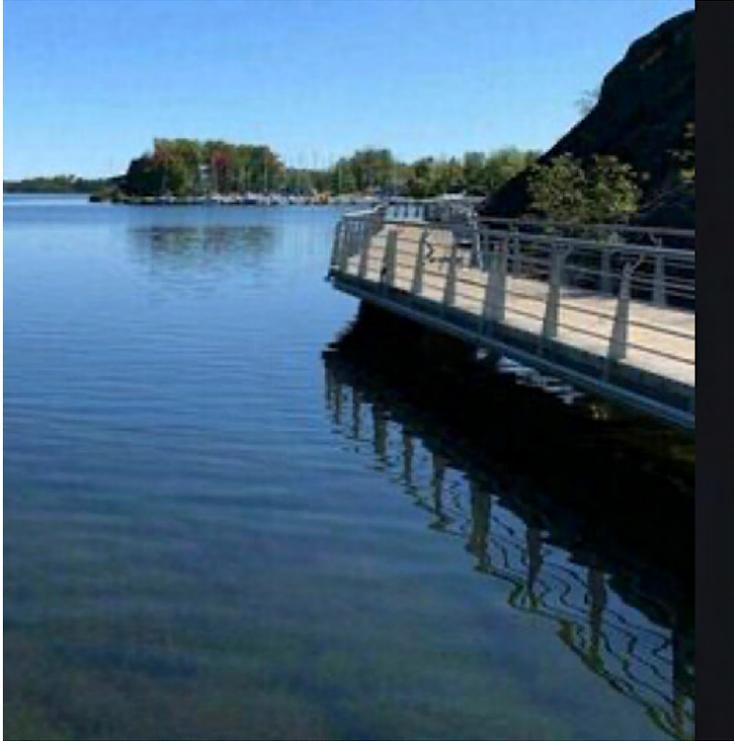
Bike/ped paths similar to those approved by FWP in Great Falls can be found all over North America. The following pictures show a representative sample:



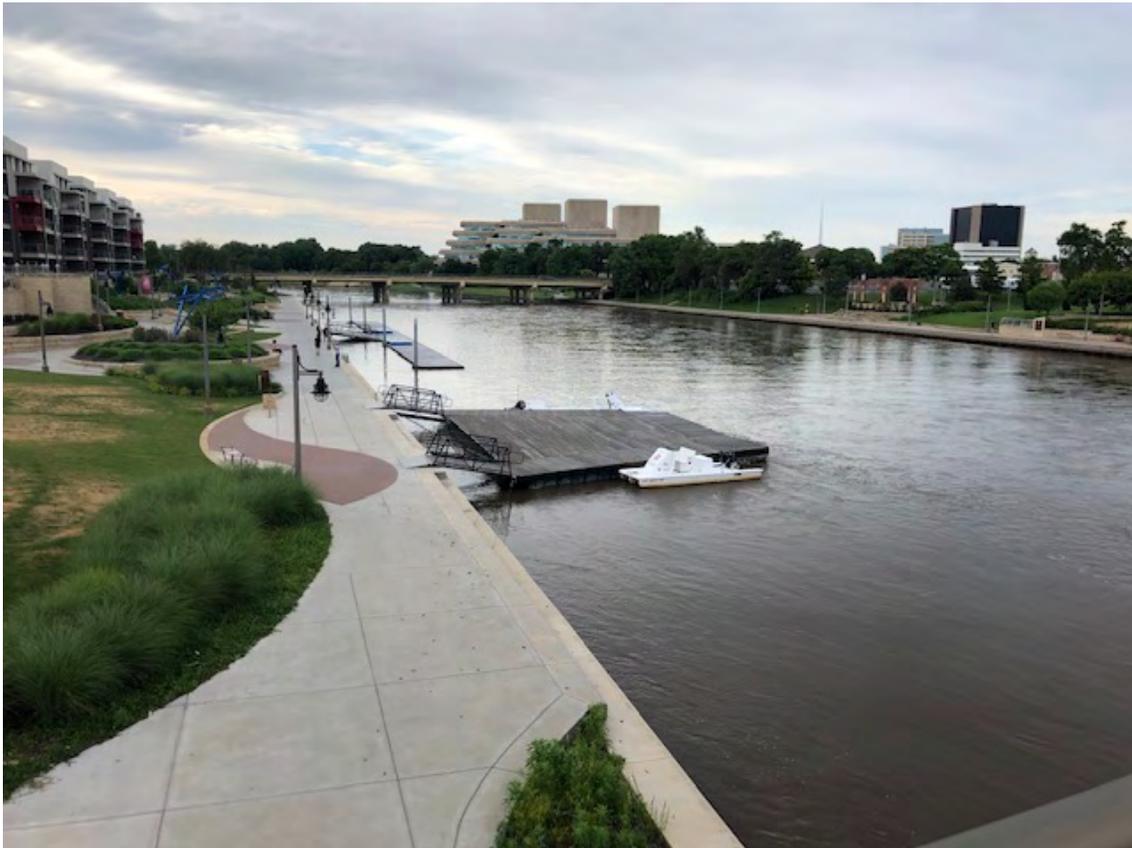
□ *Along the Colorado River in Colorado.*



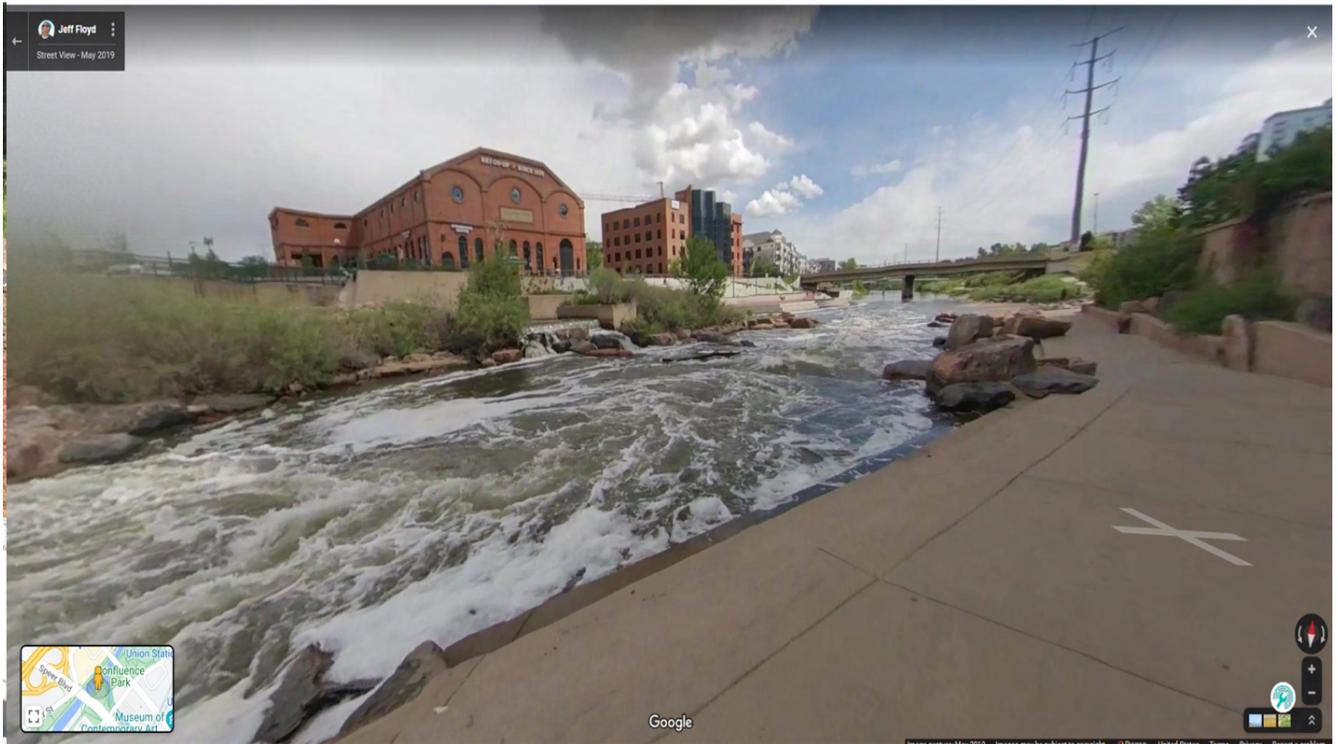
□ *Boulder Creek in Boulder, Colorado (above): This creek floods regularly in the spring and the water flows temporarily over the path.*



▫ *Bell Park Path
(left), Ontario,
Canada.*



▫ *Path alongside the Arkansas River in downtown Wichita, Kansas.*



□ *Bike/ped path along the Colorado River.*

Appendix 6: OTHER FWP-APPROVED PROJECTS ALONG WHITEFISH RIVERS

Other projects along Whitefish River

To get an idea of how insignificant an effect the Riverbend section will produce, it helps to review carefully other recent projects in and beside the Whitefish River. The first to consider is the construction of the highway West bridge in Whitefish, which FWP determined would have no significant environmental impacts on the river.

During 2013 through 2014, a general contractor working for MDT removed the old highway bridge on Highway 93 West and constructed an entirely new bridge with the attached 10-foot-wide concrete underpass described previously. It was a difficult project. The new bridge had to be constructed in the same place as the old bridge, and a temporary bridge had to be constructed to keep the highway traffic flowing. In 1994, long before construction began, MDT, using consultants, produced an extensive Environmental Impact Statement (EIS). The 1994 EIS looked only at the bridge, but not at the underpass, as it was not yet a part of the overall project. The EIS was updated in 2008. By that time the underpass had been added to the project, and so the 2008 update examine possible environmental impacts from the underpass. None was found.



- *Work on old Highway 93 bridge (now Veterans Bridge) on and along Whitefish River, above; left, former concrete bridge supports that were removed as part of the bridge rebuild project.*

It is informative to review the actual work that was done in order to appreciate how extensively the project temporarily affected the river without causing actual long-term harm. Some of the effects are described below:

1. Both of the original concrete piers in the river, weighing many tons, were removed. This involved a large excavator digging into the riverbed to free up the piers for removal. In order to reach the piers and remove them large timbers were placed in the river to support the excavator's weight, and interlocking steel pilings were driven deep into the riverbed in a semi-circle to isolate the removal area from the rest of the river. The pilings were later pulled out of the riverbed after the piers were removed.
2. The banks of the river on both sides were altered to allow for installation of abutments for the temporary bridge and for the permanent bridge.
3. Several large temporary supports were built in the riverbed to support the temporary bridge. They were later pulled out when the new bridge was completed.

4. The banks of the river on both sides were altered to accommodate the new bridge. This impacted 120 linear feet of bank and encroached on each bank 17-18 feet.
5. 559 cubic yards of rip rap were installed below the ordinary high water mark of the river with more than half of that amount buried below the surface of the riverbed. A typical dump truck carries 10-14 yards of material. As a result, MDT deposited between 40 and 56 dump truck loads of rip rap in the river.
6. A detention pond was excavated from land near the bridge, impacting 40 feet of the riverbank.
7. 15 feet of riverbank were impacted by a storm water outfall.
8. The combine riverbank impacted by the project was 175 linear feet.
9. About 2434 square feet of riverbank were disturbed and covered with fill material. That area is roughly equivalent to the square footage of the average new home constructed in the U.S.
10. 424 square feet of wetland were disturbed.
11. Equipment used included excavators, front end loaders, graders, dump trucks, cranes and mechanical compactors.

The following photographs, in addition to those above, help illustrate the work done in the river:



□ *Work being done in Whitefish River to replace old Highway 93 bridge.*



Despite all of this work affecting the river, it was determined by Tom Martin, P.E., the Bureau Chief-Environmental Services, MDT, in a letter dated January 15, 2013, that no permanent environmental impacts would occur, and only minor, temporary impacts would arise. In short, the river would easily recover.

In contrast, the possible effects from building the Riverbend section of the river trail are minuscule:

1. No work of any kind will be done in the river.
2. No soil, debris, or fluids will enter the river from the project.
3. No wetlands will be affected.
4. All work will be contained within the 6-foot-wide easement.
5. No concrete or asphalt is proposed to be used.
6. The final product will be a 6-foot-wide structure that is elevated as necessary.

If the highway bridge had no significant environmental impact on the river, as determined by Fish, Wildlife and Parks and MDT, how is it possible that the City's proposed path would be so destructive that it cannot be allowed to proceed? How is it possible that the river could easily recover from the bridge demolition and reconstruction but the same stretch of the river would be fatally and permanently harmed by the 6-foot wide path?

Superfund cleanup of Whitefish River

The BNSF cleaning of the Whitefish riverbed also demonstrates how tremendous violence can occur to a river with the river recovering fully in a relatively short time. The predecessors to BNSF, with their rail yard located in the center of Whitefish, had for many years released various oil products into the Whitefish River. The EPA determined that the riverbed contained these pollutants for a length of 1.5 miles, from bank to bank. It began a process that involved complete removal of 18 inches of riverbed, which was a mix of soils, sand, organic matter, microscopic aquatic life, and oil. The project lasted two years. The EPA required that BNSF proceed with the Whitefish River cleanup project to meet federal environmental regulations.

During the first effort BNSF attempted to dredge the riverbed, but that was not efficient. The second effort involves suctioning up the riverbed, and that method was used to the end of the project. The river continued to flow during the entire operation, meaning that it was impossible to prevent disturbed material from the riverbed from flowing (sometimes through a pipeline) downstream.

In all BNSF removed 26,000 cubic yards of contaminated sludge. A typical dump truck carries 10-14 cubic yards of material. BNSF therefore removed approximately 1850-2600 dump truck loads of material from the bed of the river. When all was removed, BNSF

brought in thousands of tons of river rock, which was deposited and spread throughout the project area to replace the riverbed. There were points of entry for the dredging and vacuuming equipment, so that the riverbank was disturbed at those points. It's difficult to imagine a method that could cause more disruption to the river, the riverbank, and the riverbed, all over a period of years.



- ***The pipelines shown above contained the entire flow of Whitefish River as excavators work on cleaning the riverbed for the Superfund cleanup.***

During the time that work was occurring it was difficult for people to enjoy the river. Much of the river was closed. Portions of the River Trail were closed periodically.

And yet, it was believed that the benefit to the river from the removal of the contaminants outweighed any harm to the river caused by the removal process. And the river quickly recovered. The water cleared, migrating fish returned, insect larva returned, and the river's aquatic life was restored. Within a short time the river was completely recovered.

Contrast the Whitefish River clean-up project with the minor work needed for construction of the Riverbend trail section. Nothing would enter or occur in the river. There would be

no equipment, no materials, and no siltation in the river. There would be no massive excavation, dredging or vacuuming of the riverbed. There would be no leaking of fluids. The project would help complete a tremendous amenity for the citizens of Whitefish, and their visitors, with no observable or measurable harm to the river.

If the river bed could be removed, and replaced, with enormous disruption and death to its aquatic life, for the full width of the river for a length of 1.5 miles, and then fully recover in a relatively short period of time, how can the Riverbend section of trail pose any threat to the river? Given the relatively simple effort needed to install a path along the river, and the value of that path to the community and the City's transportation network, the City should move ahead with the construction of the Riverbend section of the River Trail.

Appendix 7: Alternatives

Two alternatives to the Riverbend section running along the river easement have been considered by the Bike/Ped committee. One involves crossing the highway at Miles Ave. This report has already covered the serious problems involved with this option. The other option involves building a set of switchbacks that would climb up a steep slope located between the highway bridge and the southern-most condominium building. The switchbacks would extend up to Miles Ave., which the public would use to access the BNSF Loop trail.

The Bike/Ped Committee considered but could not recommend this route, for many reasons, which are outlined below. An engineering report prepared in 2013 by Robert Peccia and Associates analyzed this route and concluded that they could not recommend it, citing a number of similar reasons. The alternative has come up in discussions more than once since then, and the committee always dismissed it after a thorough discussion.

A new engineering report was recently prepared by KLJ engineers, and it too is critical of this alternative. (The KLJ report recommended crossing the highway instead of constructing the Riverbend section. The committee has disputed this second recommendation vehemently, in writing, as it completely ignores the safety concerns discussed earlier.)

The Bike/Ped Committee doubts that the public would use this alternative even if it were constructed. It is far less convenient and requires much more effort to use than simply crossing at the highway grade, which the City can't prevent. Because the City has not yet constructed any alternative, crossing at the highway is currently what trail users must do. Due to safety concerns, neither the Bike/Ped Committee nor the City in general has ever viewed crossing the highway as an acceptable permanent alternative. In addition to the committee's conclusion that trail users would avoid the "switchback" route, the two engineering firms identified the following negative factors:

1. It would require multiple switchbacks, all of which would be constructed of concrete.

2. It would need many tall “cast in place” concrete retaining walls, one of which would be over 10 feet tall.
3. All retaining walls and switchbacks would require handrails.
4. It would need 200 linear feet of curb and gutter.
5. It would involve high construction costs compared to a typical path or sidewalk.
6. It would not be scenic compared to the river route.
7. It would not be as enjoyable for users as the river route due to the steeper grades and switchbacks.
8. It is a high ground-disturbance solution.

Attachment 1, Appendix 1

BOOK 785 PAGE 621

RESOLUTION NO. B-~~177A~~

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, CLOSING, VACATING AND DISCONTINUING A PORTION OF A STREET AND ALLEY IN THE CITY OF WHITEFISH, MONTANA.

WHEREAS, a written Petition has been filed with the City of Whitefish, Montana, for the abandonment and discontinuance of that portion of that certain street and alley in the City of Whitefish, Montana, described as follows:

That portion of First Street lying West of Miles Avenue and East of Whitefish River [approximately 248 feet], and the alley lying East of Lot 5, Block 23, and West of Lots 1, 2, 3 and 4 of Block 23, Original Townsite of Whitefish, Montana, EXCEPTING AND RESERVING, HOWEVER, unto the CITY OF WHITEFISH a permanent and perpetual easement and right of way for the purpose of constructing, laying, operating, repairing and maintaining an underground sewage pipeline in conjunction with a sewage disposal system, over, across, through and under a strip of land 20 feet wide, 10 feet on each side of a centerline lying 5 feet North of the centerline of that portion of First Street herein being vacated and abandoned from Miles Avenue West to the Whitefish River; and FURTHER EXCEPTING AND RESERVING unto the CITY OF WHITEFISH a perpetual public use easement and right of way over, across and through the surface of the aforementioned and described utility easement for pedestrian and bicycle riding use as access to and from the Whitefish River; and FURTHER PROVIDED, HOWEVER, that the present existing public sewer line traversing from West to East across the North part of Block 40, Original Townsite of Whitefish, Montana, be relocated and replaced, according to City Engineer's specifications, within the hereinbefore described underground sewer line easement and right of way, from the Whitefish River East to the center of Miles Avenue; thence South on Miles Avenue to the existing manhole on Miles Avenue. Said replacement and relocation of said sewer line to be completed within 6 months from date and the City to be provided with an irrevocable Letter of Credit, from a Bank found suitable to the City, in the amount of \$10,000.00 guarantying completion and payment of said replacement and relocation of said sewer line with appropriate manholes.

AND WHEREAS, all of the owners of the lots bordering or abutting said portion of said street and alley have signed said petition to abandon and discontinue.

AND WHEREAS, due notice of the hearing of said petition was given as required by law and pursuant to the provisions of Section 7-14-4114(3), M.C.A.

AND WHEREAS, that the closing, vacating and discontinuance of said portion of said street and alley can be done without detriment to the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, that the above described portions of said street and alley in the City of Whitefish, Montana, be, and the same is hereby, vacated, abandoned and discontinued as of the date hereof, SUBJECT, HOWEVER, to the above-described easements and conditions, and that the land therein shall attach to and become part of the adjoining lots and properties, and that the

City of Whitefish, Montana, shall have no further right, title or interest therein EXCEPT as herein reserved.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, this 2nd day of May, 1983, and approved by the Mayor thereof the same day.



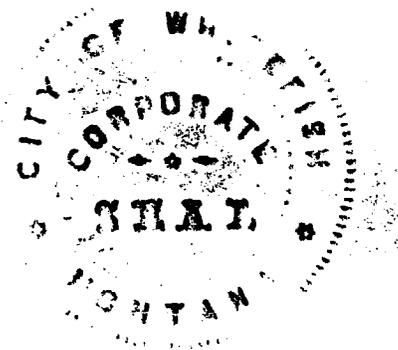
Henry Olson
Mayor

Kay Beller
City Clerk

CERTIFICATE OF CLERK

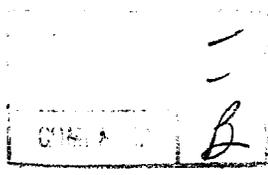
I, KAY BELLER, the duly appointed, qualified and acting Clerk of the City of Whitefish, Montana, do hereby certify that I have compared the above copy of Resolution No. B-979 A with the original of such Resolution on file in my office and that the same is a true and correct copy of such Resolution which was regularly adopted at a regular meeting of the City Council of the City of Whitefish, Montana, and approved by the Mayor thereof, duly held on the 2nd day of May, 1983.

DATED this 2nd day of May, 1983.



Kay Beller
City Clerk

STATE OF MONTANA, }
County of Flathead } SS



Filed for record at the request of Lisa Fisher
this 13 day of Oct 19 83 at 10:31 o'clock A M and recorded in VOL. 785
PAGE 621 Records of Flathead County, State of Montana.
Fee \$ Pd.

RECEPTION NO. 83-19061

Lisa J. Hindman
Flathead County Clerk and Recorder

RETURN TO City of Whitefish
Box 158 Whitefish Mt 59937 Deputy

Attachment 2, Appendix 1

BOOK 785 PAGE 623

GRANT OF EASEMENT

OCTOBER THIS INDENTURE, made and entered into this 7TH day of May, 1983, by TALLMAN & McDONALD CONSTRUCTION CORPORATION of Whitefish, Montana, as GRANTOR, and the CITY OF WHITEFISH, a municipal corporation of Montana, as GRANTEE, whose mailing address is P.O. Box 158, Whitefish, Montana.

WITNESSETH:

That for value received, receipt of which is hereby acknowledged, the Grantor hereby grants, sells and conveys unto the Grantee, its successors and assigns, a perpetual public easement over, across and through the following described land situated in the City of Whitefish, Flathead County, Montana, which said easement and lands are described as follows, to-wit:

An easement for the establishment of a public walkway and bicycle riding path over, across and through a 6 foot strip of land commencing at a point on the South boundary line of that certain sewer line easement owned by the Grantee approximately 25 feet North of the North boundary line of Block 40, Original Townsite of Whitefish, Montana, and approximately 25 feet East of the Whitefish River; thence in a Southeasterly direction over, across and through and meandering the Southwesterly part of said Block 40 along the Whitefish River bank to the Southeasterly point of said Block 40, the precise and exact location of said easement within and along the Southwesterly boundary of said Block 40 to be determined by the Grantor and Grantee; and thence any construction of said walkway and bicycle path hereafter by the Grantor shall evident the permanent site and location of said easement.

TO HAVE AND TO HOLD the said easement unto said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has hereunto caused its corporate name to be subscribed by its proper officers thereunto duly authorized and its corporate seal duly affixed the day and year first above written.

TALLMAN & McDONALD CONSTRUCTION CORPORATION

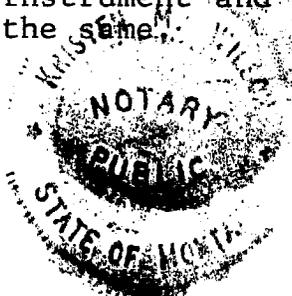
By [Signature] President



[Signature] Secretary

STATE OF MONTANA) :ss
County of Flathead)

On this OCTOBER 7TH day of May, 1983, before me, a Notary Public for said State, personally appeared RICHARD F. McDONALD and WAYNE K. SHANAHAN, known to me to be the president and secretary respectively of the corporation that executed this instrument and acknowledged to me that such corporation executed the same.



[Signature] Notary Public for the State of Montana
Residing at Whitefish, Montana
My Commission expires: 8-26-86

CSO 3049 285

RECORDS SECTION

BOOK 785 PAGE 624

STATE OF MONTANA,
County of Flathead

SS

Filed for record at the request of

Les Fisher

this 13 day of Oct 19 83 at 10:32 o'clock A M and recorded in VOL. 785

PAGE 023 Records of Flathead County, State of Montana.

Fee \$ Pd.

Iris J. Hindman
Flathead County Clerk and Recorder

RECEPTION NO. 83-19062

Rebekah Klein

RETURN TO City of Whitefish
Box 158 Whitefish MT 59937 Deputy

INDEXED
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RECORDS SECTION

RECORDS SECTION

Attachment 3, Appendix 1

May 2, 1983 cont.

INDUSTRIAL REVENUE BOND for hotel/conference center.

Petitioner: Tim Grattan and Associates (BCG)

Mayor Olson Opened the Public Hearing, and as there was no public comments and no protests the Hearing was closed.

RESOLUTION B-979 authorization to proceed with IRB issue.

Changes to the Resolution: 8 million increased to 9 million. LTD deleted from paragraph 4.

Motion Caciari to adopt Resolution B-979, a Resolution authorizing the City Administrator, City Attorney, and City Clerk to proceed with the sale and issuance of Industrial Development Bonds for proposed motel/conference center project, (approved with corrections.) Second LaTourelle. All voted aye.

ABANDONMENT OF PORTION OF FIRST STREET.

Petitioners: Emma Lou Fredrickson and Elaine Mickle.

Gary Tallman presented the petition to discontinue the Public Street and Alley. "That portion of First Street lying west of Miles Avenue and East of Whitefish River (approximately 248 feet), and the alley lying East of Lot 5, Block 23, and West of lots 1, 2, 3, & 4 of Block 23."

The City Administrator recommended approval with the conditions of approval being:
1. City retain a 20 foot Public use and maintenance easement over the sewer line and manhole from First Street to the river. 2. that the sewer line be rerouted to the corner of First and Miles, and south to the Miles Avenue Manhole, 3. that a public use easement be granted to the City along the river.

Mayor Olson opened the Public Hearing. There was no Public input and the Hearing was closed.

COUNCIL ACTION

IT WAS MOVED BY LATOURELLE to abandon that portion of First Street lying west of Miles Avenue and East of Whitefish River (approximately 248 feet), and the alley lying east of Lot 5, Block 23, and West of lots 1,2,3, & 4 of Block 23, with the following conditions:

1. Developer to relocate sewer line to 1st Street from river and easterly to corner of 1st and Miles & South to manhole on Miles, and install required manholes according to City Engineer Specifications.
 2. The City retain the 20' public use & maintenance easement over the sewer line and manhole, from Miles west to river on 1st Street.
 3. Date of completion to be six months from this date.
 4. Developer to give the City a irrevocable Letter of Credit for \$10,000.00 guaranteeing completion.
 5. The developer to grant a Public use easement to the City along the river, the width and exact location of which to be determined by the City and Developer.
- Second Tate. All voted aye.

REARRANGEMENT OF CITY HALL WORK SPACE

Public Works Director Loomis explained the sketches and design, and said the total cost of the remodel would be approximately \$9,404.00, this figure included options for Council Chambers.

After Discussion it was moved by Tate to accept the design with options included, and proceed with renovation of City Hall. Second Ramlow.

Motion Stephens to amend the Motion to include easels and/or pin-up boards in the Council Chambers. Second Caciari. All voted aye.

All voted aye to the original Motion.

Attachment 1, Appendix 2

Appendix 1: Legal Opinion and Exhibits

Legal Memorandum

September 3, 2021

This legal memorandum was prepared by John Phelps for his own use as chairman of the City of Whitefish's bike/ped committee. He is a retired attorney whose license to practice law is currently inactive. As a result he can not provide legal advice to any group or individual. He can represent himself. He intends to use it as an attachment to a report that is being prepared for review by the Parks and Recreation Board and the City Council. He was one of the authors of that report. He also intends to use this legal memorandum in oral presentations to the Park Board and the City Council.

Statement of Facts

In 1983 a developer named Tallman & McDonald Construction Corporation intended to construct a condominium complex on a triangular shaped parcel of land that is located on the east side of the Whitefish River and immediately north of the Highway 93 West Bridge. The proposed complex was eventually named the "Riverbend" condominiums, and that term or the term "condos" will be used throughout this memorandum. The ten condos were designed to be built in a line along the 370 feet of riverfront from north to south, with all units facing the river. However, the developer needed more land than he owned to fit the entire complex on his property. As a result, the developer asked the city to abandon a 60-foot wide section of First Street that ran along the north border of the developer's property. The developer also asked the city to abandon a 16 foot-wide alley that ran from north to south and immediately north of the condo complex. The First Street section that the developer sought to acquire is shown on a survey labeled Exhibit A.

At the same time the city was beginning to envision a bicycle and pedestrian path system that would serve the people of Whitefish. The city contemplated a system that included a bike/ped path along the Whitefish River (the "river trail"). The city owned substantial land along the river, but in order to construct a lengthy path along the river it would need to acquire a number of private easements. The city had not previously acquired any private easements for the path. Nor had it determined the entire route of the path.

When the developer asked the city to abandon First Street and the neighboring alley, the city was willing to do so, in exchange for a bike/ped easement along the Whitefish River and across the developer's property from north to south. At a city council meeting on May 2, 1983, the council approved the abandonment requested by the developer, subject to a number of conditions. One condition was as follows: "The developer to grant a Public use easement to the city along the river, the width and exact location of which to be determined by the City and Developer." The city council minutes describing the arrangement are attached as Exhibit B. Resolution No. B-979-A, approving the abandonment, is attached as Exhibit C.

A legal description was prepared and on October 7, 1983 the developer signed and delivered to the city a Grant of Easement. (Exhibit D)

The city's abandonment of First Street and the alley occurred on May 2, 1983. It was not recorded then, however, as the developer had not yet provided the grant of easement. When the signed Grant of Easement was delivered to the city, the city attorney, Leo Fisher, recorded both documents, one after the other. The Resolution of Abandonment was recorded on October 13, 1983, at 10:31 AM, and the Grant of Easement was recorded one minute later, at 10:32 AM. If there was any doubt as to whether there was an agreement involving a mutual exchange of consideration, the recording of the two documents one minute apart should alleviate that doubt.

The developer's signing of the Grant of Easement and its delivery to the city created a permanent easement for the city's use. Its recording made it of record and constituted notice to anyone searching the Riverbend condos' title that the city owned an easement along the river.

The city attorney at the time, Leo Fisher, who recorded the Grant of Easement likely also reviewed and approved it. He may have drafted it. Whatever his involvement, it's clear that the city was represented by counsel at the time.

It is absolutely clear that a valid easement has existed in favor of the city since 1983. A conventional easement deed was used. The granting language is clear, and describes an immediate grant. It provides:

That for value received, receipt of which is hereby acknowledged, The Grantor hereby grants, sells and conveys unto the Grantees, its successors and assigns, a perpetual public easement over, across and through the following described land situated in the City of Whitefish, Flathead County, Montana, which said easement and lands are describe as follows. . . .

The initial phrase "for value received" acknowledges that the developer received valuable consideration for the grant, which we know consisted of the abandoned street and alley. That acknowledgment alone creates a binding agreement. The words "hereby grants, sells and conveys" establishes that the easement was given to and received by the city at the instant the document was delivered to the city. The use of the words "perpetual public easement" proves that, like any conventional easement, the city's easement cannot be terminated or reduced by the developer, the condo owners, or by anyone else without the agreement of the city. Unless an easement contains language providing for its termination, it can only be terminated by the delivery of a quitclaim deed from the city to the developer/condo owners. The delivery of the Grant of Easement to the city and the recording of the resolution of abandonment completed the transaction.

Although the permanent easement was intended to be only 6 feet wide, the easement area in which the permanent easement would be located was much wider. In the document the easement area was described legally as beginning in the north, 25 feet inland (" East") of the Whitefish River. From there, the eastern boundary of the easement area was a line running in the southeast direction ("thence in a Southeasterly direction") roughly parallel to the Whitefish River "along the Whitefish River bank") to the southeast corner of the developer's property ("to the Southeasterly point of said Block 40"). A survey prepared by a surveying firm working for the city (Exhibit E), reveals that the southeasterly point of the developer's property is precisely 46.39 feet east of the surveyor's line used to designate the western boundary of the property (along the Whitefish River). As a result, the easement area consists of a strip of land that is 25 feet wide at the northern boundary ("approximately 25 feet East of the Whitefish River") and 46.39 feet wide at the southern boundary ("the Southeasterly point of said block 40"). Exhibit E contains a shaded area which is an estimate of the extent of the temporary easement.

From the language of the grant of easement it appears that the parties had agreed to a 25- to 46.39-foot-wide temporary easement within which would be located a 6-foot permanent easement “a 6 foot strip of land”). The permanent easement would be established not by a subsequent deed, but by the mere construction of the bike/ped path (“any construction of said walkway and bicycle path hereafter by the Grantor (they must have intended the “Grantee”) shall evident the permanent site and location of said easement”). It’s possible that the wider temporary easement area might have also been intended to serve as a construction easement that would terminate once the path was constructed.

Although the city abandoned the entire 60-foot right-of-way of First Street, it retained a 20-foot-wide bike/ped easement the entire length of the abandoned street, from east to west, to provide access to the Whitefish River, and presumably to the bike/ped path the city hoped to build along the river at some point in the future.

As stated earlier, the Riverbend easement was the first easement acquired by the city. In 1983 the city did not yet own any private easements. The trail along the river would consist of many easements, all attached from end to end, so as to create a continuous route. State Highway 93 West ran through the parcel of land immediately south of the condos. Also at that location was a concrete highway bridge that spanned the Whitefish River. The bridge prevented the city from building the river trail southward by completely blocking the route. There was no underpass, and no plans by the highway department (MDT) to construct one. That blockage could not be remedied until the existing bridge was replaced and an underpass constructed. It was impossible to know in 1983 exactly when, if ever, a future underpass would be constructed to connect to the Riverbend easement. As a result, the city did not know where to locate the southern end of the Riverbend easement. The future bridge, with a hoped-for underpass, would not be built for some 31 years.

A similar situation existed on the northern end of the Riverbend property. The next parcel of land to the north was privately owned, and at that time that the Riverbend easement was acquired the owner had not been approached about donating an easement across the property. When approached some years later, the owner declined to provide an easement. Therefore it would have been impossible for the city to know where to locate the northern end of the bike/ped easement. The next property to the north was the Burlington Northern Railroad’s railyard. The city had no idea when the railroad would grant a bike/ped easement across or around its railyard. It’s clear that it was, at the time, impossible for the city to choose precisely where any portion of the Riverbend easement should go.

Thirty-one years later, the old Highway 93 West bridge was removed and replaced, with the construction ending in 2014. At the city’s request, MDT constructed a 10-foot-wide concrete underpass that extended up to the southern end of the Riverbend property. For the first time, the city knew where the southern end of the Riverbend easement should connect to the underpass.

The owner of the property to the north of the Riverbend condos died some years ago, and the property passed to her heirs. It was eventually acquired by a development

company represented by Casey Malmquist. The new owners were interested in the city's river trail. They had prepared plans for their property several years ago but were not ready to consider those plans as final. It was not until the last year, however, that the development company was prepared to move forward with its plans. The plans show a bike/ped easement extending southward to the Riverbend property, and northward to the city's BNSF Loop trail system, which had been constructed years before. Finally, and for the first time, after 38 years, the city was able to determine where the northern end of the Riverbend trail should be located. The city was now in a position to locate a permanent bike/ped path the length of the Riverbend property.

Sadly, although they are bound by the easement obligations contained in the 1983 Grant of Easement, the owners of the 10 condominium units appear unwilling at this time to cooperate with the city to permanently locate the route of the path.

When the Riverbend Grant of Easement was prepared in 1983, it is possible that the developer was also unprepared to locate the easement precisely. The developer signed the Grant of Easement on October 7, 1983. The city's abandonment wasn't completed until October 13, 1983, six days later. Until the abandonment was completed the developer had no assurance that he would be able to start his project. Since the developer needed additional land from the city in order for the condo project to fit on its property, it's possible that the developer had not yet settled on the final site for the building. It's doubtful that the developer had begun construction. So, like the city, the developer was perhaps unsure of where exactly to site the permanent bike/ped easement on its property.

The facts show that it remained impossible for the city to specifically locate the permanent easement until the last year or so. Obviously, the developer could not wait 38 years, until now, to acquire the city's property. The transaction between the parties, and the development of the condo project, would never have been completed without the parties' mutual agreement to delay selecting the precise location of the permanent easement.

The condo owners have suggested that the agreement (by which they obtained land from the city to construct a portion of their building) might not be a binding agreement. Since the transaction left it to the developer or future condo owners to agree with the city to locate the permanent easement, the condo owners have suggested that the 1983 Grant of Easement lacks a necessary legal description identifying the easement's exact route, and was therefore an unenforceable "agreement to agree" in the future. They suggest that they don't have any current legal obligation to work with the city to site the path. Even if they do have an obligation to work with the city, they have suggested that they could simply avoid reaching an agreement with the city, and thereby prevent construction of the bike/ped path. The condo owners' position has caused some city officials to ask whether the city has the right to build the bike/ped path. This opinion is written in response to that concern.

LEGAL ANALYSIS

I. The city was empowered by its charter and state law to enter into the agreement.

The City of Whitefish is a charter city with self-governing powers. Such a city is empowered by the State Constitution to take any action not specifically prohibited by state law. This power is contrary to the general rule in many states that cities can only do those things specifically authorized by the legislature. Section 7-1-101, MCA, states:

As provided by Article XI, section 6, of the Montana constitution, a local government with self-government powers may exercise any power not prohibited by the constitution, law, or charter. These powers include but are not limited to the powers granted to general power governments.

State law further expands the powers of a self-governing city by stating, at section 7-1-106, MCA:

“The powers and authority of a local government unit with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.”

The city’s self-governing charter was adopted on January 5, 1981 before it entered into the 1983 agreement with the developer of the condos.

Tallman & McDonald Construction Corporation was a for-profit corporation organized under the laws of Montana at the time of the 1983 agreement. Recording of a Grant of Easement signed by the current owner of the land put any later purchasers of the land (including condo owners) on notice of the easement and made them subject to its terms. Each original purchaser of a condo unit from the developer became obligated by the Grant of Easement to cooperate with the city to locate the permanent bike/ped easement on the Riverbend property. Each subsequent purchaser also took title subject to the same obligation. The Grant of Easement would have been described in the preliminary policy of title insurance that is typically provided to purchasers of real property. As a result, the Riverbend condo owners should have known of the city’s easement before they closed their purchase transaction. Even if an owner wasn’t personally aware of the easement, Section 27-1-421, MCA, provides that they are bound by its terms because it is recorded and discoverable by anyone who investigated the title to the property.

The temporary easement identified in the Grant of Easement was 25 to 46.39 feet wide, which would have easily contained the permanent 6 foot wide easement. Now that the city, for the first time in 38 years, is able to identify where the path can join the neighboring path segments at the north and south ends of the property, the choices for locating the path become fewer. Still more limiting is the legal requirement that the city apply for a 124 permit from the regional office of Fish Wildlife and Parks (“FWP”). See section 87-5-502, MCA. In summary, there is relatively little discretion left in locating the path. It must start and end at points fixed by the paths on the neighboring properties, and where FWP will allow it. There is relatively little for the city and the condo owners to negotiate over, and yet as of this date the condo owners have declined to accept any of the city’s proposals.

After several of the city’s proposed routes were declined by the condo owners, the city chose a different approach. The city made the route selection very simple and easy by

informing the condo owners in writing, by letter dated March 9, 2019, that it was willing to turn the decision completely over to the condo owners, so long as it met the requirements of FWP. At that moment the possibility of disagreement evaporated. No longer was an agreement necessary. The condo owners became the sole decision makers. In the same letter, the city asked the condo owners to notify the city within 60 days of its choice of location. The city has received no response to that request over the last 2 1/2 years. The condo owners refused to select a route.

A copy of the March 9, 2019, letter is attached as Exhibit F.

II. Was the 1983 agreement a valid and enforceable contract, or was it merely a non-binding “agreement to agree” at some point in the future?

A number of Montana Supreme Court cases have analyzed a variety of situations to determine if a potential agreement was only an “agreement to agree.” In many of the court’s decisions the parties appeared to strike an agreement, and then one party claimed that the agreement was never made final. Usually the decision to attempt to withdraw from the arrangement occurred soon after the parties appeared to agree. The claimant typically took the legal position that the alleged agreement left out a key term or terms, so the true intention of the parties could not be determined. Typically the lawsuit that generated a court decision was brought by the party insisting that there was a valid agreement, and the court was asked to grant specific performance and make the other party perform its obligations.

When analyzing the various cases, the Montana Supreme Court often turns to section 28-2-102, MCA, which sets out four requirements of a contract. It reads:

It is essential to the existence of a contract that there be:

- (1) identifiable parties capable of contracting;
- (2) their consent;
- (3) a lawful object; and
- (4) a sufficient cause or consideration.

Usually there is a little question about the identity of the parties (No.1, above), or whether the contract has a lawful object. (No.3, above). Neither is an issue in this case. There is no real question about whether the parties gave their consent (No. 2, above). Here, the City Council adopted a resolution to abandon First Street, and the developer signed the Grant of Easement. Still, there must be a sufficient cause or consideration (No. 4, above).

In *Junkermier, Clark, Campanella, Stevens, P. C. v. Alborn, Uithoven, Riekenberg, P.C.*, 384 Mont. 464, 380 P.2d 747 (2016), a case involving a possible “agreement to agree,” the Montana Supreme Court stated the necessity for adequate consideration, and defined the term. The Court stated:

In order to be binding, “[a] contract must contain all its essential terms.” Hurly, ¶ 17 (citation and internal quotations omitted). A contract’s essential elements include “a sufficient cause or consideration.” Section 28-2-102(4), MCA. . . .

“Consideration requires that the contracting parties, each as to the other, confer some legal benefit and/or incur some detriment as an inducement to performance. . . . When an agreement contains a bargained-for exchange in legal positions between parties, the agreement because becomes a legally enforceable contract. A written instrument is presumptive evidence of consideration. Section 28–2– 804, MCA.” Junkermeir at para. 26-27.

The Court in Junkermier reversed the trial court’s decision that the contract in question was an “agreement to agree,” concluding that although an employment agreement did not fix an employee’s specific compensation amount, there was sufficient information in the agreement to make the parties’ obligations clearly ascertainable. 384 Mont. At para. 31.

Here the city and the developer exchanged very specific and substantial consideration in 1983, and they and their assigns have recognized the transaction for 38 years.

In a similar fashion, the Supreme Court in *Miller v. Kleppen*, 2019 Mont. 83, 438 P.3d 806(2019), rejected a claim that an arrangement was merely an “agreement to agree.” The parties attempted to settle a boundary line dispute with an agreement and diagram prepared by the parties, apparently without the aid of counsel. The agreement contained a non-professional legal description and a list of steps that the parties would mutually take, including hiring a surveyor to process a boundary line adjustment through the Clerk and Recorder’s office. The parties performed none of the listed mutual steps, and never even hired a surveyor to initiate the process. They did, however, act as if the agreement was in effect for 16 years. The Supreme Court held that the agreement was an enforceable contract. The Court stated:

It is well settled that “absolute certainty and completeness in every detail is not a prerequisite of specific performance, only reasonable certainty and completeness being required.” *Steen v. Rustad*, 132 Mont. 96, 106, 313 P.2d 1014, 1020 (1957). Matters that are merely “subsidiary, collateral, or which go to the performance of the contract are not essential, and therefore need not be expressed in the informal agreement.” *Steen*, 132 Mont. at 106, 313 P.2d at 1020 (citations omitted). In other contexts, we have explained “[a] property description is adequate if it contains sufficient information to permit the identification of the property to the exclusion of all others.” [citations omitted]. ¶19 As quoted above, the Stipulation provided a detailed “lay,” or non-surveyor’s, description of the new boundary that included points marked on the accompanying diagram, the direction of the new boundary lines, and their distances in feet. This language, along with the diagram itself, provided a very clear description of the small portions of property the parties were trading, as well as the new boundary line. *Miller* at para.18. (Emphasis added)

The Court in *Miller* relied on a finding that because pecuniary compensation would not afford adequate relief, and damages would be difficult to ascertain, specific performance of the agreement was appropriate.

The facts of *Miller v. Kleppen*, and the Court’s holding on the enforceability of the parties’ agreement in that case, compel a conclusion that the transaction between the developer and the city is fully enforceable, and not affected by the clause requiring the parties to cooperate in the siting of the 6-foot permanent easement within the 25- to 46.39-foot temporary easement. To complete a boundary line adjustment in the normal legal manner requires the parties not only to agree to the basic transaction, but to agree to at least three additional steps. (1) The parties must employ and compensate a surveyor to prepare a survey showing the new and old property lines. (2) The survey must be signed by all owners, approved by the county surveyor, approved as to form by the clerk and records office, and recorded with the county clerk and recorder. (3) A survey, by itself,

however, does not transfer property. In order to complete the transaction the owners of each parcel must sign and record quit claim deeds releasing any right or title to the new parcel that their neighbor will own as described by the survey. Only at that point is the transaction complete.

The initial agreement on the actual boundary adjustment, the hiring and compensation of the surveyor, the signing of the survey by all of the owners, and the signing of quit claim deeds by all of the owners, requires extensive cooperation between the owners of the two properties. If any owner refuses to cooperate at any of these four crucial stages, a boundary line adjustment comes to a halt, unless there is court intervention. In *Miller v. Kleppen* that is exactly what happened. One group of owners refused to take any steps after the parties signed the initial agreement, and the other owners were forced to bring an action for specific performance.

Even though their transaction could not be completed without mutual agreement by the parties on at least three crucial stages, none of which they agreed upon, the court still found it to be a valid and enforceable agreement and ordered specific performance.

Here the terms of the agreement were set out in official city council meeting minutes and promptly incorporated into two detailed documents which were signed, recorded, and which completed the primary transaction. There was no suggestion in any of the proceedings or paperwork that the parties were not completely committed to the exchange of real property interests. Unlike *Miller v. Kleppen*, all necessary legal steps were taken to finalize the exchange. A 25- to 46.39-foot-wide temporary easement was created. Because the specific location of the 6-foot-wide permanent easement could not be determined for 38 years, the parties acquiesced with the status quo of their transaction for that period of time. Because of the recording of the documents, during the entire 38 years all owners of the condos were charged with notice of the terms of the easement agreement, and there was no objection voiced. If the Court could find that the *Miller* transaction was an enforceable real estate contract deserving specific performance, it would certainly reach the same conclusion in favor of the city.

In *Miller v. Kleppin* the Supreme Court cited its prior decision in *Wicklund v. Sundheim*, 383 Mont. 1, 367 P.2d 403 (2016), as holding:

Where an agreement involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is given great weight in the interpretation of the agreement." (citing Restatement (Second) of Contracts § 202(4)) *Miller v. Kleppen* at para. 15.

In addition, the Supreme Court stated that if a remaining step "goes to the performance of the contract," then it need not even be expressed in the original agreement. The agreement between the city and the developer occurred when they exchanged consideration in 1983. The designation of the specific 6-foot easement did not involve an additional exchange of consideration. It merely required performance by the city and the developer of an obligation required by the original contract. It required the parties to cooperate reasonably to fix the precise site of the easement that they created in 1983.

In *Somont Oil Co., Inc. V. Nutter*, 228 Mont. 467, 743 P.2d 1016 (1987), the Supreme Court dealt with another claim that a contract was only an "agreement to agree." The parties' agreement left out a number of terms that they would decide in the future. The court found that their agreement was enforceable, in part, because the parties performed as if their agreement was valid. The Court stated:

The Nutters contend the result is that the agreement with Buffalo Jump was not a binding contract, but simply an "agreement to agree."

As a general rule, the terms of a contract must be reasonably certain. See, *Bishop v. Hendrickson* (Mont. 1985), 695 P.2d 1313, 1314, 42 St. Rep. 259, 260. However, it is also true that “if the material elements are stated in general terms, all the details or particulars need not be stated.” *McNabb v. Norine* (1983), 204 Mont. 330, 335, 664 P.2d 927, 930. 743 P.2d at 1019

An additional reason why the Buffalo Jump-Nutter agreement is a valid contract is because the Nutters performed under that agreement as if it were valid. . . . “Part performance under an agreement may remove uncertainty and establish that a contract enforceable as a bargain has been formed.” Restatement (Second) of Contracts 34 (2) (1979). The parties performed under the agreement for nearly three years and such performance strongly indicates a valid contract existed. Therefore, we conclude that performance under the agreement combined with the actual terms provided demonstrate the existence of a valid contract. 749 P.2d at 1019.

Does the transaction between the city and the developer meet these tests? Certainly it does. The city transferred valuable real estate (through abandonment) to the developer, without which it was impossible for the developer to build its project as planned. The developer, in exchange, transferred to the city a bike/ped easement that the city needed for its trail system. Those agreements were signed and recorded in 1983. The developer and the condo owners have owned and used the land they received for 38 years. The city has owned the trail easement for 38 years and relies upon it to complete its river trail. It has no other safe and effective route.

If the parties’ agreement were not enforceable, how would they undo their situation? The condo owners can’t return the city’s property. Nor do they want to. The city doesn’t want to give up its easement. It could, but then it would have received nothing in exchange for its land, and its 38-year wait. It would be unable to build a safe and effective river trail. The parties are committed. They can’t go back.

The only remaining question that the condo owners have raised is whether the parties’ mutual decision to delay setting the exact location of the easement creates such an uncertainty or confusion that the their exchange of land for an easement must be unraveled. Should the parties’ mutual willingness to delay the selection of the route until the city can knowledgeably propose a location condemn the entire transaction? There is no question that the city did not know where to locate the easement, and wouldn’t know for many years. Can the condo owners keep the valuable land they acquired and the city get nothing? That proposition makes no logical sense.

As stated earlier, the city is a charter city with self-governing powers. It is entitled to exercise any power or authority not expressly prohibited by Montana Law. And its powers and authority are to be liberally construed, with every reasonable doubt resolved in favor of the city. Is it reasonable that such an entity isn’t qualified to decide what’s in its best interest?

The developer was a Montana corporation and that voluntarily agreed to delay a decision, which may have aided in the construction of the condominiums. Is it reasonable that such a party can’t decide what is in its best interest? Can two parties to a real estate document never agree to create a wide temporary easement and delay the ultimate precise location of a more narrow, permanent easement until a later date? Neither contracting party is unsophisticated. They entered this transaction with her eyes open, and at least the city was represented by legal counsel. State law doesn’t set a high standard for determining who is capable of contracting. Section 28–2–201, MCA, provides, “All persons are capable of contracting except minors, persons of unsound mind, and persons deprived of civil rights. . . . Surely the parties have the right and power to decide that they will agree

in the future for the precise location of the permanent easement, within a narrow strip of land, for a bike/bed route that is also acceptable to FWP.

Finally, and without regard to any of the authorities and argument set forth above, the condo owners cannot challenge the enforceability of the city's easement or any provision of the Grant of Easement because they allowed the statute of limitations to expire nearly 30 years ago. Section 27-2-202, MCA, provides, "The period prescribed for the commencement of an action upon any contract, obligation, or liability founded upon an instrument in writing within 8 years." The Grant of Easement was recorded on October 13, 1983. The condo owners had until October 12, 1991, to file an action asking the court to determine that the Grant of Easement was unenforceable because the parties were required to mutually agree on the location of the 6-foot-wide permanent easement. Nor can they file any other type of action based upon the Grant of Easement.

II. What relief is the city entitled to if the condo owners decline to cooperate with the city in selecting a route for the bike/ped path?

In *Story v. City of Bozeman*, 242 Mont. 436, 791 P.2 767(1990) the Montana Supreme Court discussed and updated its prior decisions regarding the "obligation of good faith and fair dealing." It stated:

"We hold that every contract, regardless of type, contains an implied covenant of good faith and fair dealing. A breach of the covenant is a breach of the contract. Thus, breach of an express contractual term is not a prerequisite to breach of the implied covenant. For every contract not covered by a more specific statutory provision, the standard of compliance is that contained in section 28-1-211, MCA:

'The conduct required by the implied covenant of good faith and fair dealing is honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.'

This is the same standard as applied to merchants under the Uniform Commercial Code. Each party to a contract has a justified expectation that the other will act in a reasonable manner in its performance or efficient breach. When one party uses discretion conferred by the contract to act dishonestly or to act outside of accepted commercial practices to deprive the other party of the benefit of the contract, the contract is breached." 242 Mont at para. ___

As a result, the agreement between the city and the developer (which binds the condo owners) contains an obligation of good faith and fair dealing. The obligation of the condo owners to cooperate in good faith and fairly with the city required that they identify to the city the route that they prefer for the city's bike/ped path. It not only requires them to state their position, but also to negotiate with the city in order to identify a practical route, given all the facts and circumstances, for the construction of the city's river trail.

In the past the condo owners declined to accept several routes proposed by the city. They did not offer a counter proposal, other than to propose a route on the far side of the condominiums (far away from the river) and near Miles Avenue. The Grant of Easement clearly describes the easement to be "meandering. . . along the Whitefish River bank."

On March 9, 2018, the city Public Works Director wrote to the condo owners' representative and clarified that the city would "not consider any location for the path other than between the river and the condominiums." The letter noted that the city had proposed several different routes, none of which was accepted by the condo owners. It noted that the condo owners had not yet proposed any route between the river and the buildings. Then the city offered to accept any route proposed by the condo owners as long as it would be permitted by FWP. The letter requested that the condo owners either accept the city's last proposed route, or propose another route within 60 days. Two and one-half years have passed, and the condo owners have not identified a route acceptable to them. The parties no longer have to agree on the location of the permanent easement. One party is empowered to decide. Still the condo owners won't cooperate.

Surely the condo owners have breached the obligation of good faith and fair dealing. Their breach exposes the condo owners to contract damages and/or the remedy of specific performance. Alternatively, the court could impose a route on the condo owners since there is such a narrow strip of land to contain the easement, and they have declined to cooperate. Or the condo owners' breach, even when the decision is left entirely up to them, could result in the city selecting a route without any involvement by the condo owners. The condo owners, through their breach, have waived the right to help select the permanent easement.

Attachment 2, Appendix 2

Exhibit A

FOR: THE CITY OF WHITEFISH, MT
DATE: NOVEMBER 21, 2017

SITE MAP

BICYCLE & PEDESTRIAN EASEMENT OVER ABANDONED PORTION OF FIRST STREET
LYING EAST OF WHITEFISH RIVER & WEST OF MILES AVENUE
NW1/4 SEC.36, T31N, R22W, P.M.,M., CITY OF WHITEFISH, MONTANA

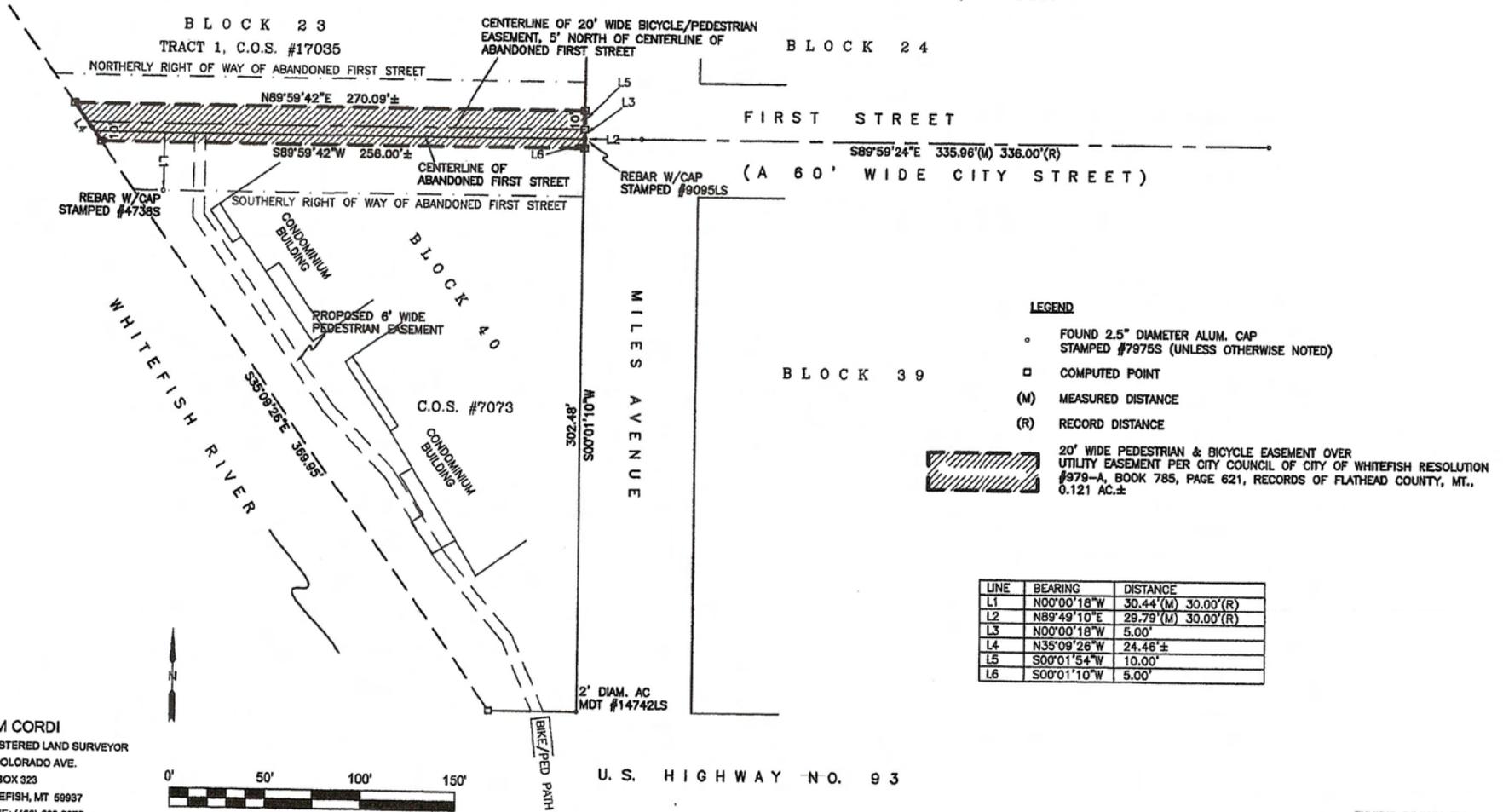


Exhibit B

INDUSTRIAL REVENUE BOND for hotel/conference center.

Petitioner: Tim Grattan and Associates (BCG)

Mayor Olson Opened the Public Hearing, and as there was no public comments and no protests the Hearing was closed.

RESOLUTION B-979 authorization to proceed with IRB issue.

Changes to the Resolution: 8 million increased to 9 million. LTD deleted from paragraph 4.

Motion Caciari to adopt Resolution B-979, a Resolution authorizing the City Administrator, City Attorney, and City Clerk to proceed with the sale and issuance of Industrial Development Bonds for proposed motel/conference center project, (approved with corrections.) Second LaFourelle. All voted aye.

ABANDONMENT OF PORTION OF FIRST STREET.

Petitioners: Emma Lou Fredrickson and Elaine Mickle.

Gary Tallman presented the petition to discontinue the Public Street and Alley. "That portion of First Street lying west of Miles Avenue and East of Whitefish River (approximately 248 feet), and the alley lying East of Lot 5, Block 23, and West of lots 1, 2, 3, & 4 of Block 23."

The City Administrator recommended approval with the conditions of approval being:
1. City retain a 20 foot Public use and maintenance easement over the sewer line and manhole from First Street to the river. 2. that the sewer line be rerouted to the corner of First and Miles, and south to the Miles Avenue Manhole, 3. that a public use easement be granted to the City along the river.

Mayor Olson opened the Public Hearing. There was no Public input and the Hearing was closed.

COUNCIL ACTION

IT WAS MOVED BY LATOURELLE to abandon that portion of First Street lying west of Miles Avenue and East of Whitefish River (approximately 248 feet), and the alley lying east of Lot 5, Block 23, and West of lots 1,2,3, & 4 of Block 23, with the following conditions:

1. Developer to relocate sewer line to 1st Street from river and easterly to corner of 1st and Miles, & South to manhole on Miles, and install required manholes according to City Engineer Specifications.
 2. The City retain the 20' public use & maintenance easement over the sewer line and manhole, from Miles west to river on 1st Street.
 3. Date of completion to be six months from this date.
 4. Developer to give the City a irrevocable Letter of Credit for \$10,000.00 guaranteeing completion.
 5. The developer to grant a Public use easement to the City along the river, the width and exact location of which to be determined by the City and Developer.
- Second Tate. All voted aye.

REARRANGEMENT OF CITY HALL WORK SPACE

Public Works Director Loomis explained the sketches and design, and said the total cost of the remodel would be approximately \$9,404.00, this figure included options for Council Chambers.

After Discussion it was moved by Tate to accept the design with options included, and proceed with renovation of City Hall. Second Ramlow.

Motion Stephens to amend the Motion to include easels and/or pin-up boards in the Council Chambers. Second Caciari. All voted aye.

All voted aye to the original Motion.

Exhibit C

BOOK 785 PAGE 621

RESOLUTION NO. B-~~977A~~

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, CLOSING, VACATING AND DISCONTINUING A PORTION OF A STREET AND ALLEY IN THE CITY OF WHITEFISH, MONTANA.

WHEREAS, a written Petition has been filed with the City of Whitefish, Montana, for the abandonment and discontinuance of that portion of that certain street and alley in the City of Whitefish, Montana, described as follows:

That portion of First Street lying West of Miles Avenue and East of Whitefish River [approximately 248 feet], and the alley lying East of Lot 5, Block 23, and West of Lots 1, 2, 3 and 4 of Block 23, Original Townsite of Whitefish, Montana, EXCEPTING AND RESERVING, HOWEVER, unto the CITY OF WHITEFISH a permanent and perpetual easement and right of way for the purpose of constructing, laying, operating, repairing and maintaining an underground sewage pipeline in conjunction with a sewage disposal system, over, across, through and under a strip of land 20 feet wide, 10 feet on each side of a centerline lying 5 feet North of the centerline of that portion of First Street herein being vacated and abandoned from Miles Avenue West to the Whitefish River; and FURTHER EXCEPTING AND RESERVING unto the CITY OF WHITEFISH a perpetual public use easement and right of way over, across and through the surface of the aforementioned and described utility easement for pedestrian and bicycle riding use as access to and from the Whitefish River; and FURTHER PROVIDED, HOWEVER, that the present existing public sewer line traversing from West to East across the North part of Block 40, Original Townsite of Whitefish, Montana, be relocated and replaced, according to City Engineer's specifications, within the hereinbefore described underground sewer line easement and right of way, from the Whitefish River East to the center of Miles Avenue; thence South on Miles Avenue to the existing manhole on Miles Avenue. Said replacement and relocation of said sewer line to be completed within 6 months from date and the City to be provided with an irrevocable Letter of Credit, from a Bank found suitable to the City, in the amount of \$10,000.00 guarantying completion and payment of said replacement and relocation of said sewer line with appropriate manholes.

AND WHEREAS, all of the owners of the lots bordering or abutting said portion of said street and alley have signed said petition to abandon and discontinue.

AND WHEREAS, due notice of the hearing of said petition was given as required by law and pursuant to the provisions of Section 7-14-4114(3), M.C.A.

AND WHEREAS, that the closing, vacating and discontinuance of said portion of said street and alley can be done without detriment to the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, that the above described portions of said street and alley in the City of Whitefish, Montana, be, and the same is hereby, vacated, abandoned and discontinued as of the date hereof, SUBJECT, HOWEVER, to the above-described easements and conditions, and that the land therein shall attach to and

City of Whitefish, Montana, shall have no further right, title or interest therein EXCEPT as herein reserved.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, this 2nd day of May, 1983, and approved by the Mayor thereof the same day.



Henry Olson
Mayor

Kay Beller
City Clerk

CERTIFICATE OF CLERK

I, KAY BELLER, the duly appointed, qualified and acting Clerk of the City of Whitefish, Montana, do hereby certify that I have compared the above copy of Resolution No. B-979 B with the original of such Resolution on file in my office and that the same is a true and correct copy of such Resolution which was regularly adopted at a regular meeting of the City Council of the City of Whitefish, Montana, and approved by the Mayor thereof, duly held on the 2nd day of May, 1983.

DATED this 2nd day of May, 1983.



Kay Beller
City Clerk

STATE OF MONTANA,
County of Flathead

SS



Filed for record at the request of Les Fisher
this 13 day of Oct 19 83 at 10:31 o'clock A M and recorded in VOL. 785
PAGE 421 Records of Flathead County, State of Montana.
Fee \$ Pd.

RECEPTION NO. 83-19061

Lris J. Hindman
Flathead County Clerk and Recorder

Roberta A. ...

Exhibit D

BOOK 785 PAGE 623

GRANT OF EASEMENT

OCTOBER THIS INDENTURE, made and entered into this 7th day of May, 1983, by TALLMAN & McDONALD CONSTRUCTION CORPORATION of Whitefish, Montana, as GRANTOR, and the CITY OF WHITEFISH, a municipal corporation of Montana, as GRANTEE, whose mailing address is P.O. Box 158, Whitefish, Montana.

WITNESSETH:

That for value received, receipt of which is hereby acknowledged, the Grantor hereby grants, sells and conveys unto the Grantee, its successors and assigns, a perpetual public easement over, across and through the following described land situated in the City of Whitefish, Flathead County, Montana, which said easement and lands are described as follows, to-wit:

An easement for the establishment of a public walkway and bicycle riding path over, across and through a 6 foot strip of land commencing at a point on the South boundary line of that certain sewer line easement owned by the Grantee approximately 25 feet North of the North boundary line of Block 40, Original Townsite of Whitefish, Montana, and approximately 25 feet East of the Whitefish River; thence in a Southeasterly direction over, across and through and meandering the Southwesterly part of said Block 40 along the Whitefish River bank to the Southeasterly point of said Block 40, the precise and exact location of said easement within and along the Southwesterly boundary of said Block 40 to be determined by the Grantor and Grantee; and thence any construction of said walkway and bicycle path hereafter by the Grantor shall evident the permanent site and location of said easement.

TO HAVE AND TO HOLD the said easement unto said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has hereunto caused its corporate name to be subscribed by its proper officers thereunto duly authorized and its corporate seal duly affixed the day and year first above written.



TALLMAN & McDONALD CONSTRUCTION CORPORATION

By [Signature] President

[Signature] Secretary

STATE OF MONTANA)
: ss
County of Flathead)

On this 7th day of May, 1983, before me, a Notary Public for said State, personally appeared RICHARD F. McDONALD and WAYNE K. SHAWMAN, known to me to be the president and secretary respectively of the corporation that executed this instrument and acknowledged to me that such corporation executed the same.



[Signature] Notary Public for the State of Montana Residing at Whitefish, Montana

CSO 3041 287

RECEIVED

HTT

1983

BOOK 785 PAGE 624

STATE OF MONTANA,
County of Flathead

ss

Filed for record at the request of

Leo Fisher

this 13 day of Oct 1983 at 10:32 o'clock A M and recorded in VOL. 785

PAGE 023 Records of Flathead County, State of Montana.

Fee \$ _____ Pd.

Lris J. Hindman
Flathead County Clerk and Recorder

RECEPTION NO. 83-19062

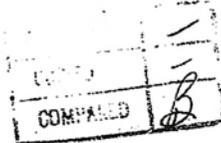
RETURN TO

City of Whitefish

Richard Klein

Deputy

Box 158 Whitefish MT 59937



RECEIVED

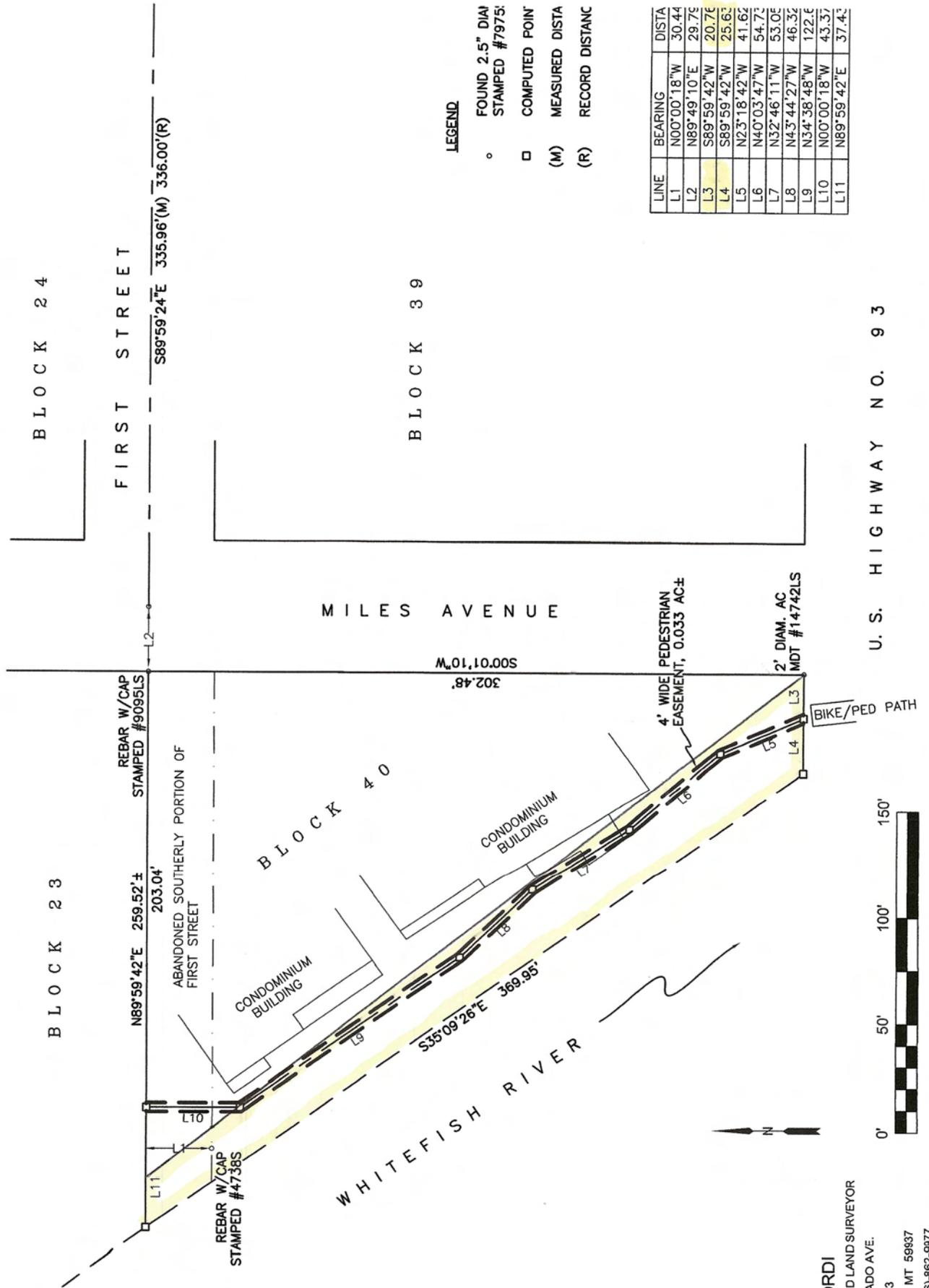
RECEIVED

Exhibit E

SITE MAP

PROPOSED PEDESTRIAN EASEMENT, BLOCK 40 OF WHITEFISH ORIGINAL
 NW1/4 SEC.36, T31N, R22W, P.M.,M.
 FLATHEAD COUNTY, MONTANA

FOR: THE CITY OF WHITEFISH, MT
 DATE: NOVEMBER 2, 2017



LEGEND

- FOUND 2.5" DIA
STAMPED #7975:
- COMPUTED POINT
- (M) MEASURED DISTA
- (R) RECORD DISTANC

LINE	BEARING	DISTA
L1	N00°00'18"W	30.44
L2	N89°49'10"E	29.77
L3	S89°59'42"W	20.76
L4	S89°59'42"W	25.62
L5	N23°18'42"W	41.62
L6	N40°03'47"W	54.72
L7	N32°46'11"W	53.06
L8	N43°44'27"W	46.32
L9	N34°38'48"W	122.1
L10	N00°00'18"W	43.57
L11	N89°59'42"E	37.42

U. S. HIGHWAY NO. 93

JAM CORDI
 REGISTERED LAND SURVEYOR
 74 COLORADO AVE.
 P.O. BOX 323
 WHITEFISH, MT 59937
 PHONE: (406)-862-9977

Exhibit F



City of Whitefish
Department of Public Works
418 E. 2nd St. | PO Box 158
Whitefish, MT 59937
(406) 863-2460 | Fax (406) 863-2419

March 9, 2018

John E. Kardos, P.C.
Attorney at Law
One Huntington Road, Suite 202
Athens, GA 30606

Re: Whitefish River Trail - Riverbend Condominium Path

Dear Mr. Kardos:

I am writing in response to your letter of November 2, 2017. I will try to respond to the points contained in your letter in the order that they appear. A portion of this letter refers to Montana law, and that portion was prepared by the Whitefish City Attorney.

You inquired concerning my description of the city's planned bike/pedestrian path as "temporary." Although the city intends for all paths be paved as funds are available to do so, the city occasionally constructs a path out of gravel, which allows the public to begin using the path without the city having to expend substantial funds. Constructing a path out of gravel also allows the path to be altered. For instance, if after a year or two of use the city and Riverbend Condominiums mutually agree to alter the route somewhat, it will be easier, and less expensive, for the path to be moved. The city recognizes that it cannot expand the width of the path beyond the easement parameters without the agreement of the Condominium Association.

It is correct that the city will not consider any location for the path other than between the river and the condominiums. That is not a new position. It has been the city's position since communications between the city and the condominium association began. The easement granted to the city in 1983 is along the river and is a part of a bike/pedestrian system that follows the river for miles through the city. The easement granted to the city is the very first easement acquired by the city and was the initial link in a river trail system that the city has been assembling since 1983.

There is no intended threat in my letter to you of October 10, 2017. There is a clear statement of the City's intentions, and those intentions are in complete accord with the rights granted to the city in the 1983 easement document.

It is incorrect for you to conclude that the public as a whole does not support the route of the easement along the river, including the Riverbend Condominium section. The city is in constant



contact with the citizens of Whitefish, and there is very strong support for the entire river trail system.

The city disagrees with your position that the location of the easement is ambiguously worded. Multiple documents, including the document creating the easement, make it clear that the bike/pedestrian path is to be located along the river, and between the river and the condominiums. We may not have previously discussed all of the documents supporting the city's position, and so I will use this opportunity to describe those documents.

Prior to developing the Riverbend Condominiums, the developer, Tallman and McDonald Construction Corporation, through Gary Tallman, petitioned the city to abandon a portion of E. 1st Street that extended from Miles Avenue to the Whitefish River. The abandonment was necessary to create space for the north condominium building, which otherwise would not have fit on the property. Attachment A, which was prepared recently by the city's surveyor, shows the portion of First Street that the city was asked to abandon, with the outline of the north building superimposed over First Street.

The City Council, at a May 2, 1983 meeting, approved the abandonment, subject to several conditions. One condition was that the city would retain a twenty-foot-wide sewer and public use and maintenance easement over the sewer line that extends from Miles Avenue to the river. Another condition required that the developer grant to the city a public easement "along the river," with the width and precise location to be determined by the parties. A copy of the May 2, 1983 meeting minutes appears as Attachment B.

Thereafter, to create the easement running from Miles Avenue to the river, the City Council adopted Resolution No. 979A, which abandoned a portion of First Street while retaining a twenty-foot-wide sewer easement and a twenty-foot-wide public pedestrian and bicycle path easement, both of which ran from Miles Avenue to the Whitefish River. The pedestrian/bike easement was described as being for "access to and from the Whitefish River." Attachment C is a copy of Resolution No. 979A. The pedestrian/bike easement described in this paragraph is in addition to the easement running along the Whitefish River that has been the subject of our correspondence. The sewer easement and the pedestrian//bike easement are both shown on Attachment A. The legal description of this easement is set forth on Attachment D.

In order to create the second easement described in the City Council's May 2, 1983 minutes, Tallman and McDonald Construction Corporation executed a Grant of Easement (Attachment E), which granted to the city an "easement for the establishment of a public walkway and bicycle riding path over, across and through a 6 foot wide strip of land...meandering ...along the Whitefish River bank," with the precise location to be determined by the Grantor and Grantee. The general route of the easement was further described legally in a way that could only delineate the strip of land between the river and the future condominium buildings.

It is clear to the city that the easement granted to the city runs through the strip of land between the river and the condominiums. That conclusion is not ambiguous. You noted as much in your



letter of July 29, 2011, in which you referred to a potential bike/ped path in front of the condominium buildings and expressed an interest in "swapping an easement over that portion of land for the easement behind our units."

The only issue left to be decided is the actual location of the six-foot-wide path within the strip of land between the river and the buildings. The location is somewhat simplified by the restrictions imposed by the Montana Department of Fish, Wildlife and Parks, which will only permit a path that is set back somewhat from the river.

The city has proposed over the years several different routes for the path, none of which was satisfactory to the Condominium Association. The Association has not proposed any route within the easement granted to the city. In prior letters and discussions Riverbend representatives have implied that that since the easement requires the parties to agree on a route, the Association might decline to agree to any location, and thereby prevent the path from ever being constructed. That is not the law in Montana.

In *Phelps v. Frampton*, 2007 MT 263, 339 Mont. 330, 170 P.3d 474, the Montana Supreme Court described the obligation of parties to a contract:

Under our case law, "every contract, regardless of type, contains an implied covenant of good faith and fair dealing." *Story v. City of Bozeman*, 242 Mont. 436, 450, 791 P.2d 767, 775 (1990). "In essence, the covenant is a mutual promise implied in every contract that the parties will deal with each other in good faith, and not attempt to deprive the other party of the benefits of the contract through dishonesty or abuse of discretion in performance." *Beaverhead Bar Supply v. Harrington*, 247 Mont. 117, 124, 805 P.2d 560, 564 (1991) (citing *Story*, 242 Mont. at 450, 791 P.2d at 775); cf. *Restatement (Second) of Contracts* § 205 cmt. a (1981) ("Good faith performance or enforcement of a contract emphasizes faithfulness to an agreed common purpose and consistency with the justified expectations of the other party . . .").

Phelps, ¶ 29.

As a result, the Riverbend Condominium Association, as successor to the developer of the condominiums, has a legal obligation to work with the city, in good faith, to agree on a location for the city's bike/ped path within the strip of land identified in the original Grant of Easement. It may not decline all proposed routes in an effort to avoid preventing a path from being constructed. Since the city has proposed several routes that the Condominium Association has rejected, the city offers to accept any route within the strip of land along the river, so long as the Department of Fish, Wildlife and Parks will permit the location. If the Association declines to propose a route, the city will have no choice but to build the path on the most recent route it proposed. For your information, the legal description of the city's most recent route is Attachment F, and a map prepared by the city's surveyor and that shows the route is Attachment G.



Re: Whitefish River Trail - Riverbend Condominium Path
March 9, 2018

Page | 4 of 4

The city respectfully requests that the Association either agree to the city's latest route, or propose another route that will gain the approval of the FWP. The city also requests that the Association identify an acceptable path within 60 days of your receipt of this letter. In the meantime, FWP will soon begin an analysis of the proposed path under the Montana Environmental Policy Act (MEPA). The MEPA analysis is a public process that the Condominium Association will be able to participate in.

As stated in previous correspondence, the city intends to construct the path as soon as FWP completes the MEPA process and weather and soil conditions. For the time being, and assuming that the Condominium Association will work with the city in good faith, city personnel will not enter onto the condominium common area. The city-owned easement from Miles Avenue to the Whitefish River, where the First Street right-of-way was abandoned by the city, is precisely located, and the city reserves the right for its representatives to enter on that easement. The city does not currently intend to advertise to the public the existence and location of this easement, and the city will notify the Association if it intends to enter onto this easement.

Sincerely,
City of Whitefish

Craig C. Workman, P.E.
Director of Public Works

cc: Angela Jacobs, City Attorney
Adam Hammatt, City Manager
John Phelps, Bike/Ped Committee Chair

Attachment 1, Appendix 4

PROJECT: NH-STPP 5-3(42)128
DESIGNATION: Whitefish-West
UPN: 2017

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between the State of Montana Department of Transportation ("MDT"), hereinafter called the State, and the City of Whitefish, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the parties are desirous of proceeding with the design and eventual construction of the reconstruction project Whitefish-West hereafter called "the project"; and,

WHEREAS, the engineering construction plans include the design for a pedestrian/bike path adjacent to US 93 beginning near the Whitefish River Bridge, proceeding west on the south side of the route to the end of the project.

WHEREAS, the construction plans include street lighting from the project beginning to approximately Karrow Avenue. The City desires that a substitute decorative lighting be installed in lieu of the standard MDT lighting.

WHEREAS, the construction plans include retaining walls. The City desires that the retaining walls be upgraded to a "stone" appearance on the retaining wall face that can be stained.

WHEREAS, the construction plans include hand rails on the retaining walls in the urban section, the City desires to upgrade the hand rails to improve the appearance.

WHEREAS, the construction plans include a Storm Drain system consisting of inlets, piping, treatment structures, and vegetative swales as shown on the plans.

WHEREAS, The City desires to upgrade their current water and sewer facilities within the project limits and has retained WGM Engineering to design those improvements.

WHEREAS, the construction plans include landscaping and irrigation systems.

WHEREAS, the City and State have discussed certain items that may be included in the project such as bridge improvements.

WHEREAS, the City desires that the above-mentioned upgrades and improvements be included as part of the Project.

NOW, THEREFORE, it is hereby understood and agreed as follows:

THE STATE will:

1. Complete the construction of the sidewalk and bike path as shown on the construction plans. Modifications to the existing path will be required in Kay Beller Park. MDT will locate the path under the east end of the Whitefish River Bridge to the northerly MDT right of way line. No right of way will be purchased from the City for the bike path construction activities.
2. Design, install, and maintain decorative street lighting in lieu of standard highway lighting, beginning at Lupfer Avenue and extending west to approximately Karrow Avenue, including graduated lighting levels according to MDT standards, using standard City decorative light poles/fixtures.
3. Design, construct and structurally repair retaining walls as shown on the construction plans at various locations within the city limits that include a stone textured facade that is suitable for staining. In consultation with the City, the specified walls will be stained by MDT as part of the project.
4. Construct and maintain hand rails on retaining walls as shown on the plans and upgrade the hand rails if the City agrees to participate in the extra costs.
5. The State will design, fund, and construct the Storm Drain System as shown on the construction plans. The State will be responsible for maintenance outside City limits and for acquiring necessary drainage easements.
6. The State will construct water and sewer facilities as part of the highway contract. Unavoidable conflicts with existing water and sewer lines will be considered relocations, and eligible for cost sharing in a future Utility Agreement. Additional shared costs, such as Mobilization, Traffic Control, and indirect costs (IDC), will be addressed in the Utility Agreement for the Water and Sewer construction.
7. The State will fund and construct the landscaping and irrigation as shown on the construction plans to include, trees, shrubs, ground cover and sprinkler systems.
8. The state will construct upgrades to the Whitefish River Bridge that are considered improvements, possible additions are:
 - Use form liners on the bridge ends.
 - Stain the bridge ends and abutments
 - Upgrade bridge rail
 - Install medallions supplied by the City

THE CITY will:

1. Allow the state to construct the bike path on city property and modify the existing path in Kay Beller Park without the purchase of right of way or construction permits.
2. Perform routine maintenance on the bike path within the City limits as shown in the construction plans and as constructed. (Minor repairs and snow removal). The maintenance shall be in conformance as described here:
 - a. Maintain the path free of snow, attempting to clear all snow within 72 hours of a snowfall event and conduct maintenance activities with a vehicle weighing less than 10,000 pounds.
 - b. Maintain the path in an as-constructed condition according to the construction plans.
 - c. Remove all sanding material and debris after the path has sufficiently dried for proper removal.
 - d. Remove all trees within the bike path clear zone (two feet either side of path) that begin growing after the construction project.
 - e. Comply with all applicable federal and state nondiscrimination laws and regulations if a contractor is used to perform this work. See Exhibit "A".
3. The City will construct a connection to local street/bike paths on the north side of the Whitefish River Bridge from the north border of MDT right of way to connect the path to the existing Whitefish path network.
4. The City will be responsible for the incremental cost increase for decorative lighting and for stocking replacement materials, as follows:
 - a. The estimated base cost for Standard Highway Lighting is **\$35,196**. This cost shall remain fixed as a basis for determining the incremental cost.
 - b. The estimated incremental cost for upgrade to Decorative Lighting is **\$162,369**. The City will contribute the actual cost difference. See attached cost summary.
 - c. The City will maintain a replacement stock of at least one complete light pole assembly for each style of light used on the project, including pole, arm, fixture, lamp, and accessories. Purchase of additional replacement materials in the future will be the City's responsibility.
 - d. The City will continue to be responsible for electrical costs for street lighting.
5. Maintain retaining walls. Provide and apply stain as appropriate to generally maintain the as constructed appearance of the stone facade on retaining walls.
6. The City will be responsible for the incremental cost increase for the upgraded hand rails, as follows:
 - a. The estimated base cost for the as designed hand rails is **\$36,479**. This cost shall remain fixed as a basis for determining the incremental cost.

- b. The estimated incremental cost for the upgraded hand rails is **\$40,565**. The City will contribute the actual cost difference. See attached cost summary.
7. The City will provide input on the design and perform all maintenance of the storm drain facilities within City limits, including the treatment structures and vegetative swales adjacent to the Whitefish River. The maintenance does not include replacement of drainage facilities. The City will allow construction of the storm drain outfall and treatment structure on City property located at Kay Beller Park.
8. The City will design and fund the replacement of City-owned Water and Sewer Facilities. The City will be responsible for inspection and certification of the water and sewer work, in coordination with the Construction Project Manager. The City will participate in additional shared costs, such as Mobilization, Construction Engineering and IDC, the costs will be addressed in the Utility Agreement for the Water and Sewer construction.
9. The City will maintain the landscaping and irrigation systems in an as constructed condition.
10. The City is responsible for **\$22,849** for the aesthetic upgrades to the bridge construction, for **\$3,360** for Light-Hanging Basket Assemblies, see attached cost summary. In addition, the City is responsible for supplying six veteran medallions and four plaques that will be installed by MDT on the bridge.

The City's contribution for the work in this MOU is **\$229,143**. See attached cost summary. The City will be billed in advance for its portion of the total estimated construction costs, construction engineering costs, and City-applicable costs of the project no more than sixty (60) days before bid opening. Although the anticipated expenses will have been discussed with City representatives before that time, the State will provide a detailed breakdown of all estimated project costs with the billing.

The City will submit payment to the State within thirty (30) days of billing. MDT will not proceed further with the project's development if payment is not made within that time. If the federal government requires a reimbursement or return of any federal funds because a project does not advance due to City's failure to make any scheduled payment, the City agrees that it will reimburse the State for those federal funds within thirty (30) days of billing.

If, after initial payment is made, bid opening or contract award by the State is delayed or postponed by 30 days or more, or canceled for any reason, the State agrees to immediately refund the City's initial payment upon the City's request. If the lowest acceptable bid exceeds the State's estimate by more than 10%, the City and State will confer and decide whether or not the project will be awarded, since the City is also responsible for the cost increase. If the City does not concur, the project will not be awarded. If the City does concur, the project will be awarded and the City will be billed for the amount exceeding the initial payment. The City will pay that amount within thirty (30) days of the billing. If the City's share of the cost of the awarded project exceeds the amount paid by the City, the City may determine if other eligible federal funds are available and reach an

agreement with the State to allocate those funds to pay the excess. If other federal funds are not available, the City will pay the excess as stated above.

The contact for billing, accounting and change order questions for the City shall be:

John Wilson
Asst. Public Works Director
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

The parties understand that it is possible that the estimate may be exceeded once construction is begun, and any change orders, increases, or unforeseen expenses applicable to the City's portion of the project will be borne by the City. The State will inform the City beforehand, and as early as possible, of anything that appears will result in a cost increase, and will discuss the need for any possible change order with the City. But it is agreed that the City does not have the ability to veto or delay, or refuse to pay for, any change orders deemed necessary by the State.

The City's portion of the cost of any change order will be billed as early as it can be readily determined, and will be due and payable by the City within thirty (30) days of the statement.

Within six (6) months after the project has been finally accepted with the final costs submitted, the State will submit a final statement to the City. The final statement will include a refund of unspent portions of the City's initial payment, payable to the City in an amount equaling the difference between that payment and the City's share of the final costs. If the final statement exceeds the City's payments thus far, the City will remit to the State within thirty (30) days of the final statement the difference between City's share of final costs and City's earlier payment. If payment is not made within that thirty (30) day period, interest on the unpaid amount will accrue at the rate of 10% per year, and continue to accrue until paid in full. If the City is billed for additional funds, MDT will not participate in any future funding agreements with the City until full payment, including interest, is received from the City.

Payments to this project will be coordinated through MDT's Administration Division (to be directed to the State's Accounts Receivable Collections Technician and Accounting Systems Operations Supervisor). Payments to this project will be provided to the above State staff in the form of a check to be credited to this project.

Section 17-1-106, MCA, requires any state agency, including MDT, which receives non-general funds to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as defined by 2 CFR Part 225 (formerly OMB Circular A-87) MDT's current indirect cost rate is 11.08% for fiscal year 2011 (July 1, 2012 to June 30, 2013).

For this project, MDT billings to the City will include a charge for the indirect costs at the current fiscal year indirect cost rate, which amount will be applied toward the total project contribution of

the City. If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project.

Severability and Integration – If any single part or parts of this Agreement are determined to be void, the remaining parts will remain valid and operative. This Agreement, as written, expresses the total, final and only agreement of the parties relevant to its subject matter. No provision, expressed or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication shall be a provision of this Agreement unless specifically provided within the written terms herein.

Agreement Modification – Any change to this Agreement will only be by written agreement between parties.

Choice of Law and Venue – In the event of litigation concerning this Agreement, venue will only be in District Court of the First Judicial District of the State of Montana in and for the County of Lewis and Clark. This Agreement will be interpreted according to Montana law.

IN WITNESS WHEREOF, the Director of Transportation's authorized representative has signed on behalf of the State of Montana, and the City manager, on behalf of the City, has signed and affixed hereto the seal of the City.

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

By Jamus G. Walther
Department of Transportation

November
October 16, 2012

[Signature]
Reviewed For Legal Content
MDT Legal Services

ATTEST:

CITY OF Whitefish

Necie Lorang
City Clerk

By [Signature]
Charles C. Stearns, City Manager

I, _____, Clerk of the City of Whitefish, hereby certify that this agreement was regularly adopted by the City Council at a meeting held on the X day of _____, 2012; and that the Council authorized the City Manager to sign this agreement on behalf of the Council.

Not Applicable

(Signature)

Revised: 2/16/12 (310 form 270) Form may be downloaded from: www.dnrc.mt.gov/permits/default.asp	AGENCY USE ONLY: Application # _____ Date Received _____ Date Accepted _____ / Initials _____ Date Forwarded to DFWP _____
<i>This space is for all Department of Transportation and SPA 124 permits (government projects).</i>	
Project Name <u>Sun River Connector Trail-Great Falls</u>	
Control Number <u>6862</u> Contract letting date <u>9/10/2015</u>	
MEPA/NEPA Compliance <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, #14 of this application does not apply.	

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all local, state, or federal permits listed below. The applicant is the responsible party for the project and the point of contact unless otherwise designated. "Information for Applicant" includes agency contacts and instructions for completing this application. To avoid delays, submit all required information, including a project site map and drawings. Incomplete applications will result in the delay of the application process. Other laws may apply.

The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.

<input checked="" type="checkbox"/>	PERMIT	AGENCY	FEE
	310 Permit	Local Conservation District	No fee
X	SPA 124 Permit	Department of Fish, Wildlife and Parks	No fee
	Floodplain Permit	Local Floodplain Administrator	Varies by city/county (\$25 - \$500+)
	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers	Varies (\$0 - \$100)
	318 Authorization 401 Certification	Department of Environmental Quality	\$250 (318); \$400 - \$20,000 (401)
	Navigable Rivers Land Use License or Easement	Department of Natural Resources and Conservation, Trust Lands Management Division	License \$25; Easement \$50, plus annual fee

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): Montana Department of Transportation -

Contact: Paul Sturm

Has the landowner consented to this project? Yes No

Mailing Address: P.O. Box 201001, Helena, MT 59620-0001

Physical Address: _____

Day Phone: 406-444-9438 Evening Phone: N/A E-Mail: psturm@mt.gov

B. PROJECT SITE INFORMATION CHECK INFO

NAME OF STREAM or WATER BODY at project location Sun River Nearest Town Great Falls

Address/Location: N/A Geocode (if available): N/A

Government Lot 3 & 4, Section 14, Township 20N, Range 3E County Cascade

Longitude -111.320°, Latitude 47.492°

The state owns the beds of certain state navigable waterways. Is this a state navigable waterway? Yes or No.
If yes, send copy of this application to appropriate DNRC land office - see Information for Applicant.

ATTACH A PROJECT SITE MAP OR A SKETCH that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) a circled "X" representing the exact project location. IF NOT CLEARLY STATED ON THE MAP OR SKETCH, **PROVIDE WRITTEN DIRECTIONS TO THE SITE.**

C. PROJECT INFORMATION**1. TYPE OF PROJECT** (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Bridge/Culvert/Ford Construction | <input type="checkbox"/> Fish Habitat | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Bridge/Culvert/Ford Removal | <input type="checkbox"/> Recreation | <input type="checkbox"/> Dredging |
| <input type="checkbox"/> Road Construction/Maintenance | <input type="checkbox"/> New Residential Structure | <input type="checkbox"/> Core Drill |
| X Bank Stabilization/Alteration | <input type="checkbox"/> Manufactured Home | X Placement of Fill |
| <input type="checkbox"/> Flood Protection | <input type="checkbox"/> Improvement to Existing Structure | <input type="checkbox"/> Diversion Dam |
| X Channel Alteration | <input type="checkbox"/> Commercial Structure | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Irrigation Structure | X Wetland Alteration | <input type="checkbox"/> Pond |
| <input type="checkbox"/> Water Well/Cistern | <input type="checkbox"/> Temporary Construction Access | <input type="checkbox"/> Debris Removal |
| <input type="checkbox"/> Excavation/Pit | X Other <u>Transportation Network: Pedestrian/Bike Trail</u> | |

2. PLAN OR DRAWING of the proposed project **MUST** be attached. **This plan or drawing must include:**

- | | |
|--|--|
| • a plan view (looking at the project from above) | • a cross section or profile view |
| • dimensions of the project (height, width, depth in feet) | • an elevation view |
| • location of storage or stockpile materials | • dimensions and location of fill or excavation sites |
| • drainage facilities | • location of existing or proposed structures, such as buildings, utilities, roads, or bridges |
| • an arrow indicating north | |

3. IS THIS APPLICATION FOR an annual maintenance permit? Yes No
(If yes, an annual plan of operation must be attached to this application – see “Information for Applicant”)**4. PROPOSED CONSTRUCTION DATE.** Include a project timeline. Start date: 10/1/15
Finish date: 6/1/16 Is any portion of the work already completed? Yes X No
(If yes, describe the completed work.)**5. WHAT IS THE PURPOSE** of the proposed project?

See enclosed Plan-in-Hand Construction Plans dated January 12, 2015.

The Sun River Connector Trail will fill a missing link in the community’s non-motorized transportation system by providing a separated bicycle/pedestrian facility between Warden Bridge over the Missouri River, and a sidewalk and trail near the intersection with 6th Street SW. The proposed project will tie into an existing sidewalk on the north side of Country Club Blvd. west of the intersection. It will also link to a recently constructed trail that provides safe, separated movements between the west and east sides of 6th St. SW, underneath the 6th St. SW Bridge over the Sun River.

The trail will be a functional component of the transportation network, not a recreational trail. It is needed to provide a safe, separated facility for users currently using the shoulder of the roadway. Although the need for provisions for a sidewalk was foreseen when the adjoining roadway was designed, it was not incorporated at the time. With major new commercial development to the west at Market Place, this trail segment will fill the gap in pedestrian and bicycle facilities, connecting the commercial/residential areas on the east side of the river with the commercial/residential areas on the west side.

The project is located within the urban limits of Great Falls in Cascade County. The western 0.25 mile segment of the project is within the city limits. The trail will be located adjacent to the north lane of Country Club Boulevard (10th Avenue South), between RP 95.17 and 95.70 on N-60, which is classified as a principal arterial and is on the National Highway System. The north side of the trail is immediately adjacent to the Sun River. The project is approximately 0.52 miles in length. The project begins at the end of a path constructed in 2010.

The project extends eastward and ends approximately 730 feet west of the westbound Warden Bridge structure at the connection to an existing shared use path constructed in 1983.

6. PROVIDE A BRIEF DESCRIPTION of the proposed project.

This project includes the installation of a new paved trail adjacent to the north lane of Country Club Blvd and the Sun River in Great Falls, Cascade County. This project will begin at 6th Street SW and extend east to connect to an existing shared use path west of Warden Bridge.

7. WHAT IS THE CURRENT CONDITION of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands.

The existing bank of the Sun River was created as a causeway for highway construction in 1951. The river slope was last modified in 1983 with installation of a concrete retaining wall, guardrail and riprap. Wetlands along the river bank include five small (0.002 to 0.06 acre), separate areas primarily comprised of sandbar willow and reed canary grass. Within the project area approximately 90% of the Sun River bank has been historically riprapped.

8. PROJECT DIMENSIONS. How many linear feet of bank will be impacted? How far will the proposed project encroach into and extend away from the water body?

The fill slope enters the bank at Station 31+75 and extends to Station 34+00 at the start of the wall section, resulting in 225 LF of impact to the bank. Slopes vary from 4:1 to 2:1 and catch between 3 and 27 feet from the OHWM. From Station 34+00 to Station 44+36 the path is supported on a sheet pile retaining wall resulting in 1036 LF of bank impact. The face of the wall varies from 20-feet to 1.2-feet outside the OHWM. To facilitate sheet pile installation a trench will be excavated through the existing riprap to an estimated depth of 4-feet. Some of the riprap will be salvaged and replaced in front of the wall for erosion protection. This will be 24-inches deep and 24-inches wide in front of the wall. The trench width is estimated to be 3-feet to 4-feet wide, and will be backfilled with compacted fill material prior to driving the sheet pile. There are no permanent impacts within the OHWM.

The edge of the cantilevered deck overhangs the ordinary high water mark (OHWM) for 574 linear feet. At the point of maximum encroachment (Sta. 41+08) the deck overhangs the OHWM by 2.8 feet. At that point the face of the retaining wall is 1.2 feet away from the OHWM.

9. VEGETATION. Describe the vegetation present on site. How much vegetation will be disturbed or covered with fill material during project installation? (Agencies require that only vegetation necessary to do the work be removed.) Describe the revegetation plan for all disturbed areas of the project site in detail.

Dominant vegetation within the minimal wetland area is comprised of dogwood, sandbar willow, smooth brome, and a small area of sedge (WL1e: 0.02 acre). Wetland impact will be limited to 0.001 acres and 0.008 acres, Wetland-1e and 1a respectively. Disturbance to nonwetland areas along the river bank include green ash saplings, smooth brome and currant.

From Station 31+75 to 34+00 the fill covers 0.17 acres (average width is 32-feet). From Station 34+00 to the end of the wall at Station 44+36, 0.15 acres (average width is 6.3-feet) of bank is covered with fill and an additional 0.05 acre (2-feet wide) is disturbed after removal and replacement of riprap. The impacted area is existing riprap intermittently covered with soil and vegetation.

Disturbance to the current park area west of Station 31+75 will entail removal of 1.6 acres of domestic grasses (likely fescue and bluegrass), 18 trees including mature cottonwood stems, and other deciduous species.

The entire length of the trail support wall is 1,034 feet. In this area, the trail will overhang the bank and shade the ground and any riprap that will be placed against the wall (final designs will show restoration details). It is unlikely any vegetation could thrive under the overhanging sidewalk; therefore, at this time there are no plans to vegetate this shaded and riprapped area.

From 32+50 to 34+00 there will be a fill slope with 3:1 to 2:1 slopes. This area will be revegetated with recommended MDT seed mix and plant species appropriate for planting on the slope. Recommendations include utilizing Cinquefoil (native *Potentilla fruticosa*) for the dense shrubbery near the path, Woods Rose (*Rosa woodsii*), Snowberry (*Symphoricarpos albus*), Dogwood (*Cornus sericea*) on the slopes, and Box Elder (*Acer negundo*) and Lanceleaf Cottonwood (*Populus x acuminata*) closer to the river. Wild hops (*Humulus lupulus*) can be used as a ground cover. This area of shrubs would provide a safety barrier for cyclists and pedestrians who might stray off the trail prior to entering the overhanging sidewalk section as well as provide a natural vegetated slope that will help reduce erosion. All other disturbed areas east and west of the overhanging sidewalk section will be revegetated with a seed mix recommended by the MDT Restoration Specialist.

From Station 31+75 to 32+50 slopes will be topsoiled and seeded with turf grasses.

10. **MATERIALS.** Describe the materials to be used and how much.

For purposes of calculating bank impacts, project enters the bank at Station 31+75 (first fill slope catch beyond bottom of slope break line), and all the project east of there is in the bank.

Table 2. Material Quantity Estimates

Impact Location	Station	Linear feet /Cubic yards	Size and Type	Source
Wetland WL-1e	---	1 CY	Earth Fill	Unknown at this time
Wetland WL-1a	---	89 LF	Sheet Pile	Unknown at this time
Wetland WL-1a	---	16.5 CY	Riprap	Remove & Replace Existing Riprap
Wetland WL-1a	---	17.8 CY	Structural Fill	Unknown at this time
OHW	---	146 LF	Riprap	Remove & Replace Existing Riprap
Bank West of Sheet Pile	31+75 to 34+00	518 CY	Earth Fill	Unknown at this time
Bank	34+00 to 44+35	1035 LF	Sheet Pile	Unknown at this time
Bank	34+00 to 44+35	222 CY	Structural Fill	Unknown at this time
Bank	34+00 to 44+35	363 CY	Trench Backfill	Unknown at this time
Bank	34+00 to 44+35	191 CY	Riprap	Remove & Replace Existing Riprap

11. **EQUIPMENT.** What equipment is proposed to be used for the work? Where and how will the equipment be used on the stream bank and/or the waterbody?

The proposed equipment to be used includes, but is not limited to, excavators, compacters, sheet pile driver, and graders. This equipment will be used to remove, place, compact, and grade fill material. Excavators will be used to dig the footings for the trail. Concrete trucks will provide and pour concrete.

12. **DESCRIBE PLANNED EFFORTS TO MINIMIZE PROJECT IMPACTS.** Consider the impacts of the proposed project, even if temporary. What efforts will be taken to:

- **Minimize erosion, sedimentation, or turbidity?**

During construction Best Management Practices such as silt fence, straw wattles and/or straw bales will be used to reduce sediment to the river. The contractor will be required to prepare, implement and maintain a Storm

Water Pollution Prevention Plan until the re-vegetation of the areas disturbed by the project has stabilized. After construction, the disturbed areas not receiving a hard surface will be re-vegetated to species recommended by the MDT Reclamation Specialist. Rip rap removed during construction will be replaced.

- **Minimize stream channel alterations?**

Approximately 146 LF of the OHWM will be filled with riprap which will help to stabilize the channel and prevent erosion.

- **Minimize effects to stream flow or water quality caused by materials used or removal of ground cover?**

BMPs will be used to reduce sediment to the river during construction. After construction, the disturbed areas not receiving a hard surface will be re-vegetated.

- **Minimize effects on fish and aquatic habitat?**

No substantial long-term impacts to fish or aquatic resources are anticipated because the construction activities will have minimal impact within the stream channel (only 146 LF of OHWM will be filled with riprap). BMPs will be used to reduce sediment to the river and minimize effects on fish habitat. No construction equipment will be allowed to enter the river below the OHWM. The contractor will be required to prepare, implement and maintain a Storm Water Pollution Prevention Plan until the re-vegetation of the areas disturbed are stabilized.

- **Minimize risks of flooding or erosion problems upstream and downstream?**

Best Management Practices will be implemented during construction on all disturbed areas. Once construction is complete, the disturbed areas will be re-vegetated to species recommended by the MDT Reclamation Specialist.

Currently, there is existing riprap revetment along the Sun River bank adjacent to the proposed structure which provides stream bank stabilization for 10th Ave. S. The riprap prevents erosion caused by the flow of the Sun River and could reduce the impact of runoff from the surrounding floodplain. The proposed trail structure will require removal of some riprap during construction, but this rip rap will be replaced as part of the project.

- **Minimize vegetation disturbance, protect existing vegetation, and control weeds?**

All disturbed areas not receiving a hard surface will be re-vegetated to species recommended by MDT. The seeding specification will be included in the bid package. Areas where the seed is not established, will be re-seeded and maintained until the vegetation has stabilized. The area under the overhanging sidewalk will not be revegetated because of riprap placement and shading of that area.

13. **WHAT ARE THE NATURAL RESOURCE BENEFITS** of the proposed project?

None

14. **LIST ALTERNATIVES** to the proposed project. Why was the proposed alternative selected?

The proposed project was chosen because it resulted in the least impacts.

E. SIGNATURES/AUTHORIZATIONS -- Each agency must have original signatures signed in blue ink.

After completing the form, make the required number of copies and then sign each copy. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized.

APPLICANT (Person responsible for project):

LANDOWNER:

Print Name: _____ Print Name: _____

Signature of Applicant Date Signature of Landowner Date

*CONTRACTOR/AGENT:

Print Name: _____

Signature of Contractor/Agent Date

*Contact agency to determine if contractor signature is required.

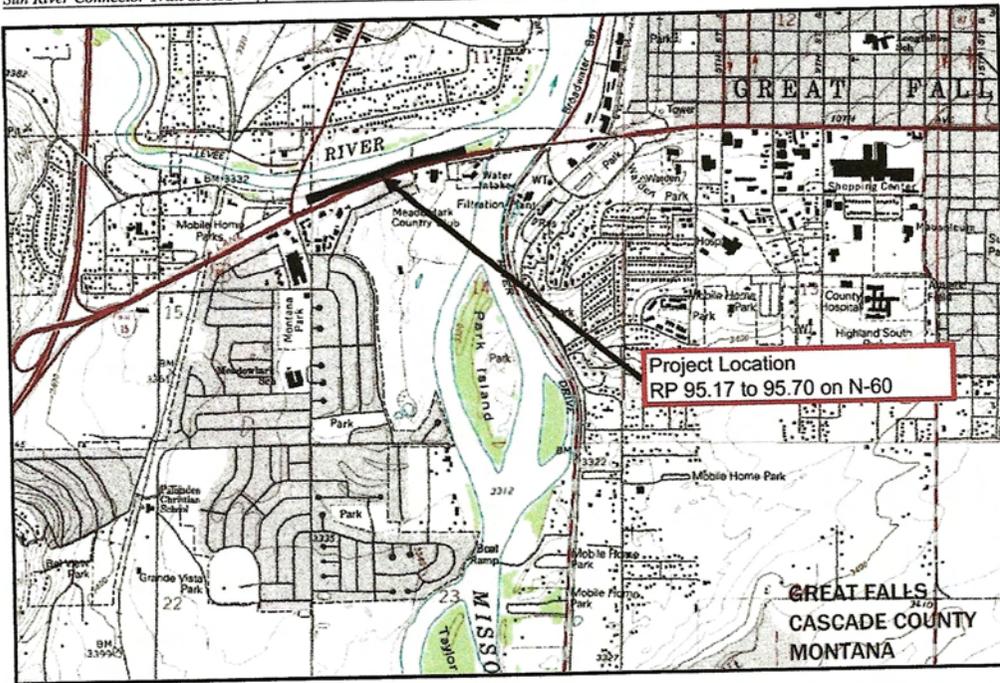


Figure 1. Proposed MDT Sun River Connector Trail-GTF, CM-STPE 5299(100), UPN 6862000 project site location site, Great Falls, Montana.

Michelle Howke

From: David Karmilovich <daveyjkaye@gmail.com>
Sent: Tuesday, April 1, 2025 10:45 AM
To: Michelle Howke; John Muhlfeld; Rebecca Norton; Giuseppe Caltabiano; Andy Feury; Frank Sweeney; Steve Qunell; Ben Davis
Subject: Riverbend-Miles Trail Portion Input

Follow Up Flag: Follow up
Flag Status: Flagged

ATTENTION: External Email - This email originated from outside the City of Whitefish. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents. Contact the [IT Helpdesk](#) if in doubt.

All,

I'm a highly educated STEM person. I majored in Engineering for a year and a half, have taken several Architecture courses, and am currently designing the third house for myself in my lifetime as an amateur architect. I'm also an amateur real estate expert. While I'm conservative, I'm neither a Democrat or Republican as I want nothing to do with either party. This allows me to assess all issues objectively, solely on facts, science and common sense.

I read the recent article in the Pilot on the Montana FWP decision. I agree with it almost 100%. I also watched the City's 3/31/25 meeting on this topic on YouTube, assessed the lay of the land using Google Maps Satellite and Street views as well as Zillow photos associated with all condos in the Riverbend and Miles Avenue Condominium communities. Since one member of the public spoke about the approval of work for highway 93 along Spencer Lake, I also assessed that using Google Maps Satellite and Street views.

Trying to put a trail between the Riverbend Condominiums and the river is a very bad decision. I'm shocked that other than the Mayor providing Rebecca Norton's input, no one else spoke in favor of abandoning the City's plan and going with some version of FWP's alternative. What happened to the liberal point of view of protecting the physical environment and a river's habitat at all costs? Even I as a conservative, using common sense, know that trying to put the trail between the Riverbend Condominiums and the river is crazy!

There really is no good solution. The best of the bad solutions must be chosen, which is a version of FWP's alternative. I admit I don't know what easements there are for this portion of the trail through the Riverbend and Miles Avenue Condominiums and what discussions the City has had with those associations.

I feel bad for all those condo owners, as whatever solution gets chosen, it's not good for their quality of life at their residence. What kind of say did/do they have in this? If their approval is needed for any of the solutions, and they did/will give their approval for a solution, I commend them for living with this huge impact to their quality of life at their home for the greater good of the community.

Someone at the City meeting spoke about navigating the Miles Avenue hill. FWP's alternative doesn't go on/along Miles Avenue. The trail would be well inside the Condominiums property line. Most of the elevation change would be accomplished in the 'S' ADA ramp.

The only reasonable option is a version of FWP's alternative. I don't know how wide of a path the City was planning, but the City should stick as close to that width as possible while implementing FWP's alternative, instead of the four foot path and eight foot path FWP's alternative shows. I know space is limited on the east side of Riverbend Condominiums, but the trail should be kept as close to the City's original path width plan as possible even if it requires some work/reconfiguration on the east side of the Riverbend Condominiums.

The pro's to FWP's alternative.

- no impact to the river.

- no impact to the stability of the soil along the river and Riverbend Condominiums. By the way, the Riverbend Condominiums should have never been built that close to the river in the first place 40 years ago.

- while the trail would go right outside Riverbend Condominiums front doors, it's much better for them then to have the trail squeezed into their backyard between their patio/deck and the river in the little space that's there.

- most of the elevation change would be accomplished in the 'S' ADA ramp.

- It looks to me that even with the added work that would be necessary on the east side of the Riverbend Condominiums to make the path as wide as possible, the cost to finish the Riverbend-Miles Avenue section of the trail will be less. And it does just that; the main objective, to complete/connect this section of the trail. There is absolutely no need for this small section of the trail to be right on the river!

- No cost and time to litigate in another nonproductive lawsuit which the City will definitely loose like usual.

P.S. There is a fairly big difference in the lay of the land between this project and the Spencer Lake/93 project.

Dave
Whitefish