

Return to: City Clerk
City of Missoula
435 Ryman Street
Missoula MT 59802-4297

RESOLUTION NUMBER 6972

RESOLUTION OF THE COUNCIL OF THE CITY OF MISSOULA EXTENDING THE CORPORATE LIMITS OF THE CITY OF MISSOULA, MONTANA TO ANNEX CERTAIN PROPERTY TO THE CITY OF MISSOULA KNOWN AS THE MILL SITE PROPERTY, LOCATED IN SECTION 21, TOWNSHIP 13 NORTH, RANGE 19 WEST, P.M.M., AND THE EXCLUSION THEREOF ON CERTAIN CONDITIONS.

NOW, THEREFORE BE IT RESOLVED by the City Council (the "Council") of the City of Missoula, Montana (the "City"), as follows:

RECITALS

Section 1. Recitals.

1.01. The City has received a petition (the "Petition") signed by all parties holding any right, title, or interest in the property known as the Mill Site Property (the "Property") as described on Exhibit A and shown on Exhibit B, which is hereby incorporated by reference; that such Property be annexed to the City on the condition that the City agree to exclude (de-annex) the Property if certain conditions have not occurred by a certain date.

1.02. The City has provided notice of the Petition and has provided an opportunity for comment thereon by all interested citizens at a duly called and noticed public meeting.

1.03. The Property is adjacent to and wholly surrounded by the City.

1.04. Pursuant to Resolution No. 5210, adopted by the City on September 16, 1991, the Council determined that the Property was blighted within the meaning of Title 7, Chapter 15, Parts 42 and 43 M.C.A.

1.05. Resolution No. 5210 further provided that should the Property be annexed into the City, it would be annexed to and included in the urban renewal district that was contemplated by Resolution No. 5210 ("Urban Renewal District II").

1.06. Pursuant to Resolution No. 6840, adopted by the City on September 13, 2004, the City found that the Property contains a key segment of land needed to complete the City's existing Riverfront Trail, and at the request of the Millsite Revitalization Project, LLC ("MRP"), a Montana limited liability company, applied for, received, and allocated \$125,000 of a Brownfield's Grant for the purpose of assessing the kind and amount of contamination existing and the remediation that might be required for various uses of the Property.

1.07. MRP has presented to the City and the Missoula Redevelopment Agency (the "MRA") a proposal for the redevelopment and revitalization of the Property that would require the involvement of the City and the MRA.

1.08. In order for the City and the MRA to have jurisdiction over the Property and to participate with the MRP in any meaningful discussions about the proposed redevelopment of the Property it is necessary and desirable that the Property be annexed to the City and included in the City's Urban Renewal District II.

Section 2. Findings and Determinations.

2.01. The Council hereby determines that it is in the best interest of the City of Missoula that the property be annexed to the City so that the City can properly exercise jurisdiction over and participate in the development and approval of the proposed redevelopment plans for the Property.

2.02. Since the Petition has been signed by 100% of the parties holding any right, title or interest in the Property, the Council is authorized by Section 7-2-4601, M.C.A to annex the Property into the City upon adoption of a resolution by the Council.

2.03. It is acknowledged by the Council that the execution of the Petition by 100% of the parties holding any right, title, or interest in the Property is dependent on the City simultaneously agreeing to exclude the Property as authorized by Section 7-2-4803, M.C.A. if certain conditions are not met.

2.04. While the Council would prefer that the annexation of the Property not be conditioned upon the exclusion, the Council finds that the immediate annexation of the Property and the ability to participate in and encourage the redevelopment of the Property and thereby removing blighted conditions of the Property clearly outweighs the potential exclusion of the Property.

2.05. Since the Petition has been signed by 100% of the parties holding any right, title, or interest in the Property, it is not necessary for the City to provide notice as required by Section 7-2-4806, M.C.A. to the owners of property to be excluded of the request for exclusion and an opportunity to protest the exclusion.

Section 3. Annexation of the Property, Exclusion if Conditions Are Not Met, Instructions to Clerk

3.01. Annexation. The Council hereby approves the petition for the annexation of the Property into the City and hereby annexes the Property to the City of Missoula and the boundaries of Urban Renewal District II, effective on the date of filing by the City Clerk in the offices of the City Clerk and with the Missoula County Clerk and Recorder a certified copy of this resolution and a map of the City depicting the Property within the boundaries of the City, and a map showing the boundaries of Urban Renewal District II including the Property.

3.02. Zoning, ward and neighborhood council district assignment. The Property is hereby zoned in accordance with Section 76-2-303, M.C.A. as recommended by the Office of Planning and Grants converting the portion of the property that is currently zoned C-I2 Heavy Industry to the City zoning district of I-II Heavy Industrial. FURTHER, the portions within Eddy Addition inclusive of Lots 6-12, Block 9 and Lots 6-19, Block 16 that are currently unzoned, are hereby annexed into the City unzoned. The City hereby assigns the property upon annexation to Ward 3 and the Riverfront Neighborhood Council District as the parcel is within and wholly surrounded by Ward 3 and the Riverfront Neighborhood Council District.

3.03. Exclusion (de-annexation) of Property. The Council hereby agrees that the Property will be excluded from the City if either of the following conditions has occurred by December 1, 2007: (i) MRP has not purchased the Property from the F. Morris and Helen Silver Foundation and has not purchased the Leasehold Interest of Idaho Timber Corporation of Missoula, Inc., or (ii) MRP has purchased the Property and Leasehold Interest but has not obtained approval by the City of a final plat for the redevelopment of the Property.

3.04. Implementation. On December 1, 2007, the City Clerk shall verify whether either of the above referenced events has occurred. If either condition has occurred, the City Clerk shall file in the offices of the City Clerk and in the office of the Missoula County Clerk and Recorder of Missoula County a map of the City excluding the Property within the boundaries of the City, and a map showing the boundaries of Urban Renewal District II excluding the Property.

3.05 Upon occurrence of either condition specified in Section 3.03 above, and the consequent de-annexation of the Property, the zoning of the Property, at the time of de-annexation will revert to Missoula County C-I2 Heavy Industrial.

Section 4. Effective Date.

4.01. This resolution shall become effective on passage.

4.02 If the city annexation of any lot(s), parcel(s), block(s) or tract(s) of land annexed into the city pursuant to this city annexation resolution or any provision of this resolution is ever held to be invalid or unconstitutional, the Council hereby declares that any such decision shall not affect the validity of the annexation of the remaining lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and annexed each lot(s), parcel(s), block(s) or tracts(s) of land into the city as well as each provision of this resolution irrespective of the fact that the annexation of any one or more lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or provision of this resolution may have been declared invalid or unconstitutional, and if for any reason the annexation of any lot(s), parcel(s), block(s), tract(s) of land or any provision of this resolution should be declared invalid or unconstitutional, then the annexation of the remaining lot(s), parcel(s), block(s) or tracts(s) of land and resolution provisions are intended to be and shall be in full force and effect as enacted by the Council.

PASSED AND ADOPTED by the Council of the City of Missoula, Montana, this 12th day of September, 2005.

ATTEST:

/s/ Martha L. Rehbein
Martha L. Rehbein
City Clerk

APPROVED:

/s/ Mike Kadas
Mike Kadas
Mayor

(SEAL)

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 21, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRIME MERIDIAN MONTANA, MISSOULA COUNTY, MONTANA, FURTHER DESCRIBED AS FOLLOWS:

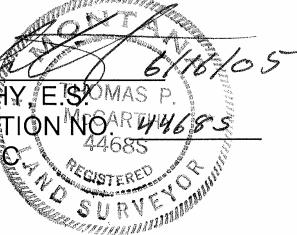
BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE EASTERLY ALONG THE NORTHERN BOUNDARY OF SAID SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER TO ITS NORTHEAST CORNER; THENCE SOUTHERLY ALONG THE EASTERN BOUNDARY OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE SOUTHERLY ALONG THE EASTERN BOUNDARY OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO A POINT THAT IS LYING ONE HUNDRED AND SEVENTY-FIVE (175) FEET NORTH OF THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SAID POINT BEING THE NORTHEAST CORNER OF THE TRACT OF LAND DESCRIBED IN BOOK 274 MICRO, PAGE 2357 RECORDS OF MISSOULA COUNTY, MONTANA, SAID POINT BEING SHOWN AND MONUMENTED ON CERTIFICATE OF SURVEY NUMBER 4737 RECORDS OF MISSOULA COUNTY, MONTANA; THENCE SOUTHWESTERLY ALONG THE NORTHERN BOUNDARY OF SAID BOOK 274 MICRO, PAGE 2357 TO A POINT ON THE NORtherLY RIGHT-OF-WAY OF THE "OLD C.M. ST. PAUL & PACIFIC RAILROAD" SAID POINT LYING SIX HUNDRED AND FIFTY (650) FEET WEST OF THE WEST BOUNDARY OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AS MEASURED ALONG THE NORTHERN BOUNDARY OF SAID "OLD C.M. ST. PAUL & PACIFIC RAILROAD" SAID POINT BEING ALSO SHOWN AND MONUMENTED ON CERTIFICATE OF SURVEY NUMBER 4737; THENCE WESTERLY ALONG THE NORTH BOUNDARY OF SAID "OLD C.M. ST. PAUL & PACIFIC RAILROAD" TO THE WESTERN BOUNDARY OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORtherLY ALONG SAID WESTERN BOUNDARY TO THE SOUTHERN BOUNDARY OF BLOCK SIXTEEN (16) EDDY ADDITION, A SUBDIVISION OF RECORD IN MISSOULA COUNTY, MONTANA; THENCE WESTERLY ALONG THE SOUTHERN BOUNDARY OF SAID BLOCK SIXTEEN (16) TO ITS SOUTHWEST CORNER; THENCE NORtherly ALONG THE WESTERN BOUNDARY OF BLOCK SIXTEEN (16) TO ITS NORTHWEST CORNER; THENCE EASTERLY ALONG THE NORTH BOUNDARY OF BLOCK SIXTEEN (16) TO ITS INTERSECTION WITH SAID WESTERLY BOUNDARY OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORtherly ALONG SAID WESTERN BOUNDARY OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO ITS INTERSECTION WITH THE CENTERLINE OF THE VACATED ALLEY IN BLOCK NINE (9) OF EDDY ADDITION; THENCE WESTERLY ALONG THE CENTER LINE OF THE VACATED ALLEY IN BLOCK NINE (9) TO THE WESTERLY BOUNDARY OF BLOCK NINE (9); THENCE NORtherly ALONG THE WESTERLY BOUNDARY OF BLOCK NINE (9) TO ITS

NORTHWEST CORNER; THENCE EASTERLY ALONG THE NORTHERN BOUNDARY OF BLOCK NINE (9) TO ITS INTERSECTION WITH SAID WESTERN BOUNDARY OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORtherly along the western boundary of said southeast quarter of the northwest quarter to its northwest corner; thence northerly along the western boundary of said south half of the northeast quarter of the northwest quarter to the said point of beginning.

THE ABOVE-DESCRIBED PROPERTY BOUNDARY BEING CONTIGUOUS WITH THE EXISTING CITY BOUNDARY OF THE CITY OF MISSOULA AS SHOWN ON THE ATTACHED EXHIBIT "B."

SURVEYOR'S STATEMENT

THIS EXHIBIT WAS PREPARED USING DOCUMENTS OF RECORD. NO FIELD SURVEY WORK WAS PERFORMED TO VERIFY THE ACCURACY OF SAID DOCUMENTS.

Thomas P. McCarthy 6/16/05
THOMAS P. McCARTHY, E.S.TOMAS P.
MONTANA REGISTRATION NO. 44685
FOR WGM GROUP, INC.
A circular seal with the text "MONTANA" at the top, "REGISTERED" on the left, "LAND SURVEYOR" on the right, and "44685" at the bottom. The date "6/16/05" is handwritten above the seal.

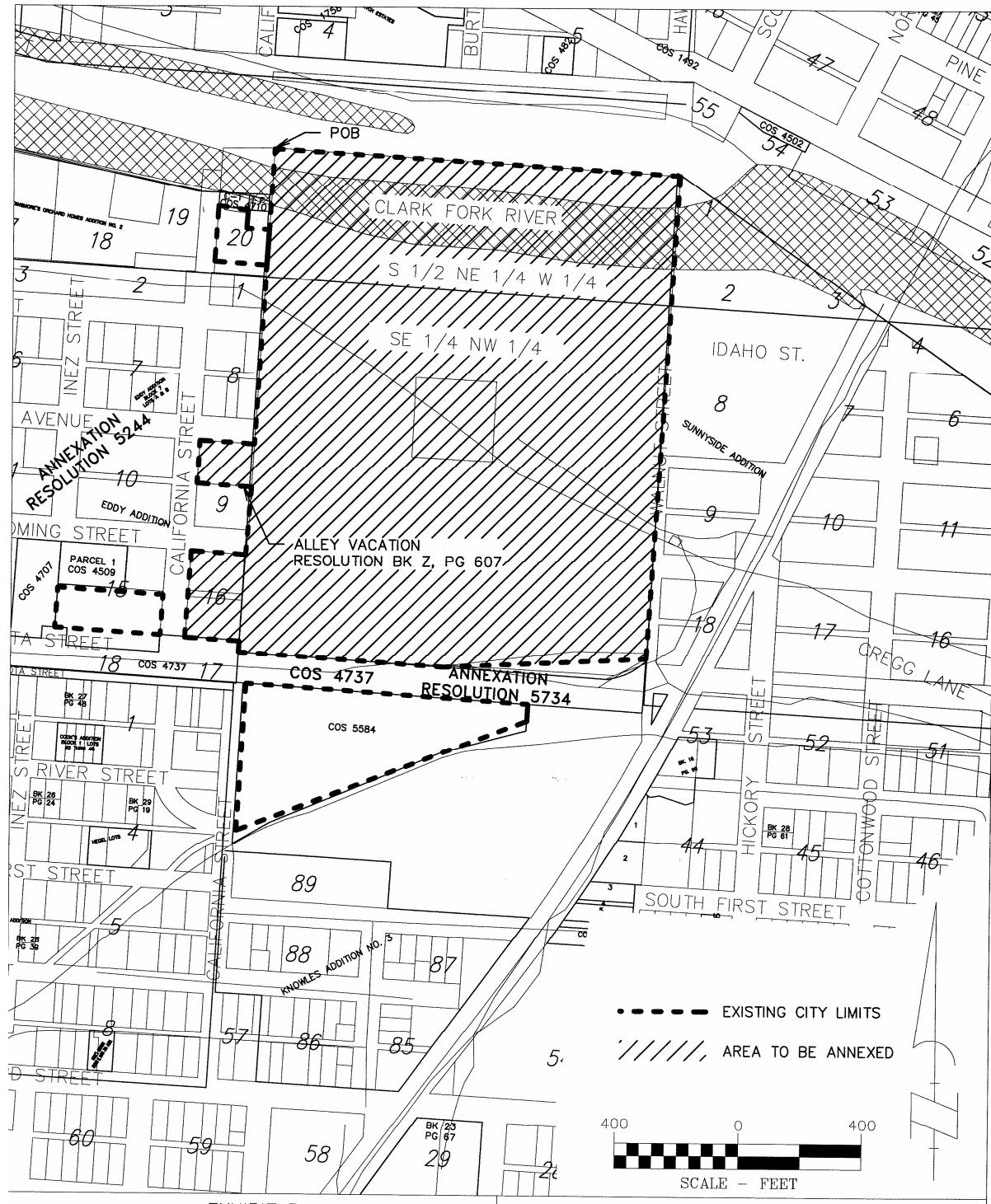


EXHIBIT B
EXHIBIT FOR ANNEXATION IN THE NW 1/4
SECTION 21 T13N, R19W, P.M.*M.*
"CHAMPION MILL SITE" - MISSOULA, MONTANA

DRAFT: EDI

DATE: 06/15/05
PROJECT: 05-06-03