



Item: Public Hearing – Resolution 9967 to Annex, Ordinance 3089 to assign City Zoning and Annexation Agreement all pertaining to a portion of Steel Etc. property located on the northwest corner of River Drive North and 52nd Street North

From: Jana Cooper, RLA, Planner II, Planning and Community Development

Initiated By: Bob McIntyre, Steel Etc. Holding Company

Presented By: Mike Haynes, AICP, Director of Planning and Community Development

Action Requested: City Commission adopt Resolution 9967, Ordinance 3089 and Annexation Agreement all pertaining to a portion of Steel Etc property.

Public Hearing:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9967 and (approve/disapprove) the Annexation Agreement all pertaining to a portion of Steel Etc. property.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3089.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.

Recommendation: At the conclusion of a public hearing held May 8, 2012, the Planning Advisory Board conditionally approved the annexation of a portion of Steel Etc. property, and the Zoning Commission approved assigning a zoning classification of I-2 Heavy Industrial district to the property upon annexation to the City. Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on April 22, 2012. Staff recommends approval of the proposed annexation and zoning of ±0.43 acres of unincorporated land abutting the northern portion of Tract 2 Certificate of Survey (COS) No. 4591, located in the NE1/4 of Section 4, T20N, R4E, P.M.M., Cascade County, MT.

Ordinance 3089 to assign City zoning to the subject property was accepted by the City Commission on first reading on June 5, 2012. Notice of Public Hearing before the City Commission for the

annexation and establishment of City zoning was published in the *Great Falls Tribune* on June 17, 2012.

Background: Steel Etc. is an existing business located at the northwest corner of River Drive North and 52nd Street North, which is on the fringe of the City of Great Falls. The business relocated from downtown Great Falls to this site in 2009. Portions of the recycling and salvage operations are located outside the City limits, while the main office is located within City limits. Steel Etc. is requesting annexation of ±0.43 acres in order to build a structure that will house a new “baler.” The baler will be used to process recycled materials into bales that are transported to other locations. The subject property is currently part of Tract 1 of COS No. 4591. The applicant is proposing a boundary line adjustment that would make the subject property part of Tract 2 of COS No. 4591. Tract 2 is already located within the City limits. The reason for the annexation is to avoid having the proposed building straddle the City/County jurisdictional line. Subdivision action is not required by the City Commission because as a condition of annexation, Steel Etc. will be required to file a COS, which is reviewed by Cascade County, that describes the new boundaries.

Subject to approval of the annexation, the property shall be zoned “I-2” Heavy Industrial District. Unincorporated property to the north, east and west is zoned County Heavy Industrial, which is comparable to the City’s I-2 zoning district. Incorporated properties to the south of the Steel Etc. property are also zoned I-2 Heavy Industrial.

The subject property being annexed does not abut any public roadway, therefore no reimbursement or improvements are required as determined by the Department of Public Works. The subject property is being made a part of the existing incorporated tract and is accessed internally by paved driveways. The portion of Steel Etc. that is already located in the City has existing City services. The applicant has stated the proposed area being annexed will be used for the baler and they will not be extending City services to the new building.

The requested annexation and zoning is not anticipated to increase the level of traffic to the subject property. However, the Planning Department has received an email from Great Falls Fire Rescue stating they are opposed to any incremental annexations of the same parcel property (sharing one address) into the City of Great Falls due to the inherent difficulties associated with proper identification of location for City first responders. The Planning Department agrees that this is not the preferred way to annex property, but a previous agreement allows the Steel Etc. property to be partially in the City and partially in the County. In addition, the original annexation agreement between the City and Steel Etc. waives the right of Steel Etc. to appeal annexation of their property that remains in the County at such time as the adjacent properties are annexed into the City.

Annexation of the subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with establishing municipal zoning on land:

(1) Zoning regulations must be:

(a) made in accordance with a growth policy; and

(b) designed to:

(i) secure safety from fire and other dangers;

(ii) promote public health, public safety, and the general welfare; and

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

- (2) In the adoption of zoning regulations, the municipal governing body shall consider:
- (a) reasonable provision of adequate light and air;
 - (b) the effect on motorized and nonmotorized transportation systems;
 - (c) promotion of compatible urban growth;
 - (d) the character of the district and its peculiar suitability for particular uses; and
 - (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The subject property is in an area experiencing industrial development both within and outside the City limits. Some of the more significant developments in the area include Sletten Construction, Conoco Bulk Storage, and North Park Industrial, which are situated within relative proximity to the subject property.

Goals of the economic element of the Great Falls Growth Policy include:

- Enhance, strengthen, and expand the existing economic base.
- Attract new business and support expansion of existing businesses that tend to raise the median income level.
- Encourage businesses and industries that will utilize existing infrastructure.

Goals of the land use element of the Great Falls Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community.
- To support and encourage a compatible mix of land uses in newly developing areas.

Concurrences: Representatives from the City's Public Works, Park and Recreation and Fire Departments have been involved throughout the review and approval process for this project. Concerns of the Fire Department are outlined in an email provided to the Planning and Community Development Department (attached). There is an existing annexation agreement that allows the Steel Etc. property to be partially in the City and partially in the County.

Fiscal Impact: The annexation will marginally expand the fire and police service area, which will have a minimal fiscal impact on the City. The City should see a slight increase in tax revenues from the improvements being made to the property.

Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.






Attachments/Exhibits:

Aerial Photo
Resolution 9967 with Attachment A
Ordinance 3089 with Attachment A
Reduced copy COS
Annexation Agreement
Email from Fire Rescue

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Bob McIntyre, Steel Etc., 1408 52nd St. N, Great Falls, MT 59405

Aerial Photo



-  Subject Property
-  Steel Etc. Unincorporated Property
-  Steel Etc. Incorporated Property
-  City Limits
-  Tracts of Land



Steel Etc

RESOLUTION 9967

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE ±0.427 ACRES BEING COMBINED WITH FORMER TRACT 2, CERTIFICATE OF SURVEY NO. 4591, LOCATED IN NE¼, SECTION 4, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT "A" AND BY THIS REFERENCE MADE A PART HEREOF.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

±0.427 acres being combined with former Tract 2, Certificate of Survey No. 4591, located in NE¼, Section 4, Township 20 North, Range 4 East, Cascade County, Montana.

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owner of the hereinabove described property has submitted a petition to have said property annexed to the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "±0.427 ACRES BEING COMBINED WITH FORMER TRACT 2, CERTIFICATE OF SURVEY NO. 4591, LOCATED IN NE¼, SECTION 4, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

The Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tract of land; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 3rd day of July, 2012.

Michael J. Winters, Mayor

ATTEST:

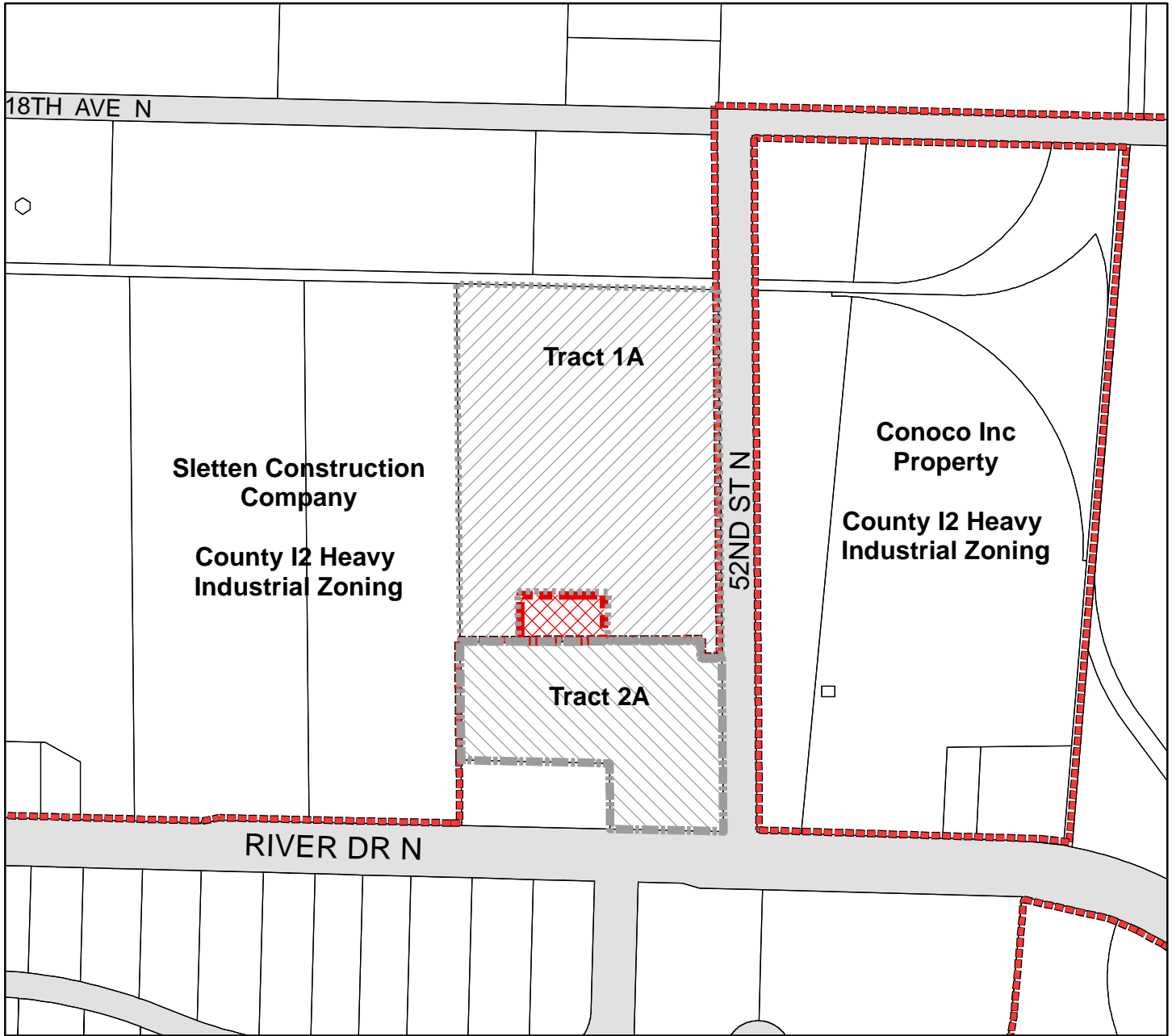
Lisa Kunz, City Clerk






(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

Resolution 9967 Attachment A



-  Area being Annexed by Resolution 9967
-  Steel Etc. Unincorporated Property
-  Steel Etc. Incorporated Property
-  City Limits
-  Tracts of Land

230 115 0 230 Feet



CORRECTED
ORDINANCE 3089

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF I-2 HEAVY INDUSTRIAL DISTRICT TO ~~A PORTION OF TRACT 2A, COS NO _____~~ **±0.427 ACRES BEING COMBINED WITH FORMER TRACT 2, CERTIFICATE OF SURVEY NO. 4591**, LOCATED IN THE NE1/4 OF SECTION 4, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, Steel Etc. Holding Company has petitioned the City of Great Falls to annex ~~a portion of Tract 2A, Certificate of Survey _____~~ **±0.427 acres being combined with former Tract 2, Certificate of Survey No. 4591**, located in the NE1/4 of Section 4, Township 20 North, Range 4 East, Cascade County Montana, herein referred to as ~~Tract 2A Subject Property~~ **Subject Property**, and;

WHEREAS, Steel Etc. Holding Company has petitioned ~~Tract 2A Subject Property~~ **Subject Property** be assigned a zoning classification of I-2 Heavy Industrial district upon annexation to the City; and,

WHEREAS, notice of assigning said zoning classifications to ~~Tract 2A Subject Property~~ **Subject Property** was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 19th day of July, 2012, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that the said zoning designation be made;

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of ~~a portion of Tract 2A of Certificate of Survey _____~~ **±0.427 acres being combined with former Tract 2, Certificate of Survey No. 4591**, located in NE1/4 Section 4, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, be designated as I-2 Heavy industrial district classification attached hereto as Attachment "A" and by this reference made a part hereof.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing ~~Tract 2A of Certificate of Survey _____~~ **±0.427 acres**

being combined with former Tract 2, Certificate of Survey No. 4591, located in NE¼ Section 4, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading June 5, 2012.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading July 3, 2012.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

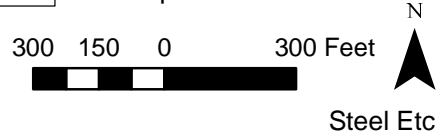
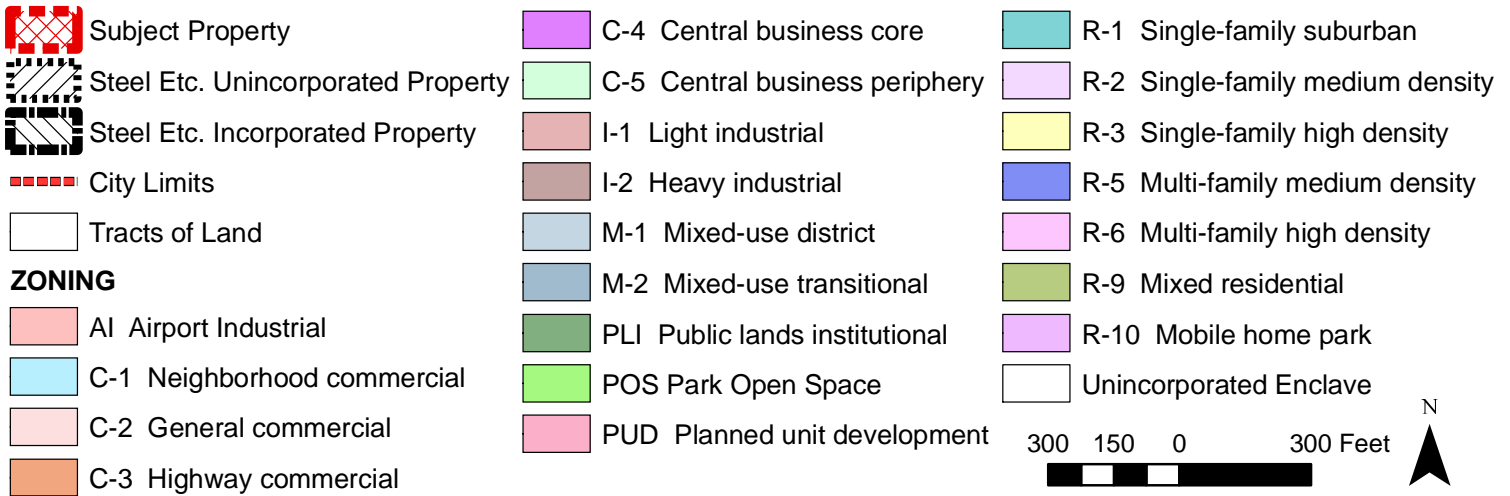
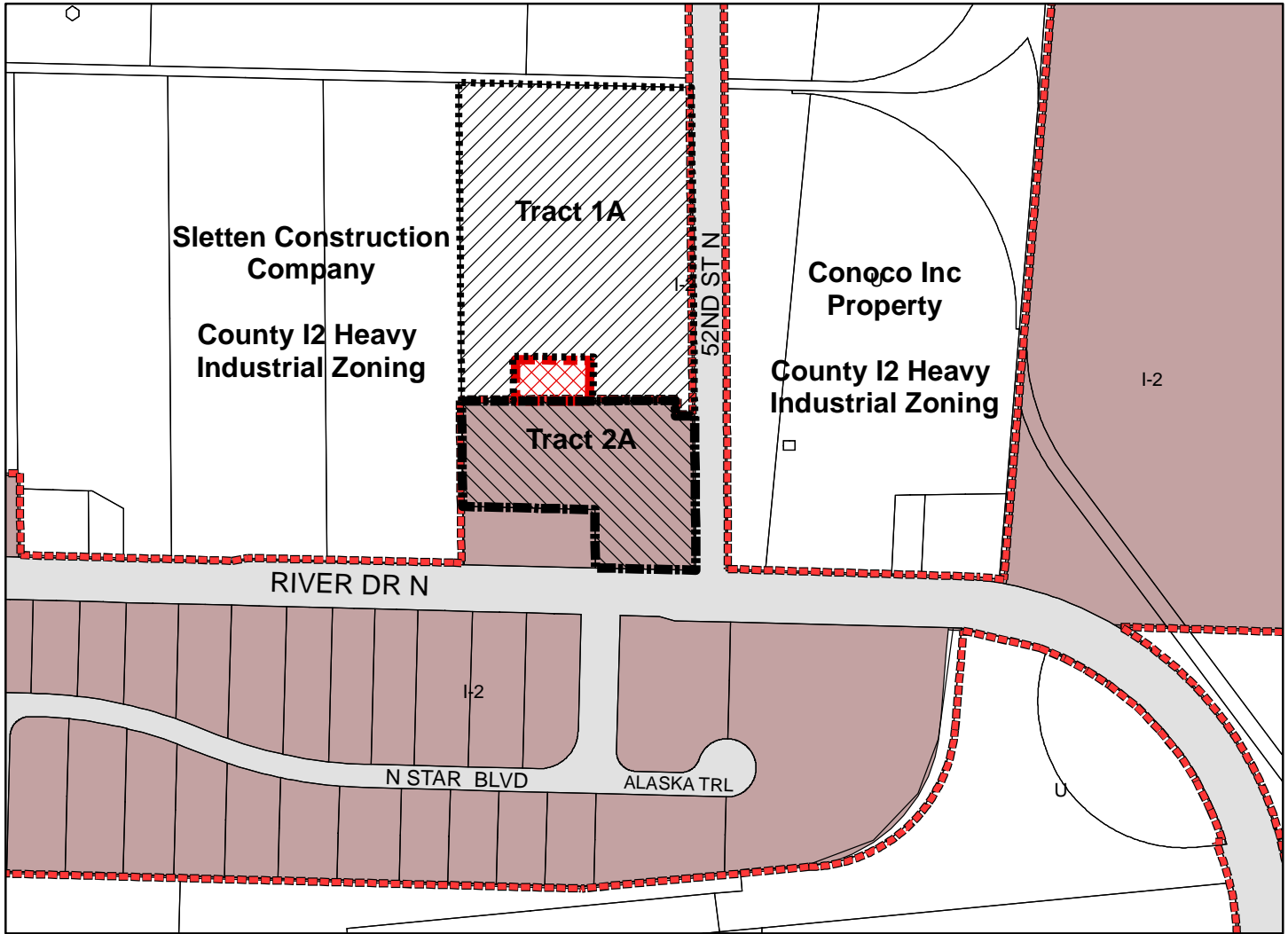
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3089 in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(CITY SEAL)

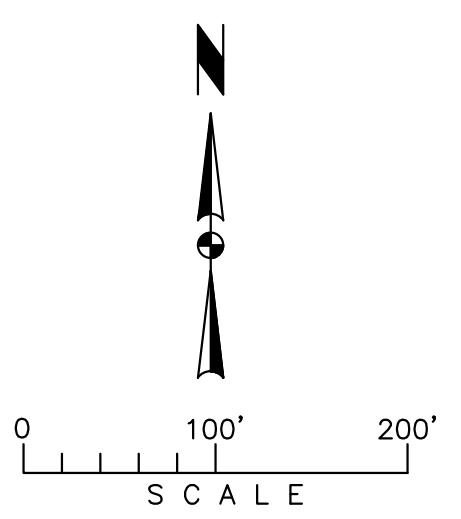
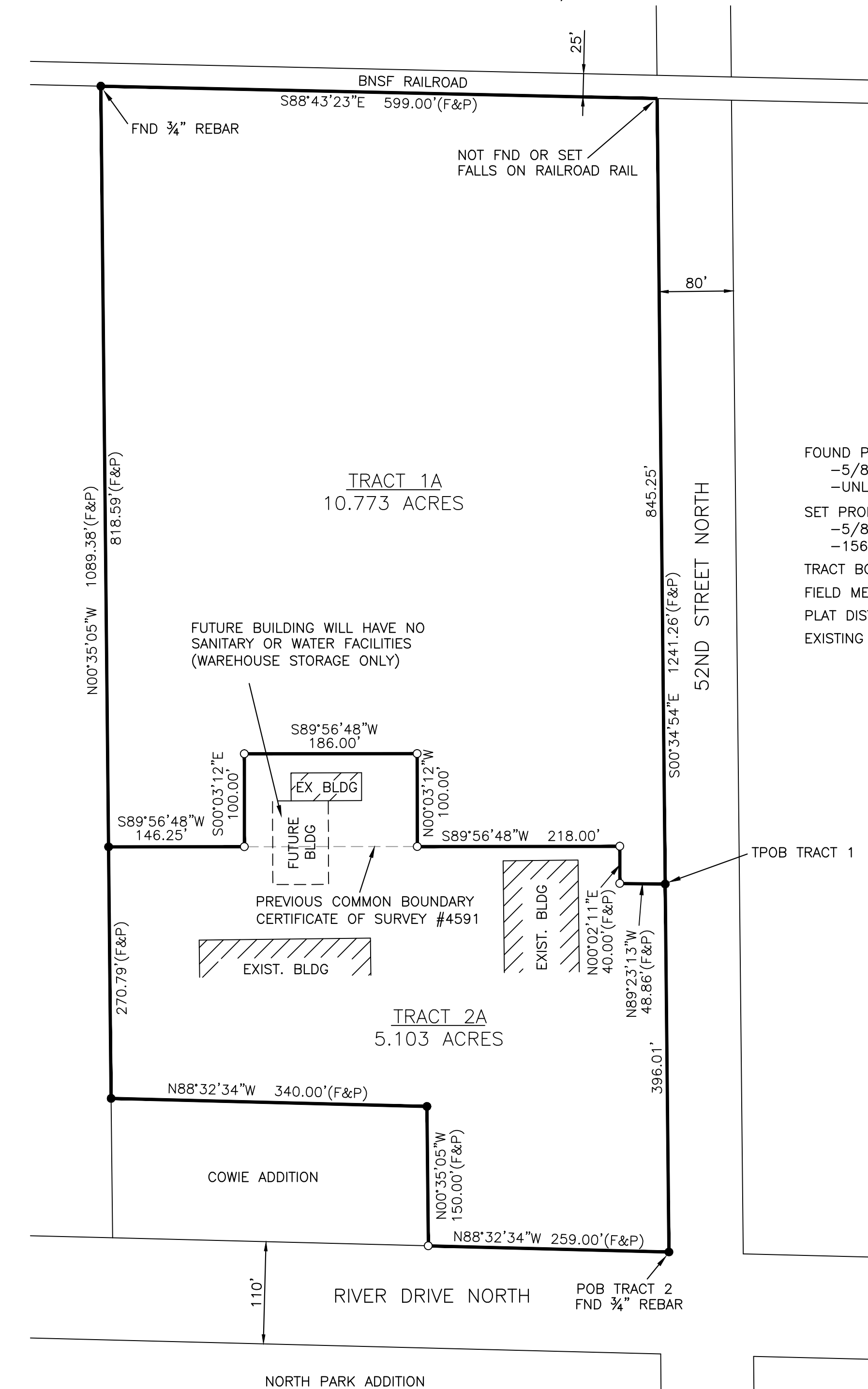
Ordinance 3089 Attachment A



CERTIFICATE OF SURVEY

TWO TRACTS OF LAND BEING TRACTS 1 & 2 OF CERTIFICATE OF SURVEY NO. 4591,
LOCATED IN THE NE1/4 OF SECTION 4, T20N, R4E, P.M.M., CASCADE COUNTY, MONTANA

LAND OWNER: STEEL, ETC. HOLDING COMPANY



LEGEND

- FOUND PROPERTY MONUMENT
-5/8" REBAR/15625LS YPC
-UNLESS NOTED OTHERWISE
- SET PROPERTY MONUMENT
-5/8"x24" REBAR
-15625LS YPC
- TRACT BOUNDARY
- FIELD MEASUREMENT (F)
- PLAT DISTANCE (P)
- EXISTING BUILDING

DESCRIPTION - TRACT 1A

A tract of land located in the NE¹/₄ of Section 4, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, and being more particularly described as follows:
Beginning at a point being the intersection of the Westerly right-of-way of 52nd Street North and the Northerly right-of-way of River Drive North; thence North 00°34'54" West along said Westerly right-of-way of 52nd Street North, a distance of 396.01 feet to the True Point of Beginning; thence North 89°23'13" West, a distance of 48.86 feet; thence North 00°02'11" East, a distance of 40.00 feet; thence South 89°56'48" West, a distance of 218.00 feet; thence North 00°03'12" West, a distance of 100.00 feet; thence South 89°56'48" West, a distance of 186.00 feet; thence South 00°03'12" East, a distance of 100.00 feet; thence South 89°56'48" West a distance of 146.25 feet to the Westerly line of Certificate of Survey No. 4591; thence North 00°35'05" West along said Westerly boundary, a distance of 818.59 feet to the Southerly right-of-way of the Burlington Northern Sante Fe Railroad; thence South 88°43'23" East along said Southerly right-of-way, a distance of 599.00 feet to said Westerly right-of-way of 52nd Street North; thence South 00°34'54" East along said Westerly right-of-way, a distance of 845.25 feet to the True Point of Beginning and containing 10.773 acres.

DESCRIPTION - TRACT 2A

A tract of land located in the NE¹/₄ of Section 4, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, and being more particularly described as follows:
Beginning at a point being the intersection of the Westerly right-of-way of 52nd Street North and the Northerly right-of-way of River Drive North; thence North 88°32'34" West along said Northerly right-of-way of River Drive North, a distance of 259.00 feet to the Easterly boundary of the Cowie Addition; thence North 00°35'05" West along said Easterly boundary, a distance of 150.00 feet to the Northerly boundary of the Cowie Addition; thence North 88°32'34" West along said Northerly boundary, a distance of 340.00 feet to the Westerly boundary of Certificate of Survey No. 4591; thence North 00°35'05" West along said Westerly boundary, a distance of 270.79 feet; thence North 89°56'48" East, a distance of 146.25 feet; thence North 00°03'12" West, a distance of 100.00 feet; thence North 89°56'48" East, a distance of 186.00 feet; thence South 00°03'12" East, a distance of 100.00 feet; thence North 89°56'48" East, a distance of 218.00 feet; thence South 00°02'11" West, a distance of 40.00 feet; thence South 89°23'13" East, a distance of 48.86 feet to said Westerly right-of-way of 52nd Street North; thence South 00°34'54" East along said Westerly right-of-way, a distance of 396.01 feet to the Point of Beginning and containing 5.103 acres.

CERTIFICATE OF COUNTY TREASURER

I, Jamie Bailey, County Treasurer of Cascade County, Montana, do hereby certify that the accompanying plat has been duly examined and that no real property taxes assessed and levied on the land to be subdivided are delinquent.

Dated this _____ day of _____, A.D., 2012

County Treasurer, Cascade County, Montana

CERTIFICATE OF SURVEYOR

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana registration No. 15625LS, do hereby certify that I supervised this survey and platted same as shown on the accompanying Certificate of Survey, and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-614, M.C.A., and Cascade County.

Dated this _____ day of _____, A.D., 2012

Daniel R. Kenczka, Montana Reg. No. 15625LS



CERTIFICATE OF EXEMPTION

I, the undersigned property owner, hereby certify that this division of land is made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties. Therefore this division of land is exempt from subdivision review, pursuant to Section 76-3-207(1)(a) M.C.A.

CERTIFICATE OF EXCLUSION

I, the undersigned property owner, hereby certify that this division of land is excluded from sanitation review, pursuant to ARM 17.36.605(2)(b), stating "(2) The reviewing authority may exclude the following parcels created by divisions of land from review under Title 76, chapter 4, part 1, MCA, unless the exclusion is used to evade the provisions of that part: (b) a parcel that has no existing facilities for water supply, wastewater disposal, or solid waste disposal other than those that were previously approved by the reviewing authority under Title 76, chapter 4, part 1, MCA, or that were exempt from such review, if: (i) no new facilities will be constructed on the parcel; and (ii) the division of land will not cause approved facilities to violate any conditions of approval, and will not cause exempt facilities to violate any conditions of exemption".

STEEL ETC. HOLDING COMPANY

State of Montana)
:ss
County of Cascade)

On this ____ day of _____, before me, _____, the undersigned, a Notary Public for the State of Montana, personally appeared, _____, known to me to be the person who executed the Certificate of Exemption and Exclusion. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(Notarial Seal)

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

BASIS OF BEARING: CERTIFICATE OF SURVEY NO. 4591
PURPOSE OF SURVEY: TO RELOCATE A COMMON BOUNDARY LINE BETWEEN TWO ADJOINING PROPERTIES, BEING TRACTS 1 & 2 OF CERTIFICATE OF SURVEY NO. 4591

TD&H Engineering	DRAWN BY: DRK	1
	DESIGNED BY: RFS	
	QUALITY CHECK: DRK	
	DATE: 3-29-12	
GREAT FALLS-BOZEMAN-KALISPELL SPOKANE LEWISTON		1
MONTANA WASHINGTON IDAHO		
JOB NO. 12-058 CAD NO. 12-058-008		

**ANNEXATION AGREEMENT
FOR ±0.427 ACRES BEING COMBINED WITH
FORMER TRACT 2, CERTIFICATE OF SURVEY NO. 4591,
LOCATED IN THE NE¼ OF SECTION 4,
TOWNSHIP 20 NORTH, RANGE 4 EAST,
CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 2012, between STEEL ETC. HOLDING COMPANY, hereinafter referred to as “Owner,” and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as “City,” regarding the requirements for the annexation to the corporate limits of City of ±0.427 acres being combined with former Tract 2, Certificate of Survey No. 4591, located in the NE¼ of Section 4, Township 20 North, Range 4 East, Cascade County, Montana, hereinafter referred to as “Subject Property.”

2. PREVIOUS AGREEMENTS

Annexation Agreement for Tract 2, Certificate of Survey No. 4591, located in the NE1/4 of Section 4, Township 20 North, Range 4 East, Cascade County, Montana filed of record in the Clerk and Recorder’s Office of Cascade County Montana.

3. SUPPORTING DOCUMENTS

Certificate of Survey No. _____, located in the NE¼ of Section 4, Township 20 North, Range 4 East, Cascade County, Montana prepared by Thomas, Dean & Hoskins, Inc., and filed of record in the Clerk and Recorder’s Office of Cascade County, Montana.

4. AMENDMENTS

All amendments to this Agreement, shall be in writing and approved by City and Owner.

5. UNFORESEEN POTENTIALITIES

It is mutually recognized, understood and agreed by City and Owner that subsequent to the time this agreement was entered into, events may occur and actions may be taken which were unforeseen by either party or both parties hereto. In this perspective, it is, therefore, agreed

that the parties may by mutual subsequent agreement modify the terms, conditions and covenants of this Agreement.

6. FEES AND CHARGES

A. Prior to annexation of Subject Property, Owner shall, in addition to the \$700.00 fee for establishing City zoning and \$400.00 fee for Annexation Resolution, Application and Agreement, which have been paid, pay the following required fees as provided by City policy, ordinances and resolutions:

a) Storm Sewer Fee (\$250/acre x 0.43 gross acres)	\$ 107.50
b) Recording fees for annexation documents (\$11 per page x 11 pages)	121.00
Total fees made payable to City of Great Falls	\$ 228.50

B. Owner or its successors or assigns shall reimburse City for its expenses incurred in future testing and acceptance of public utilities to serve Subject Property at the rates charged by City for said work at the time performed.

C. Future water tapping, water connection, sewer service tapping, and sewer connection fees will be assessed at the time of installation.

D. The absence of any fee from this agreement lawfully charged by the City in connection with construction activity associated with Subject Property shall not constitute a waiver by the City.

5. SOIL AND/OR GROUNDWATER CONDITIONS

The owner of the property in the Subdivision shall indemnify, hold harmless and defend the City of Great Falls, its officers, agents, servants and employees and assigns from and against all claims, debts, liabilities, obligations and costs including reasonable attorney fees, that arise from, result from or relate to adverse soil or groundwater conditions on the owner's property in the Subdivision. This indemnity obligation runs with the land. Upon the transfer of ownership of the property in the Subdivision, the prior owner's (whether the Owner that made this annexation agreement or a subsequent owner) indemnity obligation for adverse soil or adverse groundwater conditions for the transferred property is released and the indemnity obligation runs to the new owner of the property. Only the owner of the parcel of property with the adverse conditions at the time the City incurs the claim, debt, liability, obligation or cost is obligated to indemnify and no owner of property in the Subdivision is obligated to indemnify for adverse conditions on property owned by someone else.

This indemnification by the owner of the property in the Subdivision shall apply unless such damage or injury results from the negligence, gross negligence or willful misconduct of the City.

6. FUTURE STORM DRAINAGE FACILITIES

Owner hereby agrees to waive its right to protest any future area wide special improvement district for storm drainage facilities and further agrees to pay for proportionate share of any future storm drainage improvements which service Subject Property that may be installed with or without an area wide special improvement district. The term "area wide" as used herein, means any area larger than that covered by Subject Property which is a contributor to the drainage sub-basin of which Subject Property is a part.

7. PUBLIC ROADWAY LIGHTING

Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service Tract 2A, and further agrees to pay for proportionate share of the costs associated with roadway lighting which service Subject Property that may be installed with or without a special lighting district.

8. WAIVER OF PROTEST OF ANNEXATION

Owner does hereby waive any and all statutory procedure notice on right of protest to annexation of Subject Property, as provided for by State law.

9. ANNEXATION PREREQUISITES

Said Subject Property is contiguous to City; is not included within the boundary of any other incorporated municipality; and is not a part of any fire district existing or organized under any of the provisions of Chapter 33, Title 7, of the Montana Code Annotated. Said Subject Property, upon annexation to City, will be provided fire protection services by City comparable to that provided to incorporated properties.

10. ANNEXATION OF TRACT 1A

Adjoining Subject Property is Tract 1A, also owned by Owner and comprising ±10.773 acres as described on Certificate of Survey No. _____, filed in the Cascade County Clerk and Recorder's Office. The business operation conducted on said Tract 1A is integral and complementary to that conducted on Tract 2A. As no City services are intended to be provided to that portion of the business operation being conducted on said Tract 1A, Owner has not applied to annex said Tract 1A to the City. As the City expands in the vicinity, Tract 1A's existence outside the City for an indefinite period of time will eventually cause confusion and conflicts associated with provision of public services in the area. Therefore, should Tract 1A, in and of itself, ever become wholly surrounded by properties within the City, excluding the abutting segments of 52nd Street North and the Burlington Northern Santa Fe (BNSF) Railroad right-of-way, Owner agrees to consent and waive right of protest to the annexation of Tract 1A to City. It is further understood that the City's right to unilaterally annex Tract 1A under the hereinabove cited provisions shall not be undertaken or exercised per the timeframe outlined in the original Annexation Agreement for Tract 2, Certificate of Survey No. 4591, filed of record in the Clerk and Recorder's Office of Cascade County Montana.

11. MAINTENANCE DISTRICTS

Owner waives its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to Subject Property.

12. CITY ACCEPTANCE AND ZONING

In consideration of the foregoing, City hereby accepts and approves Subject Property for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of I-2 Heavy industrial district. It is hereby

understood that the preceding language regarding zoning of Subject Property does not preclude City from reclassifying Subject Property if an area wide reclassification is undertaken, in which event City agrees to reclassify said Subject Property as a conforming use.

13. BINDING EFFECT

The provisions covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA
A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

OWNER: STEEL ETC. HOLDING COMPANY

State of Montana)
 :SS.
County of Cascade)

On this _____ day of _____, in the year Two thousand and Twelve, before me, the undersigned, a Notary Public for the State of Montana, personally appeared

_____,
known to me to be the person whose name is subscribed to the instrument within and acknowledged to me that he executed the same.

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

Notary Public for the State of Montana

Notary Public for the State of Montana (Printed)
Residing at _____
My commission Expires _____, 20_____

(NOTARIAL SEAL)



Planning & Community Development

P.O. Box 5021 Great Falls, MT 59403
Telephone 406 / 727-5881

MEMO: Email received from Fire Chief McCamley to the Planning and Community Development Department

Date: 4/17/2012

Great Falls Fire Rescue opposes any incremental annexations of the same parcel of property (sharing one address) into the city of Great Falls due to the inherent difficulties associated with proper identification of location for city first responders.

Randall McCamley
Fire Chief
City of Great Falls