

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

Resolution Number 8608

A resolution closing and vacating a portion of public right-of-way known as the “South Sussex Bypass” between South Avenue W and W Sussex Avenue, and between Stephens Avenue and Holborn Street, of the Homevale Addition Subdivision. (Section 28, Township 13 North, Range 19 West, P.M.M.) as described in Exhibit A and vacating a remaining public utility easement located in the alley of Block 32, Homevale Addition.

Be it resolved by the City Council of the City of Missoula, Montana.

WHEREAS, the City of Missoula desires to vacate that portion of right-of-way described below and shown on attached Exhibit A:

A TRACT OF LAND BEING A PORTION OF BLOCK 32 OF HOMEVALE, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA; LOCATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA. As created per the Bargain and Sale Deed recorded at Book 739, Page 1718, Missoula County Public Records.

WHEREAS, in response to Petition 10109, the City Council adopted Resolution No. 8604 on June 22, 2022, declaring the City Council’s intention to close and vacate the right-of-way described in this resolution; and

WHEREAS, on July 18, 2022, the City Council conducted a public hearing and heard all matters pertaining to the proposed closing and vacating of said right-of-way described in this resolution; and

WHEREAS, the City of Missoula acquired the property at issue in this resolution in fee simple by bargain and sale deed on June 28, 2004, and recorded at Book 739, Page 1718 in the property records of Missoula County, and upon vacation the property would return to unencumbered fee simple ownership by the City; and

WHEREAS, City Council finds that it is in the best interests of the public to close and vacate the right-of-way described in this resolution in order to: eliminate blight in this area; support a mixed-use development

that includes deed restricted affordable housing units; and obtain transportation system improvements; and

WHEREAS, the utility easement is no longer necessary and an alternate route around the block has been established; and

WHEREAS, City Council finds it is in the best interests of the public to convey the unencumbered fee simple property described in this resolution to Casa Loma, LLC, subject to the conditions of approval found in the attached Exhibit B.

NOW THEREFORE, BE IT RESOLVED that the Missoula City Council hereby closes and vacates all that portion of right-of-way legally described above subject to the conditions herein, and shown on the attached Exhibit A, and return the property to unencumbered fee simple ownership by the City;

BE IT FURTHER RESOLVED that the Mayor is authorized to execute a quit claim deed, a developer agreement, and any other documents necessary to convey the property to Casa Loma, LLC, subject to the conditions in the attached Exhibit B; and

BE IT FURTHER RESOLVED that the Public Utility Easement that remained after Resolution No. 3465 vacated the alley at Book 75 micro, page 85 (Block 32, Homevale Addition), is hereby vacated.

PASSED by the City Council of Missoula, Montana, and approved by the Mayor this 25th day of July, 2022.

ATTEST:



Marty Rehbein (Jul 27, 2022 12:44 MDT)

Martha L. Rehbein, CMC
City Clerk

APPROVED:



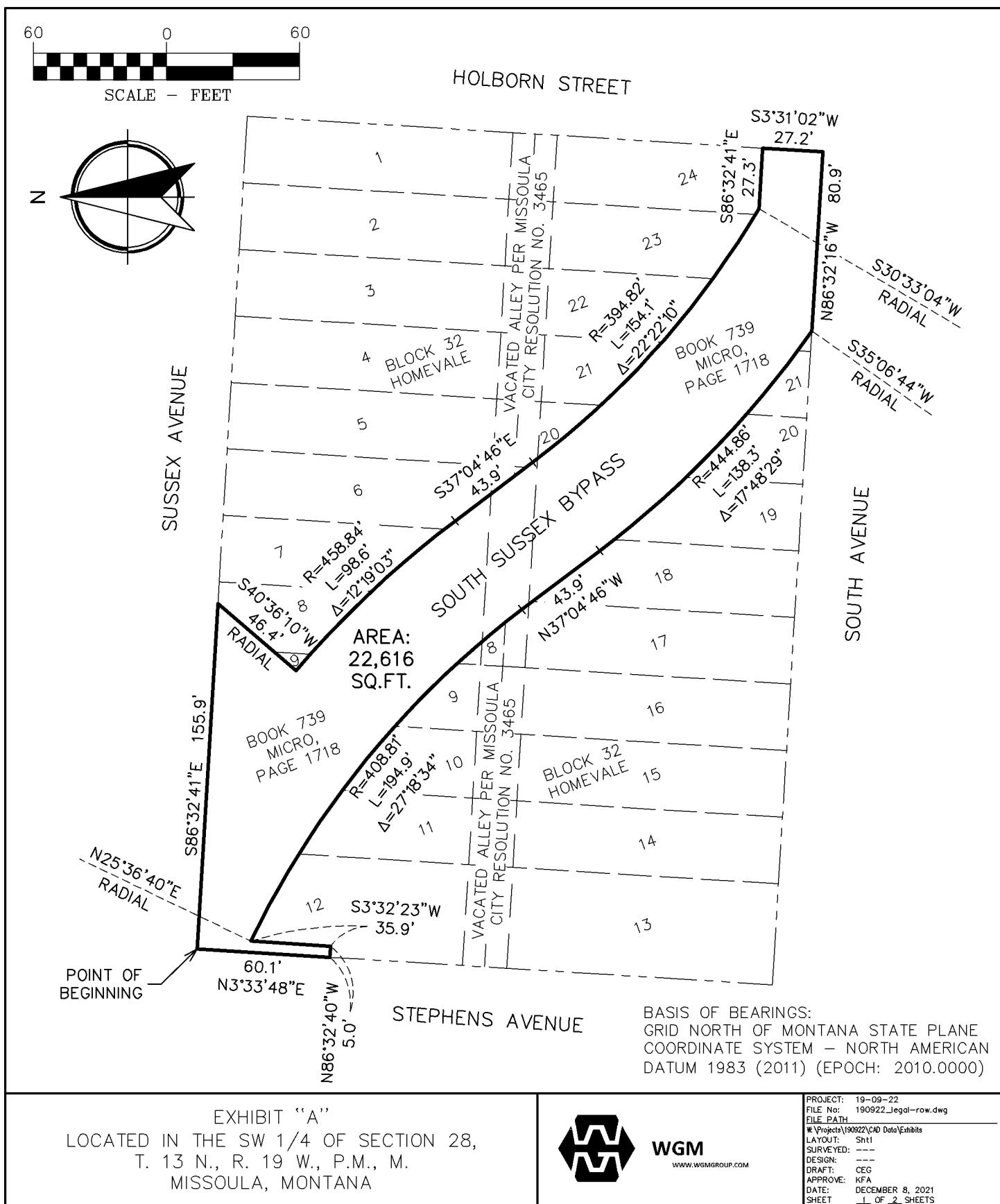
John Engen (Jul 27, 2022 11:21 MDT)

John Engen
Mayor

(SEAL)



Exhibit A



L E G A L D E S C R I P T I O N * * *

A TRACT OF LAND BEING A PORTION OF BLOCK 32 OF HOMEVALE, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA; LOCATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK 32; THENCE S 86°32'41" E ALONG THE NORTHERLY LINE OF SAID BLOCK 32, 155.9 FEET TO THE MOST NORTHERLY NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN BOOK 739 MICRO, PAGE 1718, ON FILE AND OF PUBLIC RECORD IN MISSOULA COUNTY, MONTANA; THENCE ALONG THE NORTHEASTERLY BOUNDARY LINES OF SAID TRACT OF LAND DESCRIBED IN BOOK 739 MICRO, PAGE 1718, THE FOLLOWING FIVE (5) COURSES: 1) S 40°36'10" W, 46.4 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 458.84 FEET, A RADIAL LINE TO LAST SAID POINT BEARS N 40°36'10" E; 2) SOUTHEASTERLY ALONG SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 12°19'03", AN ARC LENGTH OF 98.6 FEET; 3) S 37°04'46" E, 43.9 FEET TO A POINT ON A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 394.82 FEET; 4) SOUTHEASTERLY ALONG SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 22°22'10", AN ARC LENGTH OF 154.1 FEET; 5) S 86°32'41" E, 27.3 FEET TO A POINT ON THE EASTERN LINE OF SAID BLOCK 32; THENCE S 03°31'02" W ALONG SAID EASTERN LINE, 27.2 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 32; THENCE N 86°32'16" W ALONG THE SOUTHERLY LINE OF SAID BLOCK 32, 80.9 FEET TO THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 739 MICRO, PAGE 1718, SAID CORNER BEING A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 444.86 FEET, A RADIAL LINE TO LAST SAID POINT BEARS S 35°06'44" W; THENCE ALONG THE SOUTHWESTERLY BOUNDARY LINES OF SAID TRACT OF LAND DESCRIBED IN BOOK 739 MICRO, PAGE 1718, THE FOLLOWING FIVE (5) COURSES: 1) NORTHWESTERLY ALONG LAST SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 17°48'29", AN ARC LENGTH OF 138.3 FEET; 2) N 37°04'46" W, 43.9 FEET TO A POINT ON A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 408.81 FEET; 3) NORTHWESTERLY ALONG LAST SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 27°18'34", AN ARC LENGTH OF 194.9 FEET; 4) S 03°32'23" W, 35.9 FEET; 5) N 86°32'40" W, 5.0 FEET TO A POINT ON THE WESTERN LINE OF SAID BLOCK 32; THENCE N 03°33'48" E ALONG SAID WESTERN LINE, 60.1 FEET TO THE POINT OF BEGINNING; CONTAINING 22,616 SQUARE FEET, MORE OR LESS.

S U R V E Y O R ' S S T A T E M E N T * * *

THIS EXHIBIT WAS PREPARED UNDER MY SUPERVISION.



12/08/2021

KIRK F. ADKINS, P.L.S.
MONTANA LICENSE NO. 16734LS
FOR WGM GROUP, INC.

DATE



UNLESS SIGNED, SEALED, AND DATED, THIS IS
A PRELIMINARY OR UNOFFICIAL DOCUMENT AND
CANNOT BE RELIED UPON IN WHOLE OR PART.

EXHIBIT "A"
LOCATED IN THE SW 1/4 OF SECTION 28,
T. 13 N., R. 19 W., P.M., M.
MISSOULA, MONTANA



WGM
WWW.WGMGROUP.COM

PROJECT: 19-09-22
FILE No: 190922_Legal-row.dwg
FILE PATH: W:\Projects\190922\CAD Data\Exhibits
LAYOUT: Sht1
SURVEYED: ---
DESIGN: ---
DRAFT: CEG
APPROVE: KFA
DATE: DECEMBER 8, 2021
SHEET: 1 OF 2 SHEETS



PUBLIC WORKS & MOBILITY DEPARTMENT—Surface Transportation

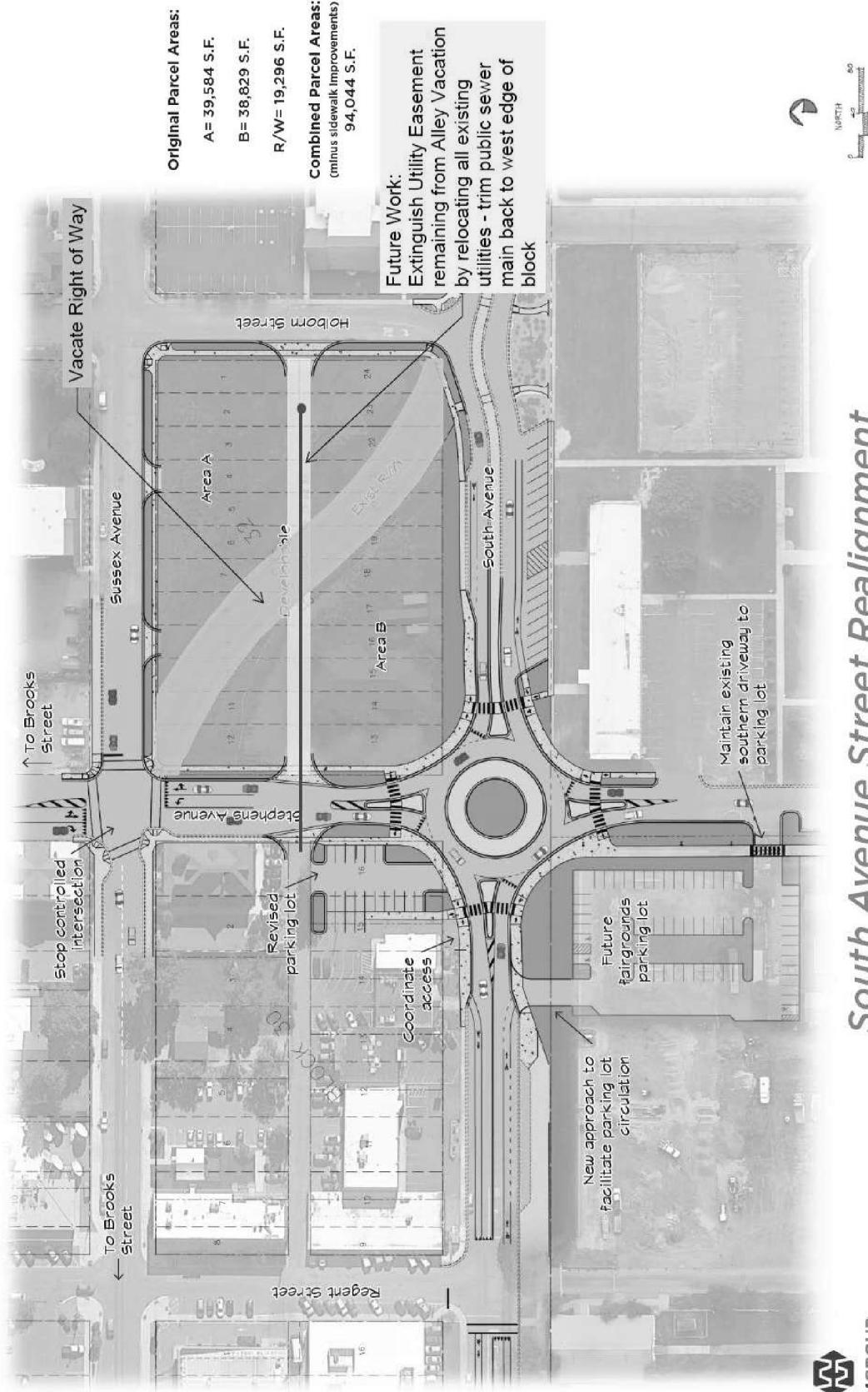
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Exhibit B - Conditions of Approval for

Casa Loma - South Sussex Bypass Right-of-Way Vacation and Public Utility Easement Vacation

1. The developers shall design and construct all required intersection improvements of South Avenue W & Stephens Avenue (including but not limited to, a roundabout with 6" thickness of asphalt or concrete in the driving lane), Stephens Avenue & W Sussex Avenue (stop-controlled), Holborn Street & South Avenue W (T-intersection), and any other facilities (driveway approaches, parking lots, etc.) on private property prior to issuance of a Certification of Occupancy for any building on the parcel being developed/redeveloped. All designs are subject to review and approval of City Public Works & Mobility, City Parks and Recreation, and MDT (dependent on route designation). City Public Works & Mobility and Parks and Recreation Standards shall apply.
2. The developers shall design and construct all other right-of-way improvements as per Exhibits B-1 and B-2, including but not limited to driving lanes, parking lanes, bike lanes, connections to adjacent bike/pedestrian trails, curb & gutter, sidewalks, boulevards, signage, striping, drainage, urban forest, storm-water facilities, and utility relocation. All improvements shall be constructed prior to issuance of a Certification of Occupancy for any building on the parcel being developed/redeveloped. All designs are subject to review and approval of City Public Works & Mobility, City Parks and Recreation, and MDT (dependent on route designation). City Public Works & Mobility and Parks and Recreation Standards shall apply.
3. The developers shall remove or abandon the existing sewer main and any other utilities lying within the Public Utility Easement that runs through the vacated alley in Block 32 of Homevale Addition prior to removing any of the existing infrastructure of the South-Sussex Bypass connection.
4. The developers shall design and install street lighting on South Avenue W and Stephens Avenue adjacent to the proposed development/redevelopment and the proposed roundabout. All designs are subject to review and approval of City Public Works & Mobility, City Parks and Recreation, and MDT (dependent on route designation). City Public Works & Mobility and Parks and Recreation Standards shall apply.
5. This vacation is contingent on approval of either the removal or relocation of the Montana Department of Transportation Urban Route System Designation that currently runs over the right-of-way proposed to be vacated.
6. The developers shall acquire and record any easements and/or right-of-way required for public infrastructure and/or utilities on block 32 and any parcels of land adjacent to the proposed infrastructure improvements (such as those shown on Exhibit B-2) prior to removing any of the existing infrastructure of the South-Sussex Bypass connection.
7. The developers shall design and construct any necessary transportation infrastructure improvements that will provide for the safe and convenient movement (reroute) for all modes of transportation currently being provided by the South-Sussex Bypass infrastructure, prior to removing any of the existing infrastructure of the South-Sussex Bypass connection. Public Works & Mobility staff will assist with determining what transportation infrastructure will need to be constructed prior to removing any of the existing infrastructure of the South-Sussex Bypass connection.
8. The developers shall set aside a minimum of 20% of the residential rental units, which shall not be less than 22 units, for households earning up to 80% of Area Median Income, for a minimum period of 35 years. Rents will be set, and income will be verified in accordance with federal guidelines. An approved Development Agreement outlining these details will be executed prior to the issuance of a Building Permit for any building on the parcel being developed/redeveloped.

Exhibit B-1 – Proposed Site Plan



South Avenue Street Realignment

Exhibit B-2 – ROW Improvements

