**RESOLUTION NO. 4461**

**A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING THE AMENDED PLAT FOR THE PURPOSE OF A BOUNDARY LINE RELOCATION INVOLVING LOTS 3 & 4 OF THE AMENDED PLAT OF BLOCK 7 OF HUNTER'S ADDITION AND BLOCK 8 OF SCHMALSLE AND ULLMAN'S ADDITION IN THE CITY OF MILES CITY, MONTANA.**

***WHEREAS***, applicant and landowner Cowtown Ag Supply, LLC, has requested that the City of Miles City approve an amended plat that will relocate the common boundary involving Lots 3 & 4 of the Amended Plat of Block 7 of Hunter's Addition and Block 8 of Schmalsle and Ullman's Addition, recorded as Document No. 126929, Envelope No. 425B in the Plat Cabinet of the Custer County Clerk & Recorder's Office, located in Sections 28 & 33 of Township 8 North, Range 47 East, PMM, City of Miles City, Custer County, Montana;

***AND WHEREAS,*** an amended plat entitled 'AMENDED PLAT OF LOTS 3 & 4, BLOCK 8, SCHMALSLE & ULLMAN'S ADDITION, HUNTER'S ADDITION, MILES CITY ORIGINAL TOWNSITE' would relocate the common boundary upon being recorded;

***AND WHEREAS,*** the City of Miles City is authorized to approve the relocation of common boundary lines for five or fewer lots within a platted subdivision pursuant to Section 76-3-207(1)(d), MCA.

***AND WHEREAS,*** the City of Miles City City Council has reviewed the staff report along with findings of fact that support the approval of the exemption and concurs with and adopts the staff report and findings.

***NOW THEREFORE BE IT RESOLVED*** by the City Council of Miles City, Montana, as follows:

The City Council does hereby adopt the June 7, 2022 Staff Report to City Council for the Cowtown Ag Supply, LLC, re: Amended Plat for Boundary Line Relocation Exemption, attached hereto as Exhibit "A" as findings of fact, and based on such findings of fact, approves the proposed 'AMENDED PLAT OF LOTS 3 & 4, BLOCK 8, SCHMALSLE & ULLMAN'S ADDITION, HUNTER'S ADDITION, MILES CITY ORIGINAL TOWNSITE', which will amend Lots 3 & 4 of the Amended Plat of Block 7 of Hunter's Addition and Block 8 of Schmalsle and Ullman's Addition.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS 14th DAY OF JUNE, 2022.**

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

# Staff Report to City Council
# Cowtown Ag Supply, LLC
# Amended Plat for Boundary Line Relocation Exemption
# June 7, 2022

## I. GENERAL INFORMATION

### A. Project Proponents

**1. Landowner:** Cowtown Ag Supply, LLC
501 Pleasant Street
Miles City, MT 59301

**2. Applicant:** Cowtown Ag Supply, LLC
(application signed by Shaylee Gaskill)
501 Pleasant Street
Miles City, MT 59301

**3. Technical Assistance:** Cory Wilhelm
Wilhelm Land Surveying
713 Pleasant Street, PO Box 1518
Miles City, MT 59301

### B. City Council meeting: June 14, 2022 at 6:00 pm to consider the amended plat

### C. Property Descriptions

The subject property proposed for a two-lot boundary line relocation is located at 508 N 7th Street as well as the southwest corner of Phillips Street and N 8th Street. The property is zoned Heavy commercial/light industrial district (HCLI) by the Miles City Zoning Code, with HCLI surrounding the tracts. Please see Location/Zoning Map, Figure 1 on Page 2.

The existing record amended plat from 2003 (see Figure 2, page 3) and draft amended plat (see excerpt, Figure 3 on Page 4, and full attachment) present the property as two existing tracts of record: Lots 3 & 4 of the Amended Plat of Block 7 of Hunter's Addition and Block 8 of Schmalsle and Ullman's Addition, recorded as Document No. 126929, Envelope No. 425B in the Plat Cabinet of the Custer County Clerk & Recorder's Office, located in Sections 28 & 33 of Township 8 North, Range 47 East, PMM, City of Miles City, Custer County, Montana.

**Figure 1:** Location/Zoning Map:

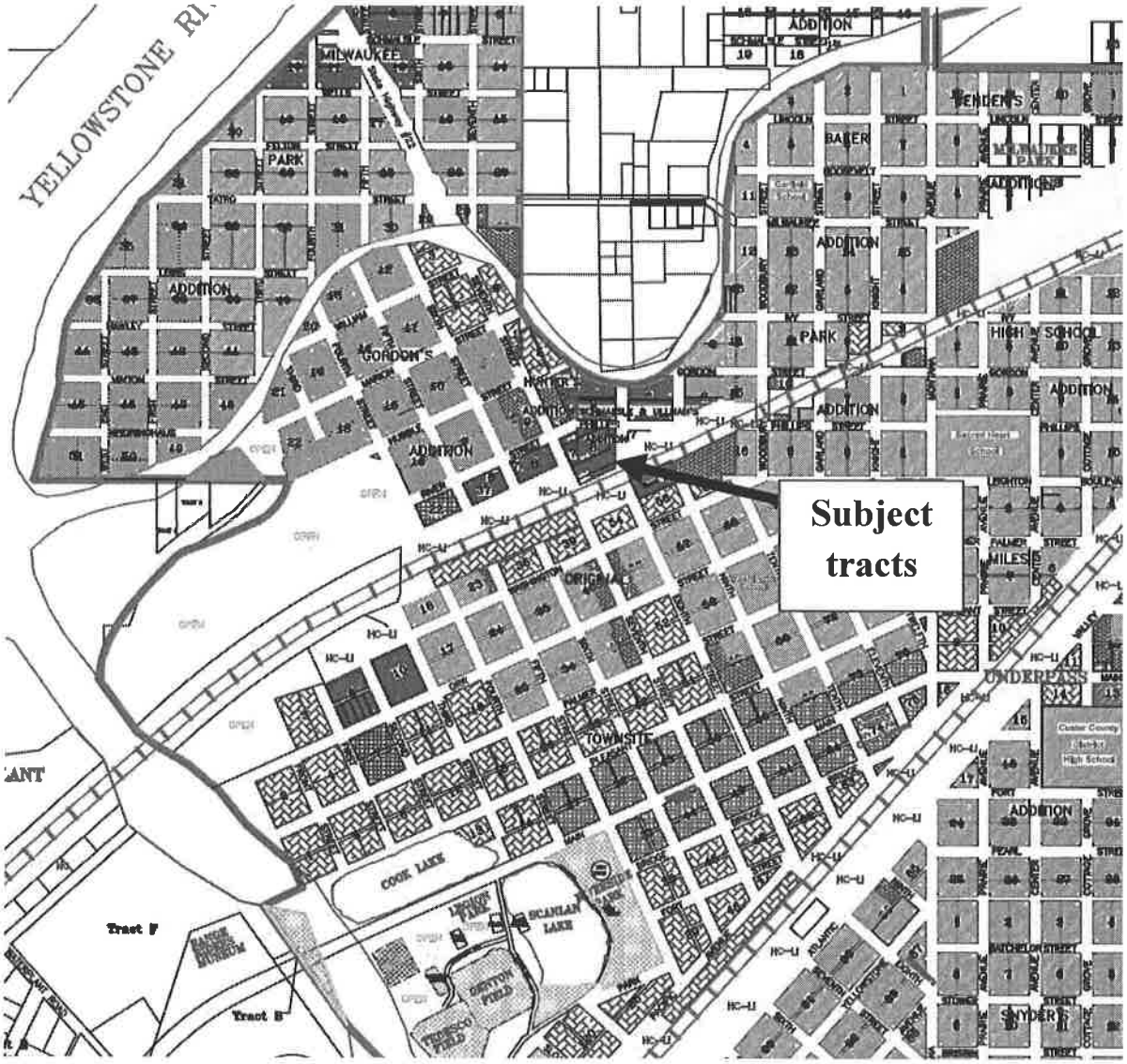


**Figure 2:** Existing 2003 amended plat of record:

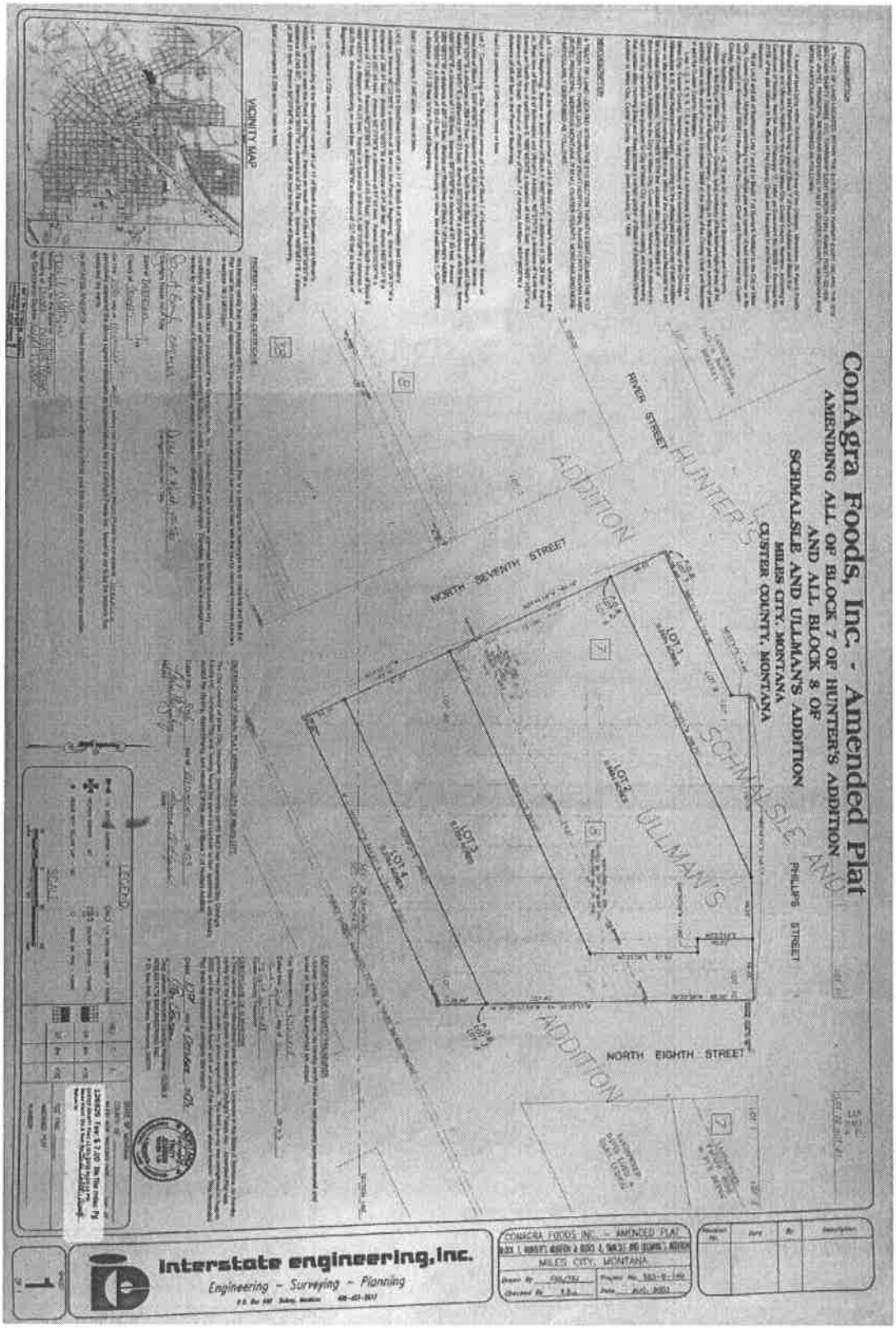
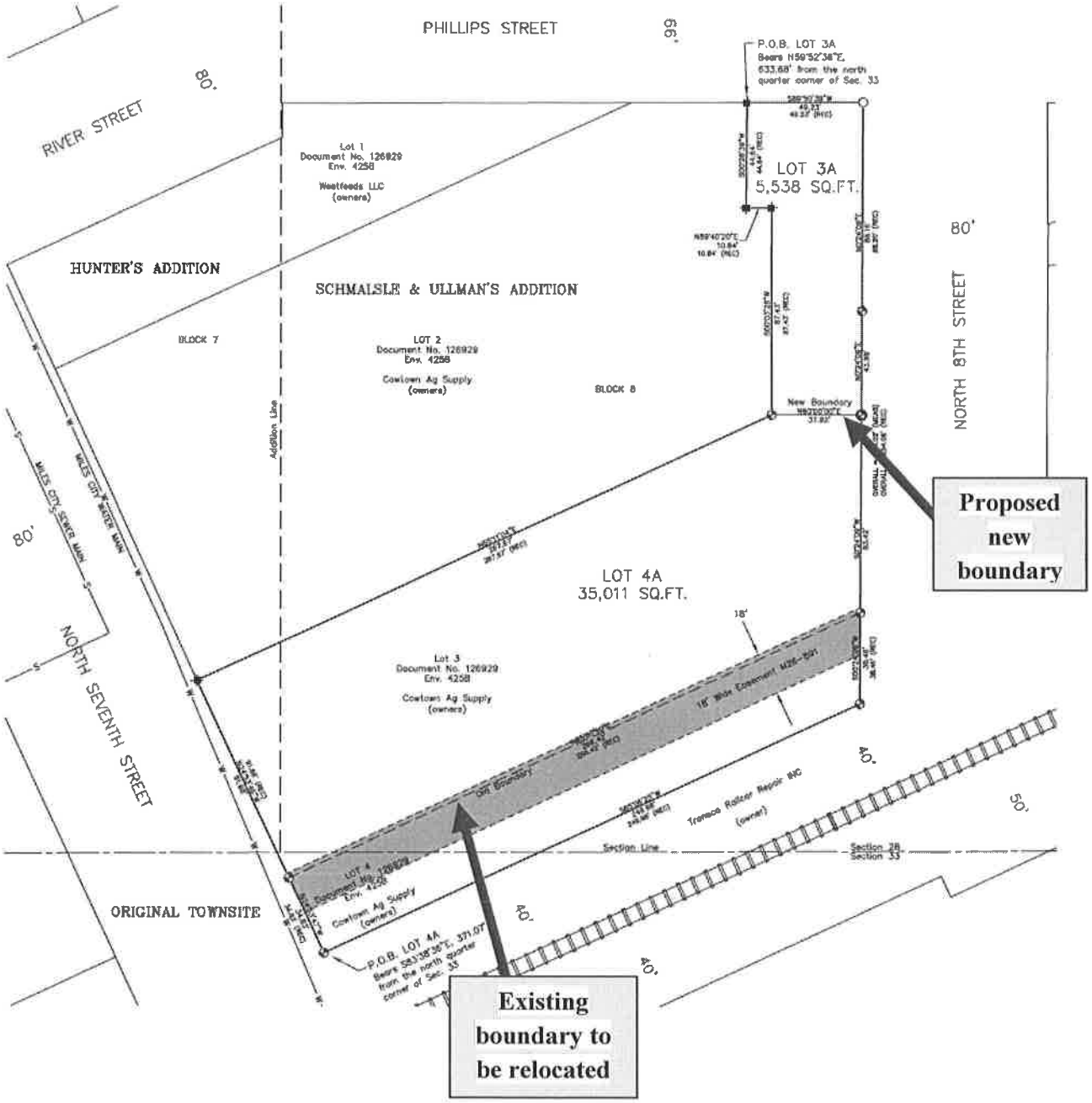


**Figure 3:** Excerpt of the draft Amended Plat, showing old and new boundaries:



### D. Project Description

The intent of the boundary line relocation exemption is to relocate the common boundary amongst the two tracts to place an existing building at the southwest corner of the intersection of Phillips Street and North 8th Street on Lot 3A so that the lot may be sold with the building. Lot 4A would contain another existing building used by Cowtown Ag Supply.

The proposed boundary line relocation required review and approval of three zoning variances, which were approved by the Miles City Board of Adjustment on May 3, 2022. The project has also been approved for the exemption from subdivision review as outlined in Sec. 21-17 of the Miles City Subdivision Regulations. The approved exemption is found in 76-3-207(1)(d), MCA as follows:

***76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division.*** *(1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:*

*(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;*

The last step prior to the landowner being approved to record the attached proposed 'AMENDED PLAT OF LOTS 3 & 4, BLOCK 8, SCHMALSLE & ULLMAN'S ADDITION, HUNTER'S ADDITION, MILES CITY ORIGINAL TOWNSITE' is to obtain approval of the amended plat by the City Council.

## II. PROJECT DETAILS AND APPLICABLE REGULATIONS

### A. Boundary Line Adjustment Details

The following table identifies the existing and proposed lot sizes:

| Existing Lots | Current Lot Size (square feet) | Proposed Lots | Proposed Lot Size (square feet) |
|---|---|---|---|

| | | | |
|---|---|---|---|
| Lot 3 | 31,581 (based on ±0.725-acres shown on recorded plat) | Lot 4A | 35,011 (per draft amended plat) |
| Lot 4 | 8,973.36 (based on ±0.206-acres shown on recorded plat) | Lot 3A | 5,538 (per draft amended plat) |

**B. Easements**

The existing amended plat depicts the publicly dedicated streets and the adjacent railroad. The draft amended plat depicts those rights-of-ways and an 18' wide easement overlapping the existing boundary between Lots 3 and 4. No additional easements are expected to become necessary with the proposal.

**C. Zoning & Land Use**

As stated above, the proposed exemption that is intended to relocate common boundaries may be exempt from subdivision review by 76-3-207(1), MCA, but the proposal is subject to zoning regulations. The following provides an evaluation of zoning compliance.

1. **Current Zoning:** Heavy commercial/light industrial district (HCLI)
2. **Surrounding Zoning:** HCLI
3. **Current Land Uses:** The property is currently used for warehousing and a freight terminal, and this use would continue on proposed Lot 4A; the use is "permitted" in HCLI.
4. **Proposed Land Uses:** The proposed use of Lot 3A would be for welding and fabrication, which falls under manufacturing, production, fabrication, processing, and assembly, a "permitted" use in HCLI.
5. **HCLI District Specifications:** The following Table II.20 of the zoning regulations provides the specifications for lots in the Residential A district, which the proposal is required to comply with, as applicable, and except as allowed by variance:

**TABLE II.2: RA DISTRICT SPECIFICATIONS**

| Regulations | Specifications |
|---|---|
| Minimum lot width | 50 feet |
| Minimum lot size | None |

| | |
|---|---|
| Minimum front yard setback | 20 feet |
| Minimum side yard setback | 0 feet<br>Corner lots—10 feet for side yard adjacent to street<br>Uses abutting residential districts—50 feet |
| Minimum rear yard setback | 0 feet |
| Maximum lot coverage | 80% |
| Maximum building height | 45 feet |

6. **Zoning Compliance:** The proposed boundary line relocation is subject to zoning requirements. The proposal complies with the zoning regulations with the exception of three standards, which the Board of Adjustment granted three variances for. City staff has found no other zoning issues outside of the three variances that were approved by the Board of Adjustment. The variances were approved subject to the following conditions imposed by the Board of Adjustment:

   1. The Board of Adjustment grants the following three variances to the zoning regulations related to the proposed amended plat:

      - Front Yard/Setback Variance: The proposed new front lot line for Lot 3A is approved to result in the existing shop building to be located within the 20' front yard setback for the HCLI District.

      - Side Yard/Setback Variance: The proposed new side lot line for Lot 3A, which will be along North 8th Street, is approved to result in the existing shop building to be located within the 10' side yard setback for a corner lot in the HCLI District.

      - Lot Coverage Variance: The smaller of the two lots, Lot 4, is being reconfigured to become Lot 3A, which will increase the tract of record's lot coverage from ±80% to ±91.35%, over the maximum lot coverage of 80% in the HCLI District.

   2. These variance approvals are based on the plans on file with the Community Services and Planning Department. No further deviations from the zoning regulations are allowed without additional review and approval by Miles City.

   3. Lot 3A shall obtain a city-issued address off of Phillips Street to reflect the proposal and resulting front and side yard setback variances approved by the Board of Adjustment.

   4. No additional lot coverage is allowed on Lot 3A or Lot 4A of the proposed amended

plat unless compliance with the maximum lot coverage is demonstrated or by approval of additional variance(s) by the Board of Adjustment.

5. Execution of the amended plat is subject to appropriate exemption review process, signatures and approvals from the appropriate parties.

6. The variance approvals are valid for two years from the date of approval by the Board of Adjustment, giving an expiration date of May 3, 2024. Prior to the expiration date, the amended plat shall be recorded and compliance demonstrated by providing the Community Services and Planning Department a copy of the recorded amended plat and any related documents. After recording the amended plat, the use must remain in compliance with the Board of Adjustment approval and zoning regulations as discussed in the Staff Report for the Solberg/Cowtown Ag Supply, LLC Variance Requests.

7. At the end of the approval period the Board of Adjustment may, at the request of the applicant, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated and signed by at least four members of the Board of Adjustment and the applicant. The Board of Adjustment may issue more than one extension. For an approval to be extended, the applicant may be required to submit substantiating evidence justifying the request and showing good cause for extending the approval period.

**D. Survey Requirements**

According to 76-3-207(1), MCA, the proposed exemption is subject to survey requirements. Applicable survey requirements are found in the Administrative Rules of Montana's (ARM's) Uniform Standards for Final Subdivision Plats outlined by ARM 24.183.1107 and the Uniform Standards for Certificates of Survey outlined by ARM 24.183.1104, which are adopted by the City of Miles City by reference under Sec. 21-62 of the MCSR.

The application included a draft amended plat prepared by a licensed professional land surveyor. The city's contract planning firm Land Solutions reviewed the draft amended plat for compliance with the Uniform Standards for Final Subdivision Plats and Certificates of Survey while assisting with this review, and the plat appears comply with the Administrative Rules of Montana, subject to correcting the owner names for the signature lines. Custer County also requires review by the county's Examining Land Surveyor (ELS) to ensure compliance with the Uniform Standards for Final Subdivision Plats and Certificates of Survey. The Custer County ELS has approved the draft amended plat, which occurred on May 13, 2022.

## E. Subdivision Regulations

Sec. 21-17 of the MCSR provides for "*Divisions and aggregations of land exempt from subdivision review*". Subsection (a) addresses "*Exemptions, generally*" as follows: "*The MSPA provides that certain divisions of land are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA. The exemptions are found in Part 2 of Title 76, Chapter 3, MCA. Subdivision regulations, must, at a minimum, establish criteria that the governing body or reviewing authority will use to determine whether a proposed methods of disposition, using the exemptions provided in MCA 76-3-201 or 76-3-207, are attempts to evade comprehensive subdivision review.*" Subsection (b) outlines the "General procedures" for exemptions. An evaluation of these provisions, along with subdivision administrator findings, are as follows:

(1) Any person seeking exemption from the requirements of the MSPA shall submit to the subdivision administrator a certificate of survey or, where a survey is not required, an instrument of conveyance and evidence of, and an affidavit affirming entitlement to the claimed exemption.

***Finding 1:*** *The applicant submitted the appropriate Exemption Claim Application along with the required fees and draft amended plat, to the City and acting subdivision administrator on May 11, 2022.*

(2) When a certificate of survey, instrument of conveyance, and/or affidavit are submitted, the subdivision administrator shall cause the documents to be reviewed by the designated agents of the governing body (e.g., subdivision administrator, city sanitarian, zoning administrator, city attorney). The agents shall review the proposed use of the exemptions within 30 calendar days of submittal to determine whether it complies with the requirements set forth in this section, the MSPA, and the Montana Sanitation in Subdivisions Act.

***Finding 2:*** *The subdivision administrator sent the application and draft amended plat to the City Sanitarian, Zoning Administrator, and City Attorney on May 13, 2022. Sanitarian Mike Rinaldi sent his approval of the exclusion cited on the draft amended plat to address compliance with the Montana Sanitation in Subdivisions Act. Zoning compliance was addressed with the Board of Adjustment approvals of three variances, and Zoning Administrator Scott Gray has offered no additional comments. City Attorney Dan Rice has been in continual correspondence with the acting subdivision administrator Joel Nelson throughout the review. On June 7, 2022, an exemption approval letter was issued, subject to City Council approval of the amended plat. The exemption approval letter included a determination that the proposal complies with the requirements set forth in Sec. 21-17 of the MCSR, the MSPA, and the Montana Sanitation in Subdivisions Act, which occurred on Day 27 of the 30-day review period.*

(3) If the designated agents find that the proposed use of the exemption complies with the statutes and these criteria, after appropriate review of the survey by the examining land surveyor (if required by the subdivision administrator or county clerk and recorder) and when all appropriate signatures are in place, they shall advise the Custer County Clerk

and Recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents. If the agents find the proposed use of the exemption does not comply with the statues and the criteria in this section, the subdivision administrator shall advise the clerk and recorder to not file or record the documents and return the documents to the landowner.

***Finding 3:*** *The Custer County Clerk & Recorder requires Examining Land Surveyor review and approval of amended plats to be recorded at that office. The Custer County Examining Land Surveyor approved the amended plat on May 13, 2022. The Clerk & Recorder was copied on the exemption approval letter, which advises that office that the amended plat may be recorded after approval and signature(s) by the City Council.*

Sec. 21-17(c)(4) of the MCSR addresses circumstances where exemptions are denied, which is not applicable to this proposal, which was approved.

Sec. 21-17(c)(5) of the MCSR encourages an advisory examination of exemptions, which occurred prior to submittal of the zoning variance applications.

(6) The governing body and its agents, when determining whether an exemption is claimed for the purpose of evading the MSPA, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction(s) is completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review. (State ex rel. Dreher v. Fuller, 50 St. Rpt. 454, 1993)

***Finding 4:*** *The designated agents considered all surrounding circumstances, and there appears to be no intent to evade the MSPA.*

(7) Exempt divisions of land that would result in a pattern of development equivalent to a subdivision may be presumed to be adopted for purposes of evading the MSPA based on the surrounding circumstances in section 21-17(b)(6), above.

***Finding 5:*** *The designated agents did not find any attempt to evade the MSPA, and the proposal would not result in a pattern of development equivalent to a subdivision. This is a minor modification to two lots in old, existing platted subdivisions.*

(8) All parcels and the use of all parcels created or amended through the use of an exemption shall comply with the zoning regulations. This does not allow the City of Miles City to require lots resulting from exempt divisions to comply with section 21-18, Design and improvement standards, unless the exemption seeks to alter a lot that was subject to the design and improvement standards of the subdivision regulations during subdivision review.

***Finding 6:*** *Zoning compliance has been addressed in part through three variances approved by the Board of Adjustment. The lots are not subject to design and improvement*

*standards of the MCSR because the subdivisions were platted long prior to adoption of Miles City Subdivision Regulations.*

(9) To exempt divisions and/or remaining parcels of land resulting from the exemptions in MCA 76-3-207 from the survey requirements of MCA 76-3-401, the parcel(s) must be able to be described as a 1/32 or larger aliquot part of a United States Government section.

***Finding 7:*** *The boundary line relocation does not qualify for this potential exemption from survey requirements, and requires an amended plat to be recorded.*

(10) Subject to the following, a division of land exempt from subdivision review by MCA 76-3-207 (a gift or sale to a member of the immediate family, exemption for agricultural purposes, or relocation of common boundaries) may not be made unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

a. If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.
b. The county treasurer may accept the amount of the tax prorated pursuant to the above subsection (10) a as a partial payment of the total tax that is due.

***Finding 8:*** *The draft amended plat includes the appropriate certification language, which will need to be signed by the County Treasurer's Office prior to recording.*

***Finding 9:*** *The applicant has followed the procedural requirements of Sec. 21-17(b) of the MCSR by submitting the exemption claim application and draft amended plat for examination by the City of Miles City, which have been determined to comply with applicable requirements.*

Sec. 21-17(c) of the MCSR addresses requirements applicable to specific exemptions, including (3): "*Relocation of common boundaries and aggregation of lots*". An evaluation of these provisions, along with the subdivision administrator findings, are as follows:

(a) *Statement of Intent.* The intended purpose of this exemption is to allow a change in the location of one or more boundary line between parcels and to allow transfer of the land without subdivision review.

***Finding 10:*** *The proposal meets the statement of intent of allowing the relocation of common boundaries and to allow the transfer of land without subdivision review – it would result in the change in the location of an existing boundary between two adjoining lots in platted subdivisions.*

(b) Certificates of survey, or amended plats for those altering platted subdivisions, claiming one of these exemptions must clearly distinguish between the existing boundary location and the new boundary. This shall be accomplished by showing the existing boundary with a dashed line and the new relocated boundary with a solid line. The appropriate certification set forth in ARM 24.183.1104(1)(f) must be included on the certificate of survey or amended plat.

***Finding 11:*** *The proposal includes a draft amended plat that depicts the old (existing) boundary line with a dashed line and the new/relocated boundary with a solid line, along with the appropriate certifications set forth in ARM 24.183.1104(1)(f).*

(c) When presented to the county clerk and recorder for filing, certificates of survey or amended plats showing the relocation of common boundary lines or aggregation of lots must be accompanied by a quit claim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) being affected.

***Finding 12:*** *The amended plat will need to be accompanied by a deed or recordable agreement for the entire newly described parcels or the portion of the tracts being affected to execute the proposed exemptions as shown on the amended plat.*

(d) If the relocation of common boundaries would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision.

***Finding 13:*** *The relocation of common boundaries would <u>not</u> result in the permanent creation of an additional parcel of land. Therefore it is not necessary that it be reviewed as a subdivision, and is exempt from subdivision review.*

(e) If a change is made to a platted subdivision which results in a redesign or rearrangement of six or more lots in a platted subdivision, the division of land must be reviewed as a major subdivision.

***Finding 14:*** *The change being made to the existing subdivision results in the redesign or rearrangement of two existing lots to result in two lots. Therefore it is not necessary that it be reviewed as a subdivision, and is exempt from subdivision review.*

(f) The use of the boundary line exemption will be presumed to have been adopted for the purpose of evading the MSPA if the proposed relocation results in a parcel of less than 160 acres which, prior to the relocation included more than 160 acres.

***Finding 15:*** *The proposal would <u>not</u> alter a 160+ acre tract to result in a tract less than 160 acres in size. Therefore the use of the boundary line exemption does <u>not</u> raise a presumption that the exemption has been adopted for the purpose of evading the MSPA. The proposal utilizes the proper exemption.*

Subsection 21-14.B.11 of the MCSR, "*Amending filed plats*", addresses potential changes to filed subdivision plats that were reviewed and approved by the City of Miles City. In short, this subsection addressees how such amendments are processed and certain limitations for changes that might result from amended plats using exemptions and otherwise. An evaluation of these provisions, along with recommended findings, is as follows:

(a) Changes that will substantially alter the contents of the original approved subdivision application, do not comply with the conditions of preliminary plat approval, or will materially alter any portion of a filed plat (not to include minor boundary adjustments), its land divisions or improvements, that is determined by the subdivision administrator to have the potential to negatively impact one or more of the primary review criteria for subdivisions, or that will modify the approved use of land within the subdivision, must be reviewed and approved by the governing body using the procedure for material amendments described in subsection (8), *Amending approved preliminary plats before Final plat approval,* above.

***Finding 16:*** *The proposal involves a minor boundary adjustment among two involved tracts of record that exist per the Amended Plat of Block 7 of Hunter's Addition and Block 8 of Schmalsle and Ullman's Addition, which was approved and recorded in 2003. That amended plat altered and aggregated multiple lots from the Hunter's Addition and Schmalsle and Ullman's Addition, which were very old subdivisions platted at least prior to 1938 (as indicated by city street and alley vacations shown on the 2003 amended plat). Given the age of the involved subdivisions, there is no existing subdivision approval letter or conditions or approval from the governing body that is available for review or that could be impacted by the modifications to the plat. The modification is therefore not subject to any further review under the subdivision regulations or previous approvals, and the survey can be approved.*

(b) Any alteration which increases the number of lots, modifies six or more lots, or abandons or alters a public road right-of-way or park land dedication shall be reviewed and approved by the governing body pursuant to subdivision review procedures or vacation or abandonment laws, as applicable.

***Finding 17:*** *The proposal would not increase the number of lots, modify six or more lots, or abandon or alter any public road rights-of-way or park land dedications. Therefore the change does not need to be further reviewed or approved by the governing body.*

(c) An amended plat may be subject to the procedures for reviewing minor or major subdivisions, as appropriate.

***Finding 18:*** *Because the proposal does not constitute a material change to any applicable subdivision approvals and meets the criteria for exemption approval, the amended plat is not subject to any subdivision review procedures.*

(d) The governing body reserves the right to require a current abstract of title for the impacted properties and may not approve an amended final plat without the written consent of the owners and lienholders of all lots which will be modified by the proposed amendment.

***Finding 19:*** *The subdivision administrator has found no need to require a current abstract of title for the impacted properties, so no lienholders have been identified.*

(e) The governing body may not approve an amendment that will place a lot in non-conformance with the design and improvement standards contained in Section 21-18 of these regulations unless the governing body holds a public hearing on the amendment and issues a written variance from the standards pursuant to subsection 21-22(a), Variances.

***Finding 20:*** *The amended plat would <u>not</u> create any non-conformities with the design and improvement standards contained in Section 21-18 of the MCSR. Therefore no public hearing or variance is necessary.*

(f) The governing body may not approve an amendment that will place a lot in non-conformance with zoning regulations unless the Miles City Board of Adjustment has granted a zoning variance to the applicable standard.

***Finding 21:*** *The amended plat results in three zoning issues: side yard setback, front yard setback, and maximum lot coverage, which have been addressed with three variance approvals by the Board of Adjustment, which overcomes those zoning issues to bring the project into compliance with the zoning regulations.*

(g) The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats (Section 21-62).

***Finding 22:*** *The draft amended plat submitted with the application has been prepared by a licensed professional land surveyor, and has been approved by the county's Examining Land Surveyor, who found the amended plat to comply with the Uniform Standards for Final Plats.*

## III. REVIEWER RECOMMENDATION

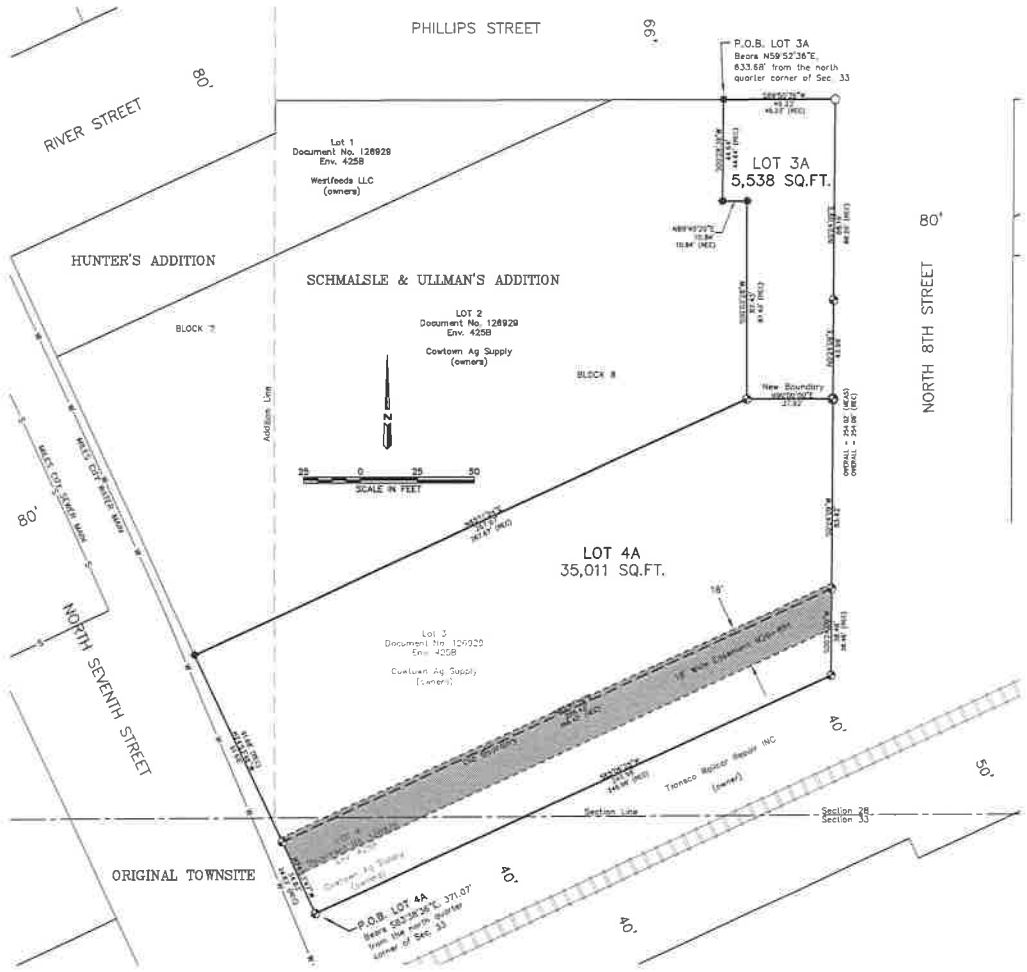
The reviewer (acting subdivision administrator) recommends that the City Council adopt this report as findings of fact, approve the amended plat subject to appropriate signatures, and approve and sign the attached Resolution No. 4461. Upon issuance of the City Council approvals, the approvals should be acknowledged by all remaining appropriate signatures so that the amended plat may be recorded and the exemption properly executed with the Custer County Clerk & Recorder's Office.

# AMENDED PLAT OF LOTS 3 & 4, BLOCK 8, SCHMALSLE & ULLMAN'S ADDITION, HUNTER'S ADDITION, MILES CITY ORIGINAL TOWNSITE

**RELOCATION OF COMMON BOUNDARY LINE**

**SW1/4SE1/4, Section 28, NW1/4NE1/4, Section 33, Township 8 North, Range 47 East, P.M.M.**

**Miles City, Custer County, Montana**




## Purpose of Survey

We, Cowtown Ag Supply LLC., hereby certify that this division of land is exempt from review as a subdivision per 76-3-207(1)(d), MCA "For five or fewer lots within a platted subdivision, the relocation of common boundaries."

Both LOT 3A and LOT 4A are excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605(2)(c) as a parcel that will be affected by a proposed boundary line adjustment, if the parcel has existing facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, and if: (i) no facilities, other than those in existence prior to the boundary line adjustment, or those that were previously approved as replacements for the existing facilities, will be constructed on the parcel.

_____

Cowtown Ag Supply LLC.

## Metes and Bounds

LOT 3A

A parcel of land being a portion of Lot 3, Document No. 128929, Env. 4258, lying in Sections 28, Township 8 North, Range 47 East, P.M.M., Miles City, Custer County, Montana; being more particularly described as follows:

Beginning at the northwest corner of said Lot 3, said point being the POINT OF BEGINNING (P.O.B.); thence S00°28'39"W, a distance of 44.64 feet; thence N89°40'20"E, a distance of 10.84 feet; thence S00°03'28"W, a distance of 87.43 feet; thence N90°00'00"E, a distance of 37.92 feet; thence N00°24'09"E, a distance of 43.98 feet; thence continue N00°24'09"E, a distance of 88.16 feet; thence S89°50'39"W, a distance of 49.23 feet, more or less, to the POINT OF BEGINNING.

Containing 5,538 square feet, more or less.

LOT 4A

A parcel of land being Lot 4, Document No. 128929, Env. 4258, and being a portion of Lot 3, Document No. 128929, Env. 4258, lying in Sections 28 & 33, Township 8 North, Range 47 East, P.M.M., Miles City, Custer County, Montana; being more particularly described as follows:

Beginning at the southwest corner of said Lot 4, said point being the POINT OF BEGINNING (P.O.B.); thence N24°53'47"W, a distance of 34.83 feet; thence N24°53'46"W, a distance of 91.68 feet; thence N85°11'04"E, a distance of 267.67 feet; thence N90°00'00"E, a distance of 37.92 feet; thence S00°24'09"W, a distance of 83.42 feet; thence continue S00°24'09"W, a distance of 38.46 feet; thence S65°06'25"W, a distance of 249.98 feet, more or less, to the POINT OF BEGINNING.

Containing 35,011 square feet, more or less.

## Certificate of Surveyor

STATE of MONTANA
COUNTY of CUSTER

On the basis of my knowledge, information, and belief, I, Cory Wilhelm, PLS, of Miles City, Montana, for Wilhelm Land Surveying, LLC, do hereby certify to Cowtown Ag Supply and Curtis Solberg, that as a result of a survey made on the ground to the normal standard of care of professional land surveyors practicing in Montana, this plat was prepared from notes taken during that survey conducted in March, 2022; that said survey is true and correct as shown and that the monuments found and set are of the character and occupy the positions shown hereon.

_____

Wilhelm Land Surveying, LLC
Certificate of Authority #60997
Cory Wilhelm, PLS
Montana License #60940
Dated:
"UNLESS SIGNED, SEALED AND DATED THIS IS A PRELIMINARY PLAT"

MONTANA CORY WILHELM No. 60940LS PROFESSIONAL LICENSED LAND SURVEYOR

STATE of MONTANA
COUNTY of CUSTER

On this ____ day of _____, 2022, before me, a Notary Public in and for the State of Montana, personally appeared Shaylee Gaskill, Managing Member of Cowtown Ag Supply LLC, known to me to be the person named in the foregoing, and acknowledged to me that they executed the same as his free act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year this certificate first above written.

Signature _____

## Certificate of Sanitarian

I, Michael Rinaldi, the Registered Sanitarian for the City of Miles City/Custer County Health Board, hereby certify that the survey shown here has been examined and determined to be in compliance with The Montana Sanitation in Subdivisions Act, and applicable A.R.M.

DATED this ____ day of _____, 2022.

_____

Michael Rinaldi, RS
Miles City/Custer County Environmental Health Officer

## Certification of Examination

Checked for errors and omissions in drafting and calculations.
On this ____ day of _____ 2020

_____

(Signature)

## Certification of Plat Approval

The City Council of Miles City, Montana, hereby certify that they have examined this Amended Plat and having found the same to conform to law, approves it this ____ day of _____ 2022.

_____ _____

Chairman Attest

NOTE The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the Amended Plat on which said area is described, unless said area is included with or excluded from adjoining tracts of record.

## Location Map


Filed this_____day of_____,2022 A.D. at____o'clock__m.

_____

Custer County Clerk and Recorder
by_____

Envelope #_____Document #_____

## LEGEND

- Computed Point (No Monument Set, Lies Under Building)
- ⅝" Rebar with 1" Yellow Cap Stamped: "15258LS" (Found)
- ⅝" Rebar with 1" Yellow Cap Stamped: "9334LS" (Found)
- ⅝"X24" Rebar with 1" Orange Plastic Cap Stamped: "WILHELM 60940LS" (SET THIS SURVEY)

(rec) = record measurement P.O.B. = Point of Beginning

## County Treasurer's Certification

I hereby certify that all real property taxes and special assessments assessed and levied on the land being subdivided have been paid.

_____

Custer County Treasurer

## BASIS of BEARING

Basis of bearing is true north obtained by GPS observations.
Datum (NAD83, 2011, EPOCH: 2010.0000).
coordinates shown are from a Transverse Mercator Projection.
Projection Origin: MILES CITY GPS HARN STA
Latitude 46°23'46.99516" N, Longitude 105°51'38.93030" W
False Origin: MILES CITY GPS HARN STA
False Northing 30000.000 ift False Easting 20000.000 ift
Rotation 0°00'00", Projection scale factor of 1.0001146920
Distances shown are surface distance in International feet.

Date Drafted: 5/13/2022 | Drafted by: Cory Wilhelm

WILHELM Land Surveying
[illegible]

Survey Commissioned by:
Cowtown Ag Supply
501 Pleasant Street
Miles City, MT 59301

Curtis Solberg
142 Lufborough Drive
Miles City, MT 59301