

## **Memorandum of Understanding**

This Memorandum of Understanding (“MOU”) is made this \_\_\_\_ day of May, 2017, by and between Montana Tech of the University of Montana whose address is 1300 W. Park Street, Butte, Montana 59701 (“MT Tech”) and Butte-Silver Bow City County Consolidated Government whose address is 155 W. Granite, Butte, Montana 59701 (“BSB”) (collectively the “Parties”) for the purpose of specifying the terms and conditions of a proposed Land Exchange Agreement and/or Land Exchange and Property Use Agreement.

### **RECITALS:**

**WHEREAS**, the Parties each respectively own contiguous land in the area in and surrounding the MT Tech Campus; and

**WHEREAS**, the Parties have recently learned that real property that has been utilized, improved and maintained by MT Tech for an historic period is technically owned by BSB, including but not limited to: (i) areas of land adjacent to that real property commonly known as the walking trail which exceed Forty Feet (40’) from the center line of the trail, with 40’ from the centerline historically understood as the trail boundary (such land is identified in Yellow on the attached map which is identified as Exhibit “A” hereto); and (ii) parking areas or other vacant lots identified in Green on the Exhibit “A” and to the extent such lots have a defined legal description are legally described as:

Lots Numbered Eleven (11) through Fourteen (14) in Block Numbered One (1) of the Vanderbilt Addition to the City of Butte, County of Silver Bow, State of Montana;  
And Lots Numbered Fourteen (14) through Seventeen (17) in Block Numbered Five (5) of the Stanley Addition to the City of Butte, County of Silver Bow, State of Montana.

Tax Parcel No. 1999000;

[Green Parcel adjacent to walking trail at on southeast corner of Park Street]

Lots Numbered One (1) and Four (4) of Block Numbered 12 of the Big Butte Addition to the City of Butte, State of Montana.

Tax Parcel No. 1223410

[Green Parcels on South side of Copper Street, North of Northwestern edge of Campus.]

And area not legally defined in Green on Exhibit "A" West of the HPER building;

and

**WHEREAS**, the Parties have further learned that real property believed to be owned by BSB as a continuation of Park Street within the campus area is technically owned by MT Tech; and

**WHEREAS**, it is in the best interests of each of the parties to clarify ownership and/or use and responsibility for those parcels of real property that are in use by one party but owned by the other; and

**WHEREAS**, the growth of MT Tech has resulted in additional infrastructure directly adjacent to and/or surrounding historic alleys and streets owned by BSB (which alleys and streets are identified in Blue on Exhibit "A;" and

**WHEREAS**, the current and future infrastructure of MT Tech makes historic use of those streets and alleys now impractical and/or unnecessary as municipal alleys and streets and would be better suited as property owned or leased and maintained and improved by MT Tech going forward; and

**WHEREAS**, BSB, as a municipality, is subject to state and local laws regarding its disposal or acquisition of real property; and

**WHEREAS**, MT Tech has identified the following parcels of real property that it proposes to transfer to BSB in exchange for ownership and/or exclusive use of that land identified in in Yellow, Blue and Green on Exhibit "A" with such parcels being identified in Orange on the Exhibit "A" and to the extent such lots have a defined legal description are legally described as follows:

Lots Numbered One (1) through Ten (10) inclusive; Lots Numbered Thirteen (13) through Twenty-Four (24) inclusive; in Block Numbered Three (3);

Lots Numbered One (1) through Ten (10), inclusive; and Lots Numbered Twelve (12), Thirteen (13) and Fourteen (14) in Block Numbered Four (4);

Lots Numbered One (1) through Seven (7), inclusive and Lots Numbered Nine (9) through Sixteen (16), inclusive, in Block Numbered Five (5);

Lots Numbered One (1) through Eighteen (18), inclusive and Lots Numbered Twenty (20) through Twenty-Four (24), inclusive, in Block Numbered Six (6);

All in the Big Butte Addition to the City of Butte, County of Silver Bow, State of Montana.

; and

**WHEREAS**, the proposed exchange is fair, equitable and in the best interest of the Parties; and

**NOW THEREFORE**, the parties mutually agree as follows:

1. It is understood and agreed that this MOU will be executed to signify an agreement in principle between the Parties. However, neither party shall be legally bound to any terms and conditions set forth herein until each of the following is

completed: (i) MT Tech has received approval from its Board of Regents; (ii) BSB has received approval from its Council of Commissioners; and (iii) a definitive Land Exchange Agreement and/or Exchange and Lease Agreement is mutually executed by the Parties.

2. To the extent it is practicable, and where identified parcels are legally described and identifiable, the parties will exchange property pursuant to the above recitals. Those exchanges will be performed by quit claim deeds between the parties.

3. The following represent the more difficult parcels to exchange which will require further discussion and agreement between the parties and their governing boards:

- a. ***That property adjacent to the walking trail which exceeds Forty Feet (40') from the center line of the trail.*** BSB, in consideration of receipt of the various parcels identified in this Agreement, shall grant MT Tech a 100 year lease (with options to renew in 50 year periods) for any and all real property that exceeds 40' from the centerline that is adjacent to that real property owned by MT Tech and which is identified in YELLOW on Exhibit "A". Under the terms of such Lease, which shall be approved by the Parties, MT Tech shall retain exclusive use, control of and liability for the real property and BSB shall have no authority to terminate and/or assign the Lease absent its ordinary powers of condemnation and/or eminent domain.
- b. ***That portion of real property that was traditionally believed to be a continuation of West Park Street that is technically part of MT***

***Tech's parcel.*** To the extent that MT Tech can dedicate this parcel to BSB for use as a public street to be exclusively maintained and controlled by BSB, MT Tech will do so. That said, an absolute grant of such property (as a legally identifiable parcel) would amount to a subdivision of the MT Tech tract in which it is contained. MT Tech will agree to either grant a perpetual easement of such property to BSB and/or dedicate the land for use as a public road, which easement and/or dedication shall provide that BSB shall retain the exclusive authority, use, maintenance and liability for the same.

4. The Parties will work together, through counsel and through their authoritative boards, to draft any and all documents necessary to effectuate the above transfers. Each party shall be responsible for its own attorney fees and costs.

5. Once this Agreement is signed by both of the parties, the parties agree to present this Agreement to their respective governing bodies within two (2) months for review and discussion. The parties desire to complete the above-identified exchanges and Land Use Agreements on or before July 1, 2017.

6. The parties acknowledge that the purpose of this Agreement is for proposed land exchange only and that this Agreement does not create a joint venture or partnership between the parties.

7. Each party represents and warrants that it has the authority to enter into this Agreement and perform the services and/or tasks necessary to fulfill the same.

Executed this \_\_\_\_ day of May, 2017.

**Note: This MOU is not a legally binding agreement.**

Montana Tech of the University of Montana

Butte-Silver Bow City County  
Consolidated Government

By \_\_\_\_\_  
Title: \_\_\_\_\_

By \_\_\_\_\_  
Title: \_\_\_\_\_