

Process and Criteria for Consultation on Land Transfers
Issue Summary – August 24, 2012
Prepared for the Legislative Council
by
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DNRC Trust Lands Division

Introduction

As provided by 77-2-351, MCA, this proposal will transfer the subject property to the County in exchange for the County's commitment "to use the property to provide a community service or benefit that fulfills a public purpose", in this case to be used as part of the County fairgrounds complex. No other compensation or consideration is proposed. The deed transferring the subject property will contain a clause specifying the property will revert to the state if and when the property is no longer owned by the County or used for a public purpose.

The subject property is owned by the State of Montana and is currently used by the Department of Administration (DOA), the Montana Department of Transportation (MDT) and the Montana Historical Society (MHS) for storage. Thirteen buildings exist on the site. DOA State Surplus Property Bureau occupies a recently constructed metal building and open lot on the east side of the property for storage, property management, and surplus equipment and vehicle auctions. MHS uses five buildings along the northern edge of the property for storage.

Following transfer of the property the County will lease the buildings back to the existing tenants at no cost. Leases will include five year terms with the option to renew for another five years at one year increments.

The County intends to redevelop the property into additional parking for the fairgrounds and the Ryan ball fields complex to the south, as well as reconfigure the entrance into the fairgrounds to provide for easier traffic flow. The County may retain one or more of the buildings on the property for administrative purposes and demolish the remainder that are considered obsolete and an impairment to use of the property. The County's intended redevelopment of the property will occur no sooner than summer 2022 when the existing tenants will have vacated the property.

Process

Sections 77-2-302 and 77-2-351, MCA, authorize the Board of Land Commissioners to dispose of, sell, or exchange certain state lands after consultation with the appropriate legislative committee. The Legislative Council has assumed the role of the appropriate legislative committee.

Following the consultation, the Council should adopt a motion to the effect that consultation, required by either §77-2-302, MCA, or §77-2-351, MCA, as appropriate for the subject proposal, has occurred. Should the Council have recommendations or concerns for the Board to consider, they may be added.

As required by the Rules of Procedure for the Montana Legislative Council, Rule B-8, the Board shall provide the Legislative Council with at least the following information for a transfer proposed under 77-2-351, MCA, involving a sale to or exchange of state-owned property with public entity.

Rule B-8 (2)(b): For a transfer proposed under §77-2-351, MCA -- sale to or exchange of property with public entity.

1. What lands are involved?

a. Provide an accurate written description of the property involved, including a legal description and acreage involved.

b.

The property is approximately 9.5 acres and is described as Block 11 through 14 of the Rosedale Addition to the City of Helena Townsite. The property is in the S2S2SW4 of Sec. 13, Township 10 North, Range 4 West, Lewis and Clark County, Montana.

A retracement survey is underway to confirm the acreage and legal boundaries of the parcel. The survey will be completed by the end of August 2012.

c. Provide a general location map showing graphically the same information as required in the written description of the properties.

See the map and draft preliminary survey accompanying this packet.

2. Are there restrictions on the transfer?

a. Provide an affidavit documenting whether the land is or is not granted to or held by the State in trust for the support of the common schools, for a state institution, or for another specific purpose.

The affected property is non-trust land and is not used by a state institution and is not the property of a state institution.

b. Provide an affidavit indicating any known restrictions on the transfer or stating that there are none.

There are no known restrictions on the transfer of the property.

3. Are the terms of the proposed transfer in the best interest of the state?

a. Document the proposed terms of the transfer and any alternative terms that may have been considered.

As provided by §77-2-351, MCA, this proposal intends to transfer the subject property to the County in exchange for the County's commitment "to use the property to provide a community service or benefit that fulfills a public purpose" , in this case to be used as

part of the County fairgrounds complex. No other consideration is proposed. An appraisal is underway to establish the current fair market value of the property; the appraisal will be completed by the end of August 2012.

No alternative terms are being considered.

- b. If the transfer involves a binding commitment to use the property to provide a community service or a benefit that fulfills a public purpose, provide documentation showing the details of the commitment.

This use meets the requirement of §77-2-351, MCA, in that it provides for a community service or a benefit that fulfills a public purpose. The deed transferring the property will contain the following provision:

In accordance with §77-2-351, MCA, in the event that the land shall cease to be used for a public purpose or cease to be owned by Lewis and Clark County, upon written notice to the County by the State of Montana, title to the land shall revert to the State of Montana.

- c. Document that the transferee is a “public entity” as that term is used in §77-2-351, MCA.

From 77-2-351, MCA: “As used in this section, "public entity" means any county, city, municipal corporation, school district, regional water authority provided for in Title 75, chapter 6, part 3, or special improvement or taxing district.”

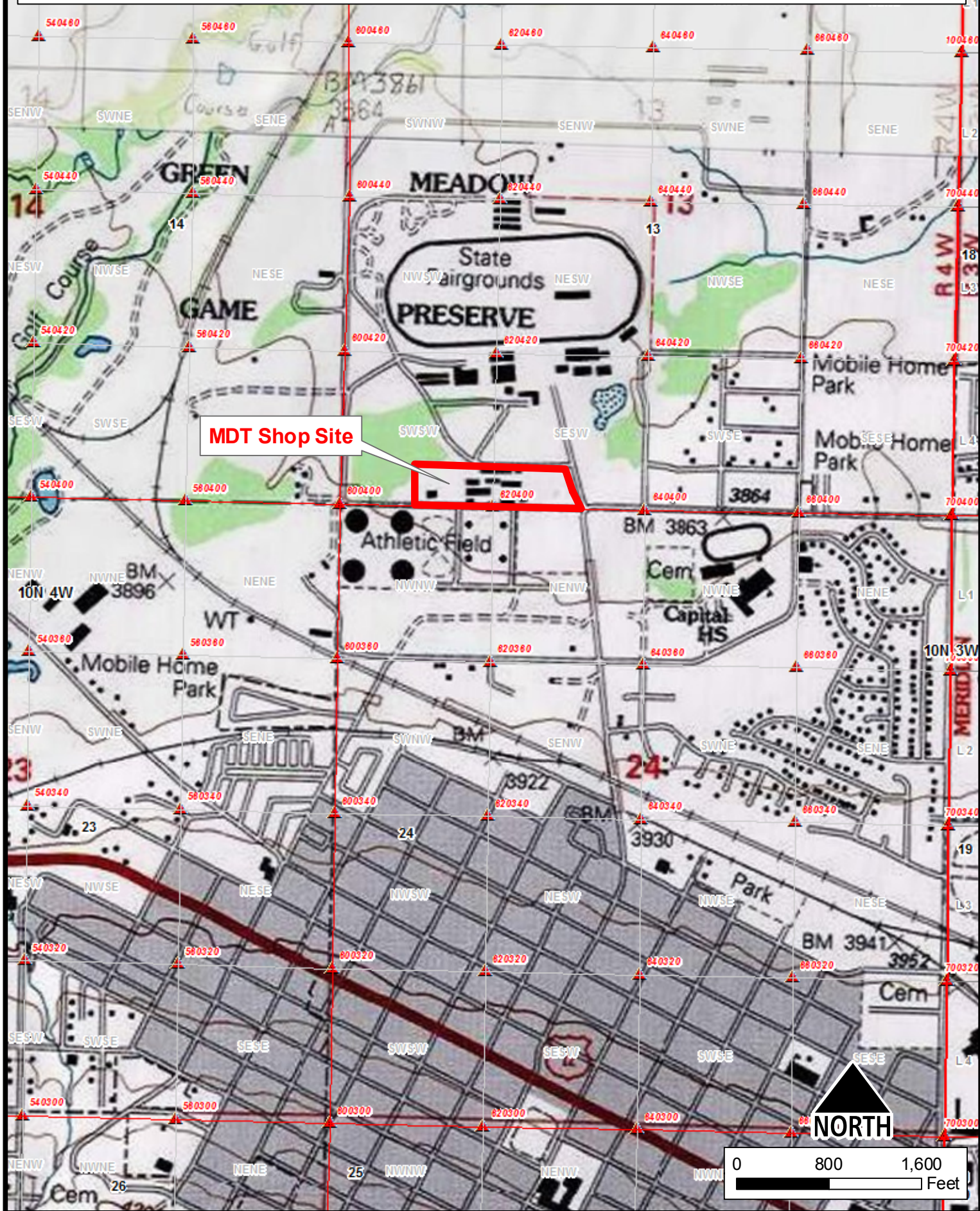
- 4. Is the manner of the transfer in accordance with public policy?

- a. Document the proposed manner of the transfer including plans for the required 60-day notice period. (Adopted 05/15/98; amended 05/17/99; amended 9/22/03)

A 60 day public notice period and opportunity for public comment began July 2, 2012. Weekly legal notices advertising the 60 day notice and comment period have been published in the Helena Independent Record. A hearing will be held if deemed necessary by DNRC as determined by the receipt of any opposition to the transfer.

The transfer will be completed within 60 days from the date the Land Board approves the transfer. Ownership of the property will be transferred to the County via a grant deed.

MDT Maintenance Shop Site at Lewis and Clark County Fairgrounds



CERTIFICATE OF SURVEY

RETRACEMENT SURVEY OF ALL THAT LAND DESCRIBED IN DEED BOOK _____ PAGE _____, WHICH IS KNOWN AS BLOCKS 11, 12, 13 & 14 OF THE ROSEDALE ADDITION TO THE CITY OF HELENA, MONTANA.

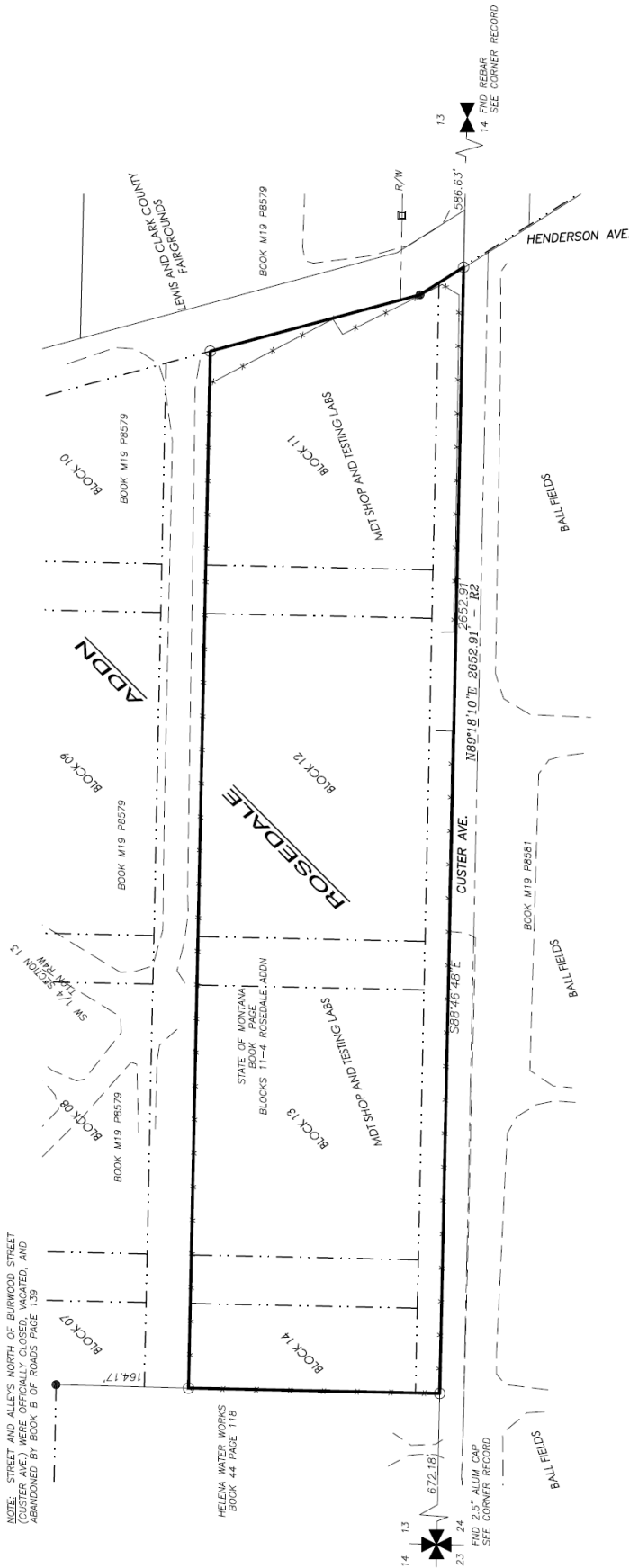
SW 1/4 SECTION 13 T10N R4W, P.M., M. LEWIS AND CLARK COUNTY, MONTANA

LEGAL DESCRIPTION - DEED BOOK _____ PAGE _____
A TRACT OF LAND SITUATED IN THE SOUTHWEST 1/4 OF SECTION 13, T10N R4W, P.M., M. LEWIS AND CLARK COUNTY, MONTANA, BEING A PART OF THE ROSEDALE ADDITION TO THE CITY OF HELENA, MONTANA, AS SHOWN ON THE RECORDS OF LEWIS AND CLARK COUNTY, MONTANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT

STATE OF MONTANA
DEED BOOK _____ PAGE _____
BLOCKS 11-14

TO THE POINT OF BEGINNING, CONTAINING 0.000 SQ. FT. OF LAND, (0.000 ACRES) MORE OR LESS, ALL ACCORDING TO THE ATTACHED DRAWING WHICH IS HEREWITH INCORPORATED IN AND MADE A PART OF THIS LEGAL DESCRIPTION AND IS SUBJECT TO ALL RIGHTS OF WAY PERTINENT TO THIS TRACT.

NOTE: STREET AND ALLEYS NORTH OF BURWOOD STREET (CUSTER AVE.) WERE OFFICIALLY CLOSED, VACATED, AND ABANDONED BY BOOK B OF ROADS PAGE 139

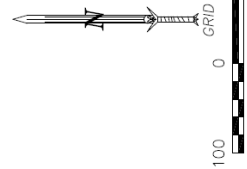


LEGEND:

- FOUND 1 1/4" YPC "2376ES"
- FOUND 4"x4" CONC RIGHT OF WAY MONUMENT
- SET 5/8" X 24" REBAR WITH 2" ALUMINUM CAP MARKED "STARK 12249LS"
- FENCE LINE
- CALCULATED LOT LINES
- RIGHT OF WAY LINE
- R1 RECORD DIM PER DEED OR COS
- R2 RECORD DIM PER CORNER RECORDS

CERTIFICATE OF COUNTY TREASURER:
PROPERTY THAT PURSUANT TO §76-3-207(3) OF MCA, THAT ALL REAL PROPERTY TAXES AND SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE LAND DESCRIBED AND ENCOMPASSED ON THIS SURVEY HAVE BEEN PAID.
MOT GEO CODE: EXEMPT

DATED _____, 2012 _____ LEWIS AND CLARK COUNTY TREASURER
CERTIFICATE OF EXAMINING LAND SURVEYOR
REVIEWED FOR ERRORS AND OMISSIONS IN CALCULATIONS AND DRAFTING
THIS _____ DAY OF _____, 2012
PURSUANT TO §76-3-611(2)(g), MCA
EXAMINING LAND SURVEYOR
REG. NO. _____



(SCALE IN FEET)
BASIS OF BEARINGS:
GPS SURVEY MONTANA STATE PLANE COORDINATE
GRID BEARINGS, GROUND DISTANCES
0± = -1°52'07"

CERTIFICATE OF EXEMPTIONS:
EXEMPTION (1): THIS SURVEY IS FILED IN ACCORDANCE WITH THE PROVISIONS OF §76-3-404(1)(g), MCA, TO WIT, "PROVIDES MATERIAL EVIDENCE NOT APPEARING ON ANY MAP FILED WITH THE COUNTY CLERK AND RECORDER OR CONTAINED IN THE RECORDS OF THE UNITED STATES BUREAU OF LAND MANAGEMENT."
NOTE 1: THE PURPOSE OF THIS CERTIFICATE OF SURVEY IS TO RETRACE AN EXISTING DEED DESCRIPTION. NO DIVISIONS CREATED BY THIS SURVEY SHALL BE SUBJECT TO ACCURACY, ENCUMBRANCES, COVENANTS OR ANY OTHER EVIDENCE OR FACTS THAT A SURVEYOR HAS REASON TO BELIEVE ARE NOT SHOWN HEREON. ALL IMPROVEMENTS SHOWN HEREON ARE FOR INFORMATIONAL USE ONLY.

CERTIFICATE OF PROFESSIONAL LAND SURVEYOR:
I, _____, A LICENSED LAND SURVEYOR IN THE STATE OF MONTANA, DO HEREBY CERTIFY THAT I HAVE PERFORMED THE SURVEY AS SHOWN ON THE ATTACHED CERTIFICATE OF SURVEY, DURING THE SUMMER OF 2012 AND THAT THE MONUMENTS, EITHER FOUND OR SET, ARE AS SHOWN.

THOMAS E. STARK _____ DATE _____
MONTANA REG. NO. 12249LS

CERTIFICATE OF SURVEY NO. _____
STATE OF MONTANA

PURPOSE: DEED RETRACEMENT
REQUESTED BY LEWIS AND CLARK COUNTY

1/4	SEC.	T.	R.
13	10N	4W	

Printed Herein, Montana
Lewis and Clark County

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