

CITY OF BILLINGS

**CITY OF BILLINGS MISSION STATEMENT:
TO DELIVER COST EFFECTIVE PUBLIC SERVICES
THAT ENHANCE OUR COMMUNITY'S QUALITY OF LIFE**

AGENDA

COUNCIL CHAMBERS

March 14, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley

PLEDGE OF ALLEGIANCE-- Mayor Tooley

INVOCATION – Councilmember Vince Ruegamer

ROLL CALL

MINUTES – February 28, 2005

COURTESIES – Police Dept., Par 3 Golf Course, Finance

PROCLAMATIONS – Mayor Tooley.

BOARD & COMMISSION REPORTS – Downtown Billings Partnership

ADMINISTRATOR REPORTS – Kristoff Bauer

LEGISLATIVE REPORT – Kristoff Bauer

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

CONSENT AGENDA:

1. A. Mayor's Appointments:

	Name	Board/Commission	Term	
			Begins	Ends

1.		Zoning Commission	01/01/05	12/31/07
2.		Community Development Board	01/01/05	12/31/08

Recommendation to be made at meeting.

[\(Corresponding Staff Memo A\)](#)

B. Bid Awards:

(1) Willett Reservoir Painting. (Opened 3/1/05). Recommend delaying award to 3/28/05.

[\(Corresponding Staff Memo B1\)](#)

(2) SID 1365 – Lake Heights Drive Extension. (Opened 3/1/05). Recommend Empire Sand & Gravel, \$167,844.00.

[\(Corresponding Staff Memo B2\)](#)

(3) Rimrock West Park – SID 1366. (Opened 3/8/05). Recommendation to be made at meeting .

[\(Corresponding Staff Memo B3\)](#)

(4) One New Current Model 2005 800 KW Skid-Mounted Diesel Generator Set and a 2,000 Gallon Above-Ground Storage Tank with 250-Gallon Base-Mounted Diesel Day Tank. (Opened 2/22/05; Delayed from 2/28/05). Recommend delaying award to 3/28/05.

[\(Corresponding Staff Memo B4\)](#)

C. W.O. 04-35: South Billings Blvd & Midland Rd, Professional Services Contract for Signal Design and Construction Administration, Engineering, Inc., \$63,710.00.

[\(Corresponding Staff Memo C\)](#)

D. Municipal Water and Wastewater Facilities Master Plan, Professional Services Contract to update the 1995 Municipal Water and Wastewater Facilities Master Plan, HDR Engineering, Inc., \$525,000.00.

[\(Corresponding Staff Memo D\)](#)

E. Acceptance of Storm Drainage Easement from Susan B. Lovely and Laure Taylor Inc. and termination of existing Temporary Drain Easement for Lots 9, 10, 20, Block 63, Lakes Hills Subdivision, 25th Filing.

[\(Corresponding Staff Memo E\)](#)

F. Additions to 2005 CIP:

(1) ENGT0501: Traffic Signal at intersection of Monad Rd and 32nd St. W. -- \$115,000

(2) ENGD0501: Calico Ave. Storm Drain improvements -- \$50,000
[\(Corresponding Staff Memo F\)](#)

G. Resolution adopting the *Athletic Field Use Policy*.
[\(Corresponding Staff Memo G\)](#)

H. Resolution authorizing interest earnings in excess of bank maintenance costs and a \$1.00 surcharge to be used to defray Court Administration costs.
[\(Corresponding Staff Memo H\)](#)

I. Water/Wastewater Rate Adjustment: revising the public hearing date to 4/11/05.
[\(Corresponding Staff Memo I\)](#)

J. Establishing two (2) new bank accounts for Municipal Court to be used in conjunction with the implementation of the new Montana Supreme Court Full Court software.

[\(Corresponding Staff Memo J\)](#)

K. Downtown Billings Association (DBA) Annual Street closure requests:

(1) *Food Fairs* (Last Wednesday of the month: May – August): 2nd Ave. N from N. 29th to N. 28th Sts.

(2) *Alive After 5*, Casey's (July 7): N. 28th St. from 2nd to 3rd Ave. N

(3) *Alive After 5*, Hooligan's (July 28): N. 28th St. from 1st to 2nd Ave. N.

(4) *Alive After 5*, Montana Brewing Company (August 18): N. 28th St. from 1st to 2nd Ave. N.

(5) *Alive After 5*, Monte Carlo Casino (July 14): N. 29th St. between Montana Ave. and 1st Ave. N.

(6) *Alive After 5*, CTA Architects (July 21): N 23rd St. between Montana Ave. and 1st Ave. N.

(7) *Alive After 5*, Hospitality Concepts (August 11): N. 29th St. between Montana Ave. and 1st Ave. N.

(8) *Alive After 5*, Carlin/McCormick's Café (August 25): N. 25th St. between Montana Ave. and 1st Ave. N.

(9) *Strawberry Festival* (June 11): N. 28th St. from 1st to 3rd Aves. N.; 2nd Ave. N from alley east of N 27th to N. 29th Sts.; N 29th St. from 1st Ave. N to 2nd Ave. N.

(10) *Farmer's Market* (every Saturday from July 16 – October 1): N. 28th St. from 1st Ave. N to 3rd Ave. N; 2nd Ave. N. from the alley east of N. 27th to N. 29th Sts.; N. 29th St. from 1st Ave. N to 2nd Ave. N.

(11) *Farmer's Market* (every Wednesday night from August 3 – September 7): N. 28th St. from 1st. to 3rd Aves N. (traffic diverted left only onto 1st Ave

N.); 2nd Ave. N from alley east of N. 27th St. to N. 29th St. (traffic diverted left only onto N. 29th St), N 29th St. from 1st to 2nd Aves N. (traffic diverted left only onto 1st Ave. N).

(12) *Big Skyfest Parade* (July 28): established downtown parade route.

(13) *Montana State Chili Cook-Off* (September 17): N. 28th St. from 1st Ave. N to 3rd Ave. N. (traffic will not be allowed to turn south on N. Broadway from 3rd Ave. N); 2nd Ave. N. from the alley east of N. 27th St. to N. 29th (traffic diverted left only onto N. 29th St.)

(14) *Harvestfest*: (October 8): N. 28th St. from 1st Ave. N to 2nd Ave. N; 2nd Ave. N. from alley east of N. 27th to N. 29th Sts.

(15) *Holiday Parade* (November 25): established downtown parade route.

(16) *Christmas Stroll* (December 2): N. 28th St. from 1st Ave. N to 3rd Ave. N. (traffic diverted left only onto 1st Ave. N); 2nd Ave. N. from the alley east of N. 27th St. to N. 29th St. (traffic diverted left only onto N. 29th St.)

[\(Corresponding Staff Memo K\)](#)

L. W.O. 04-12: Alkali Creek Road Improvements: Resolution of Intent to construct special sidewalk improvements and setting a public hearing date for 4/11/05.

[\(Corresponding Staff Memo L\)](#)

M. Contract for Professional Consulting Services for a due process investigation, Lou Reiter, Legal and Liability Risk Management Institute, and Public Agency Training Council, not to exceed \$15,000.00 for services and not to exceed \$4,500.00 in expenses.

[\(Corresponding Staff Memo M\)](#)

N. Preliminary Plat of Cottonwood Grove Subdivision, 2nd Filing, generally located on the west side of 54th St. West just north of Grand Avenue, conditionally approve preliminary plat, accept findings of fact and approve variances.

[\(Corresponding Staff Memo N\)](#)

O. Preliminary Plat of Amended Lot 4, Block 10, Parkland West Subdivision, 6th Filing, generally located on the west side of South 32nd St. West, midway between Central Ave and Banff Ave, conditionally approve the preliminary plat, variances and adopt findings of fact.

[\(Corresponding Staff Memo O\)](#)

P. Preliminary Plat of ZooMontana Subdivision, generally located on the west side of Shiloh Rd, south of Zoo Dr., conditionally approve the preliminary plat, adopt findings of fact and approve the variances.

[\(Corresponding Staff Memo P\)](#)

Q. Final Plat of Arnold Subdivision, 2nd Filing, Amended Lot 2, Block 6.

[\(Corresponding Staff Memo Q\)](#)

R. Final Plat of Stardust Acres Subdivision, Amended Lot 4, Block 1.
[\(Corresponding Staff Memo R\)](#)

S. Final Plat of Olive Glen Subdivision, Amended Lot 1, Block 1
[\(Corresponding Staff Memo S\)](#)

T. Bills and Payroll.

(1) February 11, 2005
[\(Corresponding Staff Memo T1\)](#)

(2) February 18, 2005
[\(Corresponding Staff Memo T2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** approving budget amendments for the second quarter of FY 2004/2005 for the General Fund, SID Arbitrage Fund and Arterial Street Fund. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 2\)](#)

3. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

COUNCIL INITIATIVES

ADJOURN

A



**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, MARCH 14, 2005**

SUBJECT: Boards & Commissions –Appointments

DEPARTMENT: City Administrator's Office

PRESENTED BY: wynnette Maddox, Administration

PROBLEM/ISSUE STATEMENT: Confirmation of appointments for Boards and Commission positions that are vacated due to resignations.

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tooley recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Zoning Commission	01/01/05	12/31/07
2.		Community Development Board	01/01/05	12/31/08

1* Unexpired term of David Gelder

2* Unexpired term of Aldo Rowe

Approved By: City Administrator City Attorney

Attachment

[\(Back to Consent Agenda\)](#)

B1

AGENDA ITEM: B1



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Bid Award – Willett Reservoir Painting

DEPARTMENT: Public Works

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: Willett Reservoir is a 3.25 million gallon above-ground steel reservoir located at 9th Street West and Avenue C. This reservoir is used during the high demand summer season and removed from service in the winter. The reservoir's twenty year old interior and exterior coatings are in very poor condition and require replacement. Recoating this reservoir was approved in the FY 2005 Capital Improvement Plan. This project was bid in two schedules, Schedule I – Interior Coating and Schedule II – Exterior Coating.

FINANCIAL IMPACT: The project was budgeted in FY 2005 in the Water Construction Fund. The bids shown in the following table were opened on March 1, 2005 and are being evaluated.

Bidder	Schedule I	Schedule II	Total
Coatings Unlimited, Inc.	\$230,920	\$398,290	\$629,210
Maguire Iron, Inc.	\$186,404	\$276,043	\$462,447
Abhe & Svoboda	\$439,444	\$340,725	\$780,169
Hartman Walsh	\$278,250	\$378,000	\$656,250
The Gateway Company	\$234,254	\$279,768	\$514,022
Engineer's Estimate	\$236,736	\$297,913	\$534,649

RECOMMENDATION

Staff recommends that Council delay award of the Willett Reservoir Repainting Project until its meeting on March 28, 2005 to allow time for a complete evaluation of the bids received for this project.

Approved By: _____ **City Administrator** _____ **City Attorney** _____
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B2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 14, 2005

TITLE: SID 1365 – Lake Heights Drive Construction Contract Award

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: On April 12, 2004, City Council approved SID 1365. The public improvements contemplated under the terms of this project include water, sanitary sewer, curb and gutter, and street improvements to portions of Lake Heights Drive within Lake Hills Subdivision. Bids were received for SID 1365 on March 1, 2005.

FINANCIAL IMPACT: The information and cost for the proposed Special Improvement District is as follows, additional funding will be utilized for landscaping improvements:

Project Number	SID 1365
Budget Amount and Sources of Funds	
Cash Contribution: Lovely, Taylor, & Judd	\$ 167,005.73
Special Improvement District Bonds	<u>46,000.00</u>
Total Available Budget	<u>\$ 213,005.73</u>
Total Estimated Project Cost (Including Construction Administration)	<u>\$ 205,545.51</u>
Balance of Estimated Remaining Funds	\$ 7,460.22

Bid Tabulation: Engineer's Estimate \$170,689.45

Empire Sand & Gravel	\$167,844.00
H.L. Ostermiller	\$170,779.68
Chief Construction	\$181,078.50

RECOMMENDATION

Staff recommends that Council award a construction contract for SID 1365 to Empire Sand &

Gravel in the amount of \$167,844.00.

ATTACHMENTS

A. SID 1365 – Bid Tabulation (2 Pages)

[\(Back to Consent Agenda\)](#)

B3



FROM THE DESK OF . . .

Don Kearney.
Parks, Recreation & Public Lands Director
390 N. 23rd Street
Billings, MT 59101
(406) 657-8369 FAX (406) 247-8641
Email: kearneyd@ci.billings.mt.us

MEMORANDUM

To: **Honorable Mayor and City Council**
Kristoff Bauer, City Administrator
Tina Volek, Assistant City Administrator

Date: Monday, March 07, 2005

Subject: Rimrock West SID Bid Opening

CC: File

Bids will be received on the Rimrock West Park and Storm Water SID on Tuesday, March 8, 2005.

The results of the bids will be included in your Friday packet. We anticipate awarding the bid at your March 14th council meeting, barring any circumstances that may arise that would necessitate the delay of the bid award

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B4

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Award for Backup Diesel Generator at Wastewater Treatment Plant

DEPARTMENT: Public Works

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT:

In order to provide a more reliable source of backup power to the wastewater treatment plant a backup diesel powered generator will be permanently installed at the plant. Bids were received on February 22, 2005. The bid submitted contained an irregularity that needs to be addressed by the legal department before a final recommendation can be made.

RECOMMENDATION

Staff recommends that Council postpone action on this item until March 28, 2005.

Approved By: **City Administrator** **City Attorney**

[\(Back to Consent Agenda\)](#)

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Work Order 04-35 – Contract for Professional Services: South Billings Blvd & Midland Rd – Signal Design and Construction Administration

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The construction of a traffic signal at the intersection of South Billings Boulevard and Midland Road is to be completed using City, State, and Federal funds. This project requires contracting for professional engineering design and construction administration services. Engineering Division staff has negotiated a contract with Engineering, Inc., the firm selected through an RFP process, to provide the required services.

FINANCIAL IMPACT: The financial participation for the improvements will be financed in part with Federal Funds. The matching fund percentages will be 86.58% Federal STPU Program funds and 13.42% State funds for construction. The Federal share in the costs will not exceed 86.58% of the low bid, up to a maximum of \$180,000. The City will pay all costs, and the State will reimburse the City 86.58% of federal-aid eligible project costs and the applicable 13.42% of required federal-aid match. The City is responsible for 100% of all costs associated with the project that are not reimbursed by the federal government, including costs for design and construction administration services as follows:

<i>CIP Number</i>	Eng33
<i>Budget Amount for Current Fiscal Year</i>	
Gas Tax Funds	\$ 63,810.00
<i>Previous Encumbrances</i>	\$ 0.00
<i>Encumbrances from this Council Memorandum</i>	<u>\$ 63,710.00</u>
<i>Budget Fund Balance after this Council Memorandum</i>	\$ 100.00

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Engineering, Inc. for time and materials not to exceed \$63,710.00.

Approved By: **City Administrator** **City Attorney**

ATTACHMENTS

A. Appendix B – Basic Services of Engineer (9 Pages)

INTRODUCTION

The City of Billings and Montana Department of Transportation (MDT) have signed a Project Development and Construction Agreement for the completion of an Urban System project, titled SIGNAL – S. Billings Blvd & Midland Rd – Billings. The City is responsible for developing the project, including engineering analysis, public involvement, design, environmental documentation, clearances, plans preparation, acquisition of all appropriate permits, and the provision of other services required to complete the preconstruction and right-of-way phases of the project.

PROCEDURAL HISTORY

- October 21, 28, and November 4, 2004 – Request for Proposals advertisement
- November 16, 2004 – Proposals for professional services received by Engineering Division
- December 10, 2004 – Selection committee meeting
- March 14, 2005 – Contract for Professional Services Award

BACKGROUND

This project will construct a new traffic signal at the intersection of Midland Road and South Billings Boulevard. The scope of work includes the design and construction administration of a traffic signal as detailed in the “Project Development and Construction Agreement” entered into between the City of Billings and the State of Montana. The project will require coordination with city officials, and representatives from the Montana Department of Transportation and Federal Highway Administration.

ALTERNATIVES ANALYSIS

The Engineering Division prepared a request for proposals to provide design and construction administration services for the proposed traffic signal at South Billings Boulevard and Midland Road. The Engineering Division received a single proposal from Engineering, Inc.

Engineering, Inc. was selected by the committee to provide the engineering services for South Billings Boulevard and Midland Road – Signal Design and Construction Administration. Engineering Division staff then initiated negotiations with Engineering, Inc. for a Contract for Professional Services. Staff is recommending that Council approve the contract that has been prepared.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Engineering, Inc. for time and materials not to exceed \$63,710.00.

ATTACHMENTS

A. Appendix B – Basic Services of Engineer (9 Pages)

Appendix B

Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and bi-weekly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen

by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project, the Task Director designated for the Engineer is Michael Sanderson, P.E., P.T.O.E.

Section 2. Billings Rights and Duties.

- A. Billings is responsible for assuring compatibility of the proposed project with the area's local transportation plan/process and local land use plan.
- B. Billings will draft and provide an environmental document for this project in an electronic format. This document will be submitted by Billings to the State for approval. Billings acknowledges that the environmental/NEPA process must be completed and approvals obtained prior to initiation of final design.
- C. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- D. To prepare and cause to be published an advertisement for construction bids meeting the requirements of Sections 7-1-4127 and 7-5-4302 of the Montana Code Annotated.
- E. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is H. Terry Smith, P.E., City Traffic Engineer.

Section 3. Scope of Work.

The Engineer shall perform the work outlined within this agreement that includes the completion of design as well as construction administration and inspection services for installation of a traffic signal at the intersection of South Billings Boulevard and Midland Road. Completion of said services shall include the following tasks:

- A. Design Standards.
 1. Design of the project is to be done in metric English units to MDT's urban standards and to serve design-year traffic. Specific project geometrics (including ADA requirements) and detailed design will be in accordance with the MDT geometric Design Standards (AASHTO) and MDT Road Design Manual.
 2. All design shall be created on a CADD system using the MDT's current version of Geopak and Microstation software. No conversions or translations will be allowed.

3. MDT's guidelines for level assignments in CADD will be utilized. All information on the plans will be placed on the assigned levels. Production of the Roadway and Right-of-Way plans will follow the State's standard CADD operations procedure. All material generated on the CADD system is required with the final submittal.

B. Preliminary Services (30% Design).

1. City of Billings Work Order 02-23 identified two (2) future 12-inch sanitary sewer force mains crossing South Frontage Road in the area of the intersection. These mains were proposed to extend south along South Billings Boulevard east of the existing edge of asphalt. Coordination with the design of the proposed sanitary sewer force mains will be required.
2. Conduct Preliminary Field Review (PFR) with Billings and MDT staff to determine major design features, project-related issues, and any potential problems, insuring that the signal design considers all operational aspects relative to safety and efficiency throughout the signal's design life.
3. Prepare PFR Report, which documents the findings from the PFR.
4. Prepare and publicize a news release explaining the project, including points of contact for both the Engineer and Billings.
5. Geotechnical evaluations are not included in the Scope of Work.
6. Assemble existing data for the intersection, including as-builts and historic traffic counts.
7. Collect traffic data for determination of 85th-percentile approach speeds, vehicle classifications, pedestrian/bicycle volumes, current turning movement volumes, and crash history. Conduct turning movement traffic and pedestrian/bicyclist counts at the design intersection for both A.M. and P.M. peak periods (generally 2-hour periods).
8. Complete a traffic analysis for 10 and 20-year projected traffic volumes at the intersection to be used in the design.
9. Perform intersection capacity analysis of the intersection. Identify any existing or potential operational problems that may impact the operation of the intersection and recommend any changes to reduce those impacts.
10. ~~Perform a corridor signal analysis to determine immediate needs for coordination of the three existing upstream signals and the proposed signal. Develop a proposed implementation plan for coordination of the signals if determined to be necessary.~~

11. Prepare a formal traffic signal warrant study in MDT format.
12. Provide surveying services for establishing project centerlines, extending topographic surveys to the north, updating utility locations, measuring overhead utility clearances, and gathering additional survey information within the project limits as may be required.
13. ~~Research property ownership within the project limits to update and supplement existing records.~~
14. Prepare preliminary plan/profile sheets for the project. As appropriate for the project, the plan and profile sheets may include:
 - a. all topographical data from the field survey;
 - b. all relevant existing on-the-ground survey information;
 - c. plan views of underground utilities;
 - d. in profile view, crossing elevations of underground utilities;
 - e. existing centerline elevations; and
 - f. ADA curb ramp location and orientation as well as any other design features for disabled access.
15. Prepare a Scope of Work Report that includes, as appropriate, the following topic areas, in order:
 - a. Proposed Scope of Work;
 - b. Project Location and Limits;
 - c. Physical Characteristics;
 - d. Traffic Data;
 - e. Crash History;
 - f. Major Design Features;
 - g. Design Exceptions;
 - h. Right-of-Way;
 - i. Utilities;
 - j. Environmental Considerations;
 - k. Other Projects;
 - l. Traffic Control;
 - m. Public Involvement;
 - n. Cost Estimate; and
 - o. Ready Date.

16. MDT review and/or approval of the Scope of Work Report will be required.
17. Following receipt of written review comments from Billings and MDT, facilitate a review meeting, as required, with Billings staff to discuss review comments on these Preliminary Services.

C. Preliminary Design Services (70% Design).

1. Prepare detailed road design plans that will include, at a minimum, the following:
 - a. the necessary details on the title sheet;
 - b. a traffic control plan that is sufficient to protect and perpetuate vehicular, bicycle, and pedestrian traffic flow through the construction site;
 - c. details for ADA curb ramp location and orientation as well as any other design features for disabled access; and
 - d. special provisions for road design items, as necessary.
2. Prepare detailed traffic engineering design plans. These will include:
 - a. type of traffic controller;
 - b. traffic detectors;
 - c. signal hardware and placement;
 - d. detailed electrical design;
 - e. phasing and timing for the traffic signal operation;
 - f. detailed design for roadway lighting; and
 - g. selection and location of permanent signs and pavement markings.
3. Prepare specifications and cost estimate. The estimate will include a complete breakdown of work and quantities by funding source.
4. Schedule and conduct a Plan-In-Hand (PIH) review of the project with appropriate Billings and MDT staff.
5. Prepare a PIH Report to document all significant decisions made during the PIH Review.
6. MDT review and/or approval of the 70% design and PIH Report will be required.

D. Final Design Services (95% & Final Design).

1. Prepare 95% review drawings, specifications, and cost estimates.
2. MDT approval of the 95% design will be required.

3. Following receipt of written review comments from Billings and MDT, facilitate a 95% design review meeting, as required, with Billings staff to discuss review comments on the 95% documents.
4. Prepare final project plans, specifications, and cost estimates ready for construction. The plans and specifications for construction of the project will be in accordance with the applicable MDT accepted highway design standards and specifications.

E. Required Submittals.

1. Preliminary Services (30% Design).

a. PFR Report.

Seven (7) copies of the report shall be submitted to the MDT Project Monitor. Two (2) copies of the report shall be submitted to Billings.

b. Traffic Signal Warrant Study.

One (1) copy of the study shall be submitted to the MDT Project Monitor. Two (2) copies of the study shall be submitted to Billings.

c. Scope of Work Report.

Seven (7) copies of the report shall be submitted to the MDT Project Monitor. Two (2) copies of the report shall be submitted to Billings.

2. Preliminary Design Services (70% Design).

a. PIH Review.

Provide to the MDT Project Monitor and Billings a complete PS&E package of a sufficient number for review based on proposed attendees.

b. PIH Report

Seven (7) copies of the report shall be submitted to the MDT Project Monitor. Two (2) copies of the report shall be submitted to Billings.

3. Final Design Services (95% & Final Design).

a. 95% PS&E Package.

i. Seven (7) sets of hard copies accompanied by a disk containing the appropriate GeoPak and Microstation computer files for the plan information of a complete PS&E package shall be submitted to the MDT Project Monitor.

ii. Three (3) sets of hard copies of a complete PS&E package shall be submitted to Billings.

b. Final PS&E Package.

- i. One (1) hard copy accompanied by a disk containing the appropriate GeoPak and Microstation computer files for the plan and specification information of a complete PS&E package shall be submitted to the MDT Project Monitor.
- ii. One (1) hard copy accompanied by a disk containing the appropriate computer files for the plan and specification (Microsoft Word format, *.doc) information of a complete PS&E package shall be submitted to Billings.
- iii. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge for the design.

F. Bidding Services.

1. Prepare and furnish full size (24x36-inch) plans and specifications in sufficient number for bidding purposes.
2. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge for the design.
3. Schedule and hold a pre-bid conference.
4. Prepare any required addenda to plans and specifications. Addenda shall be approved by Billings and MDT.
5. Attend construction bid opening.
6. Analyze bid proposals and make a recommendation on awarding a construction contract for the proposed work based upon the lowest responsive bid submitted by a responsible bidder as set forth in the specifications and final plans.
7. Prepare and provide to Billings a bid tabulation and recommendation package that includes a recommendation on award, bid tabulation sheet, and bid proposal sheets.

G. Construction Services.

1. Prepare and provide to Billings and the successful contractor for the project a notice of award and notice to proceed.
2. Schedule and hold a pre-construction conference.
3. Notify Billings and MDT before the work is started. The Engineer recognizes that all work is subject to FHWA, MDT, and Billings inspection and approval at any time.
4. Construction Layout and Control.
 - a. Provide personnel, equipment, and supplies for construction layout and control. Construction layout shall include, but not be limited to,

measurements, lines, locations, and grades necessary for construction.

- b. Reference and preserve all existing survey monuments and benchmarks. All monuments installed with the project shall be punched and elevations shown on as-built drawings.

H. Inspection and Testing.

1. Coordinate appropriate testing of materials intended for incorporation into the project and require documentation of testing results.
2. Provide general review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes, or standards. Review of work shall be made on a full-time basis while any major item of work is in progress. Major items of work shall be water, sanitary sewer, storm drain, and irrigation utilities; subgrade preparation; gravel base course preparation; concrete pouring and finishing; paving; signalization, lighting, and striping. The Engineer shall provide a minimum of **48** hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
3. Provide the services of a Western Alliance for Quality Transportation Construction (WAQTC) certified or equivalent certified inspectors to sample and test all materials incorporated into the project to insure they meet specification requirements. Labs must also be certified in accordance with MDT procedures. Provide direct coordination of laboratory and field quality assurance testing and geotechnical engineering between the project engineer, field inspector, and a project construction materials engineer. Geotechnical and materials engineering shall include interpretation and recommendations for the Engineer and Billings based upon field observation.
4. The Engineer shall record the location of all underground utilities (including, but not limited to, conduit for all street lighting, signalization, or flasher assemblies) installed under and on the surface within the public right-of-way and show these facilities, together with a representation of the general corridors in which other underground utilities are located, on the record drawings.

I. Submittal Review and Document Preparation.

1. Review the construction operations and the traffic controls for construction, prior to the start of work. Engineer shall ascertain that the

Contractor has all needed permits to accomplish his work during construction.

2. Check shop drawings, samples, equipment, asphaltic concrete mix design, concrete mix design, aggregate, and other data submitted by the Contractor for compliance with drawings and specifications.
3. Prepare change orders that do not require additional engineering design or inspection. The Engineer will obtain prior written approval from Billings and MDT for all changes in specifications, addition of work, and significant changes in quantities.
4. Prepare monthly pay estimates and final pay estimates for construction and prepare contract administration forms on a monthly basis. These will be submitted in Billings approved format. The pay estimates shall include the actual bid item quantities and shall be broken down by funding source.
5. Issue notice to the Contractor to suspend work in whole or in part when, in the opinion of the Engineer, work is not being, or cannot be performed in accordance with the contract documents and specifications.
6. Contact Billings for any proposed plan or specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept. Plan and specification changes shall be prepared by the design engineer. The Engineer will obtain prior written approval from Billings and MDT for all changes in design.
7. Prepare and recommend work change directives and change orders when necessary due to conditions encountered during construction. The Engineer is not authorized to order additional work without the approval of Billings' Task Director. Any work resulting in contract overages will be processed by approved change orders using Billings standard forms.

J. Final Services.

1. Prepare record drawings and furnish Billings with one (1) paper set for review and comment.
2. Following receipt of review comments from Billings, make necessary changes and furnish Billings with a sepia and two (2) paper prints of any sheet involving traffic control devices, signals, signing or striping, and utilities plans. Furnish Billings and MDT each with one (1) set of reproducible mylars and one (1) electronic set of record drawings.
 - a. Record drawings to show offset distances from centerline of rights-of-way to all public storm drains, water mains, and sanitary sewers installed with this project.

- b. Also shown will be any invert elevations for manholes, structures, and connections thereto installed with this project. Elevations shall be shown at each street or right-of-way crossing plus any additional locations requested by the City Engineer or authorized representative.
 - c. All above elevations shall be referenced to a permanent benchmark elevation – clearly shown on the plans.
 - d. Record drawings and traffic control submissions are due within 60 days of Contractor's final payment and before final payment to the Engineer.
- 3. Provide one (1) bound copy each (may include multiple volumes) of a project manual through final completion to Billings and MDT within 90 days of final project acceptance. At a minimum, the project manual shall include: project specifications and contract documents, pay estimates, correspondence, any change orders, Contractor submittals, test reports, daily inspection reports, public involvement plan and documentation, and other appropriate project records and documentation as determined by Billings.
- 4. Schedule and make final inspection with Billings and certify to Billings all construction items were constructed according to plans and specifications and are acceptable to the Engineer.
- 5. Schedule and make an inspection with Billings prior to the expiration of the construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to Billings and Contractor and continue until acceptable.
- 6. For a period of three years after the certification of final acceptance furnished pursuant to the preceding paragraph, respond to requests and answer complaints for information concerning engineering aspects of the project, and provide engineering designs and plans if necessary to correct any design deficiencies.

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D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Professional Services Contract – Municipal Water and Wastewater Facilities Master Plan

DEPARTMENT: Public Works Department

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT:

Recent annexations and the Planning Department's growth area map require an update to the 1995 Municipal Water and Wastewater Facilities Master Plan. This update will be a comprehensive analysis of the City's municipal water supply, water treatment and distribution system, and wastewater treatment and sewer collection systems. The scope will integrate the comprehensive analysis with projected growth and development patterns through a minimum planning period of 2020.

ALTERNATIVES ANALYZED:

- Award the Contract for Professional Services
- Do not award the Contract for Professional Services

If the Master Plan update is not conducted, or it is postponed, it may compromise planning efforts to identify needed capital improvement projects, bonding requirements, and purchasing of property to effectively address future demand and growth.

FINANCIAL IMPACT:

The total cost for professional engineering services is \$525,000.00. The source of funding is from the Water and Wastewater Operating Funds, Water Construction Fund, and Replacement and Depreciation Funds. The Master Plan was approved in the 2004/2005 CIP.

RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to execute a Professional Services Contract with HDR Engineering, Inc. for \$525,000.00 to update the 1995 Municipal Water and Wastewater Facilities Master Plan.

Approved By: City Administrator _____ City Attorney _____

INTRODUCTION

Recent annexations and the Planning Department's growth area map require an update to the 1995 Municipal Water and Wastewater Facilities Master Plan. This update will be a comprehensive analysis of the City's municipal water supply, water treatment and distribution system, and wastewater treatment and sewer collection systems. The scope will integrate the comprehensive analysis with projected growth and development patterns through a minimum planning period of 2020.

The project will define and project needed capital improvements, perform hydraulic analysis and modeling, investigate water quality and disinfection parameters, investigate alternative sludge disposal, and perform a site evaluation for a satellite water treatment plant.

PROCEDURAL HISTORY

- Request for Proposals was advertised on September 16, 23, and 30, 2004.
- Three proposals were received and evaluated October 22, 2004.
- The Selection Committee comprised of Ramona Mattix, City-County Planning, Boris Krizek, P.E., PWD Environmental Engineer, Scott Emerick, P.E., Distribution & Collection Superintendent, Susan Stanley, Wastewater Treatment Superintendent, and Robert Butcher, Chief Chemist, reviewed proposals and selected HDR Engineering, Inc. on November 12, 2004.

BACKGROUND

The last water and wastewater facilities plan was completed in 1995, and at that time, the western limit of the growth area was Shiloh Road. Recent annexations, such as Briarwood, Rehberg Ranch, and the Ironwood Subdivision, and the recently adopted annexation growth area map have significantly exceeded the growth area boundary identified in the 1995 facilities plan. Other factors prompting the facilities plan update are the impact of the water adjudication process, the forthcoming MPDES permit for the wastewater plant, new EPA water quality parameters and monitoring, the need for a comprehensive model of the water distribution and sewer collection systems, and to forecast the needs of the CIP and future rate adjustments.

In addition, the scope of the contract will move toward accomplishment of the FY 2004/05 City Council goals. Goal #3 is to "use innovative development strategy to facilitate orderly growth," and Goal #5 is to "determine the necessary investment to ensure the quality operation of the water and wastewater systems."

ALTERNATIVES ANALYSIS

- Award the Contract for Professional Services

The study will be a valuable tool designed to be utilized by staff, developers, and City Council for determining the future needs of the City's water and wastewater infrastructure. City Engineering Division staff does not have the expertise and manpower resources required to adequately address the scope of this project.

- **Not award the Contract for Professional Services**

If the Contract for Professional Services is not approved, or the study is postponed, it may compromise planning efforts to identify needed capital improvement projects, bonding requirements, and purchasing of property to effectively address future demand and growth.

RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to execute a Professional Services Contract with HDR Engineering, Inc. for \$525,000.00 to update the 1995 Municipal Water and Wastewater Facilities Master Plan.

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E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Acceptance of Storm Drainage Easement and Termination of existing
Temporary Drain Easement

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The City Council is being asked to terminate the existing
Temporary Drain Easement recorded December 18, 2004 and to accept the permanent Storm
Drainage Easement for lots 9, 10, and 20, Block 63, of Lake Hills Subdivision Twenty-fifth
Filing, in Yellowstone County, Montana.

FINANCIAL IMPACT: There is no financial impact associated with the termination of the
existing Temporary Storm Drain Easement and acceptance of the permanent Storm Drainage
Easement.

RECOMMENDATION

Staff recommends that the City Council terminate the existing Temporary Drain Easement and
accept the permanent Storm Drainage Easement.

Approved By: **City Administrator** **City Attorney**

ATTACHMENTS

A. Location of Easement

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F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Requested Additions to 2005 CIP (Traffic Signal at Monad & 32nd Street West and Storm Drainage Improvements on Calico Avenue)

DEPARTMENT: Public Works/Engineering

PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: The Engineering Division is recommending that two new projects be included in the 2005 CIP for installation of a traffic signal at the intersection of Monad Road and 32nd Street West and storm drain improvements to Calico Drive in Billings Heights.

FINANCIAL IMPACT: Funding information and cost for the CIP additions are as follows:

ENGT0501	Traffic Signal	\$115,000	Funded by Arterial Fee
ENGD0501	Calico Storm	\$ 50,000	Funded by Storm Water Fund

RECOMMENDATION

Staff recommends that Council approve the additions to the 2005 CIP for a traffic signal at the intersection of Monad Road and 32nd Street West and storm drain improvements on Calico Avenue.

Approved By: **City Administrator** _____ **City Attorney** _____

INTRODUCTION

Increased traffic flow upon completion of Phase II of the Arlene Corridor Project and extensive development currently taking place at Central Avenue and 32nd Street West have created the need for a traffic signal at the intersection of 32nd Street West and Monad Road.

Heavy rain events in past years have identified a serious storm water and erosion trouble spot on Calico Avenue in the Heights that must be addressed in the very near future.

BACKGROUND

The second phase of the Arlene Corridor Arterial Project will extend 32nd Street West from Grand Avenue to Broadwater Avenue. These improvements, as well as the extensive development currently underway at Central Avenue and 32nd Street West, will seriously impact the volume of traffic entering the intersection of 32nd Street West and Monad Road. This intersection is currently controlled with a four-way stop. The traffic signal will alleviate the current congestion at the intersection and accommodate the anticipated increase in traffic.

Capacity issues with an existing storm drain system on Calico Avenue in Billings Heights cause storm water to overtop the curb and drain over adjacent private property. Severe erosion issues are prevalent from the curb overtopping, even during minor storm events. It is proposed to install landscaping improvements that could consist of large rocks, detention pools, and vegetation for mitigation.

RECOMMENDATION

Staff recommends that Council approve the additions to the 2005 CIP for a traffic signal at the intersection of Monad Road and 32nd Street West and storm drain improvements on Calico Avenue.

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G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: ATHLETIC FIELD USE POLICY

DEPARTMENT: PARKS, RECREATION & PUBLIC LANDS

PRESENTED BY: DON KEARNEY, PRPL DIRECTOR
JOE FEDIN, SUPT. OF RECREATION

PROBLEM/ISSUE STATEMENT: Each year new requests are made from athletic organizations for use of city owned fields, and development of new field areas has not kept pace with the demand. In order to accommodate these needs, the PRPL Department has had to review existing use of fields and in many cases initiate schedules for field sharing to maximize use of existing facilities. Many long term users have developed the fields they use and have added expensive amenities to enhance the facility. Because of this, there is sometimes a great reluctance to "share" the field with other users, especially if there is no cost sharing, poor communication between the groups, or a perceived notion of competition from the new organization to draw away players.

ALTERNATIVES ANALYZED:

1. Establish "primary users" for field areas and accommodate new requests whenever possible to maximize use of existing fields. (Recommended)
2. Institute a "charge back" system whereas the city undertakes all maintenance of fields and assesses a maintenance fee payable in advance to all users. This may reduce new usage requests, but is not practical or feasible with our current maintenance staff.
3. Do nothing different – this will not resolve the annual conflicts and problems.
4. Budget for and develop additional field space to accommodate increasing needs.
5. Develop a totally new approach to use permitting; maintenance responsibilities; and cost allocation.

FINANCIAL IMPACT: Based on existing use, this policy will generate approximately \$2,600 in new revenue. The current fee is set at \$25/park/season for all users.

RECOMMENDATION The Parks, Recreation and Cemetery Board recommends that Council adopt the attached Athletic Field Use Policy.

ATTACHMENTS A. Proposed Athletic Field Use Policy Resolution (2 pages)
B. 2004 Field Use Listing (2 pages)

INTRODUCTION

Annually, demand for athletic field use is increasing and the proposed Athletic Field Use Policy will establish protocol to enable the PRPL Department to maximize the use of existing field areas prior to or rather than seeking ways to fund and develop new field areas.

PROCEDURAL HISTORY

- **Summer 2003/2004** – Efforts to have the teams work together on field use proved unsuccessful.
- **January 12, 2005** - The problem of field use requests and field sharing was reviewed and discussed by the PRC Board. The Board directed staff to prepare an Athletic Field Use Policy to address these problems and submit it at the regular February meeting.
- **February 9, 2005** - Staff presented a proposed Athletic Field Use Policy to the PRC Board. The Board made several recommendations for changes including the fee schedule; the ability of a primary user to increase field use if justified; and the right to designate a new primary user if use declines. The amended policy was approved by the PRC Board and is being recommended to the Council for approval.

BACKGROUND

There are many factors which come into play regarding this problem of field sharing and possible solutions, some of which are:

- There are new organizations looking for fields each year and no new fields are being built.
- Long time users develop a strong sense of ownership for fields because of improvements made, money invested and sweat equity.
- There is an unwillingness to share fields with other organizations when fields aren't fully utilized. Thus, maximized use is not being obtained on these expensive-to-build and maintain facilities.
- Different programs or organizations have different expectations for fields in terms of the level of maintenance improvements.
- There are many different sized fields and for some age groups the field numbers are limited.
- There is an increase in the “traveling” type of programs and their needs require sporadic scheduling.

- Coordination or communication between groups historically has not been good. Each group seems to have its own interests in mind and interaction many times is confrontational.
- All amenities built on park property become City property. This occasionally gets forgotten by user groups.
- Cost sharing by users with different levels of field expectations.

The basic requirements for an athletic field are shown below with a list of extra amenities that are often added to enhance the facility, but not required to play games.

<u>BASIC FIELD</u>	<u>EXTRA AMENITIES</u>
Field Area	Scoreboard
Turf Care/Mowing	Bleachers
Irrigation	Dugouts
Infield Maintenance/Game Prep.	Concession Stand
Fencing	PA System
Backstop	Equipment Storage Lockers
Bases	Batting/Pitching Cages

All groups need at least the basic field to conduct baseball or softball at the facility. Many groups also develop extra amenities to enhance the quality of their programs. All of the amenities must be approved by the Park Dept. before being built so that they meet minimum standards for the improvement. Once built, any permanent improvement becomes the property of the City of Billings. The extra amenities provided by a group basically benefit that group's use. Although they are sometimes shared with alternate users, most are not required for a game to take place by another organization. Construction of such amenities by human nature enhances the feeling of ownership, but in public parks alternate usage cannot be denied if the facility is not being fully utilized. Financially, it is more feasible to maximize use of existing facilities as opposed to the costs for developing new facilities and their associated ongoing annual maintenance costs once built.

Currently the Park Dept. irrigates and mows all ball fields in the park system (without any chargeback of costs – except for additional weekly mowings). There are some organizations that reimburse the Park Dept. for daily prepping infields for games that evening (Stewart Park), but most do their own infield work.

ALTERNATIVES ANALYSIS

1. **DESIGNATE PRIMARY USERS** – designate major or long term users of the facility. Allow them to share extra amenities if a written mutual agreement is enacted by the users. City continues scheduling by use permits, with verification of need to maximize field use. This is the recommended option.
2. **CHARGE BACK SYSTEM** – have the city provide total field maintenance for the “basic field” for all groups and charge back the costs to users with fees paid in advance. This might reduce the new requests for field usage because many new groups expect the fields to be provided at no or little cost because they are public. It is not very practical or feasible with our current maintenance staff and budget.
3. **DO NOTHING DIFFERENT** – continue to schedule use by permits and try to work new groups into existing fields where it appears use of the facility is not maximized. Try to encourage cooperative use and help organizations negotiate differences. This option is not recommended due to existing problems which are recurring annually.
4. **DEVELOP ADDITIONAL FIELDS** – Budget for and develop additional field space to accommodate ever increasing demands. This is expensive not only for development, but for on-going annual maintenance costs. It should be considered once all existing field use is fully scheduled and demand is not being met.
5. **DEVELOP TOTALLY NEW APPROACH** - institute a new plan which designates who is responsible for maintenance, either us, them or a shared plan. It also must address how the costs are to be assessed and collected from the users and by whom, and who will maintain the responsibility for the overall scheduling of the public facility. Due to the many variables in needs of the various users, this approach may result in limited success in solving the problem.

STAKEHOLDERS

The organizations which will be impacted by this policy are listed on Attachment B which shows last year's field usage. We are also aware of several new organizations wanting field use this year for baseball and football. Since the Little League organization utilizes the majority of fields, they will be most affected by the permit fees and requests by secondary users.

Merle Peifer, the District Administrator for the Little League organization, was in attendance at the February meeting of the PRC Board when the policy proposal was approved by the Board. He has indicated that he supports the policy as approved. Although it does raise the cost of permits, it also gives assurances that his organization will not have to relinquish field use if it is justified. Although sharing has not previously been customary, he understands the need to maximize use of existing public fields versus building new ones for every new organization that comes along.

There may be some new or “secondary users” who will not be entirely satisfied with this policy mainly due to not having their “own field” or inconvenience of scheduled field use. Practicing or playing games on different fields in different parks in perhaps different sections of the city to be accommodated won’t be necessarily popular or convenient, but is the best alternative to building additional fields until existing ones are used to the maximum.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This policy is consistent with the Use Permit Policy which has been used for many years. It basically provides further clarification of how field use will be permitted and why sharing of facilities are essential when demand is increasing relative to the inventory of fields available.

SUMMARY

This proposed policy attempts to treat both new and previous user organizations fairly and resolve some longstanding issues over “field ownership”.

RECOMMENDATION

The Parks, Recreation and Cemetery Board recommends that Council adopt the attached Athletic Field Use Policy.

ATTACHMENTS

- A. Proposed Athletic Field Use Policy Resolution (2 pages)
- B. 2004 Field Use Listing (2 pages)

ATTACHMENT A

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BILLINGS ESTABLISHING A FEE
TO BE CHARGED FOR ATHLETIC FIELD USE PERMITS; AN
ATHLETIC FIELD USE POLICY; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, The City of Billings provides certain services to the public through the Department of Parks, Recreation, and Public Lands; and

WHEREAS, It is in the best interest of the citizens of the City of Billings that the City provides said services and that the City Council establish a fee for said services;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

The Athletic Field Use Policy shall be used to govern the issuance of city park use permits relating to athletic field usage requests. The intent of the policy is to maximize the use of existing city athletic field space and provide guidelines for the organizations using the facilities.

1. The fee for all use permits for city athletic field use shall be \$50.00/field/contiguous season for primary users, and \$25.00/field/contiguous season for secondary users.
2. When additional new requests for a specific size/type of field exceed the field resources available, the inventory for that size/type field will be examined by the PRPL staff for maximum use (Game schedules/# of teams). If field use is not at maximum (7 days/week), new user requests will be scheduled by PRPL staff to maximize usage. In order to accommodate new users, they may be scheduled in any area of the city using multiple fields rather than scheduling everything at one field to minimize the impact on existing users. If all fields are being used to the maximum, new applicants will be instructed that no fields are available rather than making existing users give up field time to accommodate their needs. At this point PRPL will work to try to develop additional fields to meet the community needs.
3. Existing users will be designated as “primary users” of the field since in most cases they have used the field long term and have been responsible for most field improvements including extra amenities. New users, or “secondary users”, shall be in charge of providing their own necessary equipment, supplies and infield maintenance for game preparation. Fields shall always be left in a playable condition by either user group when their event concludes. This shall include policing the area for litter and restoring the infield area to the condition it was prior to the event.

4. Basic ball field amenities, if available, such as bleachers or dugouts can be used by all groups. Special amenities provided by the “primary user”, such as concessions stands; PA systems; electronic scoreboards; etc. may only be used by “secondary users” when a written mutual agreement is established between the two groups. Any costs contained in such agreements such as for repairs, loss, and usage must be reviewed and approved by PRPL staff prior to implementation. Whenever possible, any costs involved should be paid in advance.
5. User groups are encouraged to mutually share costs, based on percentage of field use time, for field improvements beyond normal daily field maintenance (such as fertilization; aeration; or any other extra amenities), but are not required to do so. Each user may have different needs or levels of expectations, and if shared costs cannot be agreed upon, the provider in proceeding to do so must realize that their organization is still benefiting from any improvements that they do regardless of other users.
6. If a long time primary user’s program declines to the point where their usage requirement is less than half of the field’s available usage time, a new primary user may be designated based on overall needs as shown by # of teams; game schedules; years of use; etc.
7. If a field is shared to maximum use and the primary user’s needs increase, additional usage will be granted to the primary user and PRPL staff will work to accommodate the secondary user’s needs elsewhere in the field inventory if available.

Term of Fees. Said fees shall continue in full force and effect until changed by the City Council by subsequent resolution.

PASSED by the Billings City Council and APPROVED this _____ day of
_____, 2005.

CITY OF BILLINGS

BY: _____
Charles F. Tooley Mayor

Attachment B

LITTLE LEAGUE FIELD USE

<u>Little League</u>	<u>Park</u>	<u>Fields</u>
Big Sky LL	Rose	42,43,44,45
	Veterans	68,69
Boulder/Arrowhead LL	Boulder	2,3,4
	Country Manor	71
Burlington LL	Burlington	5,6,7
	Centennial	11,12,13,14,15
	Central	16
Central Giants LL	Millice	28
	Central	17,18,19
	Sacajawea	48,49,50
	Stewart	60,62,63,64
Heights National LL	Terry	66,67
	Arrowhead	1
	Castlerock	8,9,10
Riverside LL	Clevenger	20,21,22
	Optimist	31,32,33,34
	South	51,53

Attachment B

BASEBALL FIELD USE

<u>Organization</u>	<u>Park</u>	<u>Fields</u>
American Legion	Stewart	61
Babe Ruth	Central	16
YMCA`	Rose	43,45

SOFTBALL FIELD USE

<u>Organization</u>	<u>Park</u>	<u>Fields</u>
Big Sky State Games	North	29
	Poly Vista	all fields
	Stewart	all fields
Magic City Fastpitch	North	29
YMCA	North	29
	Rose	46,47
	South	52
Central Catholic High School	Stewart	64

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H

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Approve the Resolution Authorizing Interest Earnings In Excess of Bank Maintenance Costs and \$1.00 Surcharge to be Used to Defray Court Administrative Costs

DEPARTMENT: Municipal Court, Administration-Finance Division

PRESENTED BY: Mary Jane Knisely, Municipal Court Judge; Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: New accounts will be established for Municipal Court. The attached resolution authorizes the interest from these accounts to first be applied to offset monthly account maintenance costs. Any interest earnings remaining will be used to defray court administrative costs. In addition, the Court currently collects a \$25.00 surcharge on certain offenses pursuant to M.C.A. 46-18-236 (1)(c). The attached resolution also authorizes \$1.00 of this \$25.00 surcharge be applied to court administrative costs.

RECOMMENDATION

Staff recommends that Council approve the attached resolution on March 14, 2005.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT

A – Resolution

Attachment A

RESOLUTION 05-

A RESOLUTION TO DEDICATE INTEREST EARNINGS IN EXCESS OF BANK MAINTENANCE COSTS ON MUNICIPAL COURT'S BANK ACCOUNT AND \$1 SURCHARGE COLLECTED PURSUANT TO 46-18-236 (1) (c) TO DEFRAY COURT ADMINISTRATIVE COSTS PURSUANT TO M.C.A. 3-1-120 AND M.C.A. 46-18-236 (7) (b) RESPECTIVELY.

WHEREAS, M.C.A. 3-1-120 authorizes the Municipal Court to retain interest earned for the purpose of defraying administrative costs of the court.

WHEREAS, M.C.A. 46-18-236 (7)(b) establishes that the city finance officer shall deposit \$1.00 of each of the \$25.00 surcharges collected under M.C.A. 46-18-236 (1)(c) in the Municipal Court fund to defray administrative costs.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

That pursuant to M.C.A. 3-1-120, the interest earnings in excess of bank maintenance costs on municipal court's bank account will be used to defray court administrative costs.

That \$1 of each charge collected under M.C.A. 46-18-236 (1)(c) shall be deposited in the Municipal Court fund to defray administrative costs.

PASSED AND APPROVED by the City Council, this 14th day of March, 2005.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley, MAYOR

ATTEST:

BY: _____
Marita Herold, CMCC CITY CLERK

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Water/Wastewater Rate Adjustment – Revised Public Hearing Date

DEPARTMENT: Public Works

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The water and wastewater rates are no longer adequate to fund ongoing operation and maintenance costs and planned capital improvements. A rate study is currently underway to determine the amount of the rate adjustments that will be necessary to provide adequate revenue. To comply with the statutory rate adjustment process, the Council must follow the procedure as shown on the attached Schedule of Events with the first step being to designate a public hearing date for April 11, 2005. At the February 14 meeting the Council set a public hearing date of March 28, 2005. However, the schedule has changed since that time so the previous public hearing date needs to be rescheduled. Staff will provide the Council with detailed information regarding the rate adjustments prior to the public hearing.

FINANCIAL IMPACT: There is no financial impact associated with the action of setting a public hearing date.

RECOMMENDATION

Staff recommends that Council designate a revised public hearing date of April 11, 2005 for the purpose of receiving public input on the proposed adjustment of the water and wastewater rates.

Approved By: **City Administrator** **City Attorney**

ATTACHMENTS

Attachment A Schedule of Events

SCHEDULE OF EVENTS

ADOPTION OF WATER AND WASTEWATER RATES ON MUNICIPAL UTILITY CUSTOMERS

<u>DATE OF EVENT</u>	<u>EVENT</u>
1. February 7, 2005 – Monday	Council Work Session – Wastewater
2. March 7, 2005 – Monday	Council Work Session – Water
3. March 14, 2005 - Monday	City Council to designate date, time and location of Public Hearing. (6:30 p.m., 4/11/05)
4. March 14, 2005 – Monday	Public Works Department to begin mailing of utility bills with notice of hearing, etc.
5. March 21, 2005 – Monday	Publish 1 st Notice of Public Hearing in newspaper.
6. March 28, 2005 – Monday	Publish 2 nd Notice of Public Hearing in newspaper.
7. April 4, 2005 – Monday	Final day for mailing notices with utility bills.
8. April 4, 2005 – Monday	Publish 3 rd and final Notice of Public Hearing in newspaper.
9. April 11, 2005 – Monday	Public Hearing at 6:30 p.m. in the Council Chambers at City Hall.
10. April 25, 2005 – Monday	City Council's decision to be filed with City Clerk.
11. May 5, 2005 – Thursday	City Council's decision concerning rates is final. File new rates with Montana Public Service Commission.

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Establishing Two New Bank Accounts for Municipal Court

DEPARTMENT: Municipal Court
Administration-Finance Division

PRESENTED BY: Judge Knisley, Municipal Court Judge
Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Municipal Court is in the process of implementing new software, Full Court, and it will be used to issue restitution and bond refund payments to recipients and a monthly payment to the City of Billings for collections other than those items. The City will then make payments to various agencies for fees and surcharges and record the fines and other revenue items.

Two bank accounts will be opened for Billings Municipal Court. One account will be established for deposits only. The other account will be used for disbursements as mentioned above.

The funds will be transferred from the depository account at least once a month to the disbursement account for court's payments.

RECOMMENDATION

Staff recommends that Council approve establishing two new bank accounts for Municipal Court.

Approved By: **City Administrator** _____ **City Attorney** _____

[\(Back to Consent Agenda\)](#)

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: Downtown Billings Association (DBA) Street Closures

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Don Kearney, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The DBA requests temporary street closures for their annual events as outlined in the attached document. These annual events are following the same basic outline as in previous years.

Recommended conditions of approval include, DBA:

1. Contacting all businesses and making them aware of the event 60 days in advance
2. Cleaning the area to be used and providing and emptying waste cans after the event
3. Notifying all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Providing a certificate of insurance naming the City of Billings as additional insured
5. Obtaining proper alcohol and noise permits from the Police Department for events that require them after consultation with the Police Department.

ALTERNATIVES ANALYZED:

1. Approve request to close streets for the events (recommended).
2. Deny the street closures.

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit (\$30.00). Police, traffic control and litter removal are to be paid for the DBA.

RECOMMENDATION

Staff recommends that Council approve the closures as outlined in the attached document.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENTS

- A. Letter from DBA outlining events (4 pages)
- B. Certificate of insurance (3 pages)

[\(Back to Consent Agenda\)](#)



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14, 2005

TITLE: W.O. 04-12 Alkali Creek Road Improvements, Sidewalk Assessments

DEPARTMENT: Public Works - Engineering

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Alkali Creek Road project entails street improvements, storm drainage, water and sewer mains, a multi-use path, sidewalk, and curb & gutter improvements. These improvements will enhance the efficacy of the traveling public along this arterial street, maintain the rural character of the road along the east-west section, and enhance accessibility for students attending Alkali Creek School. Sidewalk assessments for missing public improvements have been included from the project's inception. In order to establish these sidewalk assessments, Council must pass a Resolution of Intent to construct these improvements and establish a Public Hearing to solicit public input and discussion.

FINANCIAL IMPACT: Sidewalk assessments for this project are an integral part of the entire project's budget that has already been authorized in the Capital Improvement Plan (CIP). The funding information for this project is as follows:

CIP Project ENG 104 (Alkali Creek Road Improvements)

	<u>FY 2005</u>	<u>FY 2006</u>
Gas Tax	\$200,000	\$ 50,000
CTEP	\$290,000	- 0 -
G.O. Bond	\$750,000	- 0 -
Storm Drain	\$ 97,381	\$150,000
Sidewalk Assessments (This memo)	\$ 60,000	- 0 -
<u>Arterial Street Funds</u>	<u>- 0 -</u>	<u>\$650,000</u>
Total	\$1,397,381	\$850,000

RECOMMENDATION

Staff recommends that Council pass a Resolution of Intent to construct the sidewalk and related improvements identified in W.O. 04-12 Alkali Creek Road Improvements, and establish a Public Hearing date of April 11, 2005.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT

A. W.O. 04-12 – Alkali Creek Road, Sidewalk Assessments Resolution of Intent

INTRODUCTION

The Alkali Creek Road project entails street improvements, storm drainage, water and sewer mains, a multi-use path, sidewalk, and curb & gutter improvements. These improvements will enhance the efficacy of the traveling public along this arterial street, maintain the rural character of the road along the east-west section, and enhance accessibility for students attending Alkali Creek School. Sidewalk assessments for missing public improvements for the north-south section of the street have been included from the project's inception. The proposed sidewalk assessments follow the SID Policy adopted by Council in 2004, as the missing public improvements (for properties physically addressed to Alkali Creek Road) will be assessed to adjoining property owners along the north-south stretch of Alkali Creek Road from Moon Valley Road to approximately Tumbleweed Drive. The City will fund the replacement of deteriorated sidewalks from project funds in order to make the pedestrian access route compliant with the Americans With Disabilities Act (ADA).

PROCEDURAL HISTORY

- Completed Items
 - General Obligation Bond Issue Passed by Voters – November 2003
 - Consultant selected – April 2004
 - 30% Design completed – August 2005
 - Public input meeting held – August 2004
 - Project update at Council Work Session – November 15, 2004
 - 70% Design completed – February 2005
 - Public open house held – March 10, 2005
 - Resolution of Intent – March 14, 2005 (This memo)
- Future Items
 - Notify affected property owners of proposed project – March 15, 2002
 - Public Hearing for proposed project – April 11, 2005
 - Resolution ordering the construction of the improvements – April 11, 2005
 - Bid advertisement and bid award – May 2005
 - Construction begins – June 2005

BACKGROUND

Alkali Creek Road from Airport Road to Senators Boulevard is projected to carry up to 10,000 vehicles per day by 2010. A reconstructed street section is necessary to meet future travel demands. The project will also include storm drainage, water and sewer mains, a multi-use path, sidewalk, and curb & gutter improvements. Street improvements will enhance the safety of the traveling public along this main arterial street, maintain the rural character of the road along the east-west section, and enhance accessibility for students attending Alkali Creek School.

The proposed improvements to be assessed to adjoining property owners consist of the construction of sidewalks, drive approaches, curb & gutter, and related appurtenances along the west side of Alkali Creek Road from Moon Valley Road (South) to Tumbleweed Drive (South), and along the east side of Alkali Creek Road between Moccasin Trail (North) and Moccasin Trail (South). Repair and replacement of the existing pedestrian walking surface is also included in this project. This proposed sidewalk assessment follows the City's SID Policy for Arterial Streets adopted by the Council in 2004.

With passage of the Resolution of Intent, staff will notify each property owner within the proposed project area. This notice will include a detailed listing of the proposed work fronting each property, the estimated direct property assessment, and the date, time and place of the Public Hearing. If Council orders the improvements after the Public Hearing, property owners will receive a 30-day notice to complete the improvements prior to this project.

The average estimated assessment (including administrative fees) for the proposed project is \$1,667, the median assessment is \$1,449, the highest assessment is \$7,152, and the lowest assessment is \$0.00. The total estimated assessed cost of the missing sidewalks is approximately \$30,000, including all administrative fees.

STAKEHOLDERS

There are two groups affected by the proposed project. The first group is the public-at-large, which would benefit from construction of the improvements. The second group is the property owners within the proposed project area, who would benefit directly from construction of the improvements, but who would also receive direct property assessments for the construction costs.

A public input meeting for this project was held on August 17, 2004, at the Alkali Creek School. Staff did not receive any written negative comments concerning sidewalk assessments from the Comment Cards filled out by attendees of that meeting.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

In 2004, Council adopted the Arterial Street SID Policy to address the issue of assessments for missing sidewalks and other public improvements along arterial streets in the community. The proposed sidewalk assessments follow this SID Policy in that missing public improvements will be assessed to adjoining property owners as Alkali Creek Road is classified as an arterial street.

RECOMMENDATION

Staff recommends that Council pass a Resolution of Intent to construct the sidewalk and related improvements identified in W.O. 04-12 Alkali Creek Road Improvements, and establish a Public Hearing date of April 11, 2005.

ATTACHMENT

A. W.O. 04-12 – Alkali Creek Road, Sidewalk Assessments Resolution of Intent

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 05-_____, entitled: "**A RESOLUTION RELATING TO W.O. 04-12, ALKALI CREEK ROAD, SIDEWALK ASSESSMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND**" (the "Resolution"), on file in the original records of the City Council of the City at a meeting on March 14, 2005, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: _____

Voted against the same: _____
Abstained from voting thereon: _____
or were absent: _____

WITNESS my hand officially this 14th day of March, 2005.

Marita Herold, CMC/AAE

CITY CLERK

RESOLUTION NO. 05- _____

A RESOLUTION RELATING TO W.O. 04-12, ALKALI CREEK ROAD, SIDEWALK ASSESSMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$30,000.00, as described below:

Construction Costs (w/contingencies)	\$60,305.00
City Contribution (Repair of existing improvements)	(\$37,015.00)
Costs to Be Assessed to Property Owners	\$23,290.00
Engineering & Administration (12.5%)	\$ 3,750.00
Bond Revolving Fund (5%)	\$ 1,500.00
Bond Discount and Legal Costs (3.7%)	\$ 1,110.00
Roundoff	\$ 350.00
TOTAL ASSESSED COSTS	\$30,000.00

Estimated unit costs for construction only, not including engineering, legal, administrative and bond costs as follows:

<u>Construction Items:</u>	<u>Unit Price:</u>
Remove Concrete Flatwork	\$10.00/sq. yd.
Remove Concrete Curb & Gutter	\$ 6.00/lin. ft.
Concrete Saw Cut	\$ 6.00/lin. ft.
New Sidewalk	\$ 5.00/sq. ft.

New Curb and Gutter	\$12.00/lin. ft.
New Drive Approach	\$ 7.00/sq. ft.

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. **ASSESSMENT OF COSTS.** All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "C", assessments will be levied against 18 separate lots, parcels, or tracts. Of the 18 separate parcels, the City's contribution will pay the entire estimated assessment for five (5) parcels.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The estimated costs, for construction only, for a typical lot requiring construction for new sidewalk, appurtenant structures and alley approaches, are \$1,294. The average total assessment, including engineering, administrative, and bond costs is estimated to be

\$1,667, with a high of \$7,152, low of \$0.00, and a median of \$1,449.

5. **PERIOD OF ASSESSMENT.** The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. **PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS.** In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.
7. **METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS.** The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$30,000 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

- (a) **Estimated Market Value of Parcels.** The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$1,927,508. The average market value is \$111,582, with a high of \$178,700, a low of \$22,640, and median value of \$111,000. The special assessments to be levied against each lot,

parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.

- (b) Diversity of Property Ownership. For the 18 total lots, parcels, or tracts in the Project, there are 18 separate owners. All parcels are under separate individual ownership. Given the diversity of ownership, it is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.
- (c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, no parcels have SID's levied against them.

As noted in Section 4, the estimated average assessment levied by this project will be \$1,667. With an average market value of \$111,582, and an average yearly principal payment of \$139 (monthly principal of \$11.60), the amount of assessment versus the value of the property would appear to be acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "C".

- (d) Delinquencies. For tax years 1999-2004, no parcels were delinquent. This represents a 100% collection rate within the project area. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

- (e) The Public Benefit of the Improvements. The subject sections of City streets are identified as being on an arterial street. The main purpose of these improvements is to provide a safe, accessible walking surface and area for pedestrians walking along the arterial street. Under current City policy, 100% of the costs of the new sidewalk construction costs, and drive approach construction costs shall be borne by the adjoining property owners. City funding sources will fund the repair costs of deteriorated sidewalk, drive approaches and curb and gutter; street restoration, and other appurtenant features. The funding sources for the City contribution to this project include gas tax and general obligation bonds.

8. REIMBURSEMENT EXPENDITURES.

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception

from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimis” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.
- (c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$30,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.
- (d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.
- (e) Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

9. PUBLIC HEARING. On Monday, April 11, at 6:30 p.m., in the Council Chambers located on the Second Floor of City Hall, 210 North 27th Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on March 17 and March 24, 2005, in the form and manner prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 14th day of March 2005.

CITY OF BILLINGS:

BY: _____
Charles F. Tooley MAYOR

ATTEST:

Marita Herold, CMC/AAE CITY CLERK

RE: WO 02-14 - Alkali Creek Road, Sidewalk Assessments

(Back to Consent Agenda)

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14th, 2005

TITLE: Professional Consulting Services Contract – Lou Reiter, Legal and Liability Risk Management Institute, Public Agency Training Council

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Assistant City Administrator

PROBLEM/ISSUE STATEMENT: Lou Reiter, Legal and Liability Risk Management Institute, Public Agency Council, has been retained to conduct an investigation in preparation for a due process hearing regarding the Chief of Police. The City Council and City Administrator have agreed that it is appropriate for the City Council to approve and authorize the Mayor to execute the contract.

FINANCIAL IMPACT: The contract is capped at \$15,000 in fees and \$4,500 in expenses.

ALTERNATIVES AVAILABLE:

- Approve the contract and authorize the Mayor to sign it;
- Amend the contract;
- Do not approve the contract, delaying the decision after Mr. Reiter's scheduled starting date of March 24, 2005.

RECOMMENDATION

Staff recommends that Council approve and authorize the Mayor to sign the contract.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT:

A: Basic Services of Contractor and Scope of Work
B: Resume of Lou Reiter
C: Schedule of Professional Fees

Appendix A

Basic Services of Contractor and Scope of Work

Section 4. Scope of Work.

The Contractor will complete a due process investigation in preparation for a due process hearing regarding subject employee. The due process investigation will include review of applicable policies and procedures, interviews of key personnel, and other actions contractor deems appropriate to establish factual basis to evaluate the following:

The Scope of work shall concentrate upon four main areas:

Insubordination:

Insubordination for the purpose of this investigation is defined as “actions that undermine the administration’s ability to manage the organization.”

Internal Investigations/Complaint Response:

The key issue here is an allegation of negligent failure to investigate known instances of potential misconduct at a minimum to the extreme of organized and willful efforts to suppress complaints and minimize any potential perception of wrongdoing.

Communication:

This issue has two dimensions, that is the quality of communications and communication choices or tactics that support a culture of insubordination, isolation, and/or suppression.

Management/Decision Making:

The competency that should be investigated here is the ability or inability to consistently make and sustain difficult and/or potentially controversial management decisions.

B. Each of these four areas of concern shall include investigation as to specific instances and general perceptions of each person interviewed during the investigation.

Additionally, the Contractor shall coordinate activities with Cal Stacy, a legal consultant hired by the City to consolidate and manage the due process investigation.

Section 5. Deliverables.

Contractor will present investigative findings in a final report consisting of:

1. an executive summary
2. key findings of fact relating to each investigative area
3. recommendations for further actions
4. appendices with supporting evidence

Section 6. Timing.

Contractor will commence investigation no later than March 24, 2005, and will proceed with due diligence to complete the Scope Of Work thereafter.

LOU REITER...RESUME

LOU REITER & ASSOCIATES...58 smith avenue, greenville, rhode island 02828
401.949.6978...401.949.0298(fax)...401.226.1383(cell)...LREITER583@AOL.COM

POLICE CONSULTING EXPERIENCE

Lou Reiter has been the principal consultant with Lou Reiter & Associates since its inception in 1983. In that capacity he has been providing professional consulting to law enforcement agencies in three primary areas: (1) training, (2) agency audits and (3) litigation services.

TRAINING

Lou Reiter typically conducts 15-20 training seminars and programs each year involving approximately 1000 persons. These presentations range in time from 3 hours to five (5) days with the majority being a two (2) day seminar. Normally attended by police supervisors, managers, command personnel and litigation/risk management elements, these seminars involve police practitioners from federal, state, county and municipal law enforcement agencies.

The most common areas of presentation and instruction are:

- # Managing the Internal Affairs function, police discipline and the citizen complaint process.
- # Investigation of critical incidents - officer involved shootings, use of force, and pursuits/emergency responses.
- # Police discipline.
- # Use of force and deadly force issues.
- # Police pursuit/emergency response issues.
- # Investigative procedures and supervision.
- # Personnel practices.
- # Supervisory techniques.
- # Liability management.
- # Policy and procedure development.
- # Jail intake procedures.
- # Management effectiveness.

These training programs have been presented in the following states for police training academies, private training groups, public agencies, governmental entities and academic facilities:

California
Florida
Georgia

New York
Texas
South Carolina

Massachusetts
Rhode Island
Pennsylvania

Virginia
Maryland
Ohio

Indiana	Utah	Illinois	Connecticut
Wisconsin	Colorado	Oklahoma	District of Columbia
United Kingdom	Oregon	Louisiana	New Mexico
Minnesota	Washington	Mississippi	Michigan
Missouri	Hawaii	Tennessee	North Dakota
Arizona	Vermont	Alaska	Arkansas
Nevada	North Carolina	New Jersey	

LAW ENFORCEMENT AGENCY AUDITS

These types of agency audits take on many different forms. Some are designed to identify the strengths and weaknesses of the agency, make recommendations and present specific timetables for implementation. Others are specifically designed to evaluate the agency's liability potential, make recommendations and suggest implementation strategies. Some involve budgetary concerns and consideration of consolidation of police jurisdictions. Occasionally the purpose is to conduct an administrative investigation using external investigators due to sensitive or political potential conflicts of interest. Some are accreditation and re-accreditation on-site assessments for the Commission on Accreditation for Law Enforcement Agencies, Inc.

These audits are conducted either as a one-person unit or as a member of a larger team of police professionals, although not more than six (6) total. Most of these are through contracts with the affected governmental body. Some are through a litigation or risk management unit.

In 2001, Lou Reiter was appointed as the Federal Court Monitor for the consent decree in *Colln, et al., v. County of Ventura, et al.*, CV 97-8352, 98-3051 and 98-6092 LGB (Cwx), United States District Court, Central District of California.

Since 1996, Lou Reiter has acted as a consultant for the Special Litigation Section, Civil Rights Division, U.S. Department of Justice, in six (6) pattern and practices investigations concerning the cities of New York, New Orleans, Pittsburgh, Buffalo, Columbus, OH., and Charleston, WV. He has also worked with the cities of Cincinnati and Schenectady which were being investigated by this governmental agency.

Lou Reiter since 1983 has audited law enforcement agencies as small as three (3) persons to as large as 39,000 personnel. They have represented municipal, county and state entities. Normally, he conducts 3-5 of these audits each year. During these forms of audits, he rides with line officers and first level supervisors for nearly 100 or more hours for interviews and direct observation of field implementation.

The primary areas of focus during these audits are:

- # Citizen complaint procedures.
- # Discipline, internal affairs and early warning systems.
- # Personnel practices including selection, hiring, EEOC/AE, promotion, assignment and retention.
- # Specialized operations including traffic, investigations, narcotics, vice, intelligence, emergency response teams and unusual occurrence units.
- # Organizational structure and command responsibilities.
- # Police department governance.
- # Policy and procedures development.
- # Use of force policy and procedures.

- # Investigation of critical incidents.
- # Training and training documentation
- # Use of police resources
- # Support functions including communications, records and detention and holding facilities.

These types of agency audits have been conducted in the following states:

Florida	Pennsylvania	Illinois	New York
Georgia	North Carolina	Wisconsin	Rhode Island
Arizona	South Carolina	West Virginia	Washington
Colorado	Virginia	Louisiana	
Ohio	New Mexico	Tennessee	
Delaware	California	Texas	

LITIGATION SERVICES

Lou Reiter, since 1983, has been involved in over 850 law enforcement civil litigation cases and a few criminal matters. He has acted both as a consultant and testimonial expert witness. These have been in Federal and local courts. He has worked with plaintiff attorneys approximately 60 percent of the time and the remainder with defense units. He has also been employed in this area by insurance entities, risk management pools, local prosecutorial offices and the United States Department of Justice.

While there has been a wide range of specific law enforcement practices and procedures which have been involved in these cases, some of the more common issues addressed in case development and subsequent testimony have been:

- # Field procedures including tactics, arrest techniques and pursuits/emergency response driving.
- # Standards of police misconduct investigations.
- # Use of force and deadly force.
- # Supervision.
- # Investigative procedures, including warrant applications, informant control and use, and search warrant processes.
- # Jail intake procedures.
- # Police management.
- # Personnel practices, including hiring, retention, remediation, background investigations, use of professional counseling services and promotion/assignment.
- # Investigation of citizen complaints.
- # Employee discipline.
- # Police policy and procedures development.
- # Police training.

These litigation services have been in the following states and jurisdictions:

Florida	Louisiana	Illinois	Oregon
Georgia	California	Indiana	New Mexico
Alabama	Texas	Michigan	Arizona
Mississippi	Missouri	Iowa	Alaska

Hawaii	Virginia	Connecticut
Montana		Maine
Wyoming		New Hampshire
Colorado		Puerto Rico
Kansas		Rhode Island
Oklahoma		Washington
Texas		Wisconsin
Kentucky		Massachusetts
Tennessee	Maryland	Idaho
Minnesota	Pennsylvania	West Virginia
Ohio	New York	Nevada
South Carolina	New Jersey	f
North Carolina	Delaware	

PRIOR ACTIVE POLICE EXPERIENCE

Lou Reiter was a sworn member of the Los Angeles Police Department for 20 years between 1961-1981. He began as a police officer and retired as a Deputy Chief of Police. During that tenure he served in over 20 assignments. Some of those assignments included:

Promotion schedule.

#	1980	Deputy Chief of Police
#	1976	Commander
#	1974	Captain
#	1970	Lieutenant
#	1966	Sergeant
#	1961	Police Officer

Personnel and Training Bureau, Commanding Officer. As a Deputy Chief directed the operations of three (3) divisions and two (2) major sections, involving over 300 employees.

Responsible for all training, personnel management, recruitment and selection, employee-management relations and behavioral science services

Responsible for the successful implementation of the 1980 Consent Decree requiring increased hiring of females and minorities

Chairman of the Use of Force Review Board which adjudicated all officer-involved firearm discharges, serious injuries resulting from police action and in-custody deaths

Caused the initiation of a unique peer counseling program for employees and a transfer system for "burned out" employees from high activity areas and assignments.

Operations West Bureau Commanding Officer. Directed all police operations (patrol, traffic, investigations and vice/street narcotics) in the Western quadrant of the City with four (4) geographic stations and one (1) traffic division involving over 1400 employees.

Planning and Fiscal Bureau Commanding Officer. Directed the operations of five (5) divisions, involving over 400 employees.

Responsible for the \$310 million Police budget preparation and management
Automated systems
Planning and research
Communications
Guided the development of the Emergency Command Control Communications System, a multi-faceted computer based system financed by a \$40 million tax override
Provided on-going liaison with the City Council and directed efforts to develop local and state legislation

Uniformed Coordinator for Operations Central and Valley Bureaus. Each Bureau consisted of five (5) geographic stations, a traffic division, gang enforcement unit, and over 1600 employees. In addition to the overall coordination of patrol and uniformed operations, monitored and approved personnel complaint investigations, adjudications and discipline during this four (4) year assignment.

Coordinated the successful police efforts in the San Fernando Valley during the 1978 school desegregation
Directed the City-wide 500 person police reserve officer program
Department liaison to community alcoholism programs
Participant in the Physical Altercation and Tactics Committee
Regular member of the Fleet Safety Review Board and Shooting Review Panel.

Central Area Commanding Officer. For two (2) years commanded over 250 uniformed officers and detectives in the Los Angeles Central City (downtown) area.

Team policing. Selected to make preliminary preparations and then command a unique team policing experiment in Foothill Division in July, 1973 (this was similar to the current Community Oriented Policing concept). This consisted of a command of 57 employees including detectives and traffic officers to maintain 24-hour police service for this area. Crime went down in this area while it rose in adjacent areas.

Traffic assignments. Served as a uniformed traffic accident investigator throughout the City. Investigated 1200-1500 traffic accidents and arrested nearly 400 drunk drivers. Provided specialized enforcement and accident investigation on the City's freeway systems in specially equipped pursuit vehicles.

Patrol assignments. Was a uniformed patrol officer in three (3) geographic stations. Functioned as a plainclothes member of an anti-crime unit. As a sergeant was a field supervisor and later, as a lieutenant, was a uniformed watch commander.

Employee misconduct administration. Investigated cases alleging employee misconduct both as a field supervisor and member of Internal Affairs Division. As the Department Advocate, presented the agency case against employees during internal administrative hearings (Boards of Rights). Later, as a Lieutenant, acted as a defense representative for accused employees during these same hearings. Adjudicated investigations of police misconduct and served as a member of Boards of Rights on many occasions.

Other personnel related activities. Participant in the Physical Altercation and Tactics Committee, Fleet Safety Review Board and Shooting Review Board. In 1981, chaired the Police Productivity Workshop which presented recommendations for massive changes in operations to respond to budgetary restrictions imposed by the passage of Proposition 13.

Training commands and assignments. Commanded (1980-1981) the Personnel and Training Bureau which included the Police Academy and video training production unit. Implemented programs (1980-81) to assist in the achievement of court consent decree hiring of females/minorities and their successful

performance during the training aspect of their employment. Was the Assistant Commanding Officer of the Police Academy. Was the Officer-in-charge of the Human Relations Training Unit which covered such topics as community and cultural diversity, officer-partner relations, inter-personal communications, and handling the emotionally disturbed and mentally ill.

Staff researcher and author for the 1973 *Police Task Force Report of the National Advisory Commission on Criminal Justice Standards and Goals*. The report assisted agencies nationwide to update their operations and develop plans for future growth and strategies. The three (3) specific chapters researched authored by Lou Reiter were "Internal Discipline, Training and Management-Employee Relations."

Managing Unusual Occurrences. Member of the Department Field Command Post Cadre since its inception following the 1965 Watts Riots. Developed procedures for police operations during such incidents principally as a member of the Operations Section and later incident command functions. Participated in numerous actual unusual occurrence control operations as well as training exercises responding to natural and man-made incidents.

Volunteer police. Managed the LAPD 500 person Reserve Officer Corps. Developed revised training programs and an in-service training element. Created a unique expert advisory group within this volunteer corps specializing on the expertise of lawyers, doctors, statisticians, educators and other specialists. Implemented a 54 person Reserve Chaplain program. Lobbied for and supported State laws mandating strengthened training and selection requirements for volunteer elements of police agencies.

Community Relations and Crime Prevention. Community Relations lieutenant and Assistant Commanding Officer of Hollywood Division, directing the community mobilization and crime prevention efforts. Was the Officer in Charge of the Public Service and Crime Prevention Section, Public Affairs Division.

New Careers and Concentrated Employment Program. In 1967, initiated, implemented and administered this U.S. Department of Labor funded program which employed, trained and assigned disadvantaged, underemployed persons to police community relations and crime prevention programs. Ninety (90) percent were ex-convicts or former narcotics users.

Planning and Research. Researched and authored policy and procedure changes for the Department and incorporated them into the Department Manual.

ADDITIONAL INSTRUCTIONAL EXPERIENCE

During the years since 1971, Lou Reiter has been involved in continuous and varied aspects of training both within and outside the law enforcement field. Some of those not covered in the preceding sections are:

- # Faculty member for national level police management and specialized programs for organizations such as the Public Agency Training Council (Indianapolis), Americans for Effective Law Enforcement (Chicago), Institute for Police Technology and Management (Jacksonville, FL.), Police Foundation Executive Institute, Commission on Accreditation for Law Enforcement Agencies, National League of Cities, Law Enforcement Assistance Administration, academic institutions, local police academies, state police organizations and risk management/insurance pool groups.
- # Senior Consultant, Institute for Liability Management.
- # Faculty member, Criminal Justice Management Program, Florida Center for Public Management, Florida State University.
- # Certified Instructor, Law Enforcement Supervision/Management, Florida

Department of Law Enforcement.

- # Lifetime Vocational Training Certificate, Law Enforcement, California.
- # Developed and presented "Frontline Supervision," a police supervision program.

Elected to the Santa Clarita Community College Board of Trustees in 1975 and reelected in 1979. Served as Board President and acted on many local and State committees on education.

Past member:

- # Police Science Advisory Boards for Junior Colleges of Rio Hondo, El Segundo and Harbor City in the Los Angeles area.
- # Faculty member for graduate and undergraduate level courses at various universities and colleges.
- # Principal faculty member for the Management Development Program for the City of Los Angeles.
- # Trainer for Florida American Cancer Society's Volunteer Leadership Development Program.
- # California State University, Northridge, Advisory Committee on Teacher Education.
- # Advisory Committee on Clinical Rehabilitative Services Credential, Department of Communicative Disorders.

LAW ENFORCEMENT PROFESSIONAL ACTIVITIES

Since 1973, Lou Reiter has been involved in law enforcement professional activities and programs. Many of these were during his tenure with the LAPD. Other have been as a concerned public member and police consultant. Some of those include:

- # Assessor, Commission on Accreditation for Law Enforcement Agencies, Inc., (1985-), and has been assigned to both on-site audits for accreditation and re-accreditation. Re-certified as an assessor in 1999 at Montreal Conference and in 2002 at Cleveland.
- # American Society for Law Enforcement Trainers, member.
- # National Internal Affairs Investigator's Association, member and conference presenter.
- # National Center for Women and Policing, member.
- # Founding Member, Tallahassee Committee of Ninety-Nine and former member of Board of Directors (1982-1988) and Secretary (1984-1987). This organization was formed in 1981 and provided support to local law enforcement agencies for greater professionalization, underwriting local police training programs, purchasing police equipment and ensuring benefits to families of police officers.
- # Presenter and participant, 1982 and 1983 Florida Governor's Challenge Conference on Crime.
- # Chair, Public Safety Committee, 21st Century Council, City of Tallahassee (1990-1993). This citizen group was organized to create an annual assessment guide to evaluate the effectiveness of our community's public safety performance.
- # Past member, California Peace Officers Association
- # Chairman (1979-81) Standards and Ethics Committee.
- # Initiated and moderated the First Joint Symposium on Professional Issues.

Developed and received State approval and distribution of the *Code of Professional Conduct and Responsibilities for Peace Officers*.

Member, Law and Legislation Committee.
Member, Small Agency Committee.
Member, Reserve Officers Committee.
Recipient of the 1981 'Professionalism Award' from the California Peace Officers Association.

Member or past member:
Florida Sheriffs' Association, Lifetime Member.
Florida Council on Crime and Delinquency.
American Society for Training and Development, local and National.
Public Safety Committee, League of California Cities.
Los Angeles County Peace Officers Association.
Southern California Police Community Relations Officers Association.

PUBLICATIONS

Lou Reiter has published many law enforcement articles. With the exception of his Internal Affairs manual mentioned below, most of his current publications are integral parts of training he provides and are tailored to the specific subject matter and audience of the presentation. The below represent many of his published works:

Law Enforcement Administrative Investigations, a manual/guide. This comprehensive 120 page manual was first published by Lou Reiter & Associates in 1993. The 2nd edition was published in 1998 and is an expanded version with several guest author chapters and contains over 300 pages in a 'nuts and bolts' method of presentation for practitioners.

"Creating Reasonable and Defensible Discipline," Commission on Accreditation for Law Enforcement Agencies, Inc., Newsletter, November, 1996.

"Timesharing With Your Subordinates," Florida Police Chief, April, 1984.

"Police Agencies Need Shooting Policy," Tallahassee Democrat, September 27, 1982.

"Truth About Miami Is Down in the Streets," Tallahassee Democrat, December 27, 1982.

"Police Recruitment in the 80's - Crisis or Opportunity?" Western City, May, 1981.

"Civil Detoxification in Los Angeles," Police Chief, August, 1981

"Professional Police," California Peace Officer, 1980.

"The Elected Public Official Views Police Professionalism," California Peace Officer, 1980.

"A Footbeat Officer's View of Police Work," Journal of California Law Enforcement, October, 1979.

"A Day With Sergeant Maynard Jones," Police Chief, April, 1979.

"Field Sergeants' Administrative Time Utilization," Journal of California Law Enforcement, unknown date.

"Make Your Meetings Successful," Journal of California Law Enforcement, April, 1979.

"Ways To Get That Paper Out Now, Faster and Better," Journal of California Law Enforcement, October, 1978.

"Internal Discipline," "Training," and "Management-Employee Relations," Police Task Force Report, National Advisory Commission on Criminal Justice Standards and Goals, United States Department of Justice, U.S. Printing Office, 1973.

URBAN ECONOMIC DEVELOPMENT AND COMMUNITY ACTION GROUPS

During his residence in both Southern California and Florida, Lou Reiter has been active in various programs designed to improve and enhance community and economic development. Some of those activities have included:

- # Tallahassee Area Chamber of Commerce and committees on County and City Governments.
- # Local committee for district member voting in Leon County.
- # Forward Tallahassee.
- # Board of Directors, Skid Row Development Corporation. A non-profit organization formed to stimulate redevelopment of the skid row area in Los Angeles, attract funding sources, funnel monies to redevelopment projects and oversee the general plan for this designated area. During the first year originated over \$6 million of projects impacting business stimulation and residential housing.
- # Board of Governors, Alcohol Detoxification and Rehabilitation Center. In 1976 conducted an extensive management study of this program. The results were implemented and produced an increased intake of public inebriates and reduction in walkout rates.
- # Central Business District Redevelopment Project, Skid Row Task Force.
- # Greater Van Nuys Chamber of Commerce and member of the Business Improvement Committee and Vitalize Van Nuys, Inc. (a specific economic action project).

COMMUNITY ACTIVITIES

Community activities have been a personal commitment for Lou Reiter. Many of these were in connection with his duties as a police practitioner. Others were from his personal orientation to the communities in which he has lived. Some of those not previously mentioned have included:

- # American Cancer Society
 - Board of Directors and Executive Board, Florida Division.
 - State Crusade Committee, Vice Chair.
 - Chairperson, State Direct Mail and Marketing Subcommittee.
 - President (1986-87) and Board of Directors, Leon County Unit.
 - Trainer, State Volunteer Leadership Development Program.
 - Crusade Chairperson (1982-84) Leon County Unit which increased donations 60% to a record high of \$111,000 annually.
- # President, Consolidation NOW, a citizens' group advocating the consolidation of governments of Leon County and the City of Tallahassee.
- # President (1985) and member Board of Directors (1983-88), Tallahassee Junior Museum. During the year as President the museum received accreditation from the American Association of Museums.
- # Chairperson, Airshow '86, Tallahassee's first major airshow. Co-chair, Airshow '87.
- # Rotary International
 - Smithfield, RI, Rotary (2002-)
 - Tallahassee Capital Rotary (1981-1999)
 - Paul Harris Fellow (1976)
 - Service Above Self/Member of the Year recipient (1986-7)
 - Presenter at district and zone conferences

Past member, Newhall, CA., Rotary
Creator of the Newhall Rotary Community Service Fund

Memberships, current and previous:

- Forward Tallahassee, Public Safety Committee
- Florida Economics Club
- Tallahassee Tiger Bay Club
- WFSU-TV committees
- Partners in Excellence, a school/business support program
- 1987 Leon County School District "Citizens For Better Schools"
- Bond Steering Committee
- Florida State University Artists Series, benefactor
- Public Inebriate Task Force, Alcoholism Council of Greater Los Angeles
- Canyon County, CA., Formation Committee
- Vice President and Board of Directors, Santa Clarita Valley Boys and Girls Club
- Board of Directors, Tallahassee Informed Parents
- Boy Scout Troop 23 Committee
- Swanee Area Scout Council Fund-raising Committee
- Board of Directors, LeMoyne Art Foundation
- Member and Director, United Way of Leon County

FORMAL EDUCATION

University of Southern California - Graduate of the Managerial Policy Institute (1980) and graduate study in the Master of Public Administration program.

Pepperdine University - Bachelor of Science in Public Management/Criminal Justice Program .

University of California at Los Angeles - undergraduate study in Political Science.

PERSONAL

Born March 31, 1939, in Minneapolis, Minnesota.

Resident of Rhode Island since 1999 and Tallahassee, Florida, between 1981-1999. Lou Reiter lived in the Los Angeles area for nearly 30 years.

Lou's wife is Marilyn McFadden who is an attorney and was a certified Florida police officer. She currently specializes as a consultant in law enforcement and prosecution issues of Domestic Violence and is considered one of the leading experts in police employee-related domestic misconduct. They have six (6) grown children one of whom was a police officer with the City of Tallahassee.

Appendix C

Schedule of Professional Fees

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

Section 1. Professional Services.

Standard Rate

A. Principal \$2500 per day

Section 2. Materials and Other Direct Costs.

Materials and other direct costs will be invoiced at current rates, plus a ten percent (10%) handling fee. Included as direct costs are the following:

- A. Approved Employee Meals, Lodging, Transportation
- B. Premium Delivery Service (UPS, Federal Express, etc.)
- C. Toll Communication Services (Telephone, Fax, etc.)
- D. Supplies
- E. Other Out-of-Pocket Expenses

[\(Back to Consent Agenda\)](#)

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: Cottonwood Grove Subdivision, 2nd Filing Preliminary Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: On January 3, 2005 the subdivider of this property, Jim Kisling, applied for preliminary plat approval for the Cottonwood Grove Subdivision, 2nd Filing. The City-County Board of Planning conducted a public hearing on February 22, 2005. The City Council will review the preliminary plat and make a decision regarding approval at the March 14, 2005 meeting.

ALTERNATIVES ANALYZED: State and City subdivision regulations require that preliminary plats be reviewed using criteria that are set out in those laws. The City may not unreasonably restrict an owner's ability to develop his land if the subdivider provides evidence that any identified adverse effects can be mitigated.

FINANCIAL IMPACT: When the property is developed the new residents will need City services. It is unknown if the value of these proposed homes will generate sufficient taxes and fees to pay for the required services. However, this property will capitalize on the City water and sewer lines extended in 54th St. West.

RECOMMENDATION

The Yellowstone County Board of Planning recommends that the Billings City Council conditionally approve the preliminary plat of Cottonwood Grove Subdivision, 2nd Filing, accept the attached findings of fact, and approve the variances from Sections 23-601(k), and 23-605(d), BMCC.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A. Plat
- B. Site photographs
- C. Findings of Fact
- D. Mayor's approval letter

INTRODUCTION

On January 3, 2005 the Planning Department received a preliminary plat application for the Cottonwood Grove Subdivision, 2nd Filing. The 25-acre property is located on the west side of 54th Street West, north of Grand Avenue. The Yellowstone County Board of Planning held a public hearing on this proposed subdivision at its meeting on February 22, 2005 and recommends that the Billings City Council conditionally approve this preliminary plat and the requested variances from the City Subdivision Regulations.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on January 3, 2005.
- Staff review meeting was held on the application on January 20, 2005.
- The Yellowstone County Board of Planning reviewed the plat on February 8, 2005.
- The Planning Board will conduct a public hearing on February 22, 2005 and make its recommendations to the Billings City Council.
- The City Council will consider the application at its meeting on March 14, 2005.

BACKGROUND

The subject property is legally described as Lots 65A-2 & 3 of Amended Lot 65A, Sunny Cove Fruit Farms. The property is zoned R-7000 and the proposed subdivision contains 104 single-family residential lots. It is the second filing of this development. The first filing created a total of 52 lots and the final plat is scheduled for review and approval by the City Council on February 28, 2005.

General location:	On the west side of 54 th St. West just north of Grand Avenue.
Legal Description:	Lot 65A-2 and Lot 65A-3, Sunny Cove Fruit Farms
Subdivider:	DKW, LLC; Jim Kisling
Owner:	Mary Kramer
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-7000
Surrounding zoning:	North: R-7000 South: Ag-Open Space East: Ag-Open Space West: Ag-Open Space
Existing land use:	Vacant – irrigated crop land
Proposed land use:	Single-family residential

Gross area:	25.08 ac.
Lot area:	18.54 ac.
Proposed number of lots:	104
Lot size:	Max.: 11,149 sq. ft. Min.: 7,050 sq. ft.
Parkland requirements:	cash in lieu of land dedication is proposed

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments reviewed this application and provided input on effects and mitigation. The Planning Board develops and recommends conditions of approval that are based on the departments' comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative effects and the following conditions are recommended as measures that will mitigate them.

RECOMMENDED CONDITIONS

1. Contributions for 54th St. West improvements, and any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering. (*BMCC 23-702; Recommended by City/County Planning; City Engineering*)
2. Street names shall be reviewed and approved by the City Engineering Department prior to final plat approval. (*BMCC 23-707; Recommended by City Engineering*)
3. The Park Maintenance District created for Cottonwood Groves, 1st Filing shall be expanded to include the boulevard areas and storm water detention pond for the 2nd Filing prior to final plat approval. (*PRPL Policy; Recommended by PRPL; City/County Planning*)
4. The storm drain retention pond easement found on the northeast corner of Lot 65A-2 shall be relocated as approved by City Engineering prior to final plat approval. (*Recommended City Engineering; City/County Planning*)
5. A detailed flood plain analysis for Cove Creek south of Rimrock Road shall be completed and if necessary, a plan for flood plain mitigation shall be approved by Planning, Engineering and the City/County Flood Plain Administrator prior to final plat approval. A section (Section VIII) shall be added to the SIA describing the results and mitigation plan of the flood plain analysis. (*BMCC 23-2101; Recommended by City/County Planning*)

6. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES

Variance from BMCC, Section 23-601(k), which requires 60 feet of right-of-way for local residential streets, to allow 50 feet of right-of-way dedication for the proposed interior streets. City staff has been supportive of this type of variance providing that 5-foot sidewalk, street light and fire hydrant easements are provided on both sides of the streets adjacent to the 50-foot right-of-way.

Variance from BMCC, Section 23-605(d) which states that double frontage lots should be avoided, to allow double frontage lots along 54th St. West. City staff is supportive of this variance because limited and controlled access is desired onto 54th St. West as it is a minor arterial street.

STAKEHOLDERS

A public hearing was held by the Planning Board on February 22, 2005. There was no public comment received at that meeting or any other public input up to the time this report was written.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Comprehensive Plan, West Billings Plan, Transportation Plan and Heritage Trail Plan is discussed in the Findings of Fact.

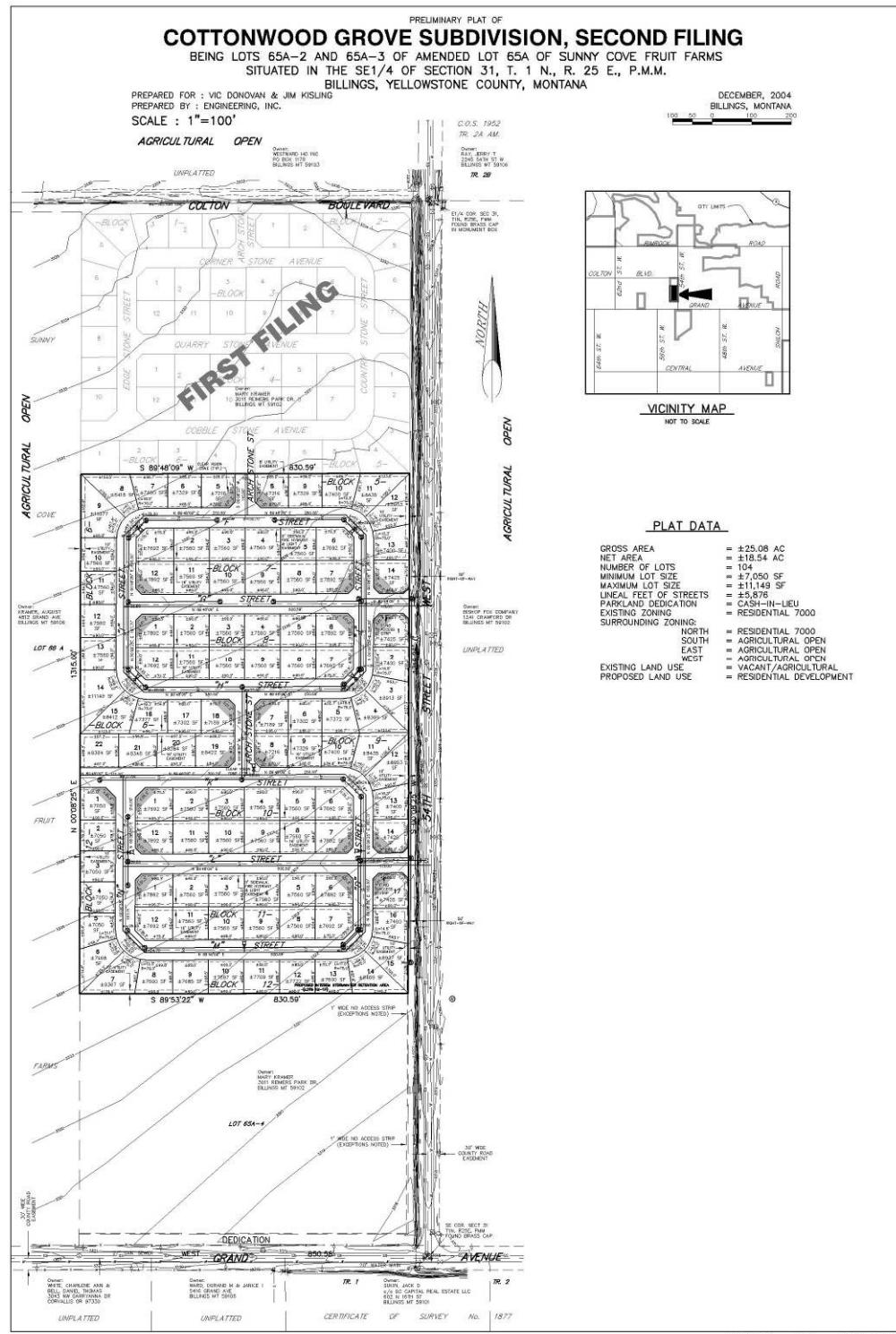
RECOMMENDATION

The Yellowstone County Board of Planning recommends that the Billings City Council conditionally approve the preliminary plat of Cottonwood Grove Subdivision, 2nd Filing, accept the attached findings of fact, and approve the variances from Sections 23-601(k), and 23-605(d), BMCC.

ATTACHMENTS

- A. Plat
- B. Site photographs
- C. Findings of Fact
- D. Mayor's approval letter

ATTACHMENT A
Cottonwood Grove Subdivision, 2nd Filing Preliminary Plat



ATTACHMENT B
Cottonwood Grove Subdivision, 2nd Filing Site Photographs



Figure 1: Looking SW across 54th St. West at subject property.



Figure 2: From intersection of Grand Ave. and 54th St. West, looking north up 54th St. W.

ATTACHMENT C
Findings of Fact

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMC 23-304 (c) (1) and MCA 76-3-608 (3) (a)]

1. Effect on agriculture

This subdivision in combination with the first filings will have a minor impact on agriculture. The subject property is approximately 25 acres in size and the entire master planned area is approximately 37 acres. The land is currently used for irrigated cropland. Agricultural irrigation activities will be discontinued on the land, and as this and other land in the region transform from crop land to residential developments, there will likely be a cumulative impact on agriculture, groundwater levels and associated items.

2. Effect on local services

- a. Utilities – Water and sanitary sewer lines will be extended by the developer from the main lines in 54th St. West throughout the subdivision to serve the new lots. Hook up fees for both the water and sewer connections will be assessed at the time of lot development.

Storm water will be retained on site. Lots 12-17 of Block 12 are proposed to serve as a storm water detention pond for the entire subdivision. The sale of those lots will be restricted until such time as the subdivision is served by a City storm drain system. The subdivider will be required to provide a storm water management plan in accordance with the City of Billings *Stormwater Management Manual* and as approved by the City Engineer, prior to final plat approval.

Private utilities will be extended to this property under the companies' operating rules. Easements for utilities as requested by MDU are shown on the face of the plat.

- b. Solid waste – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

- c. Streets - The subdivider proposes to have two accesses off of 54th St. West and one access from the first filing that would lead out to Colton Blvd. The subdivision also provides a network of internal streets that would serve all of the lots and a future connection to the west.

54th St. West was recently improved with a 2-lane paved section. Eventually improvements and/or widening will need to be done to accommodate the increase in traffic on this minor arterial street. It is recommended as a condition of approval that a cash contribution be provided for future standard City improvements (street, curb, gutter, boulevard sidewalk) to the adjacent half of 54th St. West.

The local interior streets are proposed to be constructed to City street standards, at a width of 37 feet, with curb, gutter, and boulevard sidewalk on both sides of the street. The ADA handicapped ramps shall be constructed by the subdivider at the time of street construction. However, the remaining sidewalk construction will be the responsibility of

the land owner at the time of individual lot development. Names of the interior streets shall be provided and approved prior to the final plat approval.

A Traffic Accessibility Study was submitted with the first filing of this subdivision which identified contributions necessary for off site intersections. The necessary contributions should be reviewed and approved by City Engineering, and should be outlined in the SIA and made prior to final plat filing.

Two variances have been requested from the City subdivision regulations in relation to the street improvements. First, a variance from BMCC, Section 23-605(d) which states that double frontage lots should be avoided, has been requested to allow double frontage lots along 54th St. West. Staff is supportive of this variance, as internal access is preferred for this development. Also, a variance from BMCC, Section 23-601(k), which requires 60 feet of right-of-way for local residential streets, has been requested to allow 50 feet of right-of-way dedication for the proposed interior streets. City Council has approved this variance in other similar situations, as long as a five-foot easement for sidewalks, street lights, and fire hydrants is provided on both sides of the right-of-way.

- d. Emergency services – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station at this time is Station #3 at 1928 17th St. West. However there is continued discussion about construction of a west-end fire station in the future. The Fire Department has not identified any concerns with the proposed subdivision. Police response will depend upon officer availability and location when a call for service is placed. City Police commented that “this property is not contiguous to our jurisdiction. We will need to travel farther to serve the property.” AMR provides medical care and transport and response would probably come from the west-end station that is located on Grand Avenue at about 25th Street West. They responded by stating “this area is annexed therefore we must meet response standards set by the ordinance of Billings. As Billings continues to grow AMR will need to add additional unit hours to cover this growth. For this area now, we will not be adding more staff.”
- e. Schools – The subdivision is in the School District #2. No comments have been received from School District #2.
- f. Parks and Recreation – Because this is a major plat the subdivider must dedicate parkland or cash in lieu of parkland. This subdivision is just south of the proposed Cottonwood Park site on the northwest corner of Colton Blvd. and 54th St. West. Therefore, cash contribution is preferred by the developer and PRPL. In the future when a park maintenance district (PMD) is created for the maintenance of this park, owners of these lots will be required to participate. This shall be stated in the SIA and also included in the Waiver of Right to Protest Future SIDs.
In addition, the Park Maintenance District created with the first filing for maintenance for the rights-of-way for Colton Blvd. and 54th St. West shall be expanded to include 54th St. West boulevard areas and the storm water detention pond area within this filing. This is necessary because it is often the case that the lot owners with rear frontage on arterial streets will place a fence on the rear property line, and neglect maintenance of the right of

way/ boulevard adjacent to the street. Therefore expansion of this PMD is recommended as a condition of approval.

- g. MET Transit – MET Transit's nearest route is at Shiloh and Grand Avenue. The creation of this subdivision will not likely cause MET to expand their service area.

3. Effect on the natural environment

The subject property is level, irrigated crop land. According to the 1972 Soil Survey of Yellowstone County the soils on the western 2/3 of the site are primarily of the Keiser Series, with Haverson Series soils on the eastern 1/3 of the property. In reference to the potential for building sites, both soil series are generally characterized with low bearing capacity, medium compressibility, and high frost-action potential. Geotechnical information is generally required prior to street construction to ensure proper engineering. A note has also been added to the SIA stating the potential for variable soils in the area, and recommending individual geotechnical studies on the lots prior to house foundation design and construction. Impacts to the natural environment should be minimal, given the minimal constraints from this flat land.

4. Effect on wildlife and wildlife habitat

There will be a small effect on wildlife and its habitat. The property is not habitat for any known endangered species. Comments received by Montana Fish, Wildlife and Parks indicate the presences of deer.

5. Effect on the public health, safety and welfare

This property may have a flooding potential from the Cove Creek. At this time, the Cove Creek is not a FEMA mapped floodway south of Rimrock Road as it does not inhabit a definite channel below Rimrock Road. The historic channel in this location was altered due to agricultural activities, and the 100 year flood plain is no longer clearly defined. Therefore, as was the case with the first filing of this subdivision, a detailed flood study will be required of the developer in order to determine the potential for flooding in the area of this subdivision, and to address mitigation of any hazard identified. Preliminary results of this study indicate that the subject property is not within the 100-year flood plain, but is within the area of the 500-year flood plain. FEMA regulations as well as local flood plain regulations do not restrict development in the 500-year flood plain.

Otherwise, there does not seem to be any other threats to public health and safety as proposed. There are two points of ingress and egress proposed, which provide adequate access for emergency services

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMC 23-304 (c) (1)]

As it is exempt under Section 76-3-210, MCA, an Environmental Assessment was not prepared for the subdivision.

C. Does the subdivision conform to the 2003 Yellowstone County City of Billings Growth Policy and the Urban Area 2000 Transportation Plan? [BMC 23-304 (c) (3)]

1. 2003 Growth Policy:

The subdivision meets the following goals/policies of the Growth Policy

- a. A safe and efficient transportation system characterized by convenient connections and steady traffic flow. (*Transportation Element #2*)
- b. More housing and business choices within each neighborhood. (*Land Use Element #6*)
- c. Well maintained network of safe and interconnected sidewalks. (*Transportation Element #9*)
- d. Sanitary and safe properties. (*Public Services Element #2*)

The subdivision does not meet the following goals of the Growth Policy:

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (*Land Use Element #1*)
- b. Contiguous development focused in and around existing population centers separated by open space. (*Land Use Element #4*)

2. Urban area transportation plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. 54th St. West is a minor arterial street; Colton Boulevard is a collector street. Fifty feet of half-width right-of-way was dedicated along 54th Street West, but no improvements are proposed at this time. Engineering staff is recommending the developer make a cash contribution equivalent to the improvements to the west side of 54th St. West.

Additionally, the Traffic Accessibility Study submitted with the plat identified developer cash contributions recommended for the eventual intersection improvements at 54th & Grand and 54th & Rimrock. These figures will be reviewed and approved by the City and collected at the appropriate time.

3. Heritage Trail Plan

The subdivision is also within the jurisdictional area of the Heritage Trail Plan. The Plan identifies 54th St. West as an arterial bikeway, and Colton Blvd. as a primary bikeway, so eventually both streets could be striped with bike lanes. There are no plans to do so at this time. However, the Planning Board has requested a note be added to the final SIA that indicates that bikeway provisions are to be made to the streets when they are improved in the future.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMC 23-304 (c) (4)]

This proposed subdivision meets the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [BMC 23-304 (c) (5)]

The subdivision will use City water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMC 23-304 (c) (6)]

The property is within the R-7000 zoning district. With this filing, only single-family residential uses are being proposed as all but two lots are greater than 7,000 square feet, but less than 9,600 square feet. The proposal meets zoning requirements.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) © and BMC 23-304 © (7)]

The subdivision contains public street rights-of-way and utility easements as requested by the utility companies are shown on the face of the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMC 23-304 © (8)]

All lots will have access to a public street.

CONCLUSIONS OF FINDING OF FACT

- Overall, the proposed Cottonwood Grove Subdivision, 2nd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The subdivision as proposed should have minimal impact to agriculture or agricultural water user facilities, however as more irrigated ag-land in this area is developed for residential use, a cumulative effect may be felt.
- The subdivision will impact local services and cause some increase in demand for those services. However, when the vacant parcel is developed the homeowners will pay property taxes and fees that should help to support those services.
- Impacts to the natural environment and wildlife habitat shall be mitigated prior to lot development.
- The proposed subdivision conforms to some of the goals and policies of the 2003 Growth Policy, but also conflicts with a few goals. The proposal is in conformance with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each parcel.

Approved by the Billings City Council, March 14, 2005.

Charles F. Tooley, Mayor

ATTACHMENT D
Mayor's Approval Letter

March 15, 2005

Jim Kisling
3419D Central Ave.
Billings, MT 59102

Dear Sir:

On March 14, 2005 the Billings City Council conditionally approved the preliminary plat of the Cottonwood Grove Subdivision, 2nd Filing. The conditions of approval are as follows:

1. Contributions for 54th St. West improvements, and any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering.
2. Street names shall be reviewed and approved by the City Engineering Department prior to final plat approval.
3. The Park Maintenance District created for Cottonwood Groves, 1st Filing shall be expanded to include the boulevard areas and storm water detention pond for the 2nd Filing prior to final plat approval.
4. The storm drain retention pond easement found on the northeast corner of Lot 65A-2 shall be relocated as approved by City Engineering prior to final plat approval.
5. A detailed flood plain analysis for Cove Creek south of Rimrock Road shall be completed and if necessary, a plan for flood plain mitigation shall be approved by Planning, Engineering and the City/County Flood Plain Administrator prior to final plat approval. A section (Section VIII) shall be added to the SIA describing the results and mitigation plan of the flood plain analysis.
6. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

If you have questions please contact Juliet Spalding in the Planning Department at 247-8684 or by email at spaldingj@ci.billings.mt.us.

Sincerely,

Charles F. Tooley, Mayor

Cc: Kurt Thomson, PE, Engineering, Inc.

[\(Back to Consent Agenda\)](#)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: Preliminary Plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting preliminary plat approval of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing, which was submitted on February 1, 2005. Pursuant to Section 23-404(c) of the Billings City Code, the City Council shall act on a preliminary minor plat within 35 working days of the application submittal.

ALTERNATIVES ANALYZED: State and City subdivision regulations require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. The City Council is required to:

1. Approve
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property will further develop resulting in additional tax revenues for the City.

RECOMMENDATION

Staff recommends that the City Council conditionally approve the Preliminary Plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing, adopt the Findings of Fact and approve the variances, as presented in the staff report.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A: Plat
- B: Site Photographs
- C: Mayor's Approval Letter
- D: Findings of Fact

INTRODUCTION

The proposed subdivision would create two (2) lots; one (1) containing approximately 1.17 acres and one (1) containing approximately 1.32 acres for commercial development. Proposed Lot 4A contains a medical office structure (currently under construction) and proposed lot 4B is vacant with plans to construct a medical office building (as indicated on the submitted plat). The subject property is located on the west side of South 32nd Street West, midway between Central Avenue and Banff Avenue. The subject property is bordered on the north, south and west by vacant and developing land within the Parkland West Master Plan and on the east by property zoned Residential 9600.

PROCEDURAL HISTORY

- The final plat for Parkland West Subdivision, 6th Filing, which includes the subject property, was filed on April 12, 2004.
- The preliminary plat application was submitted to the Planning Department on February 1, 2005.
- The City Council will consider the preliminary plat application on March 14, 2005.

BACKGROUND

General location:	On the west side of South 32 nd Street West, midway between Central Avenue and Banff Avenue
Legal Description:	Amended Lot 4, Block 10, Parkland West Subdivision 6 th Filing
Subdivider/Owner:	D.J. Properties, LLC
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	PUD (Community Commercial)
Surrounding zoning:	North: PUD; South: PUD; East: R-9600; West: PUD
Existing land use:	Proposed Lot 4A contains a Medical Office Building (Under Construction) Proposed Lot 4B is vacant
Proposed land use:	Commercial (Medical Office Structures)
Gross area:	2.49 acres
Lots:	Two (2): Lot 4A containing 1.17 acres Lot 4B containing 1.32 acres

Dedications:

Parkland dedication is not required for a minor subdivision. The parkland has been met by previous and future dedications for the entire Parkland West subdivision.

ALTERNATIVES ANALYSIS

One of the purposes of the subdivision review process is to identify potentially negative impacts of a subdivision on adjacent properties. When negative impacts are identified, it is the subdivider's responsibility to mitigate those impacts. Various City departments, utility companies and other agencies have reviewed this application and provided input on potential impacts and mitigation. The Findings of Fact, which are presented as Attachment D, discuss the potential negative impacts that have been identified by the reviewing agencies. The following conditions are recommended as a measure to mitigate any negative impacts:

RECOMMENDED CONDITIONS

1. A statement shall be added to the SIA, stating that "the improvements required on South 32nd Street West are being constructed via Private Contract 513 and have been monetarily secured with a Letter of Credit." *(Recommended by the City Engineering Department)*.
2. The reciprocal access agreement shall be amended to include Lots 4A and 4B of the Amended Plat of Lot 4, Block 10, Parkland West Subdivision, 6th Filing. *(Recommended by the City/County Planning Department)*
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES

The City Council may grant variances from the design and improvements standards set forth by the City Subdivision Code when strict compliance would pose an undue hardship to the subdivider, provided that the approval of the variance does not adversely affect the public. The following findings are necessary to determine whether a variance should be granted:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved an undue hardship to the owner would result if the strict letter of this chapter was enforced;
3. The variance will not cause a substantial increase in public costs; and
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or comprehensive plan.

The applicant is requesting the following variances in conjunction with the preliminary plat:

A variance from Section 23-602(a), BMCC, which specifies that an alley shall be provided in commercial and industrial districts. The City Council and/or Planning Board may waive this requirement, provided that other definite and assured provisions are made for adequate service access. Due to the restricted access onto South 32nd Street West, the applicant is permitted only one (1) access point for each street frontage, which precludes the construction of additional service roads or alleys for the development. Staff finds that adequate service access has been provided for the site through the reciprocal access agreement, which allows for two (2) controlled access points from South 32nd Street West and Central Avenue. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance from Section 23-605(a), BMCC, which specifies that lots in commercial and industrial districts shall have a minimum lot width frontage of 25-feet and Section 23-605(h), which specifies that all lots shall abut a public dedicated street. As depicted on the preliminary plat, Lot 4B is proposed as a flag lot in order to obtain frontage on South 32nd Street West. The Engineering Department and Planning staff finds that the flag portion of this lot is not necessary, as it does not satisfy the purpose and intent of the regulations which is to provide access to those lots that do not have public street frontage. In this case, access to the site is restricted to one (1) access point along the 32nd Street frontage and internal private roads provide for adequate site circulation for the existing, and the proposed lots. As required by the Fire Department, all of the structures within this portion of Parkland West will be required to be addressed from the internal private road, not 32nd Street, thereby eliminating the need for the flag portion of the lot. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property/business owners may attend the City Council meeting. The Planning Department has received no public comments or questions regarding the proposed subdivision.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The subdivision is consistent with the 2003 Yellowstone County/City of Billings Growth Policy, the 2000 Transportation Plan and the Heritage Trail Plan. Specific conformance is discussed within the Findings of Fact.

RECOMMENDATION

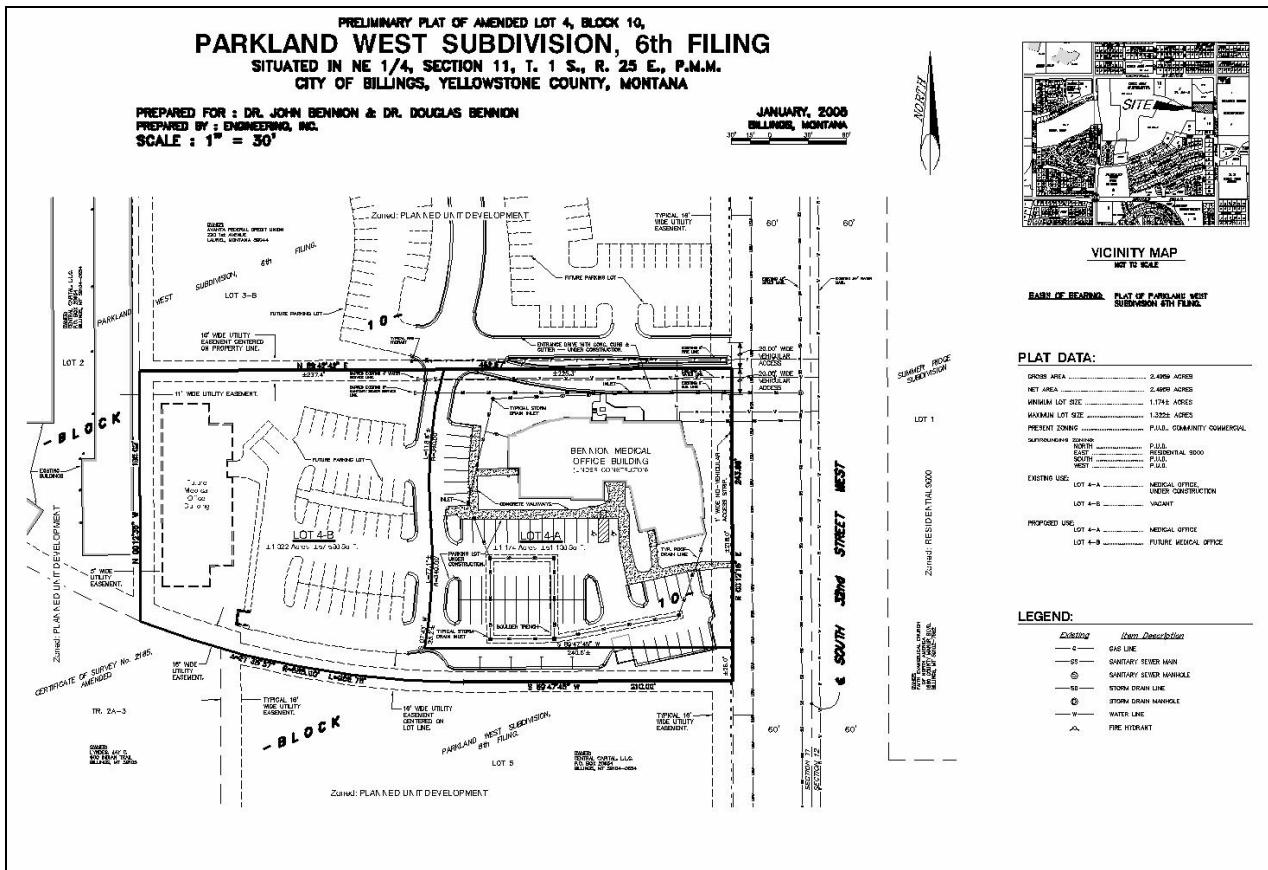
Staff recommends that the City Council conditionally approve the Preliminary Plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing, adopt the Findings of Fact and approve the variances, as presented in the staff report.

ATTACHMENTS

- A: Preliminary Plat
- B: Site Photographs
- C: Mayor's approval letter
- D: Findings of Fact

ATTACHMENT A

Preliminary plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing



ATTACHMENT B
Site Photographs



Figure 1: View west along the northern border of proposed Lot 4A. The proposed access and medical office (under construction) are depicted.



Figure 2: View from Lot 4A north along South 32nd Street West toward the adjacent commercial uses under construction. The depicted properties are part of the Parkland West Master Plan.



Figure 3: View west across Lot 4A toward proposed Lot 4B.



Figure 4: View from proposed Lot 4A east across South 32nd Street West toward the senior housing development currently under construction.

ATTACHMENT C
Mayor's approval letter
Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing

March 14, 2005

D.J. Properties, LLC
374 Burning Tree Drive
Billings, Montana 59105

Dear Property Owner:

On March 14, 2005, the Billings City Council approved the preliminary plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing, subject to the following conditions of approval:

1. A statement shall be added to the SIA, stating that "the improvements required on South 32nd Street West are being constructed via Private Contract 513 and have been monetarily secured with a Letter of Credit (*Recommended by the City Engineering Department*).
2. The reciprocal access agreement shall be amended to include Lots 4A and 4B of the Amended Plat of Lot 4, Block 10, Parkland West Subdivision, 6th Filing. (*Recommended by the City/County Planning Department*)
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions regarding the conditions of approval, please contact Aura Lindstrand with Planning and Community Services at 247-8663 or by email at lindstranda@ci.billings.mt.us.

The Governing Body's decision may be appealed within 30 days to the Montana District Court for Yellowstone County.

Sincerely,

Charles F. Tooley, Mayor

Cc: Peter Knapp, Engineering, Inc.

ATTACHMENT D

Findings of Fact

Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMCC 23-304(c) (1) and MCA 76-3-608(3) (a)]

1. Effect on agriculture and agricultural water users' facilities

The proposed subdivision should have no effect on agriculture or agricultural water users' facilities. The subject property is not currently used for agriculture and no irrigation facilities are apparent on the subject property.

2. Effect on local services

- a. Utilities – A 42-inch sanitary sewer main and a 24-inch water main exist within South 32nd Street West. Connections to sanitary sewer and water have been completed for Lot 4A and will be extended through the existing connections to proposed Lot 4B.
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for the additional waste.
- c. Streets – As part of the final plat for Parkland West Subdivision, 6th Filing, the subdivider was required to submit a Traffic Accessibility Study. Based upon the information contained within that study, necessary street improvements were identified and are currently under construction through a private contract. These improvements include the construction of South 32nd Street West along the western boundary of the proposed subdivision, modifications to the existing traffic signal at the intersection of South 32nd Street West and Central Avenue, and required boulevard sidewalks along the 32nd Street frontage.

Access to the proposed lots will be via a 45-foot private drive located along the northern boundary of proposed Lot 4A from South 32nd Street West, which turns into a shared access for both lots 4A and 4B along the mutual property line. There is a reciprocal access agreement between Lots 3A, 3B, and 4 of the Parkland West Subdivision 6th Filing for the use of this 45-foot private drive for ingress/egress and parking. As such, the reciprocal access agreement shall be amended to include Lots 4A and 4B, as specified in Condition #2.

- d. Emergency services – Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West Drive (Station #5). The subdivision is located within the ambulance service area of American Medical Response.
- e. Schools – The proposed subdivision is located within School District #2. There will be no impact to schools as a result of this subdivision, as the intended use is commercial.

- f. Parks and Recreation – There is no parkland dedication requirement, as this is a minor plat. However, parkland dedications for the entire Parkland West Subdivision were identified in the Master Plan and those areas have been reserved for future parks.
- g. MET Transit – The subject property is serviced by MET transit (routes 6P and 7D). The proposed commercial development on this property and surrounding properties will positively impact MET service by increasing ridership.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property. However, the property is within an urbanized portion of the city and these effects should be minimal.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. There are no obvious threats to public health, safety or welfare.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304(c) (1)]

An Environmental Assessment is not required, as this is a minor plat.

C. Does the subdivision conform to the 2003 Growth Policy and the Urban Area 2000 Transportation Plan? [BMCC 23-304(c) (3)]

1. Growth Policy

The proposed subdivision conforms to the following land use goals of the *Yellowstone County – City of Billings 2003 Growth Policy*.

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns.

The proposed subdivision is consistent with the Parkland West Master Plan and previous filings of the subdivision.

- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.

The proposed subdivision is bordered on three (3) sides by properties located within the Parkland West PUD, which is intended for commercial and multi-family uses.

The proposed medical office structures are compatible with the commercial uses proposed to the north and west of the property and the multi-family residential development to the south.

- c. Contiguous development focused in and around existing population centers separated by open space.

The proposed subdivision extends previously planned development and will utilize existing infrastructure. The subdivision may be considered infill and does not contribute to urban sprawl. There are no open space buffers planned as part of this subdivision; however there is an open space/parkland requirement for the entire Master Plan of Parkland West.

2. Urban Area Transportation Plan

South 32nd Street West and Central Avenue are principal arterial streets, which are undergoing substantial improvements under private contract at this time in order to accommodate increased traffic in this area with the proposed and existing construction. These improvements include the improvements to South 32nd Street West.

3. Heritage Trail Plan

The Heritage Trail Plan identifies South 32nd Street West as an arterial trail. A connection for the trail system has been included within the private contract and will be included in the current construction for South 32nd Street West.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3) (b) and BMCC 23-304(c) (4)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]

The property is served by municipal water, sewer, storm drain and solid waste services, which have been extended from South 32nd Street West to proposed Lot 4A and will be extended to Lot 4B. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304(c) (6)]

The subject property is located within the Planned Unit Development zoning district with an underlying zoning of Community Commercial and conforms to the requirements set forth by the Parkland West Master Plan.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 (c) (7)]

There is a 16-foot wide utility easement located along the southern boundary of Lots 4A and 4B and an 11-foot utility easement located along the western boundary of Lot 4B.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608(3) (d) and BMCC 23-304(c) (8)]

Access to the proposed lots will be via a 45-foot private drive located along the northern boundary of proposed Lot 4A from South 32nd Street West, which turns into a shared access for both lots 4A and 4B along the mutual property line. There is a reciprocal access agreement between Lots 3A, 3B, and 4 of the Parkland West Subdivision 6th Filing for the use of this 45-foot private drive for ingress/egress and parking. As such, the reciprocal access agreement shall be amended to include Lots 4A and 4B, as specified in Condition #2. Access is restricted along the South 32nd Street West boundary of the subject property, with the exception of the 45-foot shared access point.

CONCLUSIONS OF FINDING OF FACT

- Preliminary plat of Amended Lot 4, Block 10, Parkland West Subdivision 6th Filing does not create any adverse impacts that warrant denial of the subdivision.
- There should be small effects on local services because this is an in-fill project and the subdivider will be responsible for most of the capital facilities that are needed to serve the property.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and doesn't conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, with the notes exceptions, meets sanitary, easement and zoning requirements and provides legal and physical access to each parcel.

Approved by the Billings City Council on March 14, 2005

Charles F. Tooley, Mayor

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: ZooMontana Subdivision Preliminary Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: On February 1, 2005 the owner of this property applied for preliminary plat approval for the ZooMontana Subdivision. This is a proposed subdivision of the ZooMontana parcel located on the west side of Shiloh Road, south of the Zoo Drive Interchange. The City Council must act on the preliminary minor plat within 35 working days of its submittal.

ALTERNATIVES ANALYZED: State and City subdivision regulations require that preliminary plats be reviewed using criteria that are set out in those laws. Those review criteria are found in Attachment C of this report. The City may not unreasonably restrict an owner's ability to develop his land if the subdivider provides evidence that any identified adverse effects can be mitigated. The City Council is required to approve, conditionally approve or deny the preliminary plat.

FINANCIAL IMPACT: If the City approves the preliminary plat there should be minimal financial impact to the City. The property is exempt from City taxes.

RECOMMENDATION

Planning staff recommends that the Billings City Council conditionally approve the preliminary plat of ZooMontana Subdivision, and adopt the findings of fact as stated in the staff report.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A: Plat
- B: Mayor's approval letter
- C: Findings of Fact
- D: Site photos

INTRODUCTION

ZooMontana Subdivision is a preliminary minor plat that would create one lot and a remainder parcel of the existing zoo property. Lot 1-A is approximately 2.9 acres in size and contains the zoo's entry drive and visitors' center. Lot 1 is the remainder of the subject property and contains 59.77 acres. The subject property is zoned Public, and is located on the west side of Shiloh Road, south of the Zoo Drive interchange. The subdivider are requesting this subdivision in order to define a parcel for hook up to the City's sanitary sewer service for the visitors' center.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on February 1, 2005.
- The City Council will consider the application at its meeting on March 14, 2005

BACKGROUND

General location:	On the west side of Shiloh Road, south of Zoo Drive.
Legal Description:	Tract 1, Certificate of Survey 2659
Subdivider/Owner	ZooMontana
Engineer and Surveyor:	HKM Engineering, Inc.
Existing Zoning:	Public
Surrounding zoning:	R-15,000; Ag.-Open; Entryway Light Industrial
Existing land use:	Zoo visitor center/parking
Proposed land use:	same
Gross area:	2.92 acres
Lots:	1, plus remainder parcel
Dedications:	None – previously met

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potentially negative effects from a subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments, utilities and other agencies have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as Attachment C, discuss the potential impacts that were identified by reviewers and the following conditions are recommended as measures that will mitigate them.

RECOMMENDED CONDITIONS

1. The following changes shall be made to the final Subdivision Improvements Agreement (SIA):
 - a. The SIA shall be rewritten to reference the City, not the County, and to follow the standard template. (*Recommended by City –County Planning*)
 - b. A note shall be added to the final SIA stating that the Canyon Creek Ditch runs through this property and a 20-foot prescriptive easement for the purpose of ditch maintenance exists along the course of the ditch. (*Recommended by City-County Planning, Canyon Creek Ditch Company; BMCC Section 23-603(a)*)
 - c. Section #7: Add the following paragraph: “The Subdivision Improvements Agreement does not constitute an approval of extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water and sanitary sewer to Public Works - Belknap. The extension/connection to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications will need to be submitted for processing prior to the start of any construction. The appropriate water and wastewater local and interior mains construction fees, system development fees and franchise fee in effect shall be submitted with the application.”(*Recommended by City-County Planning, PW Distribution & Collection; BMCC Section 23-706*)
2. The following changes shall be made to the final plat:
 - a. Tracts should be identified as Lots.
 - b. The final plat shall be 24”x36” inches in size.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting but nearby property/business owners may attend the Council meeting. The Department received no public comments or questions about the subdivision.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The subdivision is consistent with the 2003 Yellowstone County/City of Billings Growth Policy, the 2000 Transportation Plan and the Heritage Trail Plan. Specific conformance is discussed in the Findings of Fact.

RECOMMENDATION

Planning staff recommends that the Billings City Council conditionally approve the preliminary plat of ZooMontana Subdivision, and adopt the findings of fact as stated in the staff report.

ATTACHMENTS

- A: Preliminary Plat
- B: Mayor's approval letter
- C: Findings of Fact
- D: Site photos

ATTACHMENT B
Mayor's approval letter

March 15, 2005

Michael Carter, Executive Director
ZooMontana
2100 S. Shiloh Rd.
Billings, MT 59102

Dear Sir:

On March 14, 2005 the Billings City Council conditionally approved the preliminary plat of the ZooMontana Subdivision. The conditions of approval are as follows:

1. The following changes shall be made to the final Subdivision Improvements Agreement (SIA):
 - a. The SIA shall be rewritten to reference the City, not the County, and to follow the standard template.
 - b. A note shall be added to the final SIA stating that the Canyon Creek Ditch runs through this property and a 20-foot prescriptive easement for the purpose of ditch maintenance exists along the course of the ditch.
 - c. Section #7: Add the following paragraph: "The Subdivision Improvements Agreement does not constitute an approval of extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water and sanitary sewer to Public Works - Belknap. The extension/connection to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications will need to be submitted for processing prior to the start of any construction. The appropriate water and wastewater local and interior mains construction fees, system development fees and franchise fee in effect shall be submitted with the application."
2. The following changes shall be made to the final plat:
 - a. Tracts should be identified as Lots.
 - b. The final plat shall be 24"x36" inches in size.
 - c. An errors and omissions review by the City Surveyor shall be done and any identified revisions shall be made.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

If you have questions about the conditions of approval, please contact Juliet Spalding in Planning and Community Services at 247-8684 or by email at spaldingj@ci.billings.mt.us.

The Governing Body's decision may be appealed within 30 days to the Montana District Court for Yellowstone County.

Sincerely,

Charles F. Tooley, Mayor

C: HKM Engineering, Inc.

ATTACHMENT C
Findings of Fact
ZooMontana Subdivision
March 14, 2005

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMCC 23-304(c)(1) and MCA 76-3-608(3)(a)]

1. Effect on agriculture and agricultural water users' facilities

This subdivision should have little or no effect on agriculture or agricultural water users' facilities. The property is not currently used for agricultural purposes. The Canyon Creek Ditch runs along the eastern property boundary within a 20-foot prescriptive easement. It is recommended as a condition of approval that a note be added to the final SIA informing this and future property owners of this prescriptive easement. The ditch company has not requested a filed easement at this time.

2. Effect on local services

- c. Utilities – Water and sewer lines are in place in Shiloh Road and the zoo is proposing to hook into the sanitary sewer lines in the near future to serve the visitors' center. Water service may be extended in the future also. Public Works-Collection & Distribution has recommended some of the language within the SIA be changed in order to clarify the most current requirements. This request has been added as a recommended condition of approval.
Private utilities will provide service to the new lots under their operating procedures. MDU has indicated that the utility easements shown on the plat are sufficient for their needs.
- d. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- e. Streets - S. Shiloh Road fronts east side of the subject property. At this time, no improvements have been required or proposed by the subdivider to Shiloh. Access to the subject property is off of Shiloh via an existing driveway. No new approaches are proposed for the property.
- f. Emergency services – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station is Station #5 on South 24th Street West. The Fire Department had not commented at the time this report was prepared, but given that no new development is proposed, except the addition of sanitary sewer facilities, it is assumed that they would have no concerns with the proposal. The Police Department responded that they did not have concerns with the proposal. AMR provides medical care and transport and response would come from the west station on Grand Avenue.

- g. Schools – The subdivision is in the School District #2. Since this is commercial property, there should be no direct impact on the schools.
- h. Parks and Recreation – There is no parkland dedication requirement because this is a minor plat and commercial property. The zoo itself can be considered a recreational facility that serves the entire community and region.
- i. MET Transit – The nearest MET route passes to the north of the zoo at King and Shiloh. This subdivision should not significantly impact MET service but may in the future be a destination stop if enough demand is generated.

3. Effect on the natural environment

This subdivision should have no negative effects on the natural environment. With the construction of sanitary sewer lines, the elimination of the existing septic system will be a benefit to the environment.

4. Effect on wildlife and wildlife habitat

This subdivision should not adversely affect wildlife or habitat. The subject property currently provides habitat for a number of zoo animals. No changes to the zoo structure are proposed.

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The only change to the current development of the site is the addition of sanitary sewer lines.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304(c)(1)]

An Environmental Assessment is not required because this is a minor plat.

C. Does the subdivision conform to the 2003 Growth Policy and the Urban Area 2000 Transportation Plan? [BMCC 23-304(c)(3)]

1. Growth Policy

The proposed subdivision conforms to the following land use goals of the *Yellowstone County – City of Billings 2003 Growth Policy*.

- d. Predictable land use decisions that are consistent with neighborhood character and land use patterns.
- e. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.
- c. Safe and sanitary properties.
- d. Recreation facilities that serve the divers recreational needs of Billings, and Yellowstone County.

2. Urban area transportation plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. Shiloh Road is a state maintained arterial street. There is adequate right of way adjacent to this property and any improvements to the road would be made by MDT.

3. Heritage Trail Plan

The subdivision is also within the jurisdictional area of the Heritage Trail Plan. The plan identifies a greenway trail along Shiloh Road and Canyon Creek. No improvements are required for this subdivision at this time.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3)(b) and BMCC 23-304(c)(4)]

This proposed subdivision meets the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]

The property is currently served by a private well, septic system, and has on-site water management. The new lot will be served by municipal sewer and water services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304(c)(6)]

The property is in the Public zoning district and the subdivision conforms to the zoning.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3)(c) and BMCC 23-304 (c)(7)]

MDU has indicated that the utility easements provided on the plat are sufficient to serve the property.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608(3)(d) and BMCC 23-304(c)(8)]

Legal and physical access is provided to the new lot from Shiloh Road.

CONCLUSIONS OF FINDING OF FACT

- The proposed preliminary plat of ZooMontana Subdivision does not create any adverse impacts that warrant denial of the subdivision.

- There should be little effect on the review criteria as the only new development proposed is the addition of City sanitary sewer and eventually water services.
- The proposed subdivision conforms to several goals and policies of the 2003 Yellowstone County – City of Billings Growth Policy and does not conflict with the Transportation or BikeNet Plans.
- The proposed subdivision complies with State and local subdivision regulations, sanitary requirements, zoning and provides legal and physical access to each parcel.

Approved by the Billings City Council on March 14, 2005.

Charles F. Tooley, Mayor

ATTACHMENT D
Site Photos—ZooMontana Subdivision



Figure 1: From access drive looking east toward bridge over Canyon Creek ditch and Shiloh Rd.



Figure 2: From access road looking SW at existing parking area and visitors' center.



Figure 3: ZooMontana visitors' center to be served with City sanitary sewer.

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Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: Arnold Subdivision, 2nd Filing, Amended Lot 2, Block 6--Final Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: This final plat is being presented to the City Council for approval. The preliminary plat was approved by the Council on December 13, 2004. The subject property is zoned R-6000 and is located on the 2200 block of Lewis Avenue. The subdivision will create 2 lots for residential use. Lot 2-A has an existing house on the lot. All of the conditions for final plat approval have been met by the subdivider. The City Attorney reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

FINANCIAL IMPACT: The approval of this final plat will allow one additional residence to be added to the subject property, thus increasing the City's tax revenue on the property.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Arnold Subdivision, 2nd Filing, Amended Lot 2, Block 6.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT

A: Final Plat

ATTACHMENT A - Plat

[\(Back to Consent Agenda\)](#)

R

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: Stardust Acres Subdivision, Amended Lot 4, Block 1--Final Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: This final plat is being presented to the City Council for approval. The preliminary plat was approved by the Council on July 12, 2004. The subject property is zoned R-9600 and is located in Billings Heights, east of St. Andrews Drive, off of Venus Circle. The subdivision will create 2 lots for residential use. Lot 4-B has an existing house on the lot. All of the conditions for final plat approval have been met by the subdivider. The City Attorney reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

FINANCIAL IMPACT: The approval of this final plat will create an additional residential lot from the subject property, thus increasing the City's tax revenue on the property.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Stardust Acres Subdivision, Amended Lot 4, Block 1.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT

A: Final Plat

ATTACHMENT A

AMENDED PLAT OF LOT 4, BLOCK 1,
STARDUST ACRES SUBDIVISION

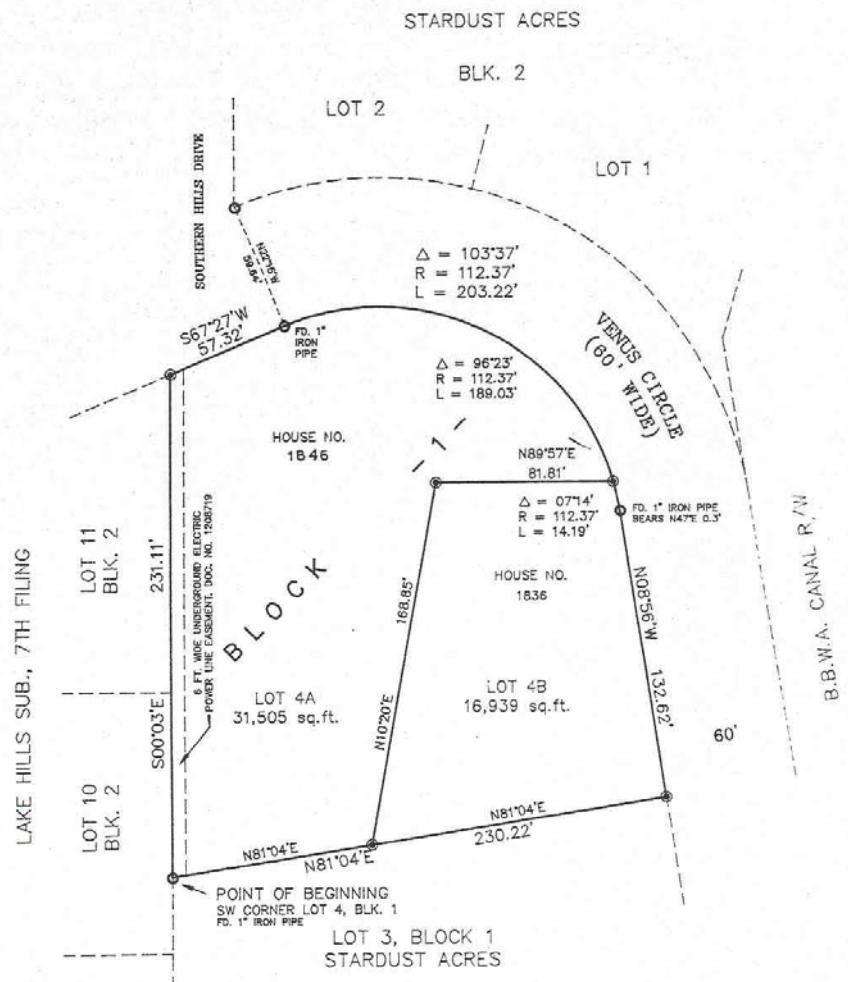
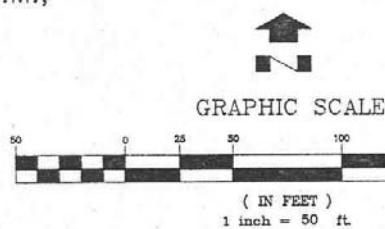
LOCATED IN THE SW1/4 SECTION 15, T.1N., R.26E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

OR: JORDAN R. HOYT AND
TERRIE L. HOYT
BILLINGS, MT.

Y: ATLAS ENGINEERS INC
BILLINGS, MT.

ATE: DECEMBER, 2004

GRAPHIC SCALE



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S

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 14, 2005

TITLE: Amended Lot 1, Block 1 Olive Glen Subdivision Final Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: This final plat is being presented to the City Council for approval. The preliminary plat was conditionally approved by the Council on November 8, 2004. The subject property is zoned Community Commercial and is located on the west side of Lake Elmo Drive, north of the intersection of Main Street. The subdivision will create 2 lots; one for commercial use and one for multi-family. The subdivider has met the conditions for final plat approval. The City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

FINANCIAL IMPACT: The creation of 2 lots for commercial and multi-family purposes will increase the City's tax revenue on these parcels.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lot 1, Block 1 Olive Glen Subdivision.

Approved By: **City Administrator** **City Attorney**

ATTACHMENT

- A. Final plat of Amended Lot 1, Block 1 Olive Glen Subdivision

☒

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T1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14th, 2005

TITLE: Payment of Claims

DEPARTMENT: City Administrator's Office

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$665,777.53 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 11th, 2005 is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

ATTACHMENT:

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

T2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 14th, 2005

TITLE: Payment of Claims

DEPARTMENT: City Administrator's Office

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$953,242.80 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 18th, 2005 is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

ATTACHMENT:

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, MARCH 14, 2005

SUBJECT: Conduct a Public Hearing and Approve the Resolution Approving and Adopting the Budget Amendments for the Second Quarter of Fiscal Year 2004/2005

DEPARTMENT: Administration

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Budget adjustments are requested for the General Fund (Fund 010), SID Arbitrage Fund, and the Arterial Street Fund (Fund 845).

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendments for Fiscal Year 2004/2005 per attached.

Approved By: **City Administrator** **City Attorney**

ATTACHMENTS:

Attachment A-Resolution to make Fiscal Year 2004/2005 adjustments appropriations
Exhibit A-Detailed List of Budget Amendments

Attachment A

RESOLUTION 05-

A RESOLUTION TO MAKE **FISCAL YEAR 05** ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND REVISIONS WITHIN THE GENERAL CLASS OF SALARIES AND WAGES, MAINTENANCE AND SUPPORT AND CAPITAL OUTLAY.

WHEREAS, M.C.A. 7-6-4006 provides that the City Council, upon proper resolution, adopted by said Council at a regular meeting and entered into its Minutes, may transfer or revise appropriations within the general class of salaries and wages, maintenance and support, and capital outlay, and

WHEREAS, based upon a **Quarterly Budget Review (FY 2004/2005)**, it is necessary to alter and change said appropriations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT)

PASSED AND APPROVED by the City Council, this 28th day of February, 2005.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley, MAYOR

ATTEST:

BY: _____
Marita Herold, CMCCITY CLERK

Budget Adjustments**Exhibit A**

	<u>Revenue</u>	<u>Expenditure</u>
010-5112-452	1160	10,240 TEMPORARY WAGES
	1410	38 UNEMPLOYMENT INSURANCE
	1420	371 INDUSTRIAL ACCIDENT
	1440	956 F.I.C.A.
	1455	224 MEDICARE
Totals	-	11,829

Increase in personal services budget required for the remaining of FY05 budget year for four seasonal positions that were eliminated during the retrenchment exercise. General Fund parks maintenance has been reduced due to moving four seasonal positions to required work in park maintenance districts.

010-5126-451	1160	15,269 TEMPORARY WAGES
010-5126-451	1410	57 UNEMPLOYMENT INSURANCE
010-5126-451	1420	553 INDUSTRIAL ACCIDENT
010-5126-451	1440	1,426 F.I.C.A.
010-5126-451	1455	334 MEDICARE
010-5126-451	2290	1,325 OTHER OPERATING SUPPLIES
010-5126-451	3410	1,550 ELECTRIC
010-5126-451	3690	920 OTHER REPAIR-MAINTENANCE SERVICE
Totals	-	21,434

Increase budget in Parks Recreation and Public Lands for Athletic Pool operations for the remainder of fiscal year 2005. This amendment would allow Athletic Pool to open in June of 2005.

010-5142-436	1160	3,550 Temporary Wages
Totals		3,550

Increase budget in Parks Recreation and Public Lands for Cemetery operations for the remainder of fiscal year 2005. This amendment would allow for a temporary worker that was reduced during budget reductions.

Budget Adjustments**Exhibit A (Cont.)**

	<u>Revenue</u>	<u>Expenditure</u>
010-5122-347	1160	1,200 TEMPORARY WAGES
010-5122-347	1410	75 UNEMPLOYMENT INSURANCE
010-5122-347	1420	39 INDUSTRIAL ACCIDENT
010-5122-347	1440	57 F.I.C.A.
010-5122-347	1455	18 MEDICARE
010-5122-347	2250	111 RECREATION SUPPLIES
010-5122-347	2450	1,300 BUILDING & EQUIPMENT MAINTENANCE
010-5122-347	2920	250 SHOP EQUIPMENT UNDER \$2500
010-5122-347	3410	1,440 ELECTRIC
010-5122-347	3420	332 WATER
010-5122-347	3440	3,170 NATURAL GAS
Totals		7,992

Increase budget in Parks Recreation and Public Lands for North Park and Zimmerman Centers operations for the remainder of fiscal year 2005. Both were scheduled to be closed during winter months based on the adopted FY05 budget.

845-3186-431 9310 600,000 CAPITAL PROJECTS
Totals

Establish a FY05 budget for arterial street fee that was on the 2004 tax rolls.

231-1585-415 3592 45,500 PROFESSIONAL SERVICES

Establish a FY05 budget for professional services required for arbitrage services.

NOTICE OF PUBLIC HEARING

On Monday, February 28, 2005, at 6:30 p.m. the Billings City Council will conduct a public hearing on resolutions approving budget amendments for the General Fund, SID Arbitrage Fund, and the Arterial Street Fund.

The public hearing will be held in the Council Chambers on the second floor of the Police Facility, located at 220 North 27th Street, Billings, Montana. The meeting is open to anyone interested in making comment on this matter.

For further information, contact Patrick M. Weber, Financial Services Manager, City of Billings, 210 N 27th Street, Billings, Montana, 59101 or by calling 657-8209.

Dated this 24th day of February, 2005.

Marita Herold, CMC/AAE
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

Finance
10 Copies
Publish 2/24/05 & 2/27/05

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