

# 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

April 11, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley  
PLEDGE OF ALLEGIANCE-- Mayor Tooley  
INVOCATION – Councilmember Nancy Boyer  
ROLL CALL  
MINUTES – March 24, 2005 and March 28, 2005  
COURTESIES  
PROCLAMATIONS – Mayor Tooley  
BOARD & COMMISSION REPORTS – Parking Advisory Board  
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. C.O. #1, AIP 28 Project: Airport Operations Facility Addition, High Tech Construction, Deduct \$1,312.00

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

B. Agreement to Recondition the Airport Terminal's 180-Ton Chiller Compressor, Trane, \$37,210.00.

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

**C. Operating Agreement and Terminal Building Lease** with Big Sky Airlines, Horizon Air, Northwest Airlines and SkyWest Airlines, extending contract expiration to 6/30/2006, \$2,900,000.00.

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

**D. Contract with Brenda Roche, Ph.D., LP**, as program evaluator for Billings Adult Misdemeanor Treatment Court, \$22,500.00, one year contract.

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

**E. Approval of QCD** to release the City from interest in vacated ROW located on Lot 28, Block 1 Country Club Heights Subdivision, \$0.

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

**F. Accept Tract 3 of unnumbered C/S** relocating common boundaries between certain parcels and adding .0597 acres to the dedicated parkland in Rehberg Ranch Estate Subdivision, 1<sup>st</sup> filing, \$0.

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

**G. Subordination of First Time Homebuyer Loan**, Lewis Paul Lux, 622 North 15<sup>th</sup> Street, \$4,577.34.

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

**H. Subordination of First Time Homebuyer Loan**, Chuck Gross, 919 South 30<sup>th</sup> Street, \$4,618.37.

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

**I. Second/Final Reading Ordinance** extending the boundaries of Ward I to include the recently annexed properties in Annex #05-01: five (5) wholly surrounded properties along South Billings Boulevard described as:

- Tract 1, Popelka Industrial Tracts Subdivision, First Filing
- Tract A, C/S 289 in Sugar Subdivision, Lot 20
- Tract A, C/S 289 in Sugar Subdivision, Lot 19
- Tract 19B-1, C/S 289 in Sugar Subdivision, Lot 19
- Tract 19B-2, C/S 289 in Sugar Subdivision, Lot 19.

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

**J. Second/Final Reading Ordinance** amending BMCC Section 22-1003 providing for an arterial construction fee, providing for a procedure whereby fees can be determined, imposed and appealed, establishing an effective date and providing a severability clause be amended for clarification.

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

**K. Second/Final Reading Ordinance for Zone Change #754:** a city-initiated zone change for lands affected by the recently adopted South Shiloh Corridor Overlay

District regulations established in BMCC Sections 27-1427 thru 27-1453, approving the zone change and adopt the determinations of the 12 criteria.

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

**L. Preliminary Plat** of OCSS Subdivision, generally located on the southeast corner of Lampman Drive and Carbon Street, OCSS Investment, owner, Engineering, Inc., agent. Approval of the requested variance and conditional approval of the preliminary plat and adoption of the findings of fact.

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

**M. Final Plat** of Rehberg Ranch Estates Subdivision, 2<sup>nd</sup> filing.

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

**N. Final Plat** of Ironwood Estates Subdivision, 3<sup>rd</sup> filing.

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

**O. Final Plat** of Eagle Ridge Subdivision.

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

**P. Final Plat** of Vintage Estates Subdivision.

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

**Q. Bills and Payroll.**

(1) March 18, 2005

[\(Corresponding Staff Memo Q1\)](#)

(2) March 25, 2005

[\(Corresponding Staff Memo Q2\)](#)

**(Action:** approval or disapproval of Consent Agenda.)

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION** adopting the North West Shiloh Area Plan. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

**3. PUBLIC HEARING AND RESOLUTION** ordering construction for W.O. 04-12: Alkali Creek Road Improvements, sidewalk assessments. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 3\)](#)

4. **PUBLIC HEARING** relating to the proposed cost-of-service water and wastewater rate adjustments. Staff recommends delaying action to 4/25/05. (**Action:** approval of disapproval of Staff recommendation).  
[\(Corresponding Staff Memo 4\)](#)
5. **RESOLUTION** approving adoption of the Bitterroot Heights Park Master Plan. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 5\)](#)
6. **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

**AGENDA ITEM:**



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Approval of Change Order One with High Tech Construction Airport Improvement Program (AIP) 28 Project, Operations Facility Addition

**DEPARTMENT:** Aviation and Transit

**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

---

**PROBLEM/ISSUE STATEMENT:** Last Summer's Federal Aviation Administration program AIP 28 grant funded an addition to the Airport Operations facility. High Tech Construction was the general contractor of the AIP funded construction project. This is the final balancing change order for this project and corrects the bid quantities to match the installed quantities. The comparison of these two quantities indicates either an addition of deduction to the contract amount. The major changes to this contract are as follows:

- Reduction of painting in the sand storage addition.
- Addition of a concrete pad over the cistern to accommodate large truck traffic.
- Reductions of vent piping for the floor drain system, due to design modifications.
- Elimination of fire alarm devices that will be supplied in another project.
- Credit for natural gas supplied by the City used to heat addition during construction.
- Additional steel reinforcing required by concrete design changes.

**FINANCIAL IMPACT:**

These changes will result in a deduct of \$1,312. The original contract amount will be reduced to \$549,551. This AIP project is funded Federally at 95% and locally at 5%. The City's portion of this Change Order deduct is approximately \$66 in savings.

**RECOMMENDATION**

Staff recommends that the City Council approve Change Order One to High Tech Construction for AIP 28 Project – Operations Facility Addition.

**Approved By:**            **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENTS**

- A. Change Order One for AIP 28 Project – Operations Facility Addition (5 copies)

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

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Approval of the Service Agreement to Recondition the Airport Terminal's 180-Ton Chiller Compressor

**DEPARTMENT:** Aviation and Transit

**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

---

**PROBLEM/ISSUE STATEMENT:** The compressor for the Terminal Building's 180-ton chiller, which is essential to the heating and cooling systems in the Terminal, has had a critical seal failure and must be sent to the manufacturer for reconditioning. This chiller is the primary component of the heat pump system for Winter heating, and is the secondary system for Summer cooling. This compressor is part of a Trane manufactured package unit, and therefore the removal, reconditioning, installation, and start-up work must be conducted by Trane technicians. Included as part of the reconditioning project is a five (5) year warranty and a five (5) year service contract. We received a price of \$37,210 from Trane for this emergency sole supplier work.

**FINANCIAL IMPACT:**

The total cost of this project is \$37,210. By deferring other projects, we have the funding available in the Airport's FY 2005 operating budget for this emergency repair.

**RECOMMENDATION**

Staff recommends that the City Council approve the Service Agreement with Trane to Recondition the Airport Terminal's 180-Ton Chiller Compressor.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Renewal of the Scheduled Airline Operating Agreement and Terminal Building Lease

**DEPARTMENT:** Aviation and Transit

**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

---

**PROBLEM/ISSUE STATEMENT:** On June 30, 2004, the Scheduled Airline Operating Agreement and Terminal Building Lease (the Agreement) with the signatory airlines expired. Due to the tough financial times that the airline industry has suffered, the airlines will only look at short term agreements, so staff subsequently negotiated a contract extension through June 30, 2006. Even with the shorter Agreement term, only Big Sky Airlines, Horizon Air, Northwest Airlines, and SkyWest Airlines have returned the signed Agreement. Both United Airlines and Mesa Airlines (America West Express) have indicated that they will be signing the Agreement and may need to be included in the Council Action on April 11, 2005, if the Agreements are returned in time.

**ALTERNATIVES ANALYZED:** The Council has the following alternative choices:

- Renew the Scheduled Airline Operating Agreement and Terminal Building Lease with those airlines that have returned signed Agreement documents (recommended). The new term of the Agreement expires June 30, 2006, and we have continued to let the airlines operate under the Signatory Agreement while their legal staffs reviewed the renewal language.
- Continue to operate without any Agreement with the airlines and reclassifying them all as non-signatory airlines. The airlines would then operate under City Ordinance 90-4850 and the airline rates would be recalculated using non-signatory rate calculation methodology. This would still generate the revenues needed to operate the Airport, but allows the airlines to leave our market whenever they desire, without any further financial responsibility to the City of Billings.

**FINANCIAL IMPACT:** This Agreement extends the term and helps to ensure the Airport's fiscal viability through June 30, 2006. The total budgeted airline revenue for the City is approximately \$2,900,000 for this fiscal year.



**RECOMMENDATION**

Staff recommends that Council approve the renewal of the Airline Scheduled Operating Agreement with Big Sky Airlines, Horizon Air, Northwest Airlines, and SkyWest Airlines, extending the contract expiration date to June 30, 2006. Staff will come forward to include Mesa Airlines and United Airlines should they return executed Agreements.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

A. Scheduled Airline Operating Agreement and Terminal Building Lease

## **INTRODUCTION**

The Scheduled Airline Operating Agreement and Terminal Building Lease with the signatory airlines expired on June 30, 2004. A renewal extending the Agreement to June 30, 2006 has been negotiated with the expiring Agreement's six signatory airlines that serve Billings. New Agreements were received by the City from four of the airlines. Staff is recommending that the City Council take action to authorize this Agreement renewal for those airlines that have returned the signed Agreement.

## **BACKGROUND**

In consultation with the individual airlines, there was consensus that due to the current uncertainties surrounding the airline business that began with 9-11, and has been perpetuated by the high price of fuel, that the existing contract between the City and the signatory airlines would best serve the interests of all parties if it were simply renewed, with minor changes, for an additional two years through June 30, 2006.

The Scheduled Airline Operating Agreement and Terminal Building Lease (Signatory Agreement) contract language has been used since the Terminal remodel of 1990, and was previously renewed in 1997 for five additional years. The Signatory Agreement language provides a rate making formula for airline Terminal Building rentals and landing fees. In 1990, City Ordinance 90-4838 was established, basically duplicating the language of the Signatory Agreement. This Ordinance was established to provide for the revenue generating capability needed for the Airport's bonding requirements and capital needs, regardless of whether an airline entered into an Agreement with the City. In late 1990, Ordinance 90-4838 was replaced with Ordinance 90-4850, which mirrored the previous Ordinance, except that a financial incentive for the airlines was incorporated into Ordinance 90-4850 giving those airlines that entered into the Signatory Agreement a lower landing fee rate than those airlines that chose not to enter into a longer term commitment with the City.

Under the previous Agreement, Big Sky, Horizon, Mesa, Northwest, SkyWest, and United Airlines operated under the Signatory Agreement, with only Frontier Airlines operating as a non-signatory airline. The difference in the landing rate fee between a signatory airline and a non-signatory airline is currently \$.28 per 1,000 pounds of landed weight. For example, United Airlines would pay the City approximately \$2,200 more per month in landing fees as a non-signatory airline than they would as a signatory airline. The non-signatory mechanism was originally requested by the airlines to serve as an economic incentive for all airlines to become signatory to the Agreement.

The design of the Signatory Agreement and the City Ordinance is commonly called a Residual Agreement. In this type of agreement, the Airport's operating, maintenance, and capital expenditures are initially offset with non-airline revenues and Terminal rentals (car rentals, parking, gift shop, land and building rents, etc.). Any additional funds needed to meet operating expenses are then provided by the airlines in the form of Terminal space rentals and landing fees. In effect, the contract requires the signatory airlines to guarantee the Airport's ability to have a balanced budget, with all revenue shortfalls to be paid by the airlines. This contract has worked

very well for funding the Airport's needs over the last decade. In fact, around the country, it is considered a model contract for airports our size.

Two minor modifications were made to this time tested contract to be used in the recommended renewal language. The first includes allowing the City the flexibility to more accurately bill out the common use areas (such as baggage claim) to the airline tenants that are actually using these areas each month. The second change includes the inclusion of "Airline Affiliate" language, which allows the signatory airline's partners or subsidiaries to operate in Billings under the Signatory Agreement of that airline.

## **ALTERNATIVES ANALYSIS**

Council can either approve the renewal Signatory Agreement with a new term running through June 30, 2006, or the Council may choose to continue to let the airlines operate without an Agreement and enforce the payment of rents and fees utilizing City Ordinance 90-4838. Approving the Signatory Agreement would be preferable, as the signatory airlines are then contractually responsible for the space they are leasing from the City for the term of the Agreement. As a signatory airline, they would continue to pay the City rent even if they discontinue serving the Billings market. This situation happened in 1995 when Frontier originally left the Billings market; because they were a signatory to the Agreement, Frontier had to continue to pay rent through the end of the contract term, which ended June 30, 1997. This would not be the case if the airlines were operating under the City Ordinance.

## **STAKEHOLDERS**

There are three groups that are all positively affected by the execution of the Scheduled Airline Operating Agreement and Terminal Building Lease. The first is the public at large, because an extended Signatory Agreement offers an existing air carrier a financial disincentive to leave our market, since they would have to continue to pay space rentals through the end of the term. The second party is the City of Billings, which will be in a better financial position with leased Terminal space guaranteed for the term of the Agreement. Third, the air carriers will benefit by receiving the lesser signatory rate as opposed to the higher non-signatory rate. Approval of the Signatory Agreement is beneficial to all parties involved.

## **RECOMMENDATION**

Staff recommends that Council approve the renewal of the Airline Scheduled Operating Agreement with Big Sky Airlines, Horizon Air, Northwest Airlines and Sky West Airlines, extending the contract expiration date to June 30, 2006. Staff will come forward to include Mesa Airlines and United Airlines should they return executed Agreements.

## **ATTACHMENTS**

A. Scheduled Airline Operating Agreement and Terminal Building Lease

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

D

AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

TITLE: Treatment Court Provider Recommendation  
DEPARTMENT: Billings Municipal Court  
PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

---

**PROBLEM/ISSUE STATEMENT:** Billings Adult Misdemeanor Treatment Court (BAMDC) accepted its first participants February 16, 2005. To continue operation in compliance with grant requirements and to be eligible for future funding, BAMDC must retain the services of a program evaluator.

**ALTERNATIVES ANALYZED:** 1. Council may choose to allow Brenda Roche, Ph.D., LP to provide program evaluation services for BAMDC participants. 2. Council may choose not to allow Brenda Roche, Ph.D., LP to provide program evaluation services for BAMDC participants. In this case, the Court would be required to draft an RFP and search for another experienced program evaluator.

**FINANCIAL IMPACT:** There is no financial impact associated with this decision, as federal grant funds have been obtained from the Bureau of Justice Assistance (BJA) and accepted for this purpose.

**RECOMMENDATION**

Staff recommends that Council approve a one-year contract with Brenda Roche, Ph.D., LP in the amount of \$22,500 with an option to renew for two additional years to provide program evaluation for Billings Adult Misdemeanor Drug Court.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- [A] Proposed contract between City of Billings and Dr. Brenda Roche
- [B] BJA Grant Application
- [C] Vitae of Brenda K. Roche, Ph.D., LP

## **INTRODUCTION**

Staff recommends that Council approve a one-year contract with Brenda Roche, Ph.D., LP in the amount of \$22,500 with an option to renew for two additional years to provide program evaluation for Billings Adult Misdemeanor Drug Court.

Dr. Roche assisted the Court in writing the BJA grant for implementation of a drug court program in Billings and is listed as the program evaluator in the grant application. Dr. Roche is the only neuropsychologist in the state who has experience with drug court program evaluation. As such, she provides program evaluation to many of the drug courts currently operating in Montana.

## **PROCEDURAL HISTORY**

- BJA grant application made February 2004.
- BJA grant awarded September 2004.
- Submitted to Council to request permission to accept BJA grant award October 12, 2004.
- Council unanimously approved request at October 12, 2004 meeting.
- Grant provides for chemical dependency evaluation and treatment.
- Council unanimously approved request to execute contract with treatment provider at December 12, 2004 Council Meeting.
- If request approved, execute contract with Brenda Roche, Ph.D., LP for program evaluation services.
- Continue to screen and accept clients into BAMDC.
- Program evaluation will be ongoing. Such reports may be provided to Council upon request.

## **BACKGROUND**

Evaluation of procedure and program outcome is a key component to any drug treatment court. Such evaluation provides feedback to the team, participants and to the community as to the effectiveness of the drug court program and the achievement of stated goals and objectives.

**PROCESS EVALUATION:** The process evaluation will consist of an analysis of BAMDC policies, practices, and participant characteristics. The evaluator will work with all stakeholders to ensure necessary data is being collected. The evaluator will submit quarterly reports to the BAMDC treatment team and steering committee so that the program can utilize the data to monitor operational effectiveness and achievement of goals and objectives.

**Specific data elements:** Some of the specific information that will be collected and examined includes policies and procedures, eligibility, program mandate information, current program status, psychosocial assessment characteristics for participants, criminal justice characteristics, in-program compliance, treatment programs, case flow tracking data, exit status, time to treatment placement, treatment modality, sanctioning policies, in-program retention rates, and predictors of graduation and recidivism.

**OUTCOME EVALUATION:** By monitoring outcome variables such as those listed below, BAMDC will be able to use the information to change and improve the court's operations. The evaluator will provide quarterly written reports to BAMDC treatment team and steering Committee regarding outcomes such as:

- (1) impact of BAMDC on post-arrest recidivism,
- (2) impact of BAMDC on post-program recidivism,
- (3) changes in the BAMDC impact over time (does it attenuate over time?),
- (4) new criminal charge faced by recidivating participants during the program and after leaving the program,
- (5) impact of BAMDC graduation on recidivism,
- (6) impact of other background participant characteristics on recidivism,
- (7) relative impact on participants arrested on drug versus non-drug charges,
- (8) relative impact on other specific participant subgroups,
- (9) impact of BAMDC on case processing, and
- (10) impact of BAMDC on case outcomes.

The BJA grant awarded for the implementation of Billings Adult Misdemeanor Treatment Court provides \$22,500 in the first year of the grant for a consultant to provide program evaluation.

- The BAMDC program addresses two City Council goals:
  - **Council Goal One:** Identify specific strategies to ensure the City's financial health, and pursue those strategies.
    - Research shows that treating offenders helps to reduce recidivism, thereby saving time and money spent on court appearances for repeat offenders and dollars spent on incarceration.
  - **Council Goal Six:** Continue to develop and utilize key community and governmental coalitions and partnerships to address community and regional issues.
    - The BAMDC program is a key step in addressing area drug and alcohol abuse and associated crimes, thereby benefiting the citizens of Billings and making our community a safer place to live.
- If Council approves, the contract to provide program evaluation for BAMDC will be awarded to Brenda Roche, Ph.D., LP for the term of one year, with an option to renew for two additional years.

### **RECOMMENDATION**

Staff recommends that Council approve a one-year contract with Brenda Roche, Ph.D., LP in the amount of \$22,500 with an option to renew for two additional years to provide program evaluation for Billings Adult Misdemeanor Drug Court.

## **PROFESSIONAL SERVICES AGREEMENT**

Authority: Sections 3-1-701, 3-1-702, MCA  
and applicable regulations.

This Agreement is entered into at Billings, Montana, on \_\_\_\_\_  
between the City of Billings ("City") and Brenda K. Roche, Ph.D., LP (Contractor). This Agreement constitutes the entire understanding between the City and the Contractor for the services of Program Evaluation and shall not be enlarged, modified, or altered without the express written agreement by all parties.

### **SECTION ONE: RESPONSIBILITIES**

The City of Billings Municipal Court Judge ("Judge") shall be responsible for the overall direction of this project. The Judge shall be responsible for designating the duties and responsibilities of the Contractor for the Billings Adult Misdemeanor Drug Court ("BAMDC").

The Program Evaluator will monitor the drug court program goals and objectives outlined in the Bureau of Justice Assistant grant. The Program Evaluator is responsible for retaining database information on program participants, preparing quarterly and year-end activity reports, maintaining and developing BAMDC presentation materials, conducting intake and follow-up interviews, recording weekly court session information for entry into computer database and analyzing data to meet the goals and objectives of the program evaluation.

**PROCESS EVALUATION:** The process evaluation will consist of an analysis of BAMDC policies, practices, and participant characteristics. The evaluator will work with all stakeholders to ensure necessary data is being collected. The evaluator will submit quarterly reports to the BAMDC treatment team and steering committee so that the program can utilize the data to monitor operational effectiveness and achievement of goals and objectives.

**Specific data elements:** Some of the specific information that will be collected and examined includes policies and procedures, eligibility, program mandate information, current program status, psychosocial assessment characteristics for participants, criminal justice characteristics, in-program compliance, treatment programs, case flow tracking data, exit status, time to treatment placement, treatment modality, sanctioning policies, in-program retention rates, and predictors of graduation and recidivism.

**OUTCOME EVALUATION:** By monitoring outcome variables such as those listed below, BAMDC will be able to use the information to change and improve the court's operations. The evaluator will provide quarterly written reports to BAMDC treatment team and steering Committee regarding outcomes such as:

- (1) impact of BAMDC on post-arrest recidivism,
- (2) impact of BAMDC on post-program recidivism,
- (3) changes in the BAMDC impact over time (does it attenuate over time?),
- (4) new criminal charge faced by recidivating participants during the program and after leaving the program,



- (5) impact of BAMDC graduation on recidivism,
- (6) impact of other background participant characteristics on recidivism,
- (7) relative impact on participants arrested on drug versus non-drug charges,
- (8) relative impact on other specific participant subgroups,
- (9) impact of BAMDC on case processing, and
- (10) impact of BAMDC on case outcomes.

**Collecting data:** Releases for access to data on treatment data, re-arrest, re-conviction, and re-incarceration will be signed at intake and updated at each follow-up by the participants. Recidivism data will be collected every quarter and will continue for the length of the grant (three years). Other funding will be sought to continue the follow-up for a 5-year post-program period. Other data that will be collected every quarter includes drug use, employment and earnings, educational status, health care needs and services accessed, treatment needs and services provided, housing stability, other needs and services accessed. This data will be collected via an interview and questionnaires that will be modified from those currently being used in the state.

**Comparison Group:** In developing comparison group criteria, a uniform set of research design principles will be implemented. The comparison group will consist of defendants arrested just prior to the opening of BAMDC. The comparison group will be further refined using a propensity score matching methodology (e.g., see Rubin 1973; and Rosenbaum and Rubin 1983). Propensity score matching is among the strongest methodological alternatives to random assignment, since the approach ensures that each BAMDC's final comparison sample closely matches the BAMDC participant sample across a range of important background characteristics, such as sex, age, race/ethnicity, specific charges and criminal history, and substance of choice.

**MIS description.** The program evaluator has developed a Microsoft ACCESS database that will be used for Misdemeanor Drug Court that will be utilized to support the drug court's operations as well as the process and outcome evaluations.

## SECTION TWO: PURPOSE and SCOPE OF WORK

The purpose of the program evaluation is to provide support to BAMDC. The contractor shall collect and document information for program evaluation purposes in accordance with the obligations of the BAMDC through the Bureau of Justice Assistance grant and outlined in Appendix A.

The contractor shall provide written program reports to BAMDC in a format required by the Judge every (3) months, and a final report shall be submitted by contractor within sixty (60) days of the conclusion of the Contract Period, or early termination of this Agreement.

During the term of this Agreement, representatives of contractor will meet quarterly with representatives of BAMDC at times and places mutually agreed upon to discuss the progress and results, as well as ongoing plans, or changes therein, of Project to be performed hereunder.

### **SECTION THREE: PAYMENT**

The Contractor shall be paid \$22,500 (twenty two thousand, five hundred dollars U.S. currency) for the program evaluation. The Contractor shall provide monthly invoices by the 15<sup>th</sup> of each month for the amount of \$1,875 each to BAMDC for approval for payment. Payment shall be made by the City within 30 days of receipt.

### **SECTION FOUR: EFFECTIVE DATE AND TERMINATION**

This Agreement is effective for one year from the date entered, with an option to renew for an additional two years. This Agreement may be terminated earlier by either party, with or without cause, upon no less than 30 DAYS written notice by certified mail, telegram, or personal delivery of notice to the other party. If agreement is terminated prior to contracted date, Contractor will reimburse BAMDC upon receipt of written notice for services not delivered.

### **SECTION FIVE:**

#### **CONFIDENTIALITY REQUIREMENTS AND PUBLIC INFORMATION**

The Contractor agrees that in all actions taken on behalf of BAMDC and or the Program under this Agreement, the Contractor will observe and abide by all federal and state statutes and regulations concerning confidentiality and privacy.

The contractor shall be allowed to release the following information without the approval of BAMDC: (1) the existence of the Agreement; (2) the identity of BAMDC; (3) the purpose and the scope of the proposed research in sufficient detail to permit informal discussion concerning the value of such research with the contractor; and to inform colleagues in immediate and related disciplines of the nature and importance of the potential contribution to the disciplines involved; and (4) the amount awarded under the Agreement. None of this information shall be Confidential Information. No publicity shall be given by either party to any of the results of the investigation without the prior written approval of the other party.

BAMDC recognizes that the results of the Project must be publishable and agrees that the contractor shall be permitted to present at symposia, national or regional professional meetings and to publish in journals, theses or dissertations, or otherwise of her own choosing, methods and results of Project, provided, however, that BAMDC shall have been furnished copies of any proposed publication or presentation at least thirty (30) days in advance of such publication. BAMDC shall have fifteen (15) days, after receipt of said copies, to object to such proposed presentation or proposed publication. In the event that BAMDC makes such objection, the contractor will consider BAMDC's suggested modifications. If the contractor elects not to publish the results of the investigation, then BAMDC may with the consent of the contractor publish them. In such case, the contractor shall be given an opportunity to review the manuscript, and it shall not be published until approved by the contractor in writing. Approval by either party shall not be unreasonably withheld. Publication by either party to this Agreement shall give proper credit to the other party for the cooperative character of the investigation.

## **SECTION SIX: OWNERSHIP OF PAPERS AND FILES**

The contractor and BAMDC understand and agree that data collected by the contractor for purposes of evaluating the Billings Adult Misdemeanor Drug Court is confidential and will not be made available to BAMDC in the form collected. It is understood and agreed upon that a summary of the data collected with identifying information deleted will be made available to BAMDC in quarterly and annual reports.

BAMDC shall retain the ownership of all quarterly and annual reports, and all other documents and materials relating to this Agreement and shall have discretion as to their use except that such documents and materials must be made available to BAMDC upon request. In addition, the Contractor shall maintain reasonable records of its performance, and shall make available to and permit inspection by both the Legislative Auditor and Legislative Fiscal Analyst upon reasonable notice, of all such working papers, and other related documents and materials.

## **SECTION SEVEN: ASSISTANCE**

BAMDC shall provide assistance to the Contractor in the form of materials of information and service outcome expectations. This includes providing the Contractor access to BAMDC client and control group court records and assisting the Contractor in developing the goals for the program evaluation. BAMDC will not control the Contractor's daily time schedule, will not provide the Contractor's work tools, nor provide a place for the Contractor to perform this contract's work.

## **SECTION EIGHT: INDEMNITY, LIABILITY, AND INSURANCE**

The Contractor shall indemnify and hold harmless and defend BAMDC and the City of Billings, its agents and employees from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to person or entities arising out of, or resulting from the performance of this Agreement, provided such damage to property or injury to persons is due solely or partially to the negligent act, error, or omission of the Contractor or any of its employees.

The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

Specific Requirements for Professional Liability: The contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 to cover such claims as may be caused by any act, omission, negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

Specific Requirements for Business Liability Insurance: The contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,500,000 per occurrence and \$3,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

Specific Requirements for Automobile Liability: The contractor shall purchase and maintain occurrence coverage with limits of \$100,000 per person (personal injury), \$500,000 per accident (personal injury), \$100,000 per accident (property damage) to cover such claims as may be caused by any act, omission, or negligence of the contractor or her officers, agents, representatives, assigns or subcontractors.

**SECTION NINE:**  
**INDEPENDENT CONTRACTOR STATUS AND WORKERS' COMPENSATION**

It is mutually agreed that the Contractor is an independent contractor and is responsible for all expenses related to such status.

The Contractor at all times during the term of this Agreement must maintain coverage for the Contractor through workers' compensation, occupational disease, and any similar or related statutory insurance program. The Contractor must provide BAMDC with proof of necessary insurance coverage. If the Contractor has received for workers' compensation purposes an independent contractor exemption as to the Contractor, the Contractor must provide BAMDC with a copy of the exemption.

**SECTION TEN: NON-ASSIGNABILITY**

The Contractor shall not sell or otherwise assign this Agreement or any of the services to be rendered without first securing the written consent of BAMDC.

**SECTION ELEVEN: NO DISCRIMINATION**

All persons with responsibilities in the performance of the terms of this Agreement shall not discriminate against any person(s) on the basis of race, religious creed, color, sex, national origin, age, political affiliation or beliefs, marital status, mental or physical handicaps, or ancestry, in any activities performed pursuant to the Agreement. Contractor shall perform the services of this Agreement in accordance with all applicable laws, statutes, rules, and standards.

The Contractor and BAMDC executed this Agreement at the place and the day and year first above written.

Brenda K. Roche, Ph.D.  
1527 14<sup>th</sup> Street West  
Billings, MT 59101  
EIN# 77-0614014

\_\_\_\_\_  
Brenda K. Roche, Ph.D., LP  
Contractor

DATE: \_\_\_\_\_

City of Billings  
Billings Adult Misdemeanor Drug Court  
Billings Municipal Court  
PO Box 1178  
Billings, MT 59103

\_\_\_\_\_  
Hon. Charles Tooley  
Mayor

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

## **APPENDIX A**

### **Services to be Provided for the BAMDC Program Evaluation**

The following services will be provided by the Contractor:

1. Conduct an annual process evaluation.
2. Follow-up on the recommendations from the process evaluation. This will include facilitating team meetings to prioritize which recommendations to address and establish a time-line for implementing any changes and identifying responsible parties.
3. The following domains will be examined at the time the client enters the program, at completion of the program, and 6, 12, and 18 months post program by the use of several different paper pencil assessments, official records, and interviews from a variety of sources:
  - drug and alcohol usage of client and family;
  - criminal activity of client and family;
  - motivation for treatment;
  - family structure, functioning, cohesion, parenting skills, family resources, family support systems, parenting stress;
  - mental health status of client;
  - physical health of client;
  - vocational skills and achievement of client;
  - life skills knowledge of client;
  - risk taking behavior of client;
  - quality of life of client;
  - social support for client;
  - housing stability for client,
4. Work with all the stakeholders (e.g., BAMDC team members, treatment providers, service providers, and clients) to assure that the questions, appropriate to a process and outcome evaluation, they want answered will be considered in the evaluation process and the necessary steps will be completed to answer the questions, if feasible.
5. Evaluation of the different components of the BAMDC program (i.e., CD treatment, court interventions, sanctions, incentives, etc) will be evaluated to identify what program components are effective for what type of client. This will be conducted by developing goals and objectives for each component and measuring these regularly and by using statistical procedures to determine which components predict positive outcomes for which client.
6. Complete a cost-benefit analysis. The areas to be quantified will be reviewed with the BAMDC team before beginning this process.
7. Customize the management information system as necessary for the length of the contract period.
8. Facilitate quarterly meetings with the BAMDC team to keep them informed of the evaluation process and update them on any findings and recommendations.

**Brenda K. Roche, Ph.D., LP**

1527 14th Street West  
Billings, Montana 59102  
406-672-6201 (cell) • 406-294-9510 (office) • 406-294-9512 (fax)  
bkroche@earthlink.net

**Education:**

May 1986 Bachelor of Science, Leisure Studies and Recreation, with emphasis in  
Therapeutic Recreation, with Honors  
**North Dakota State University**, Fargo, ND

May 1995 Bachelor of Arts, Psychology, with Honors  
**The University of Montana**, Missoula, MT  
Thesis: Effectiveness of Montana's Independent Living Program

December 1998 Master of Arts, Clinical Psychology  
**The University of Montana**, Missoula, MT  
Thesis: Assessing Foster Youth's Readiness to Prepare for Adult  
Community Living

August 2002 Doctorate of Philosophy, Clinical Psychology  
**The University of Montana**, Missoula, MT  
Dissertation: Effects of Cumulative Environmental Risks and Maternal

Risk and

Trajectories

Protective Factors on Infant and Young Children's Developmental

**Training:**

Spring 1996 to August 2000 Psychology Trainee  
*Clinical Psychology Center, The University of Montana*, Missoula, MT  
Responsibilities: Provided short-term and long-term psychotherapy,  
general assessment, and neuropsychological evaluation to child,  
adolescent, and adult individuals and families from the community.  
Treatment issues included depression, suicidality, sexual abuse, divorce  
issues, obsessive compulsive disorder, bulimia, posttraumatic stress  
disorder, domestic violence, attention deficit hyperactivity disorder,  
oppositional defiant disorder, irritable bowel syndrome, conduct disorder,  
anxiety, and learning disabilities. Also received specific training in play  
therapy, parent-child interaction, cognitive behavioral therapy, emotion  
focused therapy, and family therapy.

September 2000 to August 2001 Clinical Psychology Pre-doctoral Intern  
**Children's Hospital and Clinics**, Minneapolis, MN  
Responsibilities: APA approved pre-doctoral internship including  
outpatient psychotherapy with children, adolescents and families,  
psychotherapy services in a high school based health clinic, general  
psychological assessment, personality assessment as part of an

interdisciplinary Schools Problem Team, neuropsychological evaluation for outpatient and inpatient pediatric populations, and pediatric consultation service to medical providers (e.g., Neurology, Oncology, Pediatrics, Neurosurgery, Psychiatry) with the following:

**Training (continued):**

- Medical Diagnoses: Sickle Cell Disease, Hemophilia, Acute Lymphoblastic Leukemia, Mild Head Trauma, Brain tumors, Chronic Pain, Medical Non-Adherence, Chromosome Deletion, Shaken Baby Syndrome, and Epilepsy.
- Psychiatric Diagnoses: Adjustment Disorder, Dysthymic Disorder, Major Depression, Bereavement, Oppositional Defiant Disorder, Generalized Anxiety Disorder, Obsessive Compulsive Disorder, Bulimia Nervosa, and Panic Disorder.
- Developmental and Learning Disorders: Autistic Disorder, Asperger's Disorder, Attention-Deficit/Hyperactivity Disorder, Dyslexia, Mixed Receptive-Expressive Disorder, Mathematics Disorder, Pervasive Developmental Disorder - Not Otherwise Specified, Disorder of Written Expression, Expressive Language Disorder, and Nonverbal Learning Disability.
- Other: Children and families coping with foster care placement, divorce adjustment, teen parenting, school failure, and adoption.

September 2001 to  
August 2003

*Neurology*

Pediatric Neuropsychology Fellowship  
**University of Minnesota**, Minneapolis, MN

*The Pediatric Neuropsychology unit of the Division of Pediatric*

Clinical Responsibilities: Provide in-home family therapy. Conduct neuropsychological evaluations and case management services for children, adolescents, and young adults with the following:

- Medical Diagnoses: Sickle Cell Disease, Acute Lymphoblastic Leukemia, Mild Head Trauma, Brain tumors, Chronic Pain, Shaken Baby Syndrome, Apraxia, Aphasia, Tourette's Syndrome, Cerebral Palsy, Fetal Alcohol Syndrome, Craniosynostosis, Hydrocephalus, Chromosomal Anomalies, Lyme's Disease, and Epilepsy.
- Psychiatric Diagnoses: Adjustment Disorder, Dysthymic Disorder, Major Depression, Oppositional Defiant Disorder, Generalized Anxiety Disorder, Obsessive Compulsive Disorder, Bulimia Nervosa, Reactive Attachment Disorder, Panic Disorder, Bipolar Disorder, Post-Traumatic Stress Disorder, and Schizophrenia.
- Developmental and Learning Disorders: Attention-Deficit/Hyperactivity Disorder, Autistic Disorder, Asperger's Disorder, Dyslexia, Developmental Prosopagnosia, Mixed Receptive-Expressive Disorder, Mathematics Disorder, Pervasive Developmental Disorder - Not Otherwise Specified, Disorder of Written Expression, Expressive Language Disorder, and Nonverbal Learning Disability.



- Other: Children and families coping with issues around foster care placement, divorce adjustment, parenting teen, school failure, and internationally adopted children.

Research Responsibilities: Assist with statistical analyses on longitudinal child development data set, collect and analyze neuropsychological and behavioral data for study investigating the correlates of aggression in children in a local school setting, Principal Investigator of a study investigating the neuropsychological outcomes for adults and children involved in the Yellowstone County Family Drug Court.

## **Honors and Awards:**

APA Division 37 Outstanding Student Poster Presentation, August 1999  
 Bertha Morton Scholarship, Spring 1999  
 Mortar Board Senior Award, Spring 1995  
 Kain and McKay Scholarship, 9/94 – 5/95  
 Dean's List, The University of Montana, 1992, 1993, 1994, 1995  
 Dean's List, North Dakota State University, 1983, 1984, 1985, 1986  
 Phi Eta Sigma Honor Society, 1983 – 1986

## **Licensure:**

### **State of Montana Board of Psychologists - # 357**

## **Positions:**

September 2004 to Present      **Faculty/Consultant**, *National Drug Court Institute, Alexandria, VA*  
 Serve as a trainer and facilitator for Family Drug Court national training program.

June 2004 to Present      **Clinical Psychologist / Neuropsychologist**, *Arrowhead Psychological & Behavioral Sciences, LLC, Billings, MT*  
 Private Practice Clinician providing psychotherapy for adults, adolescents, families, couples, play therapy for children, and neuropsychological evaluations for children, adolescents and adults.

June 2004 to Present      **Neuropsychologist**, *Arrowhead Psychological & Behavioral Sciences, LLC, Billings, MT; Miles City Family Drug Court, Miles City, MT; Butte Silver Bow Family Drug Court, Butte, MT; Lewistown Family Treatment Court, Lewistown, MT; Yellowstone County Family Drug Court, Billings, MT*  
 Conduct neuropsychological evaluations with parents and children involved in the Family Drug Court Program.

June 2003 to June 2004      **Neuropsychology Fellow**, *Miles City Family Drug Court, Miles City, MT; Butte Silver Bow Family Drug Court, Butte, MT*

involved in the Fiore, Ph.D., LP.	Conduct neuropsychological evaluations with parents and children Family Drug Court Program. Supervised by Christine
January 2003 to <i>Lewistown, MT</i> June 2004 involved in the Fiore, Ph.D., LP.	<b>Neuropsychology Fellow, <i>Lewistown Family Treatment Court</i>,</b>  Conduct neuropsychological evaluations with parents and children Family Treatment Court Program. Supervised by Christine
October 2001 to <i>Billings, MT</i> June 2004 involved in the Fiore, Ph.D., LP.	<b>Neuropsychology Fellow, <i>Yellowstone County Family Drug Court</i>,</b>  Conduct neuropsychological evaluations with parents and children Family Drug Court Program. Supervised by Christine

### **Positions (continued):**

Spring 1997 to August 2000	<b>Family Therapist,</b> <i>Montana Youth Alternatives, Boulder, MT</i> <u>Supervisors:</u> Christine Fiore Lerner, Ph.D. and Marcy Tepper Bornstein, Ph.D. <u>Responsibilities:</u> Conducted time-limited family therapy with adjudicated adolescents from multi-problem families during aftercare component of a residential correctional/wilderness program. Facilitated case conferences for youth and their families. Coordinated services and consulted with juvenile probation officers, case managers, school personnel, mentors, substance abuse counselors, and aftercare coordinators. Developed and monitored aftercare plans.
October 1995 to <i>Program</i> July 2001	<b>Project Coordinator/ Group Facilitator, <i>Building Skills for Adulthood</i></b> <i>The University of Montana, Missoula, MT</i> <u>Responsibilities:</u> Coordinated assessments and evaluations of the life skills of youth in the foster care system; contacted youth, foster care providers, case workers, probation officers; trained undergraduate psychology students in conducting assessments; facilitated focus groups for youth; facilitated support groups for volunteer mentors; developed and carried out statewide recruitment plan for volunteers; developed and coordinated mentor trainings; trained and supervised psychology graduate students in facilitating mentor trainings; published quarterly newsletter; responsible for all program expenditures; trained foster care providers, case workers, and probation officers in the development of individualized transitional plans for youth, adolescent development, and special issues of

youth in care; and served as a member of the state Building Skills for Adulthood Program Advisory Council.

Summer 1992 to  
Summer 1996

**Youth Group Home Worker**

*Missoula Youth Homes, Missoula, MT*

Responsibilities: Responsible for day-to-day operation of a seven bed group home for emotionally disturbed youth. Served as a member of an interdisciplinary team. Worked as a liaison with community supports and services. Facilitated a weekly process group.

December 1988 to  
May 1992

**Activity Therapy Director/Case Manager**

*Ruth Meier Adolescent Center, Grand Forks, ND*

Activity Therapy Responsibilities: Developed and facilitated the Therapeutic Recreation Program serving seriously emotionally disturbed adolescents in a co-ed residential treatment facility. Provided in-service training to residential staff. Assessed adolescents for life skills and developed individual activity therapy treatment plans for all youth. Provided individualized programming facilitating transition to a less restrictive environment by specifically addressing: social skills, self-esteem, handling free time constructively, and independent living skills. Developed a quality assurance program for the therapeutic recreation program. Facilitated group therapy and co-facilitated the female sexual abuse survivors group. Maintained clinical case records according to licensure standards. Organized and implemented two public service projects per year. Served as a member of an interdisciplinary team and was a member of the admissions/discharge committee.

**Positions (continued):**

Case Manager Responsibilities: Assisted in the development of the youth's individual treatment plan. Monitored progress on individual treatment plans and attended all treatment plan review meetings. Coordinated all community and school services for youth. Wrote weekly and monthly progress reports along with the discharge plan/termination summaries. Provided after care services for youth and family for one year after discharge. Served as a member on Individual Education Plan committee's, Permanency Planning team, and treatment plan team.

July 1988 to  
December 1988

**Activity Therapy Director**

*Northeast Human Services Center, Grand Forks, ND*

Responsibilities: Developed, facilitated, and evaluated a day treatment program with Dually Diagnosed, Chronically Mentally Ill and Developmentally Disabled adults. Provided group therapy, leisure counseling and education, social skills training, and community reintegration activities. Served as a member of an interdisciplinary team.

December 1987 to  
July 1988

**Therapeutic Recreation Consultant**

*Southern Oaks Health Care Center, St. Cloud, FL*

Responsibilities: Assisted in the development of a well-rounded Therapeutic Program. Reviewed patient charts monthly to assure that all regulations were being met. Provided recommendations on programming, sensory stimulation, documentation, regulations, volunteer programming, intergenerational programming, policy and procedures, and quality assurance.

June 1987 to  
July 1988

**Therapeutic Recreation Consultant**

*Kissimmee Health Care Center, Kissimmee, FL*

Responsibilities: Trained the new Activity Director in the development of an activity therapy program for elderly patients. Reviewed patient charts monthly to assure that all regulations were being met. Provided recommendations on programming, sensory stimulation, documentation, regulations, volunteer programming, intergenerational programming, policy and procedures, and quality assurance.

July 1986 to  
July 1988

**Therapeutic Recreation Director**

*Good Samaritan Health Care Center, Kissimmee, FL*

Responsibilities: Recruited department staff, supervised two full-time and one part-time therapeutic recreation specialists. Designed, implemented and evaluated individual and group therapeutic programs with elderly clients. Assessed individual needs and developed Activity Care Plans. Served as a member of an interdisciplinary team. Responsible for staffing schedules, policy and procedure development and revisions, budget, in-service for other personnel, and recruitment, training, and supervision of volunteers.

**Research Experience:**

January 2004 to  
*Treatment Present*

**Program Evaluator/Principal Investigator, Big Horn County Family Court, Basin, WY**

cost-

Develop and implement ongoing process and outcome evaluations and benefit analysis for Big Horn County Family Treatment Court.

May 2003 to  
*Court,*  
Present

**Program Evaluator/Principal Investigator, Missoula Mental Health**

*Missoula, MT*

cost-

Develop and implement ongoing process and outcome evaluations and benefit analysis for Missoula Mental Health Court.

June 2003 to  
*Court,*  
Present

**Program Evaluator/Principal Investigator, Miles City Family Drug**

*Miles City, MT*

cost-

Develop and implement ongoing process and outcome evaluations and benefit analysis for Miles City Family Drug Court.

June 2003 to  
*Drug Court, Present* **Program Evaluator/Principal Investigator, Butte Silver Bow Family  
Butte, MT**  
Develop and implement ongoing process and outcome evaluations and  
cost- benefit analysis for Butte Silver Bow Family Drug Court.

January 2003 to  
*Treatment Court, Present* **Program Evaluator/Principal Investigator, Lewistown Family  
Lewistown, MT**  
Develop and implement ongoing process and outcome evaluations and  
cost- benefit analysis for Lewistown Family Treatment Court.

February 2002 to  
*Drug Court, Present* **Program Evaluator/Principal Investigator, Mineral County Juvenile  
Superior, MT**  
Develop and implement ongoing process and outcome evaluations and  
cost-benefit analysis for Mineral County Juvenile Drug Court in the rural  
community of Superior, Montana.

January 2002 to  
August 2002  
Protective Factors **Dissertation**  
Effects of Cumulative Environmental Risks and Maternal Risk and  
on Infant and Young Children's Developmental Trajectories  
*The University of Montana, Missoula, MT*  
This study examined the dynamic relationships between cumulative  
environmental risk factors and maternal risk and protective factors and  
maturational changes in young children's cognitive developmental status.  
This study found that maternal protective factors such as the emotional  
and verbal responsiveness of the mother, acceptance of the child's  
behavior while maintaining flexible "less rigid" expectations of the child,  
organization of the physical environment, provision of appropriate play  
materials, maternal involvement with the child, and daily opportunities for  
a variety of stimulation for the child have a very significant protective  
effect on infant's cognitive developmental outcomes for children up to the  
age of 42 months; even in the face of key environmental and maternal  
psychological risk factors. This study also found that children's cognitive  
development from 8 months to 42 months is partly dependent on maternal  
IQ, race, and gender.

### **Research Experience (continued):**

October 2001 to  
*Drug Court, Present* **Program Evaluator/Principal Investigator, Yellowstone County Family  
Billings, MT**  
Develop and implement ongoing process and outcome evaluations and  
cost- benefit analysis for Yellowstone County Family Drug Court.

January 1999 to  
September 2001 **Program Evaluation Consultant**  
*Montana's Court Appointed Special Advocates (CASA), Helena, MT*

Oversaw, fifteen local process and outcome evaluations for Montana's CASA program as well as a statewide outcome study. This included the development of a standardized Microsoft ACCESS database and training CASA staff in the use of the database.

April 1998 to  
Missoula, Present

**Program Evaluator/Principal Investigator, Missoula Youth Drug Court,**  
*MT*

Develop and implement ongoing process and outcome evaluations and cost-benefit analysis for Missoula Youth Drug Court.

January 1997 to  
Present

**Program Evaluation Consultant**

*Montana's Citizen Review Boards (CRB), Helena, MT*

Developed a Microsoft ACCESS database to collect ongoing program and outcome data. Oversee the development of Montana's CRB process and outcome evaluation. Compile the statistical information for CRB's reports to the Montana Legislature.

Spring 1996 to  
Spring 1998

**Masters Thesis**

Assessing Foster Youth's Readiness to Prepare for Adult Community Living

*The University of Montana, Missoula, MT*

This study investigated the utility of the Transtheoretical Model of Change in examining the readiness to prepare for adult community living among 229 adolescents between ages 15 and 21, who were in the foster care system. The results supported the hypothesis that there are significant differences between youth in the five stages of readiness to prepare for adulthood. Conceptually, this study offers a framework on which future investigations may build. In practice, it brings hope for the development of successful interventions.

September 1994 to  
July 2001

**Research Director**

*Building Skills for Adulthood Program (BSA)*

*The University of Montana, Missoula, MT*

Director of this Montana Department of Public Health and Human Services funded research grant. Responsibilities included recruiting, training and supervising up to fifteen undergraduate research assistants each semester, development of research ideas and design, data collection in a longitudinal study that started in September of 1994, data analysis, submission to The University of Montana's Institutional Review Board on a yearly basis, preparing presentations at the local, state, and national level, and preparing and submitting yearly reports to the State of Montana and the Federal Government.

### **Research Experience (continued):**

October 1999 to  
June 2000

**Research Assistant**

*The University of Montana, Missoula, MT*

Administered and scored the following tests to adult control subjects: Wisconsin Card Sorting Test, Conner's Continuous Performance Test, Seashore Rhythm Test, Speech Sound Perception Test, WAIS-R subtests – Digit Span, Information, and Digit Symbol, WMS-R subtests – Digit Span and Visual Memory Span.

January 1993 to  
May 1996

**Research Assistant**

*Behavior Change in Delinquent Adolescents*

*The University of Montana, Missoula, MT*

This project investigated the application of the transtheoretical model of behavior change in delinquent adolescents. Responsibilities included collecting data in person with incarcerated adolescents, data analysis and preparation for presentation.

September 1993 to  
May 1995

**Research Assistant**

*Behavior Disorders Project*

*The University of Montana, Missoula, MT*

Provided consultation and cognitive behavioral management of elementary aged children referred because of disruptive classroom behavior. Responsibilities included data collection of pre- and post-analysis of behavior change using the Stoneybrook Coding System, supervised school psychology graduate students serving as classroom liaisons, developed individualized behavior management programs for identified children, and trained and supervised undergraduate research assistants in the implementation of the behavioral programs.

January 1993 to  
May 1993

**Research Assistant**

*Velton Mood Induction Procedure*

*The University of Montana, Missoula, MT*

Collected data in a study of the Velton Mood Induction Procedure and the measurement of mood.

**Teaching Experience:**

January 1994 to  
August 2000

**Supervised Research Instructor**

*The University of Montana, Missoula, MT*

Developed and conducted weekly lectures and demonstrations for undergraduate psychology students, trained and supervised these students in conducting life skills assessments with youth in Montana's foster care system.

April 1997 to  
October 1998

**Guest Lecturer**

*The University of Montana, Missoula, MT*

undergraduate Adolescent Development, Prepared and presented guest lectures in the Adolescent Development Course.

## **Teaching Experience (continued):**

- January 1998      **Guest Lecturer**  
*The University of Montana, Missoula, MT*  
Theories and Research in Family Violence, Prepared and presented a guest lecture in undergraduate Family Violence class.
- February 1998      **Guest Lecturer**  
*The University of Montana, Missoula, MT*  
Family Violence Theories, Prepared and presented a guest lecture in undergraduate Human Family Development class.
- Spring 1999      **Advanced Psychology Trainee**  
*Clinical Psychology Center, The University of Montana, Missoula, MT*  
Responsibilities: Supervised three graduate students working with individual and family cases as part of an advanced practica. Co-lead practicum team meetings for family focused practicum. The following supervision activities were used to enhance the development of these clinical trainees: videotape review, discussion of case conceptualization and diagnosis, exploration of therapy process issues, case management issues of child and family cases, and joint development of interventions.
- Spring 2001      **Instructor**  
*Salish-Kootenai Tribal College, Ronan, MT*  
Child Development, Prepared and presented six weeks of lectures, developed and administered course examinations and weekly quizzes over the six weeks of material.

## **Published Abstracts:** \*are associated with a conference presentation

\***Roche, B.** (2004). Relative Contributions of Maternal, Socioenvironmental, and Biomedical Variables to Infant and Young Children's Developmental Trajectories. Symposium presentation at the International Neuropsychological Society Annual Conference, Baltimore, MA.

\*Hughes, S., Jordan, C., **Roche, B.**, & Shapiro, E. (2003). Two factor parent model predicts developmental at 36 months in at-risk children. Poster presented at the International Neuropsychological Society Annual Conference, Honolulu, HA.

\*Mielke, J., Hall, S., & **Roche, B.** (2001). Conners CPT, WAIS-R Digit Symbol Subtest and HRNB tests of attention: Correlations in an Adult Population. Poster presented at the International Neuropsychological Society Annual Conference, Chicago, IL.

\***Roche, B.**, Lynch, K.L., Klocek, J., Heather Herbin, & Fiore Lerner, C. (2000). The Role of Dysfunctional Attitudes, Negative Life Events, and Social Support in the Prediction of Depressive Dysphoria Among Adolescents in Foster Care: A Prospective Longitudinal Study. Poster presented at the 34<sup>th</sup> Annual Convention of the Association for Advancement of Behavior Therapy (AABT), New Orleans, LA.



## **Papers In Preparation:**

**Roche, B.,** Jordan, C., Hughes, S., Shapiro, E., & Fiore, C. (2003). Effects of Cumulative Environmental Risks and Maternal Risk and Protective Factors on Infant and Young Children's Developmental Trajectories

## **Peer Reviewed Presentations:** \*are associated with a published abstract

\***Roche, B.** (2004). Relative Contributions of Maternal, Socioenvironmental, and Biomedical Variables to Infant and Young Children's Developmental Trajectories. Symposium presentation at the International Neuropsychological Society Annual Conference, Baltimore, MA.

\*Hughes, S., Jordan, C., **Roche, B.**, & Shapiro, E. (2003). Two factor parent model predicts developmental at 36 months in at-risk children. Poster presented at the International Neuropsychological Society Annual Conference, Honolulu, HA.

\*Mielke, J., Hall, S., & **Roche, B.** (2001). Conners CPT, WAIS-R Digit Symbol Subtest and HRNB tests of attention: Correlations in an Adult Population. Poster presented at the International Neuropsychological Society Annual Conference, Chicago, IL.

\***Roche, B.**, Lynch, K.L., Klocek, J., Heather Herbin, & Fiore Lerner, C. (2000). The Role of Dysfunctional Attitudes, Negative Life Events, and Social Support in the Prediction of Depressive Dysphoria Among Adolescents in Foster Care: A Prospective Longitudinal Study. Poster presented at the 34<sup>th</sup> Annual Convention of the Association for Advancement of Behavior Therapy (AABT), New Orleans, LA.

**Roche, B.**, Lynch, K.L., & Fiore Lerner, C. (2000). Effects of abuse and placement experiences on outcomes for youth in foster care. Presentation at the Victimization of Children & Youth: An International Research Conference, Durham, NH.

**Roche, B.** & Fiore Lerner, C. (1999). Assessing Foster Youth's Readiness to Prepare for Adult Community Living. Poster presented at the 107<sup>th</sup> Annual Convention of the American Psychological Association, Boston, MA.

Smith, J., **Roche, B.**, & Fiore Lerner, C. (1998). Psychosocial Development of Montana's Foster Youth, Poster presented at the Montana Psychological Association Conference, Kalispell, MT.

Titak, R., **Roche, B.**, & Fiore Lerner, C. (1998). What is Known About the Child Welfare System, Poster presented at the Montana Psychological Association Conference, Kalispell, MT.

**Roche, B.**, Fiore, C., Bauman, M., Herbin, H., Christensen, S., Pedriana, K., Bento, M., Peppenger, C., & Tessmer, S. (1997). Readiness for Independent Living Among Montana's Foster Youth. Poster presented at the Western Psychological Conference, Seattle, WA.

**Roche, B.** & Garrity, J. (1996). Montana's Independent Living Program, Presented paper at the Daniel Memorial National Independent Living Conference, Orlando, FL.

### **Peer Reviewed Presentations (continued):**

Fiore, C., **Roche, B.**, & Camp, G. (1995) Classroom Interventions for Children with Disruptive Behaviors. Poster presented at the Rocky Mountain Psychological Association Conference.

Fiore, C. & **Roche, B.** (1995). The Transtheoretical Model of Behavior Change with Delinquent Youth, Poster presented at the Rocky Mountain Psychological Association Conference.

### **Invited Presentations and Workshops:**

Neuropsychological Impact and Trajectory for Methamphetamine Addicts. Montana Governor's Meth Summit, 6/04.

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Yellowstone County Family Drug Treatment Court – Drug Court Month Community Luncheon, 5/04.

How to Evaluate Your Prevention Program. Presentation at Montana's First Annual Future of Prevention Conference, 5/04.

Montana's Drug Treatment Courts Update. Presentation at Montana's First Annual Future of Prevention Conference, 5/04.

Update on Montana's Specialty Courts: What We Know So Far. Presentation at Montana's Child and Family Services Legislative Interim Committee, 1/04.

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Fort Peck Reservation Council Meeting, 1/04.

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Montana Indian Health Services Tribal Substance Abuse Program Directors meeting, 12/03.

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Rimrock Foundation Board of Directors meeting, 12/03.

Common Childhood Disorders. Presentation at Yellowstone County's Court Appointed Special Advocate monthly meeting, 10/03

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Billings Westside Rotary Club meeting, 10/03.

Yellowstone County Family Drug Treatment Court: Program Update. Presentation at Montana State University - Billings, 10/03.

Addiction 101: Basic Pharmacology and Recovery. Presentation at Montana's Limited Judges Annual Conference, 10/03

### **Invited Presentations and Workshops (continued):**

Yellowstone County Family Drug Treatment Court: What Have We Learned. Presentation at Miles City, Montana Family Treatment Court steering committee meeting, 10/03.

Update on Montana's Specialty Courts: What We Know So Far. Presentation at Montana Court Improvement Program Advisory Committee, 6/03.

The Use of Neuropsychological Evaluations in Substance Abuse and Treatment. Plenary Session presentation at the National IHS, SAMSHA CSAT/CSAP Conference, Building Partnerships: To Meet Substance Abuse Prevention & Treatment Challenges in American Indian and Alaskan Native Communities, 6/03 San Diego, CA.

Communities in Recovery: Family Drug Courts and Women and Child Homes. Plenary Session presentation at the National IHS, SAMSHA CSAT/CSAP Conference, Building Partnerships: To Meet Substance Abuse Prevention & Treatment Challenges in American Indian and Alaskan Native Communities, 6/03 San Diego, CA.

Yellowstone County Family Drug Treatment Court: What We Know So Far. Presentation at Montana Child Abuse and Neglect Annual Conference, 5/03.

The Impact of Substances on Women and Children in Yellowstone County Family Drug Treatment Court. Presentation at Montana Women and Child Program Coalition Meeting and Directors of Montana Substance Abuse and Mental Health Administration, 4/03

The Neuropsychological Functioning of Adults and Children in Yellowstone County Family Drug Court. Presentation at Journey Recovery Program all staff meeting, 1/03.

The Neuropsychological Functioning of Adults and Children in Yellowstone County Family Drug Court. Presentation at Journey Recovery Program all staff meeting, 1/03.

The Process of Team Building and Group Process in a Family Drug Court. Presentation at Yellowstone County Family Drug Court policy meeting, 1/03.

Yellowstone Family Drug Court Overview. Presentation to Rimrock Foundation Board of Directors, 11/02.

Yellowstone Family Drug Court Evaluation Plan. Presentation to the Yellowstone County Family Drug Court Steering Committee, 8/02.

Working in a Clinical Setting with Youth and Families in the Foster Care System. Presentation to the pre-doctoral interns at the University of Minnesota, 2/02.

Preparing Youth in Foster Care for the Transition to Adulthood, Presented 1 ½ hour workshop at the Montana State Foster/Adoptive Parent Association Annual Conference, 9/01.

Program Evaluation, Developed and presented a thirty six hour workshop for Montana's Citizen Review Boards, 8/01.

### **Invited Presentations and Workshops (continued):**

What You See Isn't Always What You Get. Presentation at Grand Rounds for Medical Residents, Children's Hospital and Clinics with the School Problems Team, 11/00.

Nuts and Bolts of Program Evaluation, Developed and presented eight hour workshop for Montana's Court Appointed Special Advocates, 6/99.

Casey Family Program – Foster Parent Training, Developed and presented 4 hour workshop in Missoula, MT, 11/98.

The Needs of Emotionally Disturbed Youth as They Transition Into Adult Community Living, Developed and facilitated a one-day training for A.W.A.R.E., Inc., Missoula, MT, 6/98.

Transitional Planning for Group Home Youth, Developed and facilitated an in-service training for Synopah Group Home staff, Kalispell, MT, 11/97.

Transitional Planning for Adolescent Foster Youth, Developed and facilitated an in-service training for case workers, Missoula, MT, 10/97.

Development of Community Mentor Programs, Developed and co-facilitated a four day training for the Vista Volunteer Training which included training on process and outcome research designs, Helena, MT. 9/97.

Special Needs of Adolescent Foster Youth, Developed and presented an in-service training for the Citizen Review Boards, Butte and Missoula, MT 4/97, 5/97.

Changing Directions Group Facilitator Training, Co-trainer for a five day course, Helena, MT, 3/97.

Assisting Foster Youth to Transition into Adult Community Living, Developed and presented two hour workshop at the Montana State Foster/Adoptive Parent Association Annual Conference, 9/97.

Special Needs of Adolescent Foster Youth, Developed and provided an in-service training for case workers in Polson, MT, 12/96.

Life Skills Group Facilitator Training, Developed and facilitated a three day training in Missoula, MT, 8/96, 8/97, and 3/99.

Adolescent Issues, Developed and facilitated an in-service training for the Youth Provider Network, Polson, MT, 6/96.

Psychosocial Development in Adolescent Foster Youth, Developed and facilitated a two hour workshop at the Montana State Foster/Adoptive Parents Association Annual Conference, 1996.

Special Issues of Adolescent Foster Youth, Developed and facilitated an eight hour workshop at five regional trainings throughout Montana, 1996.

Special Needs of Adolescent Foster Youth, Developed and facilitated a two hour workshop at the Montana State Foster/Adoptive Parents Association Annual Conference, 1995.

### **Curricula Development:**

**Roche, B.** (1998). Volunteer Recruitment Manual.

**Roche, B. & Fiore Lerner, C.** (1995). Life Skills Group Facilitator Training Manual.

**Roche, B. & Fiore Lerner, C.** (1994). Volunteer Mentor Training Manual.

### **Program Evaluation Reports:**

**Roche, B.** (June 2003). Mineral County Juvenile Drug Court Program Initial Process Evaluation Report

**Roche, B.** (December 2002). Missoula Youth Drug Court Program Initial Outcome Evaluation Report

**Roche, B.** (November 2002). Yellowstone County Family Drug Court Initial Outcome Evaluation Report.

**Roche, B.** (May 2002). Yellowstone County Family Drug Court Initial Process Evaluation Report.

**Roche, B., Lynch, K., & Fiore Lerner, C.** (2001). Building Skills for Adulthood Annual Report.

**Roche, B., Lynch, K., & Fiore Lerner, C.** (2000). Building Skills for Adulthood Annual Report.

**Roche, B. & Fisher, F.** (2000). Montana Building Skills for Adulthood Program 5-Year Plan.

**Roche, B. & Fiore Lerner, C.** (1999). Building Skills for Adulthood Annual Report.

**Roche, B.** (1999). Missoula Youth Drug Court Initial Process Evaluation Report.

**Roche, B. & Fiore Lerner, C.** (1998). Building Skills for Adulthood Annual Report.

**Roche, B. & Fiore Lerner, C.** (1997). Building Skills for Adulthood Annual Report.

**Roche, B. & Fiore Lerner, C.** (1996). Building Skills for Adulthood Annual Report.

**Roche, B. & Fiore Lerner, C.** (1995). Building Skills for Adulthood Annual Report.

**Roche, B. & Fiore Lerner, C.** (1994). Building Skills for Adulthood Annual Report.

### **Service and Committees:**

Department of Psychology Faculty Evaluation Committee – Elected Graduate Student Representative, Fall 1999.

Psychology Department Full Faculty Meeting – Elected Graduate Student Representative, Fall 1999 to Summer 2000.

Psychology Department Executive Committee – Elected Graduate Student Representative, Fall 1998 to Spring 1999.

Casey Family Program – Permanency Planning Committee, 5/98 – 9/00.

Montana Youth for Change, (advocacy group for foster youth), co-founder and member, 12/95 – 9/00.

### **Grant Support – Principal Investigator:**

Billings Adult Misdemeanor Drug Court, Bureau of Justice Assistance, Adult Drug Court Implementation Grant, funded 10/04 – 9/05 (\$150,000), 10/05 – 9/06 (\$150,000), and 10/06 – 9/07 (\$150,000)

Yellowstone County Family Drug Court Program, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse

Treatment Targeted Capacity Expansion Grant, funded 10/02 – 9/03 (\$300,000), 10/03 – 9/04 (\$310,000), 10/04 – 9/05 (\$319,500).

Effectiveness of Montana's Independent Living Program, Montana's Department of Public Health and Human Services, funded 1994 (\$105,000), 1995 (\$110,000), 1996 (\$113,000), 1997 (\$112,000), 1998 (\$99,000), 1999 (\$105,000), 2000 (\$99,000), 2001 (\$125,000).

Foster Parent Training Curriculum Development, The Casey Family Foundation, funded 5/99 (\$25,000)

Outcome Evaluation for Missoula Youth Drug Court, Montana District Court #3, funded 1/00 (\$22,000), 1/01 (\$25,000), 1/02 (\$20,000)

Process Evaluation for Missoula Youth Drug Court, Montana District Court #3, funded 5/99 (\$9,000), 5/00 (\$5,000), 5/01 (\$5,000), 5/02 (\$5,000)

Process Evaluation for Mineral County Youth Drug Court, Montana District Court #3, funded 5/01 (\$5,000), 5/02 (\$8,000)

Volunteer Montana!, AmeriCorp partnership, funded for two full-time volunteer coordinators for 1997-98 (\$90,000) and 1998-99 (\$90,000).

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

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Quitclaim Deed for Country Club Heights Right-of-Way Vacation  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT:** The City Council adopted a resolution to vacate a portion of an alley located between Lots 1 and 28, Block 1, Country Club Heights Subdivision and accepted an equal portion of right-of-way dedication on February 28, 2005. Concurrent with filing the Amended Plat vacating the right-of-way, the City must also file a Quitclaim Deed. The Quitclaim Deed releases the City from any interest in the vacated right-of-way located on Lot 28, Block 1, Country Club Heights Subdivision.

**ALTERNATIVES ANALYZED:** The Council may allow or prohibit the City from quitclaiming its interest in the vacated right-of-way. If the City prohibits this action, the Amended Plat cannot be filed and the City would retain interest in the vacated right-of-way.

**FINANCIAL IMPACT:** There will be no financial impact to the City as a result of this action.

**RECOMMENDATION**

Staff recommends that Council approve the signing of the Quitclaim Deed to release the City from any interest in the vacated right-of-way located on Lot 28, Block 1, Country Club Heights Subdivision.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

## ATTACHMENT

A. Quitclaim Deed



# **QUITCLAIM DEED**

*FOR VALUABLE CONSIDERATION*, receipt of which is acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2005, the undersigned, Mayor Charles F. Tooley of the City of Billings, as authorized representative for the City of Billings, Montana, Grantor, does hereby grant, convey, release and forever quitclaim its interest unto Mona Clark, as Grantee, in the following described real property situated in the City of Billings, Yellowstone County, Montana:

A tract of land situated in the S/W 1/4 of Section 25, T.1N., R.25E., P.M.M., Yellowstone County Montana, more particularly described as:

Country Club Heights Subdivision, recorded February 15, 1957, under Document Number 578034, Records of Yellowstone County, Montana; Beginning at the most NW corner of Lot 28, Block 1; Thence S 16° 47' 58" E for a distance of 120.00 feet, to a point on the north Right-of-Way line of Country Club Circle; Thence on a curve to the left with a radius of 230.00 feet, an arc distance of 15.00 feet, (chord bearing S 71° 19' 54" W with a chord distance of 15.00 feet); Thence N 15° 36' 57" W for a distance of 120.52 feet; Thence N 73° 12' 02" E for a distance of 12.50 feet to the point of beginning.

Containing 0.038 gross and net acres, more or less

TO HAVE AND TO HOLD unto the Grantee, and to its assigns and successors forever.

IN WITNESS WHEREOF, the Grantor has, by its Mayor, herein executed this instrument the day and year first above written.

\_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

\_\_\_\_\_  
Marita A. Herold, City Clerk

STATE OF MONTANA                    )  
  : ss.  
County of Yellowstone        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005 before me a Notary Public for the State of Montana, personally appeared Charles F. Tooley, Mayor and Marita A. Herold, City Clerk and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(NOTARIAL SEAL)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Notary Public for the State of Montana

Residing in Billings, Montana

My Commission Expires: \_\_\_\_\_

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

## AGENDA ITEM:




---

**CITY COUNCIL AGENDA ITEM**
**CITY OF BILLINGS, MONTANA**
**Monday, April 11, 2005**


---

**TITLE:** Certificate of Survey Relocating Common Boundaries between City Parkland in Rehberg Ranch Estates Subdivision, First Filing, Certificate of Survey 3091 and Adjoining Unplatted Parcels

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT:** Rehberg Ranch Estates, LLC and Billings Rod and Gun Club are proposing an exchange of property by relocating portions of the common boundary between properties they own and City parkland. A portion of the exchange involves adding .0597 acres to existing City parkland in Rehberg Ranch Estates Subdivision, First Filing. This additional parkland was contemplated in the platting of the First Filing but was not conveyed at that time. The purpose of this boundary relocation is to transfer property between the three parties as originally shown on the Rehberg Ranch Estates Subdivision, First Filing final plat. It is also important that this exchange occur prior to filing the Second Filing in order to show the relocated boundary on that final plat.

The Council approved Rehberg Ranch Estates Subdivision, First Filing on July 8, 2002. The preliminary plat for Rehberg Ranch Estates Subdivision, Second Filing was approved by Council on July 13, 2004. Rehberg Ranch Estates is also forwarding a request for final plat approval for Second Filing at this same meeting.

**ALTERNATIVES ANALYZED:** The purpose of this action is to accept conveyance of a .0597 acre parcel of land (Tract #3) to be merged with existing parkland in Rehberg Ranch Estates Subdivision, First Filing as shown on the attached Certificate of Survey.

**RECOMMENDATION**

Staff recommends that Council accept Tract 3 of the unnumbered Certificate of Survey adding .0597 acres to the dedicated parkland in Rehberg Ranch Estates Subdivision, 1<sup>st</sup> Filing.

**Approved By:**            **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

- A. Certificate of Survey
- B. Quitclaim Deeds

ATTACHMENT A  
Certificate of Survey

CERTIFICATE OF SURVEY No. \_\_\_\_\_

SITUATED IN THE NE 1/4 AND THE SE 1/4 OF SECTION 22 AND  
THE SW 1/4 OF SECTION 23, T. 1 N., R. 25 E., P.M.M.

YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : REHBERG RANCH ESTATES, LLC AND BILLINGS ROD & GUN CLUB  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1"=200'

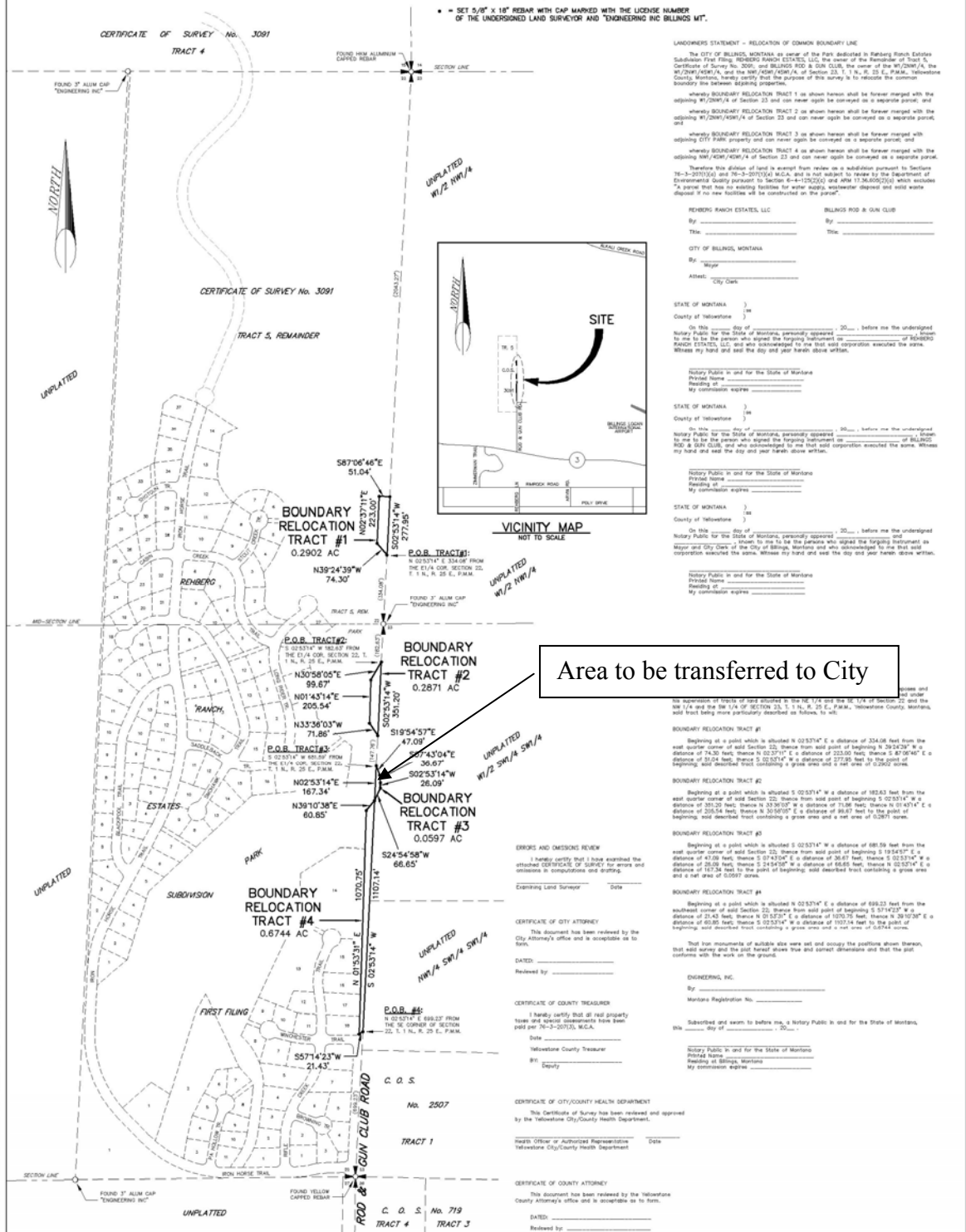
JANUARY, 2005  
BILLINGS, MONTANA

BASIS OF BEARING: CERTIFICATE OF SURVEY No. 3091.

○ = FOUND SURVEY MONUMENT, AS NOTED.

■ = SET 5/8" x 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER  
OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT".

200 100 0 100 200



LANDOWNERS STATEMENT - RELOCATION OF COMMON BOUNDARY LINE

The CITY OF BILLINGS, MONTANA, as owner of the Park dedicated in Rehberg Ranch Estates Subdivision First Filing REHBERG RANCH ESTATES, LLC, the owner of the Remainder of Tract 1, Certificate of Survey No. 3091, and BILLINGS ROD & GUN CLUB, the owner of the NW/2SW/4, the NW/2SW/4, and the NW/2SW/4 of Section 23, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana, hereby certify that the purpose of this survey is to relocate the common boundary between BILLINGS properties.

whereby BOUNDARY RELOCATION TRACT 1 as shown herein shall be forever merged with the adjoining NW/2SW/4 of Section 23 and can never again be conveyed as a separate parcel, and

whereby BOUNDARY RELOCATION TRACT 2 as shown herein shall be forever merged with the adjoining NW/2SW/4 of Section 23 and can never again be conveyed as a separate parcel, and

whereby BOUNDARY RELOCATION TRACT 3 as shown herein shall be forever merged with the adjoining NW/2SW/4 of Section 23 and can never again be conveyed as a separate parcel, and

whereby BOUNDARY RELOCATION TRACT 4 as shown herein shall be forever merged with the adjoining NW/2SW/4 of Section 23 and can never again be conveyed as a separate parcel.

hereby the parties of record do hereby certify that the purpose of this survey is to relocate the common boundary between BILLINGS properties, and that the parties of record do hereby certify that the purpose of this survey is to relocate the common boundary between BILLINGS properties, and that the parties of record do hereby certify that the purpose of this survey is to relocate the common boundary between BILLINGS properties.

A person that has no existing facilities for water supply, wastewater disposal and solid waste disposal if no new facilities will be constructed on the parcel.

REHBERG RANCH ESTATES, LLC BILLINGS ROD & GUN CLUB  
By: \_\_\_\_\_ By: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_

CITY OF BILLINGS, MONTANA  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone  
Notary Public in and for the State of Montana  
Reading of \_\_\_\_\_  
My commission expires \_\_\_\_\_

1

**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

\_\_\_\_\_  
Mayor, City of Billings

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF MONTANA     )  
                                      :SS  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, a Notary Public in and for the State of Montana, personally appeared CHARLES F. TOOLEY and \_\_\_\_\_, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year hereinabove written.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at Billings, Montana  
My commission expires: \_\_\_\_\_



## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday April 11, 2005**

---

**TITLE:** Subordination of First Time Homebuyer Loan  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Ramona Mattix and John Walsh

---

**PROBLEM/ISSUE STATEMENT:** Lewis Paul Lux of 622 North 15<sup>th</sup> Street, a City of Billings First Time Homebuyer recipient has requested that the City subordinate the zero percent deferred loan given to him by the City of Billings in order to refinance his first mortgage loan.

**ALTERNATIVES ANALYZED:** Alternative analyzed are: (1) to deny the subordination request requiring Mr. Lux to keep the initial mortgage; (2) to allow the subordination, reducing Mr. Lux's mortgage payment.

**FINANCIAL IMPACT:** HOME funds were provided to Mr. Lux on July 30, 2002 in the amount of \$4,577.34 for assistance with down payment, closing costs and minor repairs. The loan is zero percent interest, is held in a second position behind the mortgage and is deferred for a 30 year period. The loan does not become payable unless one of the following occurs: the recipient sells the home, the recipient refinances his mortgage, which would require asking the City loan to reconvey or subordinate, or he ceases to live in the home. Mr. Lux is applying for a straight streamline refinance which does not allow the borrower to receive cash back from the transaction. The sole purpose of the loan is to allow the borrower to obtain a loan at a lower interest rate, lowering the monthly payment for his mortgage. Staff has reviewed the market value of the home and the preliminary HUD-1 settlement statement and has determined that subordinating the loan to a new home mortgage loan and remaining in second position will not jeopardize the City's investments or create greater risk.

**RECOMMENDATION**

Staff recommends that the City of Billings subordinate its lien in second position to a new mortgage loan in the first position.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT(S)**

A. Subordination Agreement



SUBORDINATION AGREEMENT

COMES NOW, the City of Billings, a Municipal Corporation, a Montana Corporation, of Billings, Montana, and represents that it is the secured party under the provision of a certain Trust Indenture executed by LEWIS PAUL LUX which was recorded JULY 30, 2002, under Document No. 3185997, in the records of Yellowstone County, Montana, mortgaging and encumbering the following described real property situated in Yellowstone County, Montana, to wit:

Lots 11 and 12, Block 1, of North Park Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official records on file in the office of the Clerk and Recorder of Yellowstone County under Document No. 321405.

NOW THEREFORE, the City of Billings, by these presence; subordinates and declares the above described Trust Indenture to be junior and inferior to trust Indentures in favor of Chicago Title Insurance Co. recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, under Document No. \_\_\_\_\_, encumbering the above described real property to secure the obligations not to exceed \$5,000.00

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

CITY OF BILLINGS

By: \_\_\_\_\_  
Mayor, Charles F. Tooley

(SEAL)  
Attest:

\_\_\_\_\_

STATE OF MONTANA     )  
                              :ss  
County of Yellowstone)

ON THIS \_\_\_\_\_ DAY of \_\_\_\_\_, 2005, before me, the undersigned, a Notary Public for the State of Montana, personally appeared CHARLES F. TOOLEY, known to me to be the MAYOR of the CITY OF BILLINGS, the municipal corporation, who executed the within instrument and acknowledged to me to be the person who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_ [\(Back to Consent Agenda\)](#)

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday April 11, 2005**

---

**TITLE:** Subordination of First Time Homebuyer Loan  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Ramona Mattix and John Walsh

---

**PROBLEM/ISSUE STATEMENT:** Chuck Gross of 919 So. 30<sup>th</sup>, a City of Billings First Time Homebuyer recipient has requested that the City subordinate the zero percent deferred loan given to him by the City of Billings in order to refinance his first mortgage loan.

**ALTERNATIVES ANALYZED:** Alternative analyzed are: (1) to deny the subordination request requiring Mr. Gross to keep the initial mortgage; (2) to allow the subordination, allowing Mr. Gross to lower his interest rate and reduce the term of the mortgage from 30 years to 15 years.

**FINANCIAL IMPACT:** HOME funds were provided to Mr. Gross on July 17, 1995 in the amount of \$4,618.37 for assistance with down payment, closing costs and minor repairs. The loan is zero percent interest, is held in a second position behind the mortgage and is deferred for a 30 year period. The loan does not become payable unless one of the following occurs: the recipient sells the home, the recipient refinances his mortgage, which would require asking the City loan to reconvey or subordinate, or he ceases to live in the home. Mr. Gross is applying for a straight streamline refinance which does not allow the borrower to receive cash back from the transaction. The sole purpose of the loan is to allow the borrower to obtain a loan at a lower interest rate, lowering the monthly payment for his mortgage. Staff has reviewed the market value of the home and the preliminary HUD-1 settlement statement and has determined that subordinating the loan to a new home mortgage loan and remaining in second position will not jeopardize the City's investments or create greater risk.

**RECOMMENDATION**

Staff recommends that the City of Billings subordinate its lien in second position to a new mortgage loan in the first position.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT(S)**

A. Subordination Agreement

## SUBORDINATION AGREEMENT

COMES NOW, the City of Billings, a Municipal Corporation, a Montana Corporation, of Billings, Montana, and represents that it is the secured party under the provision of a certain Trust Indenture executed by CHUCK B GROSS which was recorded JULY 17, 2005, under Document No. 1791394, in the records of Yellowstone County, Montana, mortgaging and encumbering the following described real property situated in Yellowstone County, Montana, to wit:

Lot 22 and the North 9 feet of Lot 23, Block 241, Second Addition to the Original Town, (Now City), of Billings, according to the official records on file in the office of the Clerk and Recorder of Yellowstone County.

NOW THEREFORE, the City of Billings, by these presence; subordinates and declares the above described Trust Indenture to be junior and inferior to trust Indentures in favor of Lance Lovell, Attorney At Law, P.C. recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, under Document No. \_\_\_\_\_, encumbering the above described real property to secure the obligations not to exceed \$5,000.00

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

CITY OF BILLINGS

By: \_\_\_\_\_  
Mayor, Charles F. Tooley

(SEAL)  
Attest:

\_\_\_\_\_  
STATE OF MONTANA    )  
                          :ss  
County of Yellowstone)

ON THIS \_\_\_\_\_ DAY of \_\_\_\_\_, 2005, before me, the undersigned, a Notary Public for the State of Montana, personally appeared CHARLES F. TOOLEY, known to me to be the MAYOR of the CITY OF BILLINGS, the municipal corporation, who executed the within instrument and acknowledged to me to be the person who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_ [\(Back to Consent Agenda\)](#)

**AGENDA ITEM:**



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Second Reading of an Ordinance expanding Ward I  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT:** On February 28, 2005 the City Council adopted Resolution No. 05-18240 annexing five parcels acres located on South Billings Boulevard (Annexation #05-01). The property must be added to one of the City's election wards. This is the second reading of the ordinance to add the properties to Ward I. The City Council held the public hearing and approved the first reading of the ordinance on March 28, 2005.

**ALTERNATIVES ANALYZED:** City Code requires the Council to approve an ordinance to amend Ward boundaries in the event of annexations that change the configuration of City limits (Sec. 11-102(c), BMCC). Council may approve or defer the approval of the Ward boundary change.

**FINANCIAL IMPACT:** There are no direct financial impacts if this ordinance is approved.

**RECOMMENDATION**

Staff recommends that the City Council hold a public hearing and approve the first reading of this ordinance that adds property to City Ward I.

**Approved by:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT**

A: Ward Ordinance and Exhibit A

**ORDINANCE NO. 05-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD I PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

Tracts of land situated in the SE1/4 SE1/4 of Section 8, and the SW1/4 SW1/4 of Section 9 of T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Popelka Industrial Tracts Subdivision, 1<sup>st</sup> Filing, Tract 1, Recorded February 14, 1968, Under Document No. 814837; Certificate of Survey No. 289, Tract A, situated in Lot 19 of Sugar Subdivision and Tract A, situated in Lot 20 of Sugar Subdivision, Recorded March 7, 1950, Under Document No. 460572; Amended Certificate of Survey No. 289, Tracts B1 and B2, of land situated in Lot 19 of Sugar Subdivision Recorded August 15, 1952, Under Document No. 494960.

Containing 3.631 gross acres and 3.108 net acres, more or less.

(# 05-01) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 28<sup>th</sup> day of March, 2005.

PASSED by the City Council on the second reading this 11<sup>th</sup> day of April, 2005.

THE CITY OF BILLINGS:

\_\_\_\_\_  
Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CITY CLERK

The map displays a section of Billings, Montana, with the following details:

- Streets:** Simpson Street, Suburban Ditch, Boulevard, South Billings, King Avenue, East, Newman Lane, Stone St., Filing.
- Subdivisions:**
  - POPELKA COMMERCE CENTER SUBDIVISION (Lots 1-5)
  - POPELKA INDUSTRIAL TRACTS SUB (Lots 1-2)
  - SUGAR SUB. (Lots 1-17, including a large black 'F' shape and a circular 'REBEL' logo)
  - STAR SUB. (Lots 1-2)
  - GOLDEN ARCHES SUB. (Lots 1-2)
  - GEYSER PARK SUB. (Lots 1-2)
  - MILLER CROSSING (Lot 1)
- Other Features:**
  - A thick black line outlines the 'AREA TO BE ANNEXED'.
  - A large black 'F' shape is located within the Sugar Sub.
  - A circular logo with the word 'REBEL' is also within the Sugar Sub.
  - Southgate Drive is shown as a curved road.
  - Various lot numbers and street names are labeled throughout the map.

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



## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Second Reading – Arterial Construction Fee Ordinance Amendment

**DEPARTMENT:** Public Works Department

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

---

**PROBLEM/ISSUE STATEMENT:** This is the second reading of an ordinance amendment that will address property owner concerns within planned development (PD) areas about their arterial construction fee assessments. Per Ordinance 04-5300, we calculated assessments on parcels within PDs using the PD rate and not at the rate for underlying zoning. Parcels with underlying residential zoning were also not capped at 9,600 square feet. The Council also directed staff to pursue an ordinance amendment that would provide relief to commercially-zoned properties that are owner-occupied as a single family residence if the property owner annually petitions the City for relief. Arterial construction fees assessments on these commercially-zoned parcels would be calculated using the R-9600 zoning rate. We propose the attached ordinance amendment to address these issues, effective for future assessment years (not retroactive).

**ALTERNATIVES ANALYZED:**

- Calculate arterial construction fee assessments on PD-zoned parcels according to the parcel's underlying zoning classification, or the most reasonably comparable zoning classification, and provide relief to commercially-zoned properties currently owner-occupied as a single-family residence.
- Calculate arterial construction fee assessments on PD-zoned parcels using the PD zoning rate regardless of the underlying zoning rate(s) and do not provide an exemption to commercially-zoned properties that are currently owner-occupied as a single-family residence.

**FINANCIAL IMPACT:** We are unable to determine the financial impact of making these changes at this time. To date, staff has determined underlying zoning on roughly 2,000 of the 3,400 PD-zoned parcels within the city limits. PD's may have several underlying zoning districts; some at higher rates and some at lower rates than the PD rate. Parcels with residential underlying zoning will also be capped at 9,600 square feet.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached ordinance amendment.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENTS:**

Attachment A – Proposed Ordinance Amendment (5 pages)

## **INTRODUCTION**

This is the second reading of an ordinance amendment that will address property owner concerns within planned development (PD) areas about their arterial construction fee assessments. Per Ordinance 04-5300, we calculated assessments on parcels within PDs using the PD rate and not at the rate for underlying zoning. Parcels with underlying residential zoning were also not capped at 9,600 square feet. The Council also directed staff to pursue an ordinance amendment that would provide relief to commercially-zoned properties that are owner-occupied as a single family residence if the property owner annually petitions the City for relief. Arterial construction fees assessments on these commercially-zoned parcels would be calculated using the R-9600 zoning rate. We propose the attached ordinance amendment to address these issues, effective for future assessment years (not retroactive).

## **BACKGROUND**

- The City Council conducted a public hearing and approved Ordinance 04-5300 establishing the Arterial Construction Fee on second/final reading on September 13, 2004.
- Arterial construction fee assessments were calculated according to the rates specified in the ordinance and included on property tax statements mailed out in late October 2004.
- The assessment appeal process, PD zoning issues, and assessments on commercial property not being used for commercial uses were discussed at the January 3, 2005, City Council Work Session.
- The City Council directed staff to pursue an ordinance amendment to address the PD underlying zoning issues and provide relief to commercially-zoned properties that are owner-occupied as a single family residence if the property owner annually petitions the City for relief by specifying that assessment will be calculated using the arterial construction fee R-9600 zoning rate.
- First reading of the ordinance was March 28, 2005.

## **ALTERNATIVES ANALYSIS**

- Assess PD-zoned parcels based on underlying zoning classifications, or the most reasonably comparable zoning classification, and provide relief to commercially-zoned properties that are currently owner-occupied as a single-family residence.
- Assess PD-zoned parcels using the PD zoning rate regardless of the underlying zoning rate(s) and do not provide relief to commercially-zoned properties that are currently owner-occupied as a single-family residence.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Arterial construction fee Ordinance 04-5300 was modeled after BMCC Sec. 22-804. ***Rates for storm sewers.*** The City Council may wish to discuss directing staff to pursue a similar ordinance amendment relating to storm sewer rates.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached ordinance amendment.

**ATTACHMENTS:**

Attachment A – Proposed Ordinance Amendment (5 pages)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA PROVIDING THAT THE BILLINGS, MONTANA CITY CODE SECTION 22-1003 PROVIDING FOR AN ARTERIAL CONSTRUCTION FEE, PROVIDING FOR A PROCEDURE WHEREBY FEES CAN BE DETERMINED, IMPOSED, AND APPEALED, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING A SEVERABILITY CLAUSE BE AMENDED FOR CLARIFICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code Section 22-1003 be amended to read as follows:

SECTION 22-1003. Rates for arterial construction.

(a) For the purpose of paying the cost of construction and/or reconstruction of arterial roadways and depreciation and replacement of arterial roadways to provide safe facilities on which citizens and visitors may travel, including the principal and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee is imposed and made applicable to all premises within the city limits. The financial services manager shall report to the city council when all revenue bonds issued for the construction or reconstruction of such arterial roadways, and bond refunding the same, have been fully paid and redeemed, and the city council shall then provide for the reduction of the charge to such amount as will be sufficient to pay the reasonable expense of the construction or reconstruction of arterial roadways. The charge shall be based on both the area of the parcel of land and its zone classification. Charges against properties zoned Residential-5000 (R-50), Residential-6000 (R-60), Residential-7000 (R-70), Residential-8000 (R-80), and Residential-9600 (R-96) shall be capped at a maximum of the

applicable rate for that **zoning** classification times 9600 square feet per parcel. Other residential zoning classifications created in the future will be similarly treated, except that Residential Multi-Family (RMF), Residential Manufactured Home (RMH), Residential Professional (RP), **and** Residential Multi-Family-Restricted (RMF-R), ~~Planned Development (PD)~~ zones will not be subject to any such maximum square footage cap. **Planned Development (PD) zones will be charged based on their underlying zoning classifications and will be subject to the maximum 9600 square footage cap for the underlying zoning classifications of R-50, R-60, R-70, R-80, and R-96. All other underlying zoning classifications will not be subject to any such maximum square footage cap. If the underlying zoning does not match any zoning classification listed below, the parcel will be charged at the rate of the most reasonably comparable zoning classification. If there is no reasonably comparable zoning classification, the parcel will be charged at the Planned Development (PD) zoning rate. The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.**

The per square foot charges for each parcel shall be as follows and shall be made to the owner of the parcel as the same shall appear according to the tax code number or account number thereof in the office of the Dept. of Revenue, Yellowstone County, Montana:

<b>ZONING</b>	<b>Proposed Rate</b>
<b>P</b>	0.00212
<b>R-96</b>	0.00371
<b>R-80</b>	0.00404
<b>R-70</b>	0.00425
<b>RMH</b>	0.00477
<b>R-50</b>	0.00512
<b>PD</b>	0.00585
<b>R-60</b>	0.00638

<b>RP</b>	0.00692	
<b>RMF-R</b>	0.00721	
<b>RMF</b>	0.00748	
<b>NCL</b>	0.00769	
<b>NC</b>	0.00824	
<b>ELC</b>	0.00824	
<b>MCPZD</b>	0.00850	
<b>CC</b>	0.00879	
<b>ELG</b>	0.00902	
<b>PZD</b>	0.00892	
<b>HC</b>	0.00902	
<b>CI</b>	0.00960	
<b>HI</b>	0.01068	
<b>CBD</b>	0.01279	
<b>ELI</b>	0.00902	
<b>Undeveloped – any zoning</b>	0.00125	Cap \$988

The arterial construction assessment rates shall be established on an annual basis consistent with state law by resolution passed by a simple majority of the City Council, but the assessment rates may only be changed through passage of a resolution by a super-majority of the City Council consisting of at least two-thirds (2/3) of all council members present and voting. The zone classification shall be that which is on the official map on record at the city-county planning department.

(b) The financial services manager shall, on or before the last day of October of each year, cause to be mailed by the county treasurer to every owner of a lot or parcel within the city, on the same date and in the same manner as are real property taxes, a separate statement of arterial construction charges setting forth the annual charge to be assessed on the lot or parcel for arterial roadway construction thereto. Such charge shall be due and payable on or before 5:00 p.m. on the thirtieth day of November of each year. Upon failure of the owner to pay the charge, the same will be in arrears and delinquent on December 31<sup>st</sup> of such

year, and shall be collected by the financial services manager according to the provision and authority of MCA §§ 7-1-101 through 120, and the City of Billings Charter.

(c) All arterial construction charges shall be collected as provided in this article and credited to a fund to be known as the “municipal arterial construction system fund”, which fund shall be at all times segregated and maintained by financial services manager on the books of the city as a separate and special fund. Upon adoption by the city council of a resolution authorizing the issuance of revenue bonds of the city payable from arterial roadway construction charges or otherwise establishing a system of funds and accounts for such charges, all arterial construction charges shall be applied and accounted for in the manner provided in such resolution.

(d) Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the ~~city engineer~~ **public works director** for adjustment thereof, stating the facts and grounds of complaint, and the ~~city engineer~~ **public works director** may notify the owner of any premises as to which he considers the rates and charges to be inadequate. In either case, the ~~city engineer~~ **public works director** shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

(e) The ~~city engineer~~ **public works director**, or his duly authorized representative, shall consider each and all of such complaints and reports and communicate his findings with respect thereto to the city council. The city council shall have the right to order a public hearing as to any such matter and, if convinced that an adjustment of the charges for such premises is necessary to provide reasonable equality with those charged to others, it shall so provide, either by ordinance amendatory hereto, or by resolutions fixing special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate.



Section 4. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance, which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

CITY OF BILLINGS

By \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

By \_\_\_\_\_  
Marita Herold, CMC/AAE City Clerk

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

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Zone Change #754, South Shiloh Corridor Overlay District, Second Reading of Ordinance

**DEPARTMENT:** Planning and Community Development Services

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT** This is a zone change initiated by City Council for the lands affected by the recently adopted South Shiloh Corridor Overlay District regulations. City Council approved the first reading of the zone change ordinance on March 28, 2005. A valid protest petition has been filed and approval of the ordinance on second reading will require a two-thirds vote.

**ALTERNATIVES ANALYZED:** State law and local regulations require zone changes reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** There should be no appreciable financial impact as a result of this zone change. The zone change does not affect the uses allowed under the existing zoning.

**RECOMMENDATION**

The City Zoning Commission recommends, on a vote of 3 in favor and one opposed, that the City Council approve Zone Change #754 on second reading and adopt the determinations of the 12 criteria.

**Approved By:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT**

- A. Zoning Commission Determination
- B. Ordinance

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes must be evaluated using the 12 criteria that are set out in MCA 76-2-304. The 12 criteria and the Zoning Commission's determinations are listed below.

The City Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The Overlay District was specifically developed to implement both the Growth Policy and the West Billings Plan.

2. *Is the new zoning designed to lessen congestion in the streets?*

The Overlay District will not affect the volume of traffic. It may have a positive effect on traffic flow within developments because of the new parking lot requirements.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The increased setbacks and other site design elements should contribute to lessening dangers on the property.

4. *Will the new zoning promote health and general welfare?*

The Overlay District enhances the aesthetics of development which should promote health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Enhanced landscaping and building design will improve light and air quality.

6. *Will the new zoning prevent overcrowding of land?*

The Overlay District does not affect residential development and does not dictate densities. There will be no effect on the population densities.

7. *Will the new zoning avoid undue concentration of population?*

The Overlay District will not affect population concentrations.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

The Overlay District has provisions to enhance development by encouraging public amenities such as pedestrian and bicycle paths, park benches, transit stops and increased landscaping. These amenities should facilitate the provision of public services.

9. *Does the new zoning give reasonable consideration to the character of the district?*

Considerable thought was given to the character of the area in the development of the Overlay District regulations. Specific design elements were included, such as scale and size of building to encourage compatibility with adjacent development. Bufferyard requirements are also imposed on commercial developments that adjoin residential uses.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The Overlay District applies only to industrial, commercial, and mixed use developments along Shiloh Road and Zoo Drive. Both Zoo Drive and Shiloh Road are classified as principal arterials and main entryways to the City. The District regulations are designed to improve the suitability of commercial development in context of the character of Shiloh Road and Zoo Drive.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The increased quality of development resulting from the Overlay District standards should have a positive effect on the value of surrounding buildings and property.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Yes, the Overlay District will encourage high quality commercial and mixed use development along a principal arterial.

## ORDINANCE NO. 05-

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP TO SHOW THE EXTENT OF THE SOUTH SHILOH CORRIDOR OVERLAY DISTRICT 500 FEET FROM THE CENTER LINE OF SHILOH ROAD FROM KING AVENUE SOUTH TO I 90 INCLUDING ZOO DRIVE REGULATING DEVELOPMENT STANDARDS, LANDSCAPING STANDARDS, BUILDING DESIGN STANDARD AND OTHER SITE DEVELOPMENT STANDARDS, AND SIGN STANDARDS FOR COMMERCIAL, INDUSTRIAL AND MULTIFAMILY DEVELOPMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the Official Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. The South Shiloh Corridor Overlay District extends 500 feet on either side of the centerline of Shiloh Road from King Avenue south to I-90 including Zoo Drive. The properties affected include all properties that are within the City limits and are zoned or used for commercial, industrial or multifamily purposes.

3. ZONE AMENDMENT. The official zoning map is hereby amended and all City properties within the South Shiloh Corridor Overlay District that are zoned or used for commercial, industrial or multifamily purposes, shall be subject to all the rules and regulations pertaining to the **South Shiloh Corridor Overlay District** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading March 28, 2005.

PASSED, ADOPTED AND APPROVED on second reading April 11, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#754

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

L

**AGENDA ITEM:**

---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

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

---

**PROBLEM/ISSUE STATEMENT:** On March 1, 2005 the owner of this property applied for preliminary plat approval for the OCSS Subdivision. This is a proposed 2-lot commercial subdivision located on the southeast corner of Lampman Drive and Carbon Street. 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, an additional lot may develop and result in additional tax revenues for the City.

**RECOMMENDATION**

Planning staff recommends that the Billings City Council approve the requested variance from BMCC Section 23-602 and conditionally approve the preliminary plat of OCSS 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: Zoning Map
- E: Site photos



## **INTRODUCTION**

OCSS Subdivision is a preliminary minor plat that would create two lots for commercial use. Lot 1 is approximately 4.8 acres in size and has the existing UPS distribution center located on it. Lot 2 is 1.9 acres in size and is currently a vacant field. The subject property is zoned Controlled Industrial, is located on the southeast corner of Lampman Drive and Carbon Street. The subdividers are requesting one variance from the Section 23-602 of the City Subdivision Regulations, which requires the platting of alleys in commercial subdivisions. Discussion on this variance and staff's recommendation is found below.

## **PROCEDURAL HISTORY**

- The preliminary plat application was submitted to the Planning Department on March 1, 2005.
- The City Council will consider the application at its meeting on April 11, 2005

## **BACKGROUND**

General location:	On the southeast corner of Lampman Drive and Carbon Street
Legal Description:	Tract 4-A-1-a, Certificate of Survey 777 Amended
Subdivider/Owner	OCSS Investment
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Controlled Industrial
Surrounding zoning:	Controlled Industrial
Existing land use:	UPS shipping distribution center
Proposed land use:	same plus one addition commercial development
Gross area:	6.766 acres
Lots:	2
Max.	4.835 acres
Min.	1.932 acres
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. Staff also recommends that the requested variance from the subdivision design and improvement standard be granted.

### RECOMMENDED CONDITIONS

1. The following changes shall be made to the final SIA:
  - a. The SIA shall be reformatted to follow the order of the standard format.  
*(Recommended by City –County Planning)*
  - b. Section 2 shall be amended to state: Existing street improvements on Lampman Drive include pavement, curb, gutter, and sidewalk. Existing street improvements to Carbon Street include pavement, curb and gutter. No new improvements are proposed for Lampman Drive or Carbon Street at this time. However, upon any development or redevelopment of Lot 1 or 2, any deficient curb or gutter will be required to be removed and replaced to City Standards. Additionally, upon any development or redevelopment of Lot 1 or 2, sidewalk along Carbon Street will be required to be installed to City Standards. *(Recommended by City-County Planning, PW Engineering)*
  - c. An item shall be added to the “Conditions that Run with the Land” section of the SIA stating that any development or redevelopment of Lot 1 or 2 will require the installation of sidewalk along Carbon Street. Also, with any development or redevelopment of Lot 1 or 2, any existing deficient curb, gutter or sidewalk along either Lampman Drive or Carbon Street will be required to be removed and replaced to meet City Standards.
  - d. Section 3, paragraph 2 shall be deleted. The following statements shall be added to Section 3: “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 the Public Works Department—Distribution and Collection Division. The extension/connection to/of water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications. The appropriate water and wastewater construction fees and franchise fee in effect shall be submitted with the application.  
It is acknowledged that the properties subject to this Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the first paragraph above.  
The developer/owner acknowledges that the subdivision shall be subject to the applicable System Development fees in effect at the time new water and/or sanitary sewer service connections are made.  
It is acknowledged that all fees stated above are subject to the Franchise fee in effect at the time of payment.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality. (*Recommended by PW Distribution & Collection; BMCC Section 23-706*)

2. 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.
3. 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.

#### **VARIANCE REQUESTED**

1. A variance from BMCC 23-602 requiring alleys in commercial and industrial districts. *The properties are large enough to accommodate deliveries without alleys and the existing development and lot layout is not conducive to alley development. Public health and safety will not be compromised by granting this variance. Staff is recommending approval of the variance request.*

#### **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 approve the requested variance from BMCC Section 23-602 and conditionally approve the preliminary plat of OCSS Subdivision, and adopt the findings of fact as stated in the staff report.

**ATTACHMENTS**

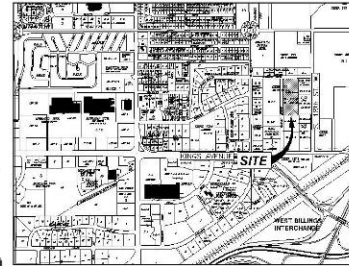
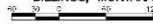
- A: Preliminary Plat
- B: Mayor's approval letter
- C: Findings of Fact
- D: Zoning Map
- E: Site photos

# ATTACHMENT A Preliminary plat of OCSS Subdivision

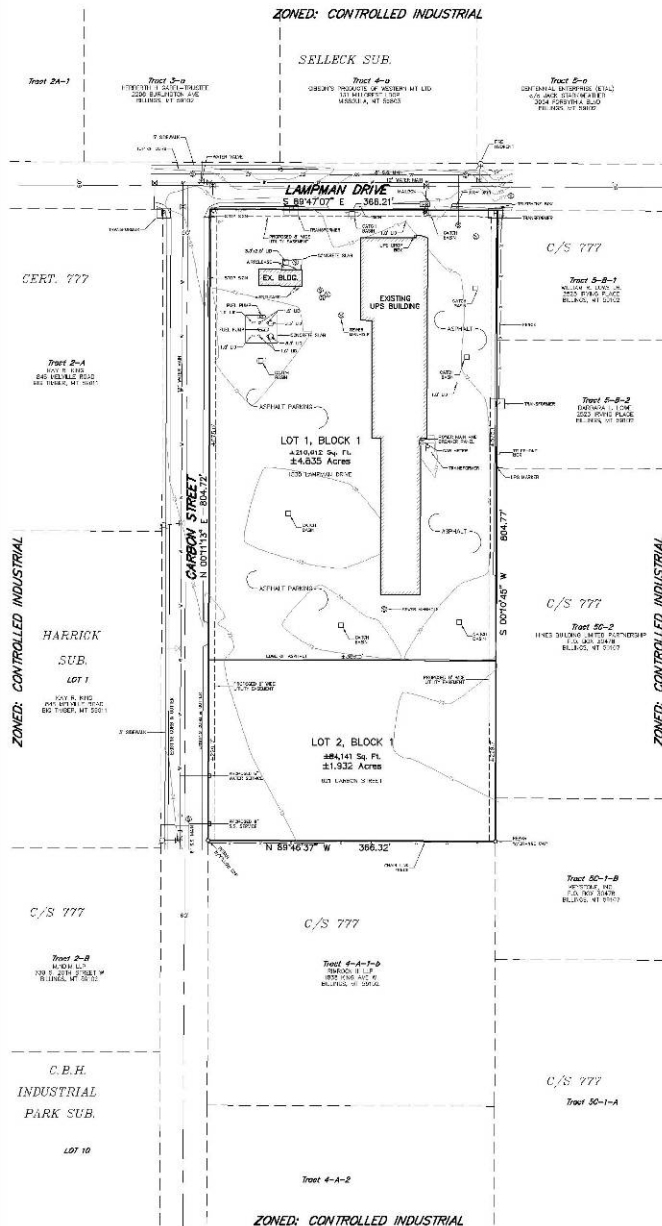
PRELIMINARY PLAT OF  
**OCSS SUBDIVISION**  
 BEING TRACT 4-A-1-a, CERTIFICATE OF SURVEY NO. 777 AM.  
 SITUATED IN THE SE1/4 SECTION 7, T. 1 S., R. 26 E., P.M.M.  
 CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR OCSS INVESTMENT  
 PREPARED BY : ENGINEERING, INC.  
 SCALE : 1" = 60'

FEBRUARY, 2005  
 BILLINGS, MONTANA



**VICINITY MAP**  
 NOT TO SCALE



**BASIS OF BEARING:** CERTIFICATE OF SURVEY NO. 777

o = FOUND SURVEY MONUMENT, AS NOTED

## PLAT DATA

GROSS AREA	1294.753 Sq. Ft.
NET AREA	1294.753 Sq. Ft.
NUMBER OF LOTS	TWO
MINIMUM LOT SIZE	154,141 Sq. Ft.
MAXIMUM LOT SIZE	420,612 Sq. Ft.
LINEAL FEET OF STREETS	N/A
PARKLAND REQUIREMENT	NONE
EXISTING ZONING	CONTROLLED INDUSTRIAL
SURROUNDING ZONING:	
NORTH	CONTROLLED INDUSTRIAL
SOUTH	CONTROLLED INDUSTRIAL
EAST	CONTROLLED INDUSTRIAL
WEST	CONTROLLED INDUSTRIAL
EXISTING LAND USE	UPS DISTRIBUTION CENTER
PROPOSED LAND USE	FUTURE COMMERCIAL DEVELOPMENT

## LEGEND

— 6" —	8" SANITARY SEWER MAIN
— 12" —	12" WATER MAIN
— 1" —	FENCE LINE
— 1" —	TRANSFORMER
— 1" —	SANITARY SEWER MAINHOLE
— 1" —	FIRE HYDRANT
— 1" —	WATER VALVE
— 1" —	WATER SHUTOFF
— 1" —	MAILBOX
— 1" —	SGA
— 1" —	GAS METER
— 1" —	CATCH BASIN
— 1" —	TELEPHONE BOX
— 1" —	1.0' L.D.

ATTACHMENT B  
Mayor's approval letter

April 12, 2005

OCSS Investment  
3520 Tommy Armour Circle  
Billings, MT 59106

Dear Sir:

On April 11, 2005 the Billings City Council conditionally approved the preliminary plat of the OCSS Subdivision. The conditions of approval are as follows:

1. The following changes shall be made to the final SIA:  
The SIA shall be reformatted to follow the order of the standard format.  
*(Recommended by City –County Planning)*
  - a. Section 2 shall be amended to state: Existing street improvements on Lampman Drive include pavement, curb, gutter, and sidewalk. Existing street improvements to Carbon Street include pavement, curb and gutter. No new improvements are proposed for Lampman Drive or Carbon Street at this time. However, upon any development or redevelopment of Lot 1 or 2, any deficient curb or gutter will be required to be removed and replaced to City Standards. Additionally, upon any development or redevelopment of Lot 1 or 2, sidewalk along Carbon Street will be required to be installed to City Standards. *(Recommended by City-County Planning, PW Engineering)*
  - b. An item shall be added to the “Conditions that Run with the Land” section of the SIA stating that any development or redevelopment of Lot 1 or 2 will require the installation of sidewalk along Carbon Street. Also, with any development or redevelopment of Lot 1 or 2, any existing deficient curb, gutter or sidewalk along either Lampman Drive or Carbon Street will be required to be removed and replaced to meet City Standards.
  - c. Section 3, paragraph 2 shall be deleted. The following statements shall be added to Section 3: “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 the Public Works Department—Distribution and Collection Division. The extension/connection to/of water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications. The appropriate water and wastewater construction fees and franchise fee in effect shall be submitted with the application.”

“It is acknowledged that the properties subject to this Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the first paragraph above.”

“The developer/owner acknowledges that the subdivision shall be subject to the applicable System Development fees in effect at the time new water and/or sanitary sewer service connections are made.”

“It is acknowledged that all fees stated above are subject to the Franchise fee in effect at the time of payment.”

“The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.” *(Recommended by PW Distribution & Collection; BMCC Section 23-706)*

2. 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.
3. 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](mailto: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: Peter Knapp; Engineering, Inc.

ATTACHMENT C  
Findings of Fact  
OCSS Subdivision  
April 11, 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 no effect on agriculture or agricultural water users' facilities. The property is not currently used for agriculture and is surrounded on all sides by commercial/industrial development. No irrigation facilities are apparent on the property.

2. Effect on local services

- a. Utilities – Water and sewer lines are in place in both Lampman Drive and Carbon Street. The building on Lot 1 is already currently served by water and sanitary sewer from Lampman Dr., and any new development on Lot 2 will be hooked up to the water and sewer lines found in Carbon Street. The draft SIA states that the subject property has already participated in the payment for the construction of the water and sewer lines in Carbon Street. Public Works-Collection & Distribution (PW-C&D) has commented that this is not true, but that the City had paid for the installation of these lines when Harrick Subdivision was platted on the west side of Carbon Street. Therefore the subdivider will be required to reimburse the City for their portion of the interior water and sewer construction fees. PW-C&D 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. Both MDU and NWE have responded by stating that the proposed utility easements found on the preliminary plat are sufficient for their needs.
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- c. Streets - Lampman Drive fronts the north boundary of the subdivision, and Carbon Street fronts its west side. Currently Lampman Drive has curb, gutter, and sidewalk along the frontage of this Lot 1. The Carbon Street frontage has existing curb and gutter, but no sidewalk along it. Public Works-Engineering has pointed out that any development or redevelopment of Lot 1 or 2 will require the removal and replacement of any existing deficient curb or gutter along both streets and the installation of sidewalk along Carbon Street. It is recommended as a condition of approval that these requirements be clarified in the SIA to inform future lot owners.  
Access to the subject property is currently off of Lampman Drive. There are two existing 30-foot wide approaches that serve the existing business. Any new approaches for Lot 2 off of Carbon St. will be reviewed and approved by Public Works—Engineering at the time of lot development review.



A variance from BMCC 23-602, which requires the platting of alleys for commercial subdivisions, has been requested. Staff is recommending approval of this variance request.

- d. Emergency services – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station is Station #5 on South 24<sup>th</sup> Street West. The Fire Department reviewed the proposal and have no concerns with it. Police response will depend upon officer availability and location when a call for service is placed. The Police Department also noted that they have no issues with the subdivision as proposed. AMR provides medical care and transport and response would come from the west station on Grand Avenue.
- e. Schools – The subdivision is in the School District #2. Since this is commercial property, there should be no direct impact on the schools.
- f. Parks and Recreation – There is no parkland dedication requirement because this is a minor plat and commercial property. There should be little impact on parks and recreation because there will not be any residents in this subdivision.
- g. MET Transit – The nearest MET route runs down 24<sup>th</sup> St. West, to the west of the subdivision. This subdivision should not significantly impact MET service.

### 3. Effect on the natural environment

This subdivision should have only minor effects on the natural environment. There will be some short term air and noise pollution during construction activities. However, the property is within an urbanized part of the city and these effects should be small.

### 4. Effect on wildlife and wildlife habitat

This subdivision should not adversely affect wildlife or habitat. The property is within the urbanized area of the city, is primarily dirt and asphalt-surfaced and has no unusual or attractive 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. This property is not within a mapped floodway or flood zone. Potential traffic circulation impacts will be reviewed at the time of site development. There are no other 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 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*.

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns.  
*The proposed subdivision is consistent with the neighborhood character and is zoned Controlled Industrial.*
- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.  
*The proposed development is in an area developed with commercial/industrial uses.*
- c. Contiguous development focused in and around existing population centers separated by open space.  
*The proposed subdivision is infill development, utilizes existing infrastructure and does not contribute to urban sprawl.*

### 2. Urban area transportation plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. Both streets fronting the subdivision are considered local streets and are constructed to the appropriate City standards.

### 3. Heritage Trail Plan

The subdivision is also within the jurisdictional area of the Heritage Trail Plan however it is not within an area identified for future trails. No improvements are required for this subdivision.

### **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 served by municipal water and sewer, and solid waste services; these services will be extended to the new lot. Storm water runoff will be retained on site in accordance with the City's Stormwater Management Manual until such time as a storm drain line is extended to the area. 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 Controlled Industrial 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)]**

The preliminary subdivision plat identifies utility easements along the north, east and west sides of the subject property. MDU and NWE have both indicated that these easements are suitable to meet their needs.

**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 lots by Carbon Street and Lampman Drive.

**CONCLUSIONS OF FINDING OF FACT**

- The proposed preliminary plat of OCSS Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- There should be little effect on local services because this is an infill proposal and services are already provided to the property and surrounding properties.
- 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 Heritage Trail Plans.
- The proposed subdivision complies with State and local subdivision regulations, sanitary requirements, zoning and provides legal and physical access to each parcel.

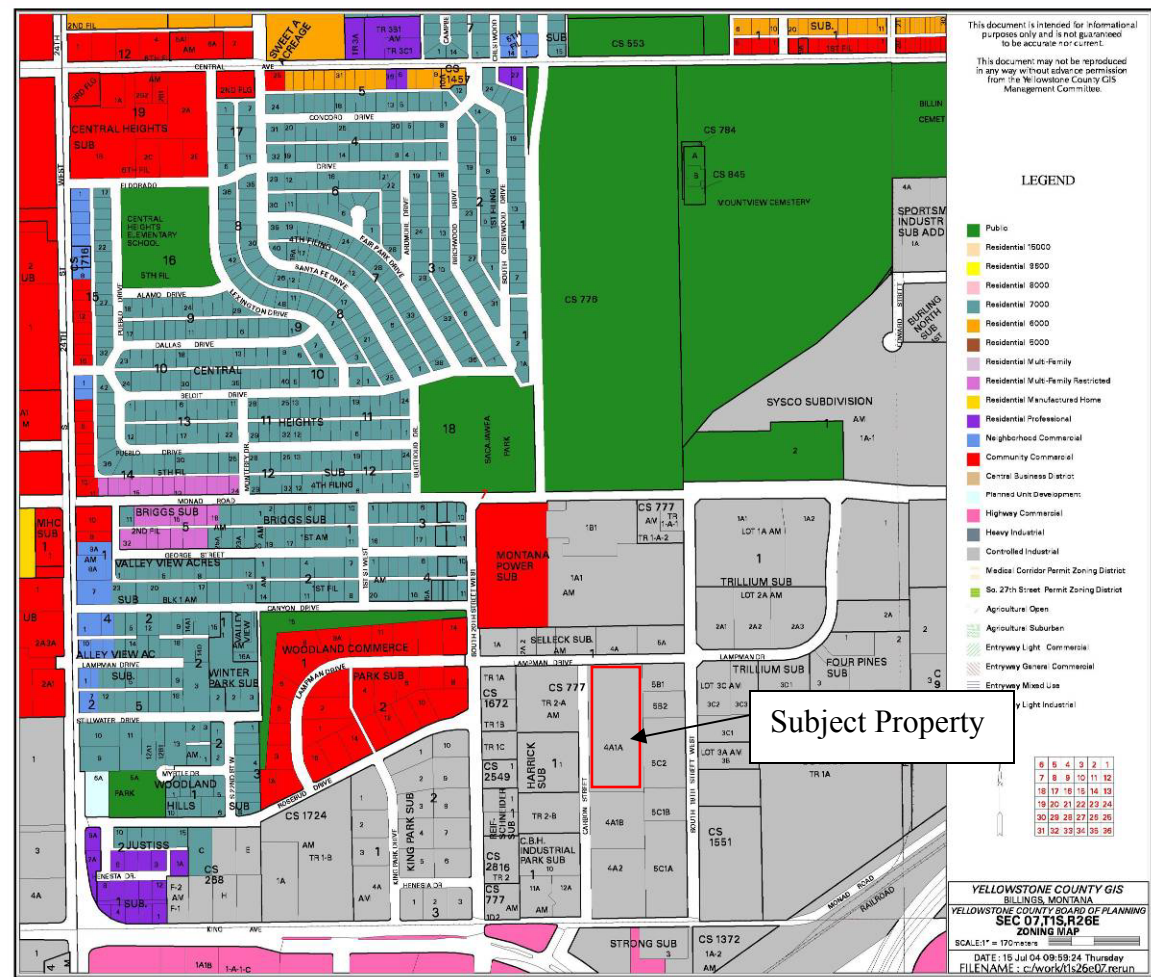
**Approved by the Billings City Council on April 11, 2005.**

---

Charles F. Tooley, Mayor

# ATTACHMENT D

## Area Map with Zoning



ATTACHMENT E



Figure 1: From east side of Lot 2 looking west across the lot toward Carbon St.



Figure 2: From SW corner of Lot 1, looking south down Carbon St.

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

## AGENDA ITEM:



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Rehberg Ranch Estates Subdivision, Second Filing 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 July 13, 2004. The subject property is zoned Planned Unit Development and is located north of Montana Highway 3, off of Rod & Gun Club Road along the extension of Iron Horse Trail. The subdivision will create 44 residential lots for single family development and one townhome lot. 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 45 residential lots will increase the City's tax revenue on this parcel.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Rehberg Ranch Estates Subdivision, Second Filing.

**Approved By:**            **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

- A.** Final Plat – Rehberg Ranch Estates Subdivision, Second Filing



# PLAT OF REHBERG RANCH ESTATES SUBDIVISION, SECOND FILING

BEING A PORTION OF TRACT 5 OF CERTIFICATE OF SURVEY No. 3091  
SITUATED IN THE NE1/4 AND SE1/4 OF SECTION 22, T. 1 N., R. 25 E., P.M.M.  
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: REHBERG RANCH ESTATES, LLC  
PREPARED BY: ENGINEERING, INC.  
SCALE: 1" = 100'

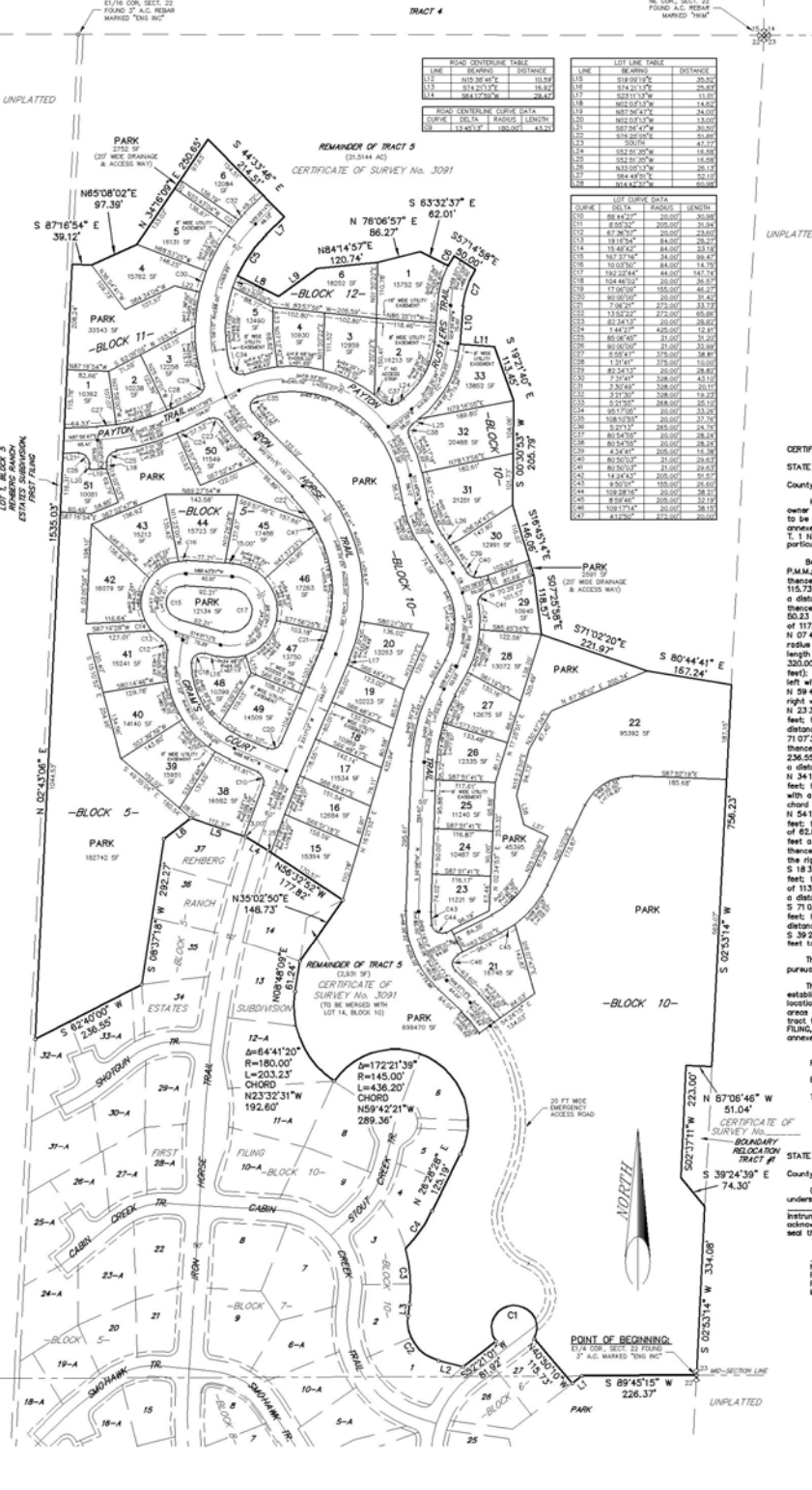
JANUARY, 2005  
BILLINGS, MONTANA

CERTIFICATE OF SURVEY No. 3091

NE COR. SECT. 22  
FOUND A.C. REBAR  
MARKED "TOP"



VICINITY MAP  
NOT TO SCALE



- BASIS OF BEARING: PLAT OF REHBERG RANCH ESTATES SUBDIVISION, FIRST FILING.
- = FOUND SURVEY MONUMENT, AS NOTED
  - ✕ = SET 5/8" x 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"
  - = SET INTERSECTION MONUMENT, 5/8" x 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
1	S 87°16'54" E	57.39	17	S 87°16'54" E	57.39
2	N 34°36'14" E	103.31	18	S 87°16'54" E	57.39
3	S 44°33'44" E	103.31	19	S 87°16'54" E	57.39
4	N 76°06'57" E	62.01	20	S 87°16'54" E	57.39
5	S 63°32'37" E	62.01	21	S 87°16'54" E	57.39
6	N 84°14'57" E	120.74	22	S 87°16'54" E	57.39
7	S 57°14'38" E	81.80	23	S 87°16'54" E	57.39
8	N 10°06'57" E	103.31	24	S 87°16'54" E	57.39
9	S 10°06'57" E	103.31	25	S 87°16'54" E	57.39
10	N 10°06'57" E	103.31	26	S 87°16'54" E	57.39
11	S 10°06'57" E	103.31	27	S 87°16'54" E	57.39
12	N 10°06'57" E	103.31	28	S 87°16'54" E	57.39
13	S 10°06'57" E	103.31	29	S 87°16'54" E	57.39
14	N 10°06'57" E	103.31	30	S 87°16'54" E	57.39
15	S 10°06'57" E	103.31	31	S 87°16'54" E	57.39
16	N 10°06'57" E	103.31	32	S 87°16'54" E	57.39
17	S 10°06'57" E	103.31	33	S 87°16'54" E	57.39
18	N 10°06'57" E	103.31	34	S 87°16'54" E	57.39
19	S 10°06'57" E	103.31	35	S 87°16'54" E	57.39
20	N 10°06'57" E	103.31	36	S 87°16'54" E	57.39
21	S 10°06'57" E	103.31	37	S 87°16'54" E	57.39
22	N 10°06'57" E	103.31	38	S 87°16'54" E	57.39
23	S 10°06'57" E	103.31	39	S 87°16'54" E	57.39
24	N 10°06'57" E	103.31	40	S 87°16'54" E	57.39
25	S 10°06'57" E	103.31	41	S 87°16'54" E	57.39
26	N 10°06'57" E	103.31	42	S 87°16'54" E	57.39
27	S 10°06'57" E	103.31	43	S 87°16'54" E	57.39
28	N 10°06'57" E	103.31	44	S 87°16'54" E	57.39
29	S 10°06'57" E	103.31	45	S 87°16'54" E	57.39
30	N 10°06'57" E	103.31	46	S 87°16'54" E	57.39
31	S 10°06'57" E	103.31	47	S 87°16'54" E	57.39
32	N 10°06'57" E	103.31	48	S 87°16'54" E	57.39
33	S 10°06'57" E	103.31	49	S 87°16'54" E	57.39
34	N 10°06'57" E	103.31	50	S 87°16'54" E	57.39
35	S 10°06'57" E	103.31	51	S 87°16'54" E	57.39
36	N 10°06'57" E	103.31	52	S 87°16'54" E	57.39
37	S 10°06'57" E	103.31	53	S 87°16'54" E	57.39
38	N 10°06'57" E	103.31	54	S 87°16'54" E	57.39
39	S 10°06'57" E	103.31	55	S 87°16'54" E	57.39
40	N 10°06'57" E	103.31	56	S 87°16'54" E	57.39
41	S 10°06'57" E	103.31	57	S 87°16'54" E	57.39
42	N 10°06'57" E	103.31	58	S 87°16'54" E	57.39
43	S 10°06'57" E	103.31	59	S 87°16'54" E	57.39
44	N 10°06'57" E	103.31	60	S 87°16'54" E	57.39
45	S 10°06'57" E	103.31	61	S 87°16'54" E	57.39
46	N 10°06'57" E	103.31	62	S 87°16'54" E	57.39
47	S 10°06'57" E	103.31	63	S 87°16'54" E	57.39
48	N 10°06'57" E	103.31	64	S 87°16'54" E	57.39
49	S 10°06'57" E	103.31	65	S 87°16'54" E	57.39
50	N 10°06'57" E	103.31	66	S 87°16'54" E	57.39
51	S 10°06'57" E	103.31	67	S 87°16'54" E	57.39
52	N 10°06'57" E	103.31	68	S 87°16'54" E	57.39
53	S 10°06'57" E	103.31	69	S 87°16'54" E	57.39
54	N 10°06'57" E	103.31	70	S 87°16'54" E	57.39
55	S 10°06'57" E	103.31	71	S 87°16'54" E	57.39
56	N 10°06'57" E	103.31	72	S 87°16'54" E	57.39
57	S 10°06'57" E	103.31	73	S 87°16'54" E	57.39
58	N 10°06'57" E	103.31	74	S 87°16'54" E	57.39
59	S 10°06'57" E	103.31	75	S 87°16'54" E	57.39
60	N 10°06'57" E	103.31	76	S 87°16'54" E	57.39
61	S 10°06'57" E	103.31	77	S 87°16'54" E	57.39
62	N 10°06'57" E	103.31	78	S 87°16'54" E	57.39
63	S 10°06'57" E	103.31	79	S 87°16'54" E	57.39
64	N 10°06'57" E	103.31	80	S 87°16'54" E	57.39
65	S 10°06'57" E	103.31	81	S 87°16'54" E	57.39
66	N 10°06'57" E	103.31	82	S 87°16'54" E	57.39
67	S 10°06'57" E	103.31	83	S 87°16'54" E	57.39
68	N 10°06'57" E	103.31	84	S 87°16'54" E	57.39
69	S 10°06'57" E	103.31	85	S 87°16'54" E	57.39
70	N 10°06'57" E	103.31	86	S 87°16'54" E	57.39
71	S 10°06'57" E	103.31	87	S 87°16'54" E	57.39
72	N 10°06'57" E	103.31	88	S 87°16'54" E	57.39
73	S 10°06'57" E	103.31	89	S 87°16'54" E	57.39
74	N 10°06'57" E	103.31	90	S 87°16'54" E	57.39
75	S 10°06'57" E	103.31	91	S 87°16'54" E	57.39
76	N 10°06'57" E	103.31	92	S 87°16'54" E	57.39
77	S 10°06'57" E	103.31	93	S 87°16'54" E	57.39
78	N 10°06'57" E	103.31	94	S 87°16'54" E	57.39
79	S 10°06'57" E	103.31	95	S 87°16'54" E	57.39
80	N 10°06'57" E	103.31	96	S 87°16'54" E	57.39
81	S 10°06'57" E	103.31	97	S 87°16'54" E	57.39
82	N 10°06'57" E	103.31	98	S 87°16'54" E	57.39
83	S 10°06'57" E	103.31	99	S 87°16'54" E	57.39
84	N 10°06'57" E	103.31	100	S 87°16'54" E	57.39

CERTIFICATE OF DEDICATION  
STATE OF MONTANA  
County of Yellowstone

KNOW ALL MEN BY THESE PRESENTS: That REHBERG RANCH ESTATES, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the opened plat, said tract being situated in the NE1/4 and SE1/4 of Section 22, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point which is the E1/4 Corner of Section 22, T. 1 N., R. 25 E., P.M.M.; thence, from said point of beginning, S 89°45'15" W a distance of 226.37 feet; thence S 52°27'11" W a distance of 23.71 feet; thence N 40°50'10" W a distance of 115.73 feet; thence along a non-tangent curve to the left with a radius of 45.00 feet a distance of 193.05 feet (chord bearing S 86°31'28" W, chord length 75.57 feet); thence S 52°27'11" W a distance of 81.82 feet; thence N 78°17'14" W a distance of 50.33 feet; thence along a curve to the right with a radius of 80.00 feet a distance of 117.31 feet (chord bearing N 34°16'48" W, chord length 107.06 feet); thence N 87°43'37" E a distance of 22.73 feet; thence along a curve to the left with a radius of 270.00 feet a distance of 110.51 feet (chord bearing N 03°59'53" W, chord length 108.74 feet); thence along a non-tangent curve to the left with a radius of 320.00 feet a distance of 91.78 feet (chord bearing N 34°41'28" E, chord length 91.47 feet); thence N 28°28'28" E a distance of 120.19 feet; thence along a curve to the left with a radius of 145.00 feet a distance of 436.20 feet (chord bearing N 59°42'21" W, chord length 289.36 feet); thence along a non-tangent curve to the right with a radius of 150.00 feet a distance of 203.23 feet (chord bearing N 23°32'31" W, chord length 192.60 feet); thence N 08°48'09" E a distance of 61.24 feet; thence N 35°02'50" E a distance of 146.73 feet; thence N 56°32'52" W a distance of 177.82 feet; thence N 58°37'42" W a distance of 51.25 feet; thence N 71°07'39" W a distance of 115.37 feet; thence S 52°19'49" W a distance of 87.29 feet; thence S 08°37'18" W a distance of 29.27 feet; thence S 62°40'07" W a distance of 236.55 feet; thence N 02°43'08" E a distance of 153.03 feet; thence S 87°18'54" E a distance of 39.12 feet; thence N 60°08'07" E a distance of 87.39 feet; thence N 34°16'04" E a distance of 250.65 feet; thence S 44°33'44" E a distance of 214.51 feet; thence S 45°28'14" W a distance of 49.72 feet; thence along a curve to the left with a radius of 288.00 feet a distance of 99.85 feet (chord bearing S 34°45'07" W, chord length 99.27 feet); thence S 43°50'09" E a distance of 30.85 feet; thence N 54°15'49" E a distance of 93.49 feet; thence N 84°14'37" E a distance of 120.74 feet; thence N 78°06'57" E a distance of 62.77 feet; thence S 83°32'37" E a distance of 62.01 feet; thence along a non-tangent curve to the right with a radius of 200.00 feet a distance of 22.52 feet (chord bearing N 29°30'12" E, chord length 22.51 feet); thence S 57°14'58" E a distance of 50.00 feet; thence along a non-tangent curve to the right with a radius of 150.00 feet a distance of 78.68 feet (chord bearing S 18°34'56" W, chord length 75.88 feet); thence S 04°24'48" E a distance of 75.00 feet; thence S 85°35'11" E a distance of 68.45 feet; thence S 19°21'40" E a distance of 113.45 feet; thence S 00°30'53" W a distance of 200.79 feet; thence S 18°40'14" E a distance of 146.06 feet; thence S 07°25'58" E a distance of 118.57 feet; thence S 71°02'20" E a distance of 221.97 feet; thence S 80°44'41" E a distance of 167.24 feet; thence S 02°53'14" W a distance of 756.23 feet; thence N 87°06'48" W a distance of 51.04 feet; thence S 02°37'11" W a distance of 223.00 feet; thence S 39°24'30" E a distance of 74.30 feet; thence S 02°53'14" W a distance of 334.08 feet to the point of beginning.

The park requirement for this subdivision has been met by a land donation pursuant to Section 76-3-621(3)(a), M.C.A.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the area designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as REHBERG RANCH ESTATES SUBDIVISION, SECOND FILING, and the lands included in all streets, avenues, and parks as shown on the opened plat are hereby granted and donated to the use of the public forever.

REHBERG RANCH ESTATES, LLC  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MONTANA  
County of Yellowstone

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned Notary Public for the State of Montana, personally appeared \_\_\_\_\_ known to me to be the person who signed the foregoing instrument as \_\_\_\_\_ of REHBERG RANCH ESTATES, LLC, and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

Notary Public In and for the State of Montana  
Printed Name \_\_\_\_\_  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

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



## AGENDA ITEM:




---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

TITLE: Ironwood Estates Subdivision 3<sup>rd</sup> Filing --Final Plat  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: Nicole Cromwell, AICP, 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 August 9, 2004. The subject property is zoned Residential 9,600, Public and Residential Professional and is located east of Molt Road and north of Ironwood Estates Subdivision 1<sup>st</sup> and 2<sup>nd</sup> Filings and will create new street frontage. The subdivision will create 23 lots for residential use, one (1) for public parks and one (1) for limited commercial use. 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 creation of 23 residential lots and one (1) lot for limited commercial uses will increase the City's tax revenue on this parcel.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Ironwood Estates Subdivision 3<sup>rd</sup> Filing.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

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



**AGENDA ITEM:**



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Eagle Ridge 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 under the name of “Kreitz Heights” on January 8, 2001. City Council granted the subdivider an extension for filing the final plat until February 9, 2005. This deadline was extended to allow the subdivider to meet the conditions of approval, including a zone change and parkland dedication negotiations. The subject property is zoned Residential 7,000 and is located on the east side of St. Andrews Drive at the intersection of Almadin Lane. The subdivision will create 25 single family residential lots. 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 25 residential lots will increase the City’s tax revenue from these parcels.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Eagle Ridge Subdivision.

**Approved By:**            **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

- A.** Final plat of Eagle Ridge Subdivision



## AGENDA ITEM:



---

---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

---

TITLE: Vintage Estates 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 January 24, 2005. The subject property is zoned Residential 9,600 and is located on the south side of Grand Avenue near the intersection of 54<sup>th</sup> Street West. The subdivision will create 112 single family residential lots. 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 112 residential lots will increase the City's tax revenue from these parcels.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Vintage Estates Subdivision.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

**B.** Final plat of Vintage Estates Subdivision



# Q1

**AGENDA ITEM:**



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11th, 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 \$458,399.97 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 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

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

# Q2

**AGENDA ITEM:**



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11th, 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 \$1,066,413.66 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 25th, 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

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

**AGENDA ITEM:**


---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Public Hearing and Resolution \_\_\_\_ adopting the North West Shiloh Area Plan

**DEPARTMENT:** Planning & Community Development Department

**PRESENTED BY:** Ramona Mattix, AICP, Director

---

**PROBLEM/ISSUE STATEMENT:** The City Of Billings City Council has had numerous annexation petitions in the area North West of Billings past Shiloh Road. Many of these annexation petitions for development have occurred due to property owners desires to connect to city sewer and water lines that were extended in this area. As a result of this development pressure, the Council asked that a land use and circulation plan be developed for this area. The North West Shiloh Area Plan was presented to the Planning Board for a public hearing on March 22. The Planning Board is recommending adoption of this Plan.

**ALTERNATIVES ANALYZED:**

- Single Plan map showing land use and circulation along with goal, policies and implementation Plan.
- Multiple Plan maps showing various build out scenarios meeting the goals, policies and implementation Plan.

**FINANCIAL IMPACT:** The Plan build out scenarios show the City will can service the projected 6300 residents with existing resources.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached ordinance amendment.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS:**

Attachment A – Draft North West Shiloh Area Plan and Maps-Available at the City Clerk’s Office  
 Attachment B – Resolution of Adoption 05-



## **INTRODUCTION**

In May of 2004, the City Council directed planning staff to develop a land use and circulation plan for potential annexation areas in the north west area of Billings. In June, Bear West, Inc. was chosen as the consultant for development of this plan. A steering committee was formed and worked with the consultant in the development of the North West Shiloh Area Plan. Members of the committee included land owners, residents, realtors, and developers as well as representatives from the business and environmental communities. The attached draft Plan is the result of this effort.

## **BACKGROUND**

- The City Council approved the consultant contract on August 8<sup>th</sup>, 2004.
- The consultant conducted the land use and circulation CHIP exercise on November 18<sup>th</sup>, 2004 at the Depot.
- A land owner Open House was held on January 26<sup>th</sup>, 2005, in the large conference room, Library 4<sup>th</sup> floor.
- A public Open House was held on March 3<sup>rd</sup>, 2005, at the MSUB downtown meeting room on the corner of Broadway and 3<sup>rd</sup> Avenue.
- The Planning Board held a public hearing on March 22<sup>nd</sup>, 2005.

## **ALTERNATIVES ANALYSIS**

- Single Plan map showing land use and circulation along with goal, policies and implementation Plan. At the public open house a single composite map, developed from the CHIP exercise was shown. From public comments made at that meeting concerning land use scenarios shown, a variety of potential development scenarios maps were developed.
- Multiple Plan maps showing various build out scenarios meeting the goals, policies and implementation Plan. These multiple plan maps are examples of how development could occur consistent with the goals, policies and implementation strategies in the Plan.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The goals and policies of North West Shiloh Area Plan are taken largely from the adopted 2003 Growth Policy and the adopted West End Plan.

## **RECOMMENDATION**

Staff recommends that the City Council approve the attached ordinance amendment.

## **ATTACHMENTS:**

Attachment A – Draft North West Shiloh Area Plan and Maps-Available at City Clerk's Office  
Attachment B – Resolution of Adoption 05-

**ATTACHMENT B**

**RESOLUTION NO. 05-\_\_\_\_\_**

**RESOLUTION OF INTENT TO ADOPT THE CITY OF BILLINGS NORTHWEST SHILOH AREA PLAN.**

WHEREAS, pursuant to Title 76, Chapter 2, PART 310, Montana Codes Annotated, the Billings City Council, desires to adopt a the Northwest Shiloh Area Plan covering the area just outside the city limits to the north and west:

WHEREAS, the Northwest Shiloh Area Plan contains land use and transportation recommendations in the event of annexations in the north west area in accordance with Title 2, Chapter 2, MCA:

WHEREAS, on the 5th day of April, 2005, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed Northwest Shiloh Area Plan and on the 11<sup>th</sup> day of April, 2005, the Billings City Council held a public hearing for the same purpose:

WHEREAS, The Yellowstone County Board of Planning, recommends the Billings City Council adopt the proposed Northwest Shiloh Area Plan and any ordinances and resolution for its implementation:

NOW, THEREFORE, BE IT HEREBY RESOLVED that it is the intent of the Billings City Council to adopt the Northwest Shiloh Area Plan.

APPROVED AND PASSED by the City Council of the City of Billings this 14th day of July, 2003.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC      CITY CLERK

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

## AGENDA ITEM:




---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** W.O. 04-12 Alkali Creek Road Improvements, Sidewalk Assessments, Public Hearing and Resolution Ordering Improvements

**DEPARTMENT:** Public Works - Engineering

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

---

**PROBLEM/ISSUE STATEMENT:** On March 14, 2005, Council passed a Resolution of Intent for this project and established a Public Hearing date of April 11, 2005. After conducting the Public Hearing, in order to proceed with construction of the project, Council must pass a resolution ordering construction of the improvements.

**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 the sidewalk assessments is as follows:

Construction Costs	\$60,305.00
City Contribution (Repair of existing improvements)	<u>(\$37,015.00)</u>
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	<u>\$ 350.00</u>
<b>TOTAL ASSESSED COSTS</b>	<b>\$30,000.00</b>

## **RECOMMENDATION**

Staff recommends that Council hold a Public Hearing and pass a Resolution ordering construction of the improvements identified in Work Order 04-12, Alkali Creek Road, Sidewalk Assessments.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

## **ATTACHMENT**

A. W.O. 04-12 – Alkali Creek Road, Sidewalk Assessments Resolution Ordering Improvements

## **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 within the project limits 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
  - Notify affected property owners of proposed project – March 18, 2002
  -
- Future Items
  - 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 notified each property owner within the proposed project area. This notice included 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. A public open house was held on March 10, 2005, with a display showing the extents of the sidewalk assessments, and no negative comments concerning the assessments were received by staff or the consultant at 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 hold a Public Hearing and pass a Resolution ordering construction of the improvements identified in Work Order 04-12, Alkali Creek Road, Sidewalk Assessments.

## **ATTACHMENT**

A. W.O. 04-12 – Alkali Creek Road, Sidewalk Assessments Resolution Ordering Improvements

RESOLUTION NO. 05 - \_\_\_\_\_

A RESOLUTION RELATING TO **W.O. 04-12, ALKALI CREEK ROAD, SIDEWALK ASSESSMENTS**; ORDERING 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 AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

BE IT RESOLVED by the City Council of the City of Billings (the "City"), Montana, as follows:

**Section 1. Passage of Resolution of Intention.** This Council, on **March 14, 2005**, adopted Resolution No. **05-18247** (the "Resolution of Intention"), pursuant to which this Council declared its intention to order in certain sidewalks, curb, gutter and street improvements, designated as **W.O. 04-12, ALKALI CREEK ROAD, SIDEWALK ASSESSMENTS** (the "Project") of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the "Bonds"), the creation and administration of the Project, and the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

**Section 2. Notice and Public Hearing.** Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on **April 11, 2005**, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

**Section 3. Order.** It is hereby ordered that the following improvements shall be constructed, reconstructed, repaired, or replaced:

See Exhibit "A" attached hereto.

**Section 4. 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 in Exhibit "B" attached hereto.

**Section 5. Reimbursement Expenditures.**

5.01. 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.

5.02. 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 provisions 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 minimus” 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.

5.03. 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.

5.04. 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.

5.05. 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 evidenced 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.

**Section 6. Property Owner Option to Construct Improvements.** Notice of passage of this Resolution shall be mailed to all affected property owners and said owners shall have thirty (30) days from the date of said Notice in which to install the ordered improvements at their cost and expense. In the event the owners do not take said action within the said thirty (30) day period, the City will install the improvements and will assess the costs thereof, all costs of administration and engineering and all bond issuance costs against the real property.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 11th day of April 2005.

THE CITY OF BILLINGS:

BY \_\_\_\_\_  
Charles F. Tooley MAYOR

ATTEST:

BY \_\_\_\_\_  
Marita Herold, CMC CITY CLERK

**Locations of Work**  
**Work Order 04-12**  
**Alkali Creek Road, Sidewalk Assessments**

**Exhibit A**

**A) Sidewalks:** 571 Pinion Dr. (Alkali Creek Road frontage), West side of Alkali Creek Road from Moon Valley Road to Pinion Drive;

**B) Sidewalks, Drive Approaches and Miscellaneous Replacements:** West side of Alkali Creek Road Between Tumbleweed Drive (North) and Tumbleweed Drive (South) including the frontage of the following properties: 550 Alkali Creek Rd., 540 Alkali Creek Rd., 530 Alkali Creek Rd., 520 Alkali Creek Rd., 510 Alkali Creek Rd., 480 Alkali Creek Rd., 470 Alkali Creek Rd., 460 Alkali Creek Rd., 450 Alkali Creek Rd., 440 Alkali Creek Rd., 430 Alkali Creek Rd., and 420 Alkali Creek Rd.;

**C) Curb & Gutter and Drive Approaches:** East side of Alkali Creek Road between Moccasin Trail (North) and Moccasin Trail (South) (approximately 400 feet).

<b>Work Order 04-12</b>									
<b>Alkali Creek Road, Sidewalk Assessments</b>									
<b>Exhibit C</b>									
Tax ID	SID #	SID Payoff	Amount Delinquent	W. O. 04-12 Assessment	SID Pay-off + Delinquent + W. O. 04-12 Assessment	Market Value	Estimated Market Value After Improvements	Percent of Total Assessment in District	Building on the Lots (Yes or No)
A02247	N/A	\$ -	\$ -	\$ 5,667.79	\$ 5,667.79	\$ 30,602.00	\$ 36,269.79	18.89%	No
A11108	N/A	\$ -	\$ -	\$ -	\$ -	\$ 178,700.00	\$ 178,700.00	0.00%	Yes
A21424	N/A	\$ -	\$ -	\$ 531.36	\$ 531.36	\$ 129,100.00	\$ 129,631.36	1.95%	Yes
A21425	N/A	\$ -	\$ -	\$ 1,449.15	\$ 1,449.15	\$ 97,400.00	\$ 98,849.15	5.43%	Yes
A21426	N/A	\$ -	\$ -	\$ -	\$ -	\$ 128,600.00	\$ 128,600.00	0.00%	Yes
A21427	N/A	\$ -	\$ -	\$ 1,658.47	\$ 1,658.47	\$ 112,300.00	\$ 113,958.47	5.12%	Yes
A21428	N/A	\$ -	\$ -	\$ 1,610.17	\$ 1,610.17	\$ 101,400.00	\$ 103,010.17	2.65%	Yes
A21429	N/A	\$ -	\$ -	\$ 1,449.15	\$ 1,449.15	\$ 102,900.00	\$ 104,349.15	2.45%	Yes
A21430	N/A	\$ -	\$ -	\$ -	\$ -	\$ 105,900.00	\$ 105,900.00	0.00%	Yes
A21431	N/A	\$ -	\$ -	\$ 1,964.40	\$ 1,964.40	\$ 111,000.00	\$ 112,964.40	3.41%	Yes
A21432	N/A	\$ -	\$ -	\$ 2,125.42	\$ 2,125.42	\$ 107,600.00	\$ 109,725.42	3.82%	Yes
A21433	N/A	\$ -	\$ -	\$ 393.60	\$ 393.60	\$ 117,600.00	\$ 117,993.60	0.73%	Yes
A21434	N/A	\$ -	\$ -	\$ 878.43	\$ 878.43	\$ 109,800.00	\$ 110,678.43	1.65%	Yes
A21435	N/A	\$ -	\$ -	\$ 1,642.37	\$ 1,642.37	\$ 111,900.00	\$ 113,542.37	3.14%	Yes
A21436	N/A	\$ -	\$ -	\$ -	\$ -	\$ 107,600.00	\$ 107,600.00	0.00%	Yes
A25934	N/A	\$ -	\$ -	\$ 7,151.72	\$ 7,151.72	\$ 137,166.00	\$ 144,317.72	14.12%	Yes
A21437	N/A	\$ -	\$ -	\$ 3,477.96	\$ 3,477.96	\$ 22,640.00	\$ 26,117.96	7.99%	No
A21473	N/A	\$ -	\$ -	\$ -	\$ -	\$ 115,300.00	\$ 115,300.00	0.00%	Yes

	Average	\$	\$	-	\$	\$	\$	\$		
		-			1,431.31	1,431.31	111,582.71	113,014.01		
	Median	\$	\$	-	\$	\$	\$	\$		
		-			1,449.15	1,449.15	111,000.00	112,964.40		
	Low	\$	\$	-	\$	\$	\$	\$		
		-			-	-	22,640.00	26,117.96		
	High	\$	\$	-	\$	\$	\$	\$		
		-			7,151.72	7,151.72	178,700.00	178,700.00		
	Total				\$	\$				
					30,000.00	30,000.00				

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

## AGENDA ITEM:




---

**CITY COUNCIL AGENDA ITEM**
**CITY OF BILLINGS, MONTANA**
**Monday, April 11, 2005**


---

**TITLE:** Water/Wastewater Rate Adjustment – Public Hearing

**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 has been completed by the rate consultant, Integrated Utilities Group, to determine the amount of the rate adjustments that will be necessary to provide adequate revenue. A copy of that study will be supplied to the Council under separate cover. At the March 14 meeting the Council set April 11 as the date to conduct a public hearing to receive public comment on the proposed rate adjustments. The Public Utilities Board will have an opportunity to review the proposed rate adjustments and provide its recommendation to the Council prior to the Council making a final decision. Staff is recommending that the Council delay action on the rate adjustments following the public hearing in order to allow adequate time for staff to prepare recommendations regarding the adjustments and incorporate the Board's recommendations.

**FINANCIAL IMPACT:** There is no financial impact associated with the action of conducting the public hearing.

**RECOMMENDATION**

Staff recommends that Council conduct a public hearing on April 11, 2005 for the purpose of receiving input on the proposed adjustment of the water and wastewater rates. Staff further recommends that Council delay any action on the proposed rate adjustments until the April 25 meeting.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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



---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 11, 2005**

---

**TITLE:** Approval of Resolution Adopting Bitterroot Heights Park Master Plan  
**DEPARTMENT:** Department of Parks, Recreation and Public Lands  
**PRESENTED BY:** Don Kearney, Parks, Recreation & Public Lands Director

---

**PROBLEM/ISSUE STATEMENT:** The Billings Parks, Recreation and Cemetery Board, at the March 9, 2005, regular meeting, reviewed and approved a motion to recommend to City Council the approval and adoption of the Bitterroot Heights Park Master Plan. Bitterroot Heights Park will take its name from the subdivision of that same name at Mary Street and Bitterroot Lane east of Main Street in the Heights. The subdivision is being constructed within the area of the old Empire Sand & Gravel main gravel pit. The developer is required to submit and have approved a Master Plan for the park and to create the park maintenance district before the final plat can be approved. The consultant retained by the developer to plan the park has met with PRPL Staff 2 times to review the plan. The park is a 15 acre park located on the north end of the subdivision along 5 Mile Creek. The parks will be constructed by Special Improvement District at 51% of build out. The pathways will be constructed by the developer in the initial subdivision work and the question of paving them can be reviewed at the time the SID is created.

**ALTERNATIVES ANALYZED:**

1. Approve the resolution adopting the Bitterroot Heights Park Master Plan (Recommended)
2. Make specific changes to the Master Plan and then adopt the resolution.

**FINANCIAL IMPACT:** There will be no detrimental financial impact to the city for the development of the park or for its maintenance because all costs will be assessed to the subdivision residents through a special improvement district and a park maintenance district. The total cost estimated to construct the park as depicted in the Master Plan is \$1.2 million.

**RECOMMENDATION**

Staff recommends that Council approve the resolution adopting the Bitterroot Heights Park Master Plan

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENTS:**

- A. Bitterroot Heights Park Master Plan (1 Page)
- B. Resolution to Adopt Bitterroot Heights Park Master Plan (2 Pages)



## **INTRODUCTION**

The Bitterroot Heights Park Master Plan is presented for review and consideration for adoption by the City Council.

## **PROCEDURAL HISTORY**

- Discussion of the park development was part of the subdivision concept meeting topics.
- The developer met with park staff and reviewed with them the park planning requirements for the subdivision.
- Peaks to Plains Design was retained to work with department staff to complete the Master Plan, and met with the department twice.
- The Master Plan for Bitterroot Heights Park has been reviewed and approved by the Billings Parks, Recreation, and Cemetery Board on March 9, 2005
- The final step is presentation to the City Council for consideration and adoption.

## **BACKGROUND**

The Billings city policy for park master plan preparation is from the Neighborhood Parks Planning Process, adopted by the PRPL Department in 1980. A park may not be developed until a park Master Plan has been prepared and adopted by the Billings City Council. All development and proposals for the development of portions of parks or facilities within parks must be consistent with an approved Master Plan. It is prepared by a qualified park planning consultant, and considers surrounding zoning and land uses and local and general park and recreation needs as well as specific requests from interested users. This is to assure the highest quality and most beneficial development of parks and recreation facilities, and to assure adequate public input into the development, sale, or use, of Billings' parklands. A proposed modification to a park that is a significant departure from the approved Master Plan requires a revision of the Master Plan following the above process, to determine if the proposed change is acceptable and appropriate for that park. The Bitterroot Heights Park master plan as presented has been reviewed and approved by the Billings Park, Recreation, and Cemetery Board.

The Bitterroot Heights Park contains within its boundaries a storm retention basin, and the flood plain for 5-Mile Creek, and the subdivision, because of its low elevation in relation to the creek, also has extensive drain ways with paths that will connect to the park and the drain way it contains. These elements impact the planning of the park to allow for those drainage functions. The park also abuts the main Heights Trail R.O.W. that is now a city utility easement and is also identified as an alignment for the Heritage Trail. The park will contain a parking area and trail connection from it to the main trail way. The lineal drain ways will have trees planted along them and will have compacted gravel paths along them for recreational use and maintenance access to the drain ways. Hard surface versus gravel pathways is one issue that was of concern.

The master plan:

- links the subdivision and park to the Heights Heritage Trail;
- allows a maximum amount of open space in the park for recreation;

- provides an appropriately sized neighborhood playground, open space and athletic fields; restrooms, basketball court, backstop, landscaping, interior walks and parking lot;
- provides a good mix of natural open space and parkland.

### **ALTERNATIVES ANALYSIS**

1. Approve the resolution adopting the Bitterroot Heights Park Master Plan (Recommended)  
The staff spent a considerable amount of time working with consulting engineers and landscape architects refining this master plan. The park is of considerable size that will support multiple park amenities of significant value to the subdivision and will mitigate the impacts of new homes on the Parks and Recreation infrastructure.
2. Make specific changes to the Master Plan and then adopt the resolution.

### **STAKEHOLDERS**

The stakeholders are as follows:

- Billings Residents
- Subdivision Owner: BRV Development
- Outdoor recreation participants including walking, running, playing, and biking
- Adjacent landowners and residents

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The Bitterroot Heights Park Master Plan follows recommendations contained in the Neighborhood Park Planning Process, adopted in 1980; Parks 20/20 Plan adopted in 1997; the Heritage Trail Plan adopted by the city and county in 2004, and is consistent with relevant federal, state, and local regulations.

### **RECOMMENDATION**

Staff recommends that Council approve the resolution adopting the Bitterroot Heights Park Master Plan.

### **ATTACHMENTS**

- A. Bitterroot Heights Park Master Plan (1 Page)
- B. Resolution to Adopt Bitterroot Heights Park Master Plan (2 Pages)

**RESOLUTION NUMBER 05 - \_\_\_\_\_**

**A RESOLUTION ADOPTING A MASTER PLAN FOR THE  
DEVELOPMENT OF BITTERROOT HEIGHTS PARK IN  
BITTERROOT HEIGHTS SUBDIVISION**

**WHEREAS**, the public interest requires the creation and adoption of a Master Plan for Bitterroot Heights Park in the Bitterroot Heights Subdivision to control and limit development in accordance with the needs of the subdivision and the community, the limitations and constraints of the park site, and with improvements suited to and appropriate for the surrounding land uses; and

**WHEREAS**, it is in the public interest and necessary that the current and future development of the park shall conform to the adopted master plan; and

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

1. *Master Plan.* The master plan for Bitterroot Heights Park presented for adoption and attached as *Exhibit "A"* is the official Master Plan for the park;
2. *General Character of Improvements Provided for by the Plan.* The general character of the improvements are park areas and facilities to be located on the Public Park (known as Bitterroot Heights Park) on Exhibit "B" attached hereto. The purpose of the plan is to guide development of the park and a maintenance district to provide perpetual maintenance of the subject park facilities.
3. *Changes.* Proposed improvements not part of the adopted plan shall not be installed unless a new master plan is adopted through the normal park planning process that finds that the proposed improvement is appropriate as described above and can be incorporated as part of an "amended" park master plan to be presented for adoption at that time.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Billings, Montana, this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2005.

CITY OF BILLINGS

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

Charles F. Tooley     Mayor

ATTEST:

By: \_\_\_\_\_  
Marita Herold, CMC             City Clerk

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