

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
P.M.**

May 9, 2005

6:30

**CALL TO ORDER – Mayor Tooley
PLEDGE OF ALLEGIANCE-- Mayor Tooley
INVOCATION – Councilmember Peggie Gaghen
ROLL CALL
MINUTES – April 25, 2005
COURTESIES
PROCLAMATIONS – Mayor Tooley**

- **Police Week: May 15-21, 2005**
- **Buckle Up America Month: May 9 – June 5, 2005**

**BOARD & COMMISSION REPORTS – Human Relations Board
ADMINISTRATOR REPORTS – Kristoff Bauer**

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 and #5 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. Bid Awards:

(1) Uniform Rental Service for Public Works Dept – Utilities.

(Opened 4/19/05). Recommend Alsco/American Linen, \$41,945.28.

[\(Corresponding Staff Memo A1\)](#)

(2) Demand Response Software Package with AVL and MDT Integrated Modules for MET Transit. (Opened 4/26/05). Recommend delaying award to 6/13/05.

[\(Corresponding Staff Memo A2\)](#)

(3) W.O. 04-11: SID 1373: South Billings Boulevard – King Ave East to Underpass Avenue. (Opened 4/12/05). Reconsidered and delayed from 4/27/05. Recommend JTL Group, Inc., \$2,037,141.70.
[\(Corresponding Staff Memo A3\)](#)

B. Security Contract for the City's four parking garages, D-N-D Security, \$21,900.00, one-year contract with one-year option to renew.
[\(Corresponding Staff Memo B\)](#)

C. Contract for Professional Services for Park II Garage Expansion and Repair Work Projects, Collaborative Design Architects, Inc., \$662,045.00.
[\(Corresponding Staff Memo C\)](#)

D. Lease Agreement for retail/office space in Park 1 Garage, World Class Travel, 1-year lease with three 1-year options to renew.
[\(Corresponding Staff Memo D\)](#)

E. Lease Agreement for retail/office space in Park 1 Garage, Gunsmoke BBQ, 3-year lease with two 1-year options to renew.
[\(Corresponding Staff Memo E\)](#)

F. Approval of Purchase Agreement for Fire Station #7 land purchase at 1524 54th Street West, described as Lot 2, Block 1, Bishop Fox Subdivision, \$200,000.00.
[\(Corresponding Staff Memo F\)](#)

G. W.O. 04-12: Alkali Creek Road, Storm Drain Easement from Ernest and Jacqueline Szillat for a 20-foot strip in Spring Valley Sub.
[\(Corresponding Staff Memo G\)](#)

H. Approval of Right-of-Way Agreements for Grand Avenue Widening:

(1) W.O. 00-15, Parcel 124: Highland Rim Properties, Inc., A tract in Lots 1-2, Sunset Sub., 4th filing and Lot 1, Sunset Sub., 7th filing, \$34,700.00.
[\(Corresponding Staff Memo H1\)](#)

(2) W.O. 00-15, Parcel 131: Douglas A. & Theresa J. Jenkins, A tract in Lot I(2) of Amended Plat #607 Amended, situated in Lots 3-4, Block 1, Algeo Sub., \$0.00.
[\(Corresponding Staff Memo H2\)](#)

(3) W.O. 00-15, Parcel 125: Big Sky Federal Credit Union, A tract in Lots 9-10, Block 2, Sunset Sub., 2nd filing EXCEPT that part conveyed to the City under Doc #3080838, \$0.00.
[\(Corresponding Staff Memo H3\)](#)

(4) W.O. 00-15, Parcel 122: MTB5, Inc., A tract in Lot 1A of Amendment of Lot 1, Sunset Sub., 3rd filing and Lot 1, Sunset Sub., 8th filing, \$7,450.00. AND Parcel 123: MTB5, Inc., A tract located in Lot 1, Sunset Sub., 6th filing, \$7,700.00.

[\(Corresponding Staff Memo H4\)](#)

I. Approval of Fair Housing Initiatives Program (FHIP) Grant submission, for fair housing activities, \$100,000.00.

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

J. Approval of Coal Impact Funds Grant pre-application submission for Crime Scene Investigation Vehicle, \$200,000.00.

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

K. Authorization to negotiate salvage/sale of surplus items from City-owned property located at 120 N. 26th St in anticipation of demolition for the Park II expansion project.

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

L. Subordination of First Time Homebuyer Loan, Stormi Riojas, 4526 Vaughn Lane, \$5,000.00.

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

M. Street closure for United Veterans' Council *Memorial Day Parade*, May 30, 2005, Central Avenue: from Albertson's parking lot on corner of Central Avenue and 24th St. W. to Mountview Cemetery.

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

N. Pledged Collateral on Wells Fargo Bank and US Bank Certificates of Deposits, US Bank Repurchase Account and US Bank Municipal Investor Account.

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

O. Reimbursement of Shiloh Business Park Subdivision Escrow Account, \$112,800.00.

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

P. Acknowledging receipt of petition from JL Partnership to vacate Madison Avenue right-of-way and setting a public hearing date for 6/13/05.

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

Q. Acknowledging receipt of petition from Yellowstone Health Partnership/Yellowstone City-County Health Dept. to vacate a portion of S. 26th St. between 1st and 2nd Aves. S. and setting a public hearing date for 6/13/05.

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

R. Resolution of Intent to trade property in Holfield Subdivision Park for a parcel in Brookfield Sub. and setting a public hearing date for 6/13/05.

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

S. Resolution Specifying Water Rate Schedule Adjustments. (PH held 4/11/05; reconsidered 4/27/05; delayed from 4/27/05).

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

T. Second/final reading ordinance for Zone Change #756: a zone change from Agricultural-Open Space to Community Commercial on Lot 1, Public on Lot 2, R-7000 on Lots 3-4 and R-9600 on Lot 5 for a 40.5 acre parcel of unplatted land in the proposed Bishop Fox Subdivision, generally located on the east side of 54th St. W. between Grand Avenue and Colton Boulevard. Bishop Fox Company, owner; Engineering, Inc., agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria.
([Corresponding Staff Memo T](#))

U. Second/final reading ordinance granting to Montana Dakota Utilities Co., a non-exclusive franchise to construct, maintain, operate, replace and repair a gas distribution system within public rights-of-way of the City of Billings.
([Corresponding Staff Memo U](#))

V. Preliminary Plat of Amended Lot 6, Block 1, Country Homes Subdivision, generally located at 1908 Bitterroot Drive in Billings Heights, conditional approval of the preliminary plat and acceptance of the findings of fact.
([Corresponding Staff Memo V](#))

W. Preliminary Plat of Amended Lot 3A of Amended Lot 1, Block 1, Goodman Subdivision, 2nd filing, generally located at the southeast corner of the intersection of Avenue B and 41st Street W, one block north of Grand Ave. and one block west of Shiloh Rd., conditional approval of the preliminary plat, adoption of the findings of fact and approval of a variances from BMCC Section 23-602(a).
([Corresponding Staff Memo W](#))

X. Preliminary Plat of Riverfront Pointe Subdivision, generally located south of the West Billings Interchange, from Mallowney Lane to S. 12th St. W northeast of the intersection of Elysian Road and Mallowney Lane, conditional approval of the preliminary plat, approval of the variance and adoption of the findings of fact.
([Corresponding Staff Memo X](#))

Y. Final Plat of Estates at Briarwood.
([Corresponding Staff Memo Y](#))

Z. Final Plat of Menholt Subdivision Amended Lot 1, Block 1.
([Corresponding Staff Memo Z](#))

AA. Bills and Payroll.
(1) April 8, 2005
([Corresponding Staff Memo AA1](#))
(2) April 15, 2005
([Corresponding Staff Memo AA2](#))

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** annexing 40.5 acres of unplatted land in the W2W2SW4 of Section 32 in Township 1 North, Range 25 East, proposed as the Bishop Fox Subdivision, Bishop Fox Company, petitioners. Staff recommends approval of the resolution with conditions. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 2\)](#)
3. **PUBLIC HEARING AND RESOLUTION** annexing Tract 3, C/S 1877, DC Capital Real Estate LLC, petitioner. Staff recommends approval of the resolution with conditions. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 3\)](#)
4. **PUBLIC HEARING AND RESOLUTION** renaming Arlene Street to Zimmerman Trail. Staff recommends approval of the name change and keeping the existing house numbers. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 4\)](#)
5. **APPROVAL OF THE FY2005-2009 CONSOLIDATED PLAN** and allocation of CDBG and HOME funds for FY 2005-06. CD Board 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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Bid Award – Uniform Rental Services, Public Works - Utilities
DEPARTMENT: Public Works Department
PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Department recommends award of the Uniform Rental Service Contract for Public Works – Utilities in the amount of \$41,945.28 to AlSCO/American Linen.

FINANCIAL IMPACT: Public Works – Utilities advertised and received bids for the Uniform Rental Service. On April 19, 2005, the following bid was received:

AlSCO/American Linen\$41,945.28 for 2 year contract

The contract will provide two years of uniform rental, laundry, and tailoring service for the uniformed employees. There are sufficient funds in the department's operating accounts (Object 2260) to cover this expense.

RECOMMENDATION

Staff recommends that an award be granted by the City Council to AlSCO/American Linen for the Uniform Rental Service for Public Works – Utilities in the amount of \$41,945.28.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Delay Award of MET Special Transit Paratransit Dispatch Software

DEPARTMENT: Aviation and Transit Department

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

PROBLEM/ISSUE STATEMENT: MET Transit advertised for Request for Proposals (RFPs) for a Demand Response Software Package for the MET's Special Transit/Paratransit Dispatch function. Sealed proposals received from the RFP were opened on Tuesday, April 26, 2005. Due to the complexity of the RFP specifications, Transit staff needs additional time to review and evaluate the information received.

RECOMMENDATION

Staff recommends that Council postpone the award of the Demand Response Software package until the June 13, 2005 Council meeting to allow staff sufficient time to review and evaluate the proposals.

Approved By: City Administrator ____ City Attorney ____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: W.O. 04-11, South Billings Boulevard Project, Contract Award
 DEPARTMENT: Public Works - Engineering
 PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The City of Billings in conjunction with the GO bond project has the desire to construct public improvements along South Billings Boulevard between King Avenue and Underpass Road. These improvements generally consist of curb and gutter, sidewalk, street improvements, water main, sewer services and storm drain facilities to South Billings Boulevard frontage.

FINANCIAL IMPACT: Based upon the bids received, funding for the project would be available through the following funding sources.

<u>Project Number</u>	<u>WO 04-11</u>
<u>Budget Amount and Sources of Funds</u>	
City Portion	2,271,000.55
SID 1373 South Billings Blvd.	291,000.00

Bids were opened on April 14, 2005 with the following results:

Firm	Bid
JTL Group Inc.	\$2,037,141.70
Chief Construction, Inc.	\$2,279,854.02
Engineers Estimate	\$2,306,022.43

RECOMMENDATION

Staff recommends that Council award a construction contract for W.O. 04-11 to JTL Group Inc. in the amount of \$2,037,141.02.

Approved By: City Administrator _____ City
 Attorney _____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Parking Security Contract
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: The City's four (4) parking garages require 24-hour random patrol security to deter vagrants, vandals, transients, etc., with additional call-outs, as needed. The current security contract was approved by City Council effective May 1, 2003, for one year with one-year option to renew. The one-year renewal expired April 30, 2005. The City advertised for Request for Proposals (RFP) on March 17 and 24, 2005. The RFP was for a one-year security contract with a one-year option to renew at the same annual rate. Two proposals were received and reviewed by a committee:

1. D-N-D Security - \$21,900/year + \$15/hour extra call-out rate.
2. Sundown Security - \$24,984/year + \$17.35/hour extra call-out rate.

ALTERNATIVES ANALYZED:

- Approve contract with D-N-D Security.
- Approve contract with Sundown Security.
- Rebid the security contract.
- Provide no security services for the parking garages.

FINANCIAL IMPACT:

- The current and extended contract price is \$21,900.
- In FY05, \$22,800 has been budgeted for security and the same amount has been requested for the FY06 budget.

RECOMMENDATION

Staff recommends that Council approve the security contract with D-N-D Security in the amount of \$21,900.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT:

A. Security Contract

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Award of a Contract for Professional Services for the Park II Garage Expansion and Repair Work Projects for the City of Billings

DEPARTMENT: Administrative Services – Parking Division

PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: This consultant contract will provide architectural and engineering services for the final design, cost estimate and contract administration for the Park II Garage Expansion; and design, specifications and contract administration for the Condition Appraisal Repair Work for all four parking structures. The consultant will work with City staff to develop the building designs.

ALTERNATIVES ANALYZED: This project utilized the "Request for Proposals" (RFP) process to select the best qualified architectural/engineering firm from the list of submitting firms. The selection committee consisted of Councilperson Peggie Gaghen; Randy Hafer from the Parking Advisory Board; Bruce McCandless, Deputy City Administrator; Will Robbins, City Engineer; Saree Couture, Facilities Manager; and, Liz Kampa-Weatherwax, Parking Division Director. Two proposals from prospective consultants were received on January 28, 2005. After reviewing the proposals and interviewing the two firms, the team recommends that City Council award a contract to Collaborative Design Architects, Inc.

FINANCIAL IMPACT: The City has allocated money for this contract through the Parking Enterprise Fund. Collaborative Design Architects' fees are approximately 8% of the total estimated construction price. For comparison purposes, A&E Architects' fees were approximately 7% of the total construction price for the new Billings Operation Center.

RECOMMENDATION

Staff recommends that City Council approve a contract with Collaborative Design Architects, Inc. in the amount of \$662,045.00.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Professional Services Contract with Collaborative Design Architects, Inc. (3 copies)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Lease Agreement for World Class Travel
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: The ground level of the Park 1 garage has six tenants that lease retail/office space. The current lease agreement for World Class Travel, 216 North 29th Street, was approved by City Council effective June 1, 1999, and will expire on May 31, 2005. This memo shall serve as a request to approve and sign a new space lease agreement with Park 1 Garage tenant, World Class Travel, for one year with three one-year options to renew.

ALTERNATIVES ANALYZED: Staff has analyzed the following alternatives: (1) approve lease with World Class Travel; or, (2) discontinue occupancy and find a new tenant.

FINANCIAL IMPACT: The revenues are projected in the FY 2006 budget. The office space consists of 2,100 square feet. Revenue for the first year will be \$12,600 (2,100 square feet x \$6.00). If tenant exercises the options to renew, the second through fourth years will increase by \$.50/square foot each year. Revenue for the second year will be \$13,650 (2,100 square feet x \$6.50). Revenue for the third year will be \$14,700 (2,100 square feet x \$7.00). Revenue for the fourth year will be \$15,750 (2,100 square feet x \$7.50).

RECOMMENDATION

Staff recommends Council approval of lease agreement with World Class Travel for one year with three one-year options to renew.

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

ATTACHMENTS

Four year lease agreement with World Class Travel (3 copies)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Lease Agreement for Gunsmoke BBQ
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: The ground level of the Park 1 garage has six tenants that lease retail/office space. This space is located at 224 North 29th Street, was previously occupied by Kasper's Photo and has been vacant for one year. This memo shall serve as a request to approve and sign a new space lease agreement with Gunsmoke BBQ for three years with two one-year options to renew.

ALTERNATIVES ANALYZED: Staff has analyzed the following alternatives: (1) approve lease with Gunsmoke BBQ; (2) seek a different tenant; or, (3) leave space vacant.

FINANCIAL IMPACT: The revenues are projected in the FY 2006 budget. The office space consists of 1,500 square feet. Revenue for the first year will be \$9,780 (1,500 square feet x \$6.52). Revenue for the second and third years will be \$11,250 (1,500 square feet x \$7.50). If tenant exercises the options to renew, the fourth and fifth year revenues will be \$12,000 (1,500 square feet x \$8.00).

RECOMMENDATION

Staff recommends Council approval of a three year lease agreement with two one-year options to renew with Gunsmoke BBQ.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

Lease agreement with Gunsmoke BBQ (3 copies)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Station 7 Land Purchase Buy-Sell/1524 54th Street West

DEPARTMENT: Billings Fire Department

PRESENTED BY: Marvin L. Jochems, Fire Chief
 Kristoff T. Bauer, City Administrator

PROBLEM/ISSUE STATEMENT: The Public Safety Levy passed in 2004 provides that a west end fire station be built and staffed by 2011. Completing this project sooner is currently being discussed at the policy level. The Fire Station Location and Staffing Consultant identified Grand and 54th as the most desirable location for a new west end fire station. This area is developing quickly and an appropriate site must be purchased now, while land is available and zoned properly. The proposed site is 1 acre with an existing home. The property was annexed and subdivided April 25th. An independent appraisal of \$217,800.00 was obtained for the property. The proposed purchase price is \$200,000.

Suitable alternative sites are limited by the availability of city sewer and water. A station with immediate access onto Grand Ave, with a 60 mile an hour speed limit, was considered to present too much of an emergency traffic safety risk. A search for sites around this location, with city water and sewer, was conducted. This site was the only suitable site identified.

FINANCIAL IMPACT: A 5 year 4% loan will be used to purchase this property. The payment is projected to be \$44,925.00 per year. Funding is included in current financial projections.

RECOMMENDATION

Staff recommends that Council approve of the proposed purchase agreement at a sale price of \$200,000, and authorize the Mayor to execute all documents necessary to close the purchase.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Appraisal
- B. Buy Sell

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G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: W.O. 04-12, Alkali Creek Road, Storm Drain Easement
DEPARTMENT: Public Works/Engineering Division
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Council must approve this 5,021 square foot storm drain perpetual easement with Ernest and Jacqueline Szillat in order to construct and maintain the Alkali Creek Road improvements. The Council approved the equal exchange of this storm drain easement for vacation of the Indian Trail “street bulb” right-of-way after a public hearing on April 25, 2005. A copy of the easement and associated Exhibit “A” are on file with the City Clerk.

FINANCIAL IMPACT: There is no financial impact for this easement.

RECOMMENDATION

Staff recommends that Council approve the storm drain perpetual easement with Ernest and Jacqueline Szillat at no cost.

Approved By: City Administrator ____ City Attorney ____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: WO 00-15 Grand Avenue Right-of-Way Agreement with Highland Rim Properties, Inc.

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was originally identified with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. Highland Rim Properties, Inc., owners of the property at 1010 Grand Avenue, has agreed to sell the necessary right-of-way as shown on the attachment and grant a temporary construction easement. The City Engineer's Office is working a subdivision plat which will dedicate the right-of-way.

ALTERNATIVES ANALYZED:

1. Approve the Right-of-Way Agreement with Highland Rim Properties, Inc. and authorize the mayor to sign the subdivision plat once completed.
2. Do not approve the Right-of-Way Agreement with Highland Rim Properties, Inc. or authorize the mayor to sign the subdivision plat once completed.

FINANCIAL IMPACT: The cost of the right-of-way and construction easement from Highland Rim Properties, Inc. is \$34,700.00 which matches the right-of-way agreement. This will be paid out of Gas Tax in which \$595,000 has been allocated in FY '05 for Grand Avenue.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Highland Rim Properties, Inc. and authorize the mayor to sign the subdivision plat for Highland Rim Properties, Inc., dedicating the right-of-way once completed.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A. Right-of-Way Agreement with Highland Rim Properties, Inc.

INTRODUCTION

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. There are fourteen properties on Grand Avenue in which the City needs to purchase right-of-way.

PROCEDURAL HISTORY

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

BACKGROUND

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8th Street West to 12th Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

ALTERNATIVES ANALYSIS

Approve the Right-of-Way Agreement with Highland Rim Properties, Inc. and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plat dedicating the right-of-way and the right-of-way agreement and the plat will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Highland Rim Properties, Inc. or authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Highland Rim Properties, Inc. and authorize the mayor to sign the subdivision plat for Highland Rim Properties, Inc., dedicating the right-of-way once completed.

ATTACHMENTS

- A. Right-of-Way Agreement with Highland Rim Properties, Inc.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: WO 00-15 Grand Avenue Right-of-Way Agreement with Douglas A & Theresa J. Jenkins

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was originally identified with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. Douglas A & Theresa J. Jenkins own the property at 10th and Grand Avenue. Douglas A & Theresa J. Jenkins have agreed to donate the necessary right-of-way as shown on the attachment. The City Engineer's Office is working on a subdivision plat which will dedicate the right-of-way.

ALTERNATIVES ANALYZED:

3. Approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins and authorize the mayor to sign the subdivision plat once completed.
4. Do not approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins or authorize the mayor to sign the subdivision plat once completed.

FINANCIAL IMPACT: The Douglas A & Theresa J. Jenkins have agreed to donate right-of-way for a handicap ramp at 10th Street West and Grand Avenue.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins and authorize the mayor to sign the subdivision plat for Douglas A & Theresa J. Jenkins, dedicating the right-of-way once completed.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- B. Right-of-Way Agreement with Douglas A & Theresa J. Jenkins

INTRODUCTION

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction.

PROCEDURAL HISTORY

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

BACKGROUND

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8th Street West to 12th Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

ALTERNATIVES ANALYSIS

Approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plat dedicating the right-of-way and the right-of-way agreement and the plat will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins or authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Douglas A & Theresa J. Jenkins and authorize the mayor to sign the subdivision plat for Douglas A & Theresa J. Jenkins, dedicating the right-of-way once completed.

ATTACHMENTS

B. Right-of-Way Agreement with Douglas A & Theresa J. Jenkins

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: WO 00-15 Grand Avenue Right-of-Way Agreement with Big Sky Federal Credit Union

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. Big Sky Federal Credit Union owns the property at 990 Grand Avenue which encompasses Lots 9 & 10, Sunset Subdivision 2nd Filing. Big Sky Federal Credit Union has agreed to donate the necessary right-of-way as shown on the attachment. The City Engineer's Office is working on a subdivision plat which will dedicate the right-of-way.

ALTERNATIVES ANALYZED:

5. Approve the Right-of-Way Agreement with Big Sky Federal Credit Union and authorize the mayor to sign the subdivision plat once completed.
6. Do not approve the Right-of-Way Agreement with Big Sky Federal Credit Union or authorize the mayor to sign the subdivision plat once completed.

FINANCIAL IMPACT: The Big Sky Federal Credit Union has donated right-of-way to the City and has agreed to donate additional right-of-way for a handicap ramp at 9th Street West and Grand Avenue.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Big Sky Federal Credit Union and authorize the mayor to sign the subdivision plat for Big Sky Federal Credit Union dedicating the right-of-way once completed.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

C. Right-of-Way Agreement with Big Sky Federal Credit Union

INTRODUCTION

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction.

PROCEDURAL HISTORY

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

BACKGROUND

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8th Street West to 12th Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

ALTERNATIVES ANALYSIS

Approve the Right-of-Way Agreement with Big Sky Federal Credit Union and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plat dedicating the right-of-way and the right-of-way agreement and the plat will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Big Sky Federal Credit Union or authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with Big Sky Federal Credit Union and authorize the mayor to sign the subdivision plat for Big Sky Federal Credit Union dedicating the right-of-way once completed.

ATTACHMENTS

C. Right-of-Way Agreement with Big Sky Federal Credit Union

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: WO 00-15 Grand Avenue Right-of-Way Agreements with MTB5, Inc.

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was originally identified with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. MTB5, Inc. owns the property at 1026 and 1016 Grand Avenue. MTB5, Inc. has agreed to sell the necessary right-of-way as shown on the attachment and grant a temporary construction easement for the property at 1026 Grand Avenue and 1016 Grand Avenue. The City Engineer's Office is working on a subdivision plat which will dedicate the right-of-way for each of these properties.

ALTERNATIVES ANALYZED:

7. Approve the Right-of-Way Agreements with MTB5, Inc. and authorize the mayor to sign the subdivision plats once completed.
8. Do not approve the Right-of-Way Agreements with MTB5, Inc. or authorize the mayor to sign the subdivision plats once completed.

FINANCIAL IMPACT: The cost of the right-of-way and construction easements from MTB5, Inc. is \$15,150.00 which matches the right-of-way agreement. This will be paid out of Gas Tax in which \$595,000 has been allocated in FY '05 for Grand Avenue.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreements with MTB5, Inc. and authorize the mayor to sign the subdivision plats for MTB5, Inc. dedicating the right-of-way once completed.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

D. Right-of-Way Agreement with MTB5, Inc.

INTRODUCTION

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. There are fourteen properties on Grand Avenue in which the City needs to purchase right-of-way.

PROCEDURAL HISTORY

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

BACKGROUND

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8th Street West to 12th Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

ALTERNATIVES ANALYSIS

Approve the Right-of-Way Agreement with MTB5, Inc. and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plats dedicating the right-of-way and the right-of-way agreements and the plats will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with MTB5, Inc. or authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreement with MTB5, Inc. and authorize the mayor to sign the subdivision plat for MTB5, Inc. dedicating the right-of-way once completed.

ATTACHMENTS

A. Right-of-Way Agreement with MTB5, Inc.

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



CITY COUNCIL WORK SESSION ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

SUBJECT: Grant Application Submittal for the Fair Housing Initiatives Program
U.S. Department of Housing and Urban Development (HUD)

DEPARTMENT: Planning and Community Services

PRESENTED BY: Presented by Ramona Mattix, John Walsh, Brenda Beckett

PROBLEM/ISSUE STATEMENT: As a recipient of federal housing and community development funds, the City of Billings works to affirmatively further fair housing in our community. HUD has recently released its 2005 Fiscal Year - Notice of Funding Availability (NOFA), which provides an opportunity for organizations to apply for federal funds to facilitate HUD's long-term strategic goal for equal opportunity in housing. Maximum awards are \$100,000 and the program period ranges from 12 to 18 months.

The Community Development Division prepared a grant application for this funding last year on behalf of the Community Housing Resource Board, the Billings Partners for American Indian Homeownership, and the Interfaith Hospitality Network. The previous grant application qualified for funding but was not funded due to funding availability and HUD's desire to assure FHIP funds are allocated throughout the country. Montana Fair Housing received FHIP funding last year.

Staff proposes to support another application for funding this year for approximately \$100,000 on behalf of the above named groups to carry out fair housing activities including: providing educational lunch and learn sessions; credit counseling; supporting collaborative fair housing efforts, and housing discrimination referral services.

ALTERNATIVES ANALYZED: If unable to pursue this grant, the above named groups will need to limit their fair housing educational opportunities for the upcoming fiscal year.

FINANCIAL IMPACT: City Council approval would allow the City of Billings to assist in grant preparation and administration of funded activities. Matching funds for the project will be provided by the grant partners through existing services and resources. Additional City of Billings resources are not required.

RECOMMENDATION

Staff recommends that the City Council authorize the submission of the FHIP grant from the City of Billings on behalf of the Community Housing Resource Board, the Billings Partners for American Indian Homeownership, and the Interfaith Hospitality Network and authorize City staff to negotiate and finalize the grant if awarded.

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Approval to submit a Grant Pre-Application to the Coal Board for Coal Impact Funds to purchase a Crime Scene Investigation Vehicle

DEPARTMENT: Billings Police Department

PRESENTED BY: Darrell Bell, Acting Chief of Police

PROBLEM/ISSUE STATEMENT: In 1981, the current Crime Scene Investigation Vehicle was purchased with Coal Tax Funds through a grant from the Coal Board. This vehicle is grossly outdated and the need for a new vehicle has become apparent. The Police Department would like to submit a pre-application for a new Crime Scene Investigation Vehicle. The Coal Board will have its quarterly meeting in Billings on June 24th. The grant pre-application is due 30 days prior to their meeting; therefore, this pre-application is due not later than May 24th. At the Coal Board meeting of June 24th, we would make a presentation on our request. After the Coal Board has heard all presentations, members will review all of the pre-applications. After the review, the Board takes official action on each proposal, either approving, denying or tabling it. If the pre-application is approved, the applicant is instructed to submit a complete application. The City Council is being asked to approve the submittal of the pre-application, and if approved by the Coal Board, to approve the submittal of a grant application by the City. It is further asked that the Mayor be authorized to sign any application documents or award documents received.

FINANCIAL IMPACT: There will be no impact to the City since the vehicle will be grant funded by coal impact funds. If the City is successful in receiving grant funds, we will offer our current Crime Scene Vehicle to another Coal Tax County for the use.

RECOMMENDATION

Staff recommends that Council approve the submittal of the pre-application, and if approved by the Coal Board, to approve the submittal of a grant application by the City and authorize the Mayor to sign any required documents.

Approved By: City Administrator ____ City Attorney ____

Pre-application for Coal Impact Funds to Purchase a Crime Scene Investigation Vehicle.
City of Billings, Billings Police Department

1. **NAME OF APPLICANT:** City of Billings, Billings Police Department.

2. **CITATION OF APPLICANT'S AUTHORITY:**

MCA 7-6-4001 thru MCA 7-6-4036 – Local Government Budget Act.

MCA 7-32-4101 – Police Department authorized and required. There shall be in every city and town of this state a police department which shall be organized, managed, and controlled as provided in this part.

3. **NAME OF DESIGNATED ADMINISTRATIVE OFFICIAL:** *Name of individual who will serve as liaison with the Coal Board staff and who will be responsible for grant administration.*

Capt. David Hinkel will serve as liaison with the Coal Board staff and Sue Loomis, Sr. Administrative Coordinator, will be responsible for grant administration.

4. **ESTIMATED TOTAL PROJECT COST AND SOURCE OF FUNDING:**

Amount of grant request, local, federal, and other anticipated funding.

We are applying to the Coal Board for \$200,000 in Coal Tax funds to fund a Crime Scene Investigation Vehicle for the City of Billings Police Department.

5. **PROJECT COMPLETION DATE:** *The estimated date from submission of application that construction or study will be completed.*

It will take approximately 6 months (+/-) from date of award, depending on bid and manufacturing processes.

6. **SCOPE OF PROPOSED PROJECT:** *What is the project? Describe the project by detailing whether it is for capital facility construction, capital equipment purchase, a comprehensive planning document, providing supportive service, etc. Include the permanent location of facility, purpose and use of final project or service, and describe how project will alleviate current need, yet be flexible to meet any future anticipated needs.*

This project is a capital equipment purchase involving the purchase and equipping of a state-of-the-art, self-contained vehicle for the purposes of major crime scene investigations. The crime rate in Billings is significantly above the national per capita average. Many of the crime scenes investigated by the Billings Police Department involve extended on-site needs, largely in part because of the increased complexity by which crimes are committed and the need for enhanced investigative practices (demands created by technological advances that are ultimately necessary for

courtroom purposes) which cannot be efficiently or effectively met with existing resources.

7. **PROPOSED PROJECT'S RELATIONSHIP TO COAL DEVELOPMENT:**

How does your proposed project relate to the Legislature's intent for the use of Coal Board funds? (Under state law (90-6-205) the purpose of Coal Board grants is "...to assist local governmental units and federally recognized Indiana tribes in meeting the local impact of coal development or a major decline in coal mining or in the operation of coal-using energy complexes by enabling them to adequately provide governmental services and facilities that are needed as a direct consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex.")

Billings is the largest municipality in Montana and the surrounding area. The local service area includes a population of approximately 150,000 residential and transitory persons. Two interstate highways, each of which carries traffic to and from coal counties and pass through separate Indian reservations, converge in Billings, which services as an economic, agricultural, medical, and manufacturing hub for the area extending east to Minneapolis, west to Spokane, south to Denver, and north to Calgary. Within the City limits are two major hospitals, a State university, a private college, various shopping malls, the State Women's Correctional Facility, and a wide array of State and Federal offices. In addition, Billings hosts a regional airport serviced by numerous national carriers. A large number of manufacturing facilities (to include oil refineries, steel fabrication, and sugar processing) and transportation facilities (including rail, trucking and air freight) are located within or relatively close proximity to the City limits. The listed services are all directly or indirectly related to coal development.

8. **PROJECT FOR A MULTI-JURISDICTIONAL AREA?** *Does the project affect more than one unit of local government or special district? Is the project sponsored by a combination of jurisdictions?*

Billings was the recipient of an award from the Coal Board in 1981 for a crime scene vehicle. At the time of that award, the Billings Police Department agreed to make the vehicle and investigators available to other agencies in the Coal Board area as needed. The same understanding would apply in this case. In addition, if the current application is accepted, the Billings Police Department would be willing to transfer the original vehicle to another impacted entity for any use.

9. **PROJECT PRIORITY:** *What is the priority of this project in applicant's jurisdiction as determined by the governing body?*

This is a high priority project for the Billings Police Department. Our current staffing levels are quite a bit less than call load, and per capita ratios suggest they be at. This dilemma is further exacerbated by the use of out-dated equipment such as our existing crime scene van. For some time, we have been attempting to identify a funding source for this project, which is to replace that existing equipment which is out-dated both in terms of size needed for required equipment and capability for handling

technological needs. The projected vehicle would meet current needs plus to adaptable to “next generation” technologic advances.

10. **DOES THE STATE OR FEDERAL LAW REQUIRE THE PROJECT?** *Please explain.*

No

11. **CITE STATUTE(S) EITHER REQUIRING OR EXEMPTING APPLICATION FROM REQUIRING SUBMISSION OF BIDS.**

We are required to go out for bids on this vehicle per statute 7-5-4302 of Montana Code Annotated.

12. **SIGNATURES: MUST BE SIGNED BY THE GOVERNING BODY OF THE APPLICANT’S JURISDICTION.**

Charles F. Tooley, Mayor

Coal Board Pre-Application-CSI Vehicle

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Salvage of Surplus Items from City Property
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: The Parking Division acquired the property at 120 North 26th Street in April 2004. The property is slated for demolition to expand the Park II facility. There are a few, minor items (such as light and bathroom fixtures) that could be salvaged and sold to members of the public. The Parking Division has had salvageable items located within similar properties and has not had any success in requesting competitive bids for the items.

ALTERNATIVES ANALYZED:

- Advertise for bids to sell all surplus items from the premises to the highest bidder.
- Remove surplus items and deliver to the landfill and/or recycling agencies.
- Negotiate sale of individual items to potential buyers.

FINANCIAL IMPACT: An undetermined dollar amount may be added to the revenue of the Parking Division if items are sold on a “piece by piece” basis. Removing items to landfill and/or recycling agencies will result in additional expense in labor.

RECOMMENDATION

Staff recommends that Council allow the Parking Division to negotiate sale of individual items to potential buyers.

Approved By: City Administrator ____ City Attorney ____

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L

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday May 9, 2005

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

PROBLEM/ISSUE STATEMENT: Stormi Riojas of 4526 Vaughn Lane, a City of Billings First Time Homebuyer recipient has requested that the City subordinate the zero percent deferred loan given to her by the City of Billings in order to refinance her first mortgage loan.

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

FINANCIAL IMPACT: HOME funds were provided to Ms. Riojas on April 30, 2004, in the amount of \$5,000.00 for assistance with down payment and closing costs. Ms. Riojas 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 lower the monthly payment for her mortgage. Her original loan is a 2-1 buy down. Ms. Riojas payment will increase by \$65 next month and an additional \$70 next year. When Ms. Riojas qualified for the loan, she was single with no dependents. Since then, her sister lost custody of her three children and Ms. Riojas has adopted all three to keep them out of foster care. Hearing of this generous act, Ms. Riojas was gifted funds to pay down her mortgage to assist her new financial burden. With the refinance using the gifted funds, Ms. Riojas's new payment will be equal to her portion of the current buy down payment.

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. The refinance will reduce Ms. Riojas' first mortgage, and therefore give a stronger equity position to the City.

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 STORMI S RIOJAS which was recorded APRIL 30, 2004, under Document No. 3285882, in the records of Yellowstone County, Montana, mortgaging and encumbering the following described real property situated in Yellowstone County, Montana, to wit:

Lot 15 of the Cowley 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.

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 Security Title recorded in Book _____, Page _____, under Document No. _____, encumbering the above described real property to secure the obligations not to exceed \$88,400.00

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: _____

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M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Memorial Day Parade Closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Don Kearney, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The United Veterans Council requests temporary street closure for an annual Memorial Day Parade on Monday, May 30, 2005. They will assemble at the Albertson's parking lot on the corner of Central and 24th at 9:30am and will then march down Central to Mountview Cemetery and disband at 10:30am.

Recommended conditions of approval include the United Veterans Council:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event as soon as possible
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the city other than administrative time to process the application.

RECOMMENDATION

Staff recommends that Council approve closure of the event route described above on Monday, May 30, 2005, for the annual Memorial Day Parade.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Letter from United Veterans Council (1 page)
- B. Right of Way Special Activity Permit (2 pages)
- C. Event route map (1 page)
- D. Certificate of insurance (1 page)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9th, 2005

TITLE: Pledged Collateral on Certificates of Deposits, US Bank Repurchase Account, and US Bank Municipal Investor Account

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: On March 31, 2005, the City had \$4,500,000 invested in Certificates of Deposit at Wells Fargo Bank N.A., Billings; \$6,100,000 invested in Cash and Certificates of Deposit at US Bank N.A.; \$624,600.78 invested in the U.S. Bank Municipal Investor Account; and \$930,099.94 in the US Bank Repurchase Account.

State law requires that the City Council approve the pledged collateral on securities.

Because Wells Fargo's net worth ratio is over 6%, the City is required to have 50% of the deposits covered by pledged securities. Wells Fargo has collateralized the City's deposits with 66.09% in pledged securities.

Because US Bank's net worth ratio is in excess of 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. US Bank has collateralized the City's Certificates of Deposit and Municipal Investor Account with 158.46% in pledged securities and collateralized the Repurchase Account 102 % in pledged securities.

RECOMMENDATION

Staff recommends that Council approve securities pledged by Wells Fargo Bank and US Bank as collateral for their respective Certificates of Deposit and repurchase account.

Approved By: City Administrator ____ City Attorney ____

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Reimbursement of Shiloh Business Park Subdivision Escrow Account

DEPARTMENT: Pubic Works Department

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

PROBLEM/ISSUE STATEMENT: The developers of the Shiloh Business Park Subdivision, William D. Pierce Subdivision, and Broso Valley Subdivision were granted a revision to their subdivision agreements to remove the requirement to escrow funds on each lot sale for future improvements on Zoo Drive and the eastbound access roads within the Shiloh Interchange. The revision to the existing subdivision agreement removed the following phrase, *“City and subdivider agree that the cost of these improvements should be shared by a much larger influence area, possibly through the creation of a West End Transportation District. Subdivider agrees to waive the right to protest the creation of a West End Transportation District.”* The developers were required to escrow funds for unspecified improvements, with an unspecified time frame for construction. Improvements the developers completed on Zoo Drive and the Shiloh Interchange access roads have been constructed in accordance with improvements required in the Special Improvement District Policy. At the March 28, 2005, meeting, the City Council approved the subdivision agreement revision, requested that the Public Works Department determine if any funds had been escrowed, and prepare a Council action item to refund any monies escrowed. The Shiloh Business Park Subdivision developers have escrowed \$112,800.

FINANCIAL IMPACT: The City will reimburse the property owners \$112,800. Property owners will continue to be assessed for Arterial Construction Fees.

RECOMMENDATION

Staff recommends that Council approve the reimbursement of the escrow funds for Shiloh Business Park Subdivision collected for roadway improvement required in the original subdivision agreement.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Vacation of Madison Avenue Right-of-Way East of Orchard Lane
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: JL Partnership has petitioned to vacate the Madison Avenue Right-of-Way east of Orchard Lane as shown on Attachment A. This right-of-way was dedicated as part of the plat for Cassino Subdivision in 1971 to extend Madison Avenue in the future. There is no need to extend Madison Avenue in the future. The right-of-way currently has an irrigation ditch running through it and a trailer house on it. The trailer house existed on the right-of-way prior to annexation into the City. The annexation was conditioned to remove the trailer house if the street is ever to be constructed. The family that originally platted the subdivision and dedicated the right-of-way are still owners of both lots within the subdivision.

ALTERNATIVES ANALYZED:

9. Approve acknowledgement of petition to vacate Madison Avenue right-of-way as shown on Attachment A and set a public hearing for June 13, 2005.
10. Do not approve acknowledgement of petition to vacate Madison Avenue right-of-way.

FINANCIAL IMPACT: The petitioner is requesting that the right-of-way be gifted to them due to the fact that it is not needed by the City and they are the original subdividers. However, an appraisal was done by Charles H. Hamwey, and he valued the right-of-way at \$2,222.00. The right-of-way proposed to be vacated is 4,444.50 square feet.

RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate Madison Avenue right-of-way as shown on Attachment A and set a public hearing for June 13, 2005.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- E. Map Depicting Area to be Vacated
- F. Letter from Cole Law Firm, representative of JL Partnership

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Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Vacation of S. 26th Street between 1st Avenue S. and 2nd Avenue S.
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: The Yellowstone Health Partnership/Yellowstone City-County Health Department is proposing an addition to the Community Health Center at S. 27th Street. The building addition along with parking will be located in 2nd Avenue South between S. 26th Street and S. 27th Street and in S. 26th Street between 1st Ave. S. and 2nd Ave. S. The Yellowstone Health Partnership/Yellowstone City-County Health Department had submitted an application to vacate 2nd Ave. S., which was approved on June 14th, 2004. The department is now proposing to vacate S. 26th Street between 1st Ave. S. and 2nd Ave. S., as shown on Attachment A. This proposed vacation is consistent with the Gateway Business Park Study.

ALTERNATIVES ANALYZED:

11. Approve acknowledgement of petition to vacate S. 26th Street as shown on Attachment A and set a public hearing for June 13, 2005.
12. Do not approve acknowledgement of petition to vacate S. 26th Street.

FINANCIAL IMPACT: With the vacation of 2nd Ave. S., the Yellowstone Health Partnership/Yellowstone City-County Health Department paid \$2.50 per square foot for the right-of-way, however with the proposed vacation of S. 26th Street, the petitioner is requesting that the city gift it. The proposed right-of-way vacation is 20,000 square feet. Please see attached letter from petitioner. There was no appraisal completed for the parcel in question. The cost for staff to prepare this proposed vacation is approximately \$500.

RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate S. 26th Street between 1st Ave. S. and 2nd Ave. S. and set a public hearing for June 13, 2005.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

- G. Map Depicting Area to be Vacated
- H. Letter from Perry Howell, CFO, Yellowstone City-County Health Department/YHP

RESOLUTION NO. 05-_____

A RESOLUTION OF THE CITY OF BILLINGS,
MONTANA, DISCONTINUING AND VACATING **South
26th Street between 1st Avenue South and 2nd
Avenue South.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **South 26th Street between 1st Avenue South and 2nd Avenue South** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **South 26th Street between 1st Avenue South and 2nd Avenue South** more particularly described as follows:

Beginning at a point which is the northeasterly corner of Block 141 of the Original Town(now City) of Billings, Montana; thence, from said point of beginning, crossing the right-of-way of South 26th Street, N55°23'30"E a distance of 80.00 feet to the northwesterly corner of Block 142 of said Original Town of Billings; thence, along the westerly line of said Block 142, S34°36'30"W a distance of 250.00 feet to the north westerly corner of Lot 23 of said Block 142; thence crossing the right-of-way of said South 26th Street, S55°23'30"W a distance of 80.00 feet to a point on the easterly line of said Block 141; thence along said easterly line, N34°36'30"E a distance of 250.00 feet to the point of beginning; said described tract having an area of 20,000 square feet.

Is hereby discontinued, abandoned and vacated.

2. **PUBLIC INTEREST.** The discontinuance, vacation and abandonment of the above described **South 26th Street between 1st Avenue South and 2nd Avenue South** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 13th day of June 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley

MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AE

CITY CLERK

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

R

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 09, 2005

TITLE: Proposed Trade of Holfeld Subdivision Park Property near Swords Park
DEPARTMENT: Department of Parks, Recreation & Public Lands
PRESENTED BY: Don Kearney, Director

PROBLEM/ISSUE STATEMENT: Brookside Subdivision is proposed to be platted on property described as Amended Cert. of Survey, Tract A-1, currently designated as Holfeld Subdivision. It is located on the east side of Swords Park north of Swords Lane off Highway 318, and includes an area of the Alkali Creek flood plain that cannot be significantly altered or developed. The proposed Brookside subdivision abuts the 14,673 Square Foot parcel that was dedicated to the City as park in the Holfeld Subdivision some years back. In order to effectively develop the main part of the property, the owner has proposed to trade 56,082 Square Foot (1.3 acres - 3.8 times larger) in the Alkali Creek area where development is very restricted for the Holfeld Park parcel. The proposed trade area includes the Alkali Creek sanitary sewer main easement and is a needed link in the proposed railway along Alkali Creek. City County Planning strongly supports making the trade because of the need for this link in the Heritage Trail network.

FINANCIAL IMPACT: The proposed trade will not involve any cost to the city as the developer is committed to financing the resurveying and other work required to make the trade. The trade will result in a net gain of 41,409 Square Feet of park area (almost an acre), albeit a substantial portion is in the Alkali Creek flood plain. The developer has over \$5,000 in documented costs needed to complete the resurvey and develop the documents required to accomplish the trade, if approved.

RECOMMENDATION:

Staff recommends that the City Council approve the Resolution of Intent and set a public hearing for June 13, 2005, on the proposed trade of Holfeld Park for the property as shown in Certificate of Survey 1883.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT:

A. Resolution of Intent to trade Holfeld Park

- B. Certificate of Survey 1883 plat showing Holfeld Park parcel and “Brookside” property.

INTRODUCTION

Approval of the Resolution of Intent to trade the Holfeld Park parcel for the Brookside parcel is the first step in approving the trade as required in Billings Municipal Code, Chapter 22, Article 22-900.

PROCEDURAL HISTORY

- The possibility of trading Holfeld Park for an area along Alkali Creek north of the Public Utilities Sanitary Sewer main was brought forward through City County Planning in 2003 as they worked to acquire right-of-way for a trail in the Alkali Creek drainage. The developer proposed a trade with the city for the Holfeld Park parcel as a way to provide more usable area along the Alkali Creek corridor.
- In September of 2003 City County Planning outlined the process that would be required to complete a trade contingent on the developer assuming the burden of performing the necessary steps to obtain approval and complete the process with the City.
- The Billings Parks, Recreation and Cemetery Advisory Board considered the proposed trade and supported continuing the process at their regular meeting November 12, 2003. Further consideration was delayed until now while the necessary steps were taken and the documents developed to be presented for approval and complete the trade.
- The current proposed trade was presented to the PRPL department and considered at the March 9, 2005, Parks, Recreation, and Cemetery Board meeting. Action on the proposed trade was tabled until an appraisal by a neutral firm could be obtained for each of the parcels to be traded.
- The appraisal results were presented at the April 13, 2005, PRC Board meeting, and the board approved a recommendation to the City Council that the trade should be completed.
- The City Council will conduct a Public Hearing and consider a Resolution to Proceed with the trade at the June 13, 2005, regular City Council meeting.
- If approved the final process needed to do the trade will be completed.

BACKGROUND

- The property for the proposed Brookside Subdivision includes over an acre of Alkali Creek floodplain that cannot be build upon or regraded to be used for building sites. Over 95% of the Holfeld Park property is out of the flood plain and can be built upon.
- The City-County Planning Department has been engaged in an ongoing effort to acquire right-of-way or easements for trail construction in the Alkali Creek Corridor approved the final process needed to do the trade will be completed. City-County Planning has strongly supported the trade as a way to acquire another segment of the corridor needed for the Heritage Trail up Alkali Creek
- The original memorandum discussing the trade considered that the city and the developer would share in the costs for completing it, since both were going to benefit from it. To date the developer has assumed all of the costs involved and has indicated his willingness to do so in order to complete the trade.
- The Holfeld Park parcel is not part of the original Swords Park property nor is it essential to current plans adopted for Swords Park.

- The park area obtained by the City in the proposed trade is over an acre, which is 3.8 times the size of Holfeld Park. The appraised value of Holfeld Park is \$13,000, while the appraised value of the Brookside Subdivision parcel is \$12,000. The appraisal considered mainly the relative commercial values of each parcel.
- The trade will acquire ownership for the city of the area in the easement that the Alkali Creek sanitary sewer main is constructed in along the Brookside Subdivision property.

ALTERNATIVES ANALYSIS

- Approve the trade to acquire the trail corridor and sanitary sewer right-of-way in return for Holfeld Park. This is the recommendation of the Park, Recreation, and Cemetery Board and the PRPL staff .
- Do not approve the trade and retain Holfeld Park as part of the Swords Park area.
- Continue to negotiate and look for a payment of up to \$1,000 from the developer to compensate for the difference appraised value between the 2 properties.

STAKEHOLDERS

- Brookside Subdivision will be enhanced by the addition of the 14,673 sq. feet in Holfeld Park to augment the buildable area there.
- The City of Billings will gain ownership of right-of-way for the Alkali Creek sanitary sewer main and property that can be used for the Heritage Trail in Alkali Creek.
- There are 5 property owners within 300 feet of Holfeld Park besides the developer and the City of Billings. They will be informed of the possibility of the trade with the proposed Brookside Subdivision property and will receive notice of the date and time of public hearing.
- Billings residents will have another piece of the trail system acquired, will have another part of the Alkali Creek protected in park ownership with assurance of public access for the future.

CONSISTENCY WITH ADOPTED POLICIES AND PLANS

The trade is consistent with the Parks 20/20 plan recommendations, the Heritage Trail Plan, and consistent with other city, county, state, and federal requirements with regard to floodplain use on creeks and waterways.

RECOMMENDATION

Staff recommends that the City Council approve the Resolution of Intent and set a public hearing for June 13, 2005, on the proposed trade of Holfeld Park for the property as shown in Certificate of Survey 1883.

ATTACHMENTS:

- A. Resolution of Intent to Trade Holfeld Park
- B. Certificate of Survey 1883 plat showing Holfeld Park parcel and “Brookside” property.

RESOLUTION 05 - _____

**A RESOLUTION PURSUANT TO BILLINGS,
MONTANA CITY CODE, ARTICLE 22-900: SALE,
DISPOSAL OR LEASE OF CITY PROPERTY,
DESCRIBING THE PROPERTY TO BE TRADED
OF, DECLARING THE INTENTION OF THE CITY
TO TRADE THE PROPERTY AND SETTING A
TIME AND DATE FOR A PUBLIC HEARING
THEREON.**

WHEREAS, the City of Billings owns and desires to dispose of the public park parcel in Holfeld Subdivision, and

WHEREAS, the location of the park to be disposed of is more particularly described as follows:

Public Park in Block 2 of Holfeld Subdivision, situated in the SW ¼ of Section 27, T. 1 N., R 26 E., P.M.M., Yellowstone County, Montana, according to the official plat now on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 577599; and

WHEREAS, Article 22-900 BMCC requires the city to declare its intention to sell or trade park property, giving the public the opportunity to be heard regarding such action, and setting a public hearing date; and; and

WHEREAS, Article 22-900 BMCC also requires that all property owners within three hundred (300) feet of the exterior boundaries of said property be notified by mail, fifteen (15) days in advance of the time, date, and place of public hearing and the existing and the proposed use;

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

PUBLIC HEARING: The public hearing date has been set for June 13, 2005, at 6:30 o'clock p. m. in the Council Chambers located on the second floor of City Hall, 220 North 27th Street, Billings, Montana. The City Clerk is hereby directed to publish notice of the public hearing in the Billings Times in its regular issue on May 12, and May 19, 2005, and to mail a copy of such notice to all property owners within a three hundred (300) foot radius of said property to be traded.

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

THE CITY OF BILLINGS:

BY: _____
CHARLES F. TOOLEY, MAYOR

ATTEST:

MARITA HEROLD, CMC/AAE CITY CLERK

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 25, 2005 – Reconsideration May 9, 2005

TITLE: Water & Wastewater Rate Adjustments
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, 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 to determine the amount of the rate adjustments that will be necessary to provide adequate revenue. The Council is being asked to consider these rate adjustments now so staff can continue work on the filter building project at the water plant and the headworks project at the wastewater plant. Staff will either sell revenue bonds or secure loans from the State Revolving Fund program to finance both these projects on a long-term basis. In either case the City must have adequate rates in place to assure that revenues are adequate to support the debt. The last wastewater rate adjustment of approximately 9% was effective June 1, 2003. The last water rate adjustment of approximately 6% was effective July 1, 2004.

The recommended rates for the resale category, which is the Billings Heights Water District, were determined in accordance with the service contract between the City and the District as well as the arbitration ruling that was rendered in the last water rate study between the parties.

Per the statutory requirements, Council conducted a public hearing on April 11 for the purpose of receiving public input on the proposed rate adjustments. In addition, the Public Utilities Board considered the rate adjustments at its meeting of April 7. The Board supports the proposed wastewater rates as presented in the Integrated Utilities Group report. They do not support the proposed water rates at the recommended levels and express the following concerns:

- The Briarwood sewer, Briarwood/Cedar Park water reservoirs and Zone 4 water reservoir benefit those specific developments and these areas should bear most of these costs.
- Consideration of setting water rates by pressure zones to better reflect cost of service.
- Proposed water rates “seem a little high”.

- The city CAFR presents revenue and operating expense figures that indicate excess revenue for FY 2004, which raises the question of the need for the proposed level of water rate increase.
- Questioning the practice of the utility operation providing free water and wastewater service to other city operations.

A revised copy of the rate study was previously furnished to the Council. The action before the Council is to approve or disapprove the staff recommendation.

ALTERNATIVES ANALYZED: The alternatives considered are:

1. Leave rates at current levels.
2. Adopt rates at levels less than recommended.
3. Adopt rates as recommended.

FINANCIAL IMPACT: The impacts identified with the various alternatives are:

1. Leaving rates at the current levels will result in no increases to the monthly water and wastewater bills. However, insufficient revenues will be generated to adequately fund planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff.
2. Adopting rates at levels less than recommended will minimize the financial impacts to customers through their monthly water and wastewater bills. However, as in alternative 1, insufficient revenues will be generated to fund all planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff.
3. Adopting rates as recommended will increase the monthly water bills by approximately 6.5% to 7.5% (varies based on user class) and wastewater bills by 4.6%. The revenues generated by these increases are projected to be adequate to fund all planned operation and maintenance costs and capital improvements over the next 3 years.

RECOMMENDATION

Staff recommends that Council adopt the proposed resolution titled “RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA CODE ANNOTATED”.

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

ATTACHMENTS

A – Resolution No. _____

PROCEDURAL HISTORY

- Staff and the rate consultant, Integrated Utilities Group, presented the results of the rate study to the City Council at the February 7 and March 7 work sessions.
- On February 28, 2005, in accordance with the service contract, staff provided the Billings Heights Water District with a copy of the rate study as it relates to determination of the District rates.
- The Council, at the March 14 meeting, scheduled a public hearing for April 11, 2005 to receive public input on this issue.
- The Public Utilities Board considered the proposed rate adjustments at its April 7 meeting and offered comments to the Council at the April 11 public hearing.
- The Council conducted a public hearing on April 11 and continued the public hearing until the April 25 meeting.
- The action before the Council is to approve, disapprove or amend the staff recommendation.

ALTERNATIVES ANALYSIS

1. Leave rates at current levels: Leaving rates at the current levels, while having the least immediate impact on customer's bills, will generate insufficient revenues to adequately fund planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff. This will result in having to defer or eliminate capital improvements and replacement of existing facilities such as water and sewer lines.
2. Adopt rates at levels less than recommended: Adopting rates at levels less than recommended, while minimizing the immediate impact on customer's bills, will, as in alternative 1, generate less revenue than needed to fund all planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff. This will result in having to defer or eliminate capital improvements and replacement of existing facilities such as water and sewer lines.
3. Adopt rates as recommended: Staff projects that adopting rates as recommended, while increasing the monthly water bills by approximately 6.5% to 7% and wastewater bills by 4.6%, will generate revenues sufficient to fund all planned operation and maintenance costs and capital improvements over the next 3 years

RECOMMENDATION

Staff recommends that Council adopt the proposed resolution titled "RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA CODE ANNOTATED".

ATTACHMENTS

A – Resolution No. _____

RESOLUTION No. _____

**RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE
ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA
CODE ANNOTATED**

WHEREAS, the City Council of the City of Billings, Montana retained Integrated Utilities Group, Inc. (IUG) to prepare water and wastewater rate schedules for the municipal water and wastewater utilities that would generate adequate funds to operate the utility during Fiscal Years 2006, 2007, and 2008 as well as require each customer class of the utility to pay its fair share of the cost of operating the water and wastewater system; and

WHEREAS, the report dated April 2005 titled "Water and Wastewater Rate Analyses" prepared by IUG projects a need for extension, expansion, repair, improvement, and continued operation and maintenance of existing and proposed water and wastewater system facilities during the period beginning July 1, 2005 and ending June 30, 2008 and recommends adjustment of the water and wastewater rates to provide for an equitable recovery of water and wastewater costs; and

WHEREAS, under Title 69, Chapter 7 of the Montana Code Annotated, and under the terms of City Resolution Number 13585, the City of Billings is authorized to regulate the City's municipal water and wastewater utility and to change rates, fees, and charges as may be deemed by the City Council to be reasonable and just; and

WHEREAS, it is essential to the public health, welfare, and safety of the inhabitants of the City of Billings and its environs to provide an adequate water and wastewater system and to provide adequate funding to meet the cost of constructing, maintaining, and operating the same;

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

1. That the following schedules of rates, fees and charges are found to be just, reasonable, and necessary for the continued sound operation of the water and wastewater utility and that the proposed rates, fees and charges are approved and adopted and published as the rates, fees and charges of the City of Billings, Montana water and wastewater utility, effective July 1, 2005, July 1, 2006, and July 1, 2007.

SCHEDULE I

WATER – MONTHLY VOLUME CHARGE

Customer Class	Effective Date		
	7/1/05	7/1/06	7/1/07
<i>Dollars per Ccf⁽²⁾</i>	(<i>\$</i>)	(<i>\$</i>)	(<i>\$</i>)
Residential	1.33	1.42	1.51
Non-Residential	0.98	1.05	1.12
Seasonal	1.67	1.79	1.93
Resale	1.09	1.09	1.10

SCHEDULE II

MINIMUM MONTHLY WATER CHARGES

Meter Size	Effective Date		
	7/1/05	7/1/06	7/1/07
	(<i>\$</i>)	(<i>\$</i>)	(<i>\$</i>)
INSIDE CITY			
¾"	5.91	6.12	6.35
1"	6.64	6.89	7.16
1¼"	7.13	7.41	7.71
1½"	7.63	7.92	8.25
2"	10.33	10.76	11.24
3"	30.23	31.69	33.26
4"	33.91	35.56	37.34
6"	37.60	39.43	41.41
8"	54.80	57.51	60.44
10"	74.45	78.18	82.19
OUTSIDE CITY			
¾"	6.56	6.66	6.79
1"	7.43	7.53	7.67
1¼"	8.00	8.12	8.26
1½"	8.58	8.70	8.85
2"	11.75	11.90	12.09
3"	35.13	35.50	35.97
4"	39.46	39.87	40.40
6"	43.78	44.24	44.82

8"	63.98	64.63	65.46
10"	87.07	87.93	89.04

SCHEDULE I

WASTEWATER - MONTHLY VOLUME CHARGE

Customer Class	Effective Date		
	7/1/05	7/1/06	7/1/07
<i>Dollars per Ccf</i>	<i>(\$)</i>	<i>(\$)</i>	<i>(\$)</i>
Customer Within the City			
Residential	1.20	1.26	1.31
Commercial—Domestic Strength	1.20	1.26	1.31
Commercial—High Strength	1.63	1.71	1.78
Customer Outside the City			
Residential	1.32	1.38	1.45
Commercial—Domestic Strength	1.32	1.38	1.45
Commercial—High Strength	1.79	1.88	1.96

SCHEDULE IA

MINIMUM MONTHLY WASTEWATER CHARGES

Meter Size	Effective Date		
	7/1/05	7/1/06	7/1/07
	<i>(\$)</i>	<i>(\$)</i>	<i>(\$)</i>
INSIDE CITY			
¾"	5.23	5.47	5.71
1"	5.79	6.06	6.33
1¼"	6.40	6.69	7.00
1½"	6.56	6.85	7.17
2"	8.66	9.05	9.46
3"	24.10	25.20	26.35
4"	29.82	31.18	32.60
6"	43.16	45.13	47.18
8"	58.42	61.08	63.86
10"	89.51	93.59	97.85

**OUTSIDE
CITY**

¾"	5.75	6.01	6.29
1"	6.38	6.67	6.97
1¼"	7.05	7.37	7.70
1½"	7.21	7.54	7.89
2"	9.53	9.96	10.41
3"	26.50	27.71	28.97
4"	32.80	34.29	35.86
6"	47.48	49.64	51.90
8"	64.26	67.19	70.25
10"	98.47	102.96	107.65

**SCHEDULE II
EXTRA STRENGTH SURCHARGE**

Unit Charges	Effective Date		
	7/1/05	7/1/06	7/1/07
BOD (\$/lb)	\$0.2603	\$0.2722	\$0.2846
TSS (\$/lb)	\$0.2594	\$0.2712	\$0.2836

Modify the first paragraph of Schedule II, Extra Strength Surcharge to read:

“Customers contributing wastewater with strength concentrations in excess of 2000 parts per million (ppm) of BOD or 2000 ppm of total suspended solids are subject to an Extra Strength Surcharge in addition to the regular minimum monthly and volume charges for commercial-domestic strength, computed in accordance with the following formula:”

SCHEDULE III**SPECIAL FEES & CHARGES**

Septage Disposal Permit Fee	Effective Date		
	7/1/05	7/1/06	7/1/07
\$/1,000 Gallons	\$23.39	\$24.45	\$25.57

2. That this Resolution is to be immediately filed in the City Clerk's office and that the decision adopting the adjusted rates shall be final ten days after such are so filed.
3. That the Public Works Department is directed to file a copy of the revised water and wastewater rate schedules with the Public Service Commission within ten days after filing of this Resolution by the City Clerk.

PASSED AND ADOPTED by the City Council of the City of Billings,

Montana on the _____ day of _____, 200__.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Zone Change #756, Second Reading of Ordinance
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

PROBLEM/ISSUE STATEMENT: This is a second reading for a zone change from Agricultural-Open Space (County) to Community Commercial (Lot 1), Public (Lot 2 – location of new fire station), R7,000 (Lots 3 & 4) and R9,600 (Lot 5) on a 40.5 acre parcel of unplatted land in the proposed Bishop Fox Subdivision. The subject property is generally located on the east side of 54th St. West, between Grand Avenue and Colton Boulevard. The property owner is Bishop Fox Company and the agent is Engineering, Inc. The Zoning Commission held a public hearing on April 5, 2005, and voted 4-0 to recommend approval. The City Council opened the public hearing on April 25, 2005, and approved the zone change on the first reading.

ALTERNATIVES ANALYZED: State law requires that all zone changes be reviewed in accordance with 12 criteria (MCA 76-2-304). Utilizing 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: This zone change should increase the City's tax base when the property is annexed and subdivided.

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #756 and adopt the determinations within the 12 criteria. On April 25, 2005, the City Council conducted a public hearing and first reading for the proposed zone change and approved the zone change on the first reading.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. 12 Review Criteria for Zone Changes
- B. Ordinance

ATTACHMENT A

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.

1. *Is the new zoning designed in accordance with the Growth Policy?*
The new zoning will allow a variety of land uses and housing types. The commercial uses and the new fire station will be located at the intersection of Grand and 54th St West while the residential zones will be located away from this arterial street intersection. The 2003 Growth Policy and the 2001 West Billings Plan supports the development of a variety of housing types and lot sizes as well as the location of commercial nodes at designated intersections especially of arterial streets.
2. *Is the new zoning designed to lessen congestion in the streets?*
The new zoning will increase the traffic generated from this site. Currently the parcel is vacant. This property is bordered on the south by Grand Avenue and on the west by 54th Street West. Grand Ave. is designated as a principal arterial street in the Transportation Plan and 54th Street West is designated as a minor arterial street. Arterial streets are designated to hold greater traffic loads, so higher density development may be appropriately located along them. The developer has submitted a Traffic Accessibility Study and several measures will be taken to mitigate any impact from this subdivision.
3. *Will the new zoning secure safety from fire, panic and other dangers?*
These lots have or will have public street frontage and are served by the City Fire Department. Additionally, in the subdivision review process, the Fire Department will review the layout of the proposed subdivision to ensure that fire protection can be provided to all new structures. Lot 2 is proposed as a new fire station for West Billings and fire service will improve when the structure is completed and in service.
4. *Will the new zoning promote health and general welfare?*
The new zoning contains restrictions on uses allowed and provides for minimum setback requirements for structures.
5. *Will the new zoning provide adequate light and air?*
The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.
6. *Will the new zoning prevent overcrowding of land?*
The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. In addition, the proposed residential developments will be required to dedicate 11% of the developed property as parkland, or provide cash in lieu of land dedication, to provide for area parks. These features should prevent overcrowding of the land.
7. *Will the new zoning avoid undue concentration of population?*

The new zoning of Residential-7,000 allows single-family detached dwellings and duplexes, based on minimum lot areas. The new zoning of R-9,600 only allows single family dwellings and should avoid undue concentration of population.

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

Transportation: The new zoning will substantially increase the traffic generated from this site. However, development of the site at densities allowed under the default R-9,600 zoning would do the same. Also, the property adjoins Grand Avenue and 54th St. West which are both designated as arterial streets in the Transportation Plan. Traffic mitigation will be reviewed at the time of subdivision review.

Water and Sewerage: A 24 inch City sewer main and a 12 inch City water main are located in 54th Street West adjacent to the property. The City has adequate facilities to serve this property.

Schools and Parks: At the time of residential subdivision development, the developers will be required to give a cash payment equivalent to 11% of the lot area to support local parkland development. The 40-acre site of the future Cottonwood Park lies directly north and west of this parcel. The tax records state that children from this development would attend Central Heights Elementary, Will James Middle and West High Schools.

Fire and Police: If annexed the subject property will be served by the City of Billings fire and police departments. Provisions for adequate service will be reviewed and ensured at the time of subdivision review. Proposed Lot 2 will provide a location for a new fire station to serve West Billings.

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

This area of the County has recently been acknowledged by the City Council as one that is likely to be developed in the near future at urban densities. Although it is currently agricultural land, the addition of municipal water and sewer lines in the adjacent streets has made urban density development possible. For example a parcel ½ mile west of this property and a 38-acre property directly west of 54th Street West have been approved for R-7,000 zoning and an urban density subdivisions have been approved. In short, this neighborhood is in a state of flux and will likely be developed as proposed in the not too distance future.

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

The subject property is suitable for the requested zoning district.

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

The new zoning is not expected to appreciably alter the value of buildings in the area.

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

Yes, the new zoning will allow for more dense development on lots that are currently served with City water and sanitary sewer.

ATTACHMENT B
ORDINANCE NO. 05-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
ON the West 1/2, West 1/2, Southwest 1/4, Section 32, of
Township 1 North, Range 25 East, an unplatted 40.5 acre of
land. **THE SUBJECT PROPERTY IS LOCATED NORTH
OF GRAND AVENUE, EAST OF 54TH ST WEST AND
SOUTH OF COLTON BOULEVARD.**

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 City 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.** A tract of Unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana; Being bounded on the south side by Certificate of Survey No 1877, on the west side by Amended Plat of Lot 65A of the Amended Lots 65-68, 93-100 and 125-128 of Sunny Cove Fruit Farms, and on the north by Certificate of Survey No 1952. Containing 40.568 gross and net acres, more or less and is presently zoned Agriculture Open Space and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Agriculture Open Space** to **Community Commercial (Lot 1 Bishop Fox Subdivision), Public (Lot 2 Bishop Fox Subdivision), Residential-7,000 (Lots 3 & 4 Bishop Fox Subdivision) and Residential-9,600 (Lot 5 Bishop Fox Subdivision)**, as shown on Exhibit A attached hereto and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial, Public, Residential-7,000 and Residential-9,600** 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 April 25, 2005.

PASSED, ADOPTED AND APPROVED on second reading May 9, 2005.

CITY OF BILLINGS:

BY: _____
Charles F. Tooley, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

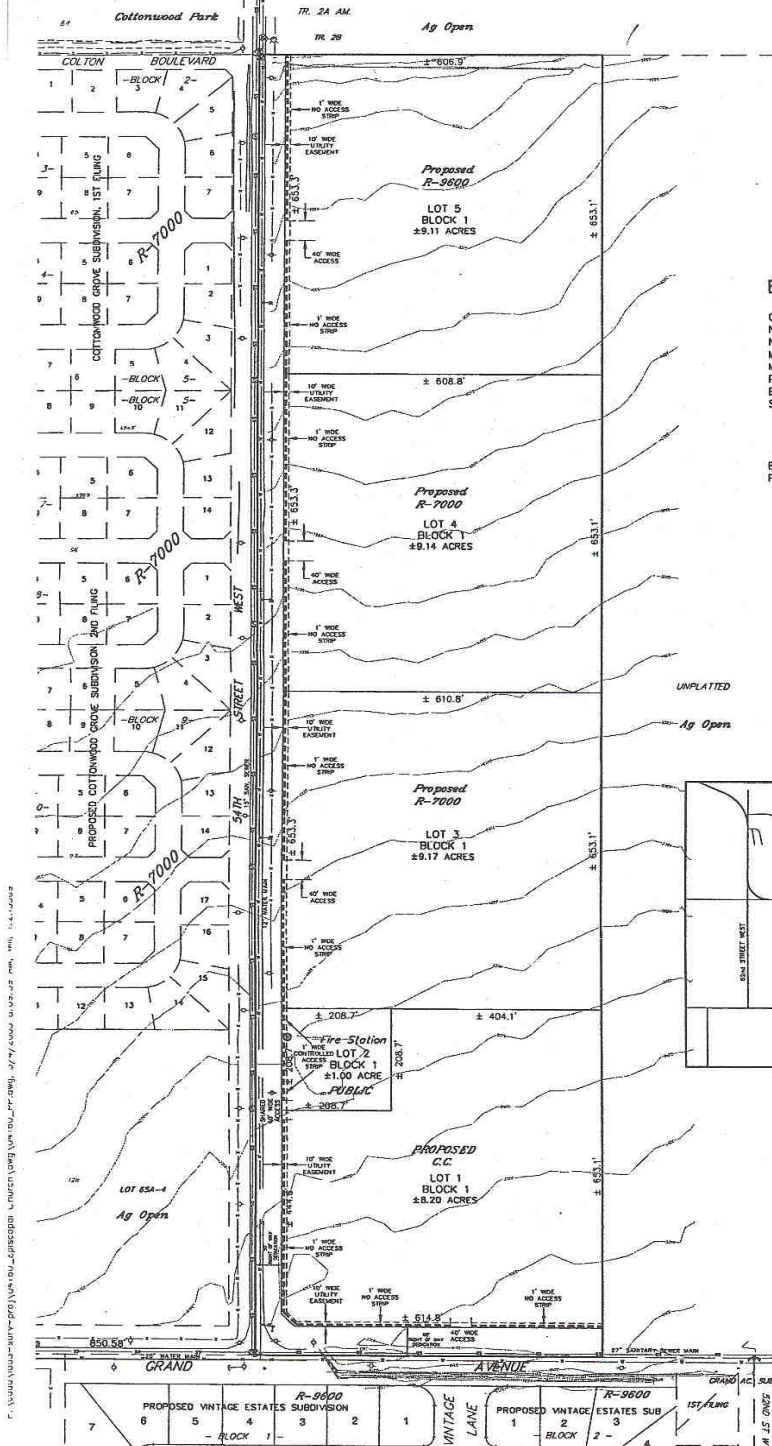
ZC#756

EXHIBIT A
ORDINANCE No. 05- _____

PRELIMINARY PLAT OF
BISHOP FOX SUBDIVISION
 BEING THE W1/2 W1/2 SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.
 YELLOWSTONE COUNTY, MONTANA

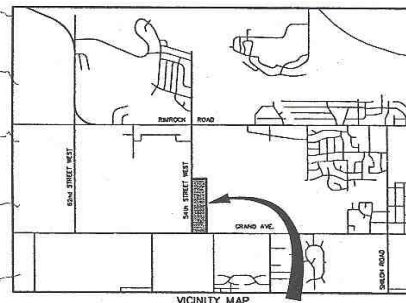
PREPARED FOR: BISHOP FOX COMPANY
 PREPARED BY: ENGINEERING, INC.
 SCALE: 1" = 100'

MARCH, 2005
 BILLINGS, MONTANA



PLAT DATA

GROSS AREA	±40.55 ACRES
NET AREA	±36.82 ACRES
NUMBER OF LOTS	5
MINIMUM LOT SIZE	±1.00 ACRE
MAXIMUM LOT SIZE	±9.17 ACRES
PARKLAND REQUIREMENT	NONE
EXISTING ZONING	AG OPEN
SURROUNDING ZONING:	
NORTH	AG OPEN
SOUTH	R-9600
EAST	AG OPEN
WEST	R-7000 & AG OPEN
EXISTING LAND USE	AG WITH RESIDENCE
PROPOSED LAND USE	
LOT 1	FUTURE COMMERCIAL & MULTIFAMILY DEVELOPMENT
LOT 2	FUTURE FIRE STATION
LOTS 3 & 4	FUTURE CHURCH CAMPUS WITH SCHOOL & RESIDENTIAL
LOT 5	SINGLE FAMILY RESIDENTIAL



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

U

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Second Reading on Ordinance Granting Montana Dakota Utilities Co.
Franchise to Provide Gas Distributions Services

DEPARTMENT: City Administrator's Office

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

PROBLEM/ISSUE STATEMENT: Montana Dakota Utilities Co. ("MDU") was provided a franchise to operate a gas distribution system within the City of Billings via Ordinance 4232 in 1979. That franchise was scheduled to expire on October 25, 2004, but was extended through April, 2005, by Council action last August. MDU and staff have used the intervening months to address all issues and arrive at consensus regarding the proposed franchise.

The proposed franchise is for 15 years and contains modern language relating to relocation, system development, and other key operational areas. The City Council approved the proposed ordinance on first reading at their April 11, 2005, meeting.

FINANCIAL IMPACT: None.

RECOMMENDATION

Staff recommends that Council adopt the proposed ordinance granting a franchise to MDU for the operation of a gas distribution system within the City of Billings.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A – Ordinance Granting MDU's Gas Distribution Franchise

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 7-1501 THROUGH 7-1517; GRANTING TO MONTANA DAKOTA UTILITIES CO. A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A GAS DISTRIBUTION SYSTEM WITHIN PUBLIC RIGHTS-OF-WAY OF THE CITY OF BILLINGS, MONTANA.

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

Section 1. That the Billings, Montana City Code be amended by adding Article 7-1500 and sections to be numbered 7-1501 through 7-1517, to read as follows:

“ARTICLE 7-1500. MONTANA-DAKOTA UTILITIES’ NON-EXCLUSIVE FRANCHISE

WHEREAS, Montana Code Annotated Section 7-14-4101, Billings, Montana City Code Sections 22-401 through 22-703, and Billings’ self-governing powers grant the City broad authority to regulate the use of the public right-of-way; and

WHEREAS the City Council of the City of Billings (“City”) passed a franchise granting Montana Dakota Utilities Co. (“MDU”) the authority to operate a gas distribution system September 24, 1979 via Ordinance 4232;

WHEREAS the City extended that franchise through April 24, 2005 via Ordinance 04-5299;

WHEREAS MDU has operated under that franchise in good faith and provided service to the citizens of Billings;

WHEREAS, the City Council finds that it is in the best interests of the health, safety and welfare of residents of the Billings community to grant a non-exclusive franchise to Montana-Dakota Utilities Co. for the operation of a gas distribution system within the City right-of-way and therefore enacts the following ordinance.

Sec. 7-1501. Definitions. The following terms contained herein, unless otherwise indicated, shall be defined as follows:

City: The City of Billings, a municipal corporation of the State of Montana, specifically including all areas incorporated therein as of the effective date of this ordinance and any other areas later added thereto by annexation or other means.

Days: Calendar days.

Director: The City Administrator or designee.

Facilities: All pipes, access ways, pump stations, storage facilities, equipment, and supporting structures, located in the City's right-of-way, utilized by the Utility in the operation of activities authorized by this Ordinance. The abandonment by Utility of any facilities as defined herein shall not act to remove the same from this definition.

Permittee: A person who has been granted a permit by the Permitting Authority.

Permitting Authority: The head of the City department authorized to process and grant permits required to perform work in the City's right-of-way, or the head of any agency authorized or designated to perform this function on the City's behalf. Unless otherwise indicated, all references to Permitting Authority shall include the designee of the department or agency head.

Person: An entity or natural person.

Revenue: This term as used herein shall refer to all revenue collected from Utility's customers with billing addresses that are within the corporate boundaries of the City, not including late fees.

Right-of-way: As used herein shall refer to the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard, parkway, drive, utility easement, and/or road right-of-way now or hereafter held or administered by the City of Billings.

Utility: Montana Dakota Utilities Co., a division of MDU Resources Group, Inc. a corporation.

Sec. 7-1502. Franchise Granted.

- (a) The City hereby grants to Utility, its successors and assigns, subject to the terms and conditions hereinafter set forth, a Franchise to provide gas distribution services beginning on the effective date of this Ordinance.
- (b) This Franchise shall grant Utility the right, privilege and authority, subject to the terms and conditions hereinafter set forth, to construct, operate, maintain, replace, and use all necessary equipment and facilities for a gas distribution system, in, under, on, across, over, through, along or below the public right-of-way located in the City of Billings, as approved under City permits issued by the Permitting Authority pursuant to this Franchise and City ordinances.
- (c) This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any right-of-way. Such Franchise shall in no way prevent or prohibit the City from using any right-of-way or other City property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and

improvement of all new rights-of-way or other public properties of every type and description.

Sec. 7-1503. Franchise Term.

The term of the Franchise granted hereunder shall be for the period commencing upon the effective date of this ordinance through and extending for fifteen (15) years therefrom.

Sec. 7-1504. Fees or Taxes.

As a material term of this Franchise agreement, and in consideration of the right granted to Utility to occupy City rights-of-way for the purpose of operating a gas utility within the City, Utility agrees:

- (a) To timely pay all fees or taxes currently adopted, or as hereinafter may be adopted by the City pertaining to the Utility's operations within the City.
- (b) Proceeds of any fee or tax shall be distributed to the City in accordance with the terms of any adopting document or, if not specified in such document, no later than 30 days after the end of each calendar quarter (quarters ending at the end of March, June, September and December).
- (c) Should the Utility be prevented by judicial or legislative action from collecting a fee or tax adopted by the City or any portions thereof, then the Utility shall be excused from the collection and distribution of that portion of the fee or tax.

Sec. 7-1505. City Ordinances and Regulations.

Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any reasonable ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control, by appropriate regulations, the location, elevation, and manner of construction and maintenance of any facilities of Utility located within the City right-of-way. Utility shall promptly conform with all such regulations, unless compliance would cause Utility to violate other requirements of law.

Sec. 7-1506. Right-of-Way Management.

- (a) Excavation.
 - (1) During any period of relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the right-of-way so as to interfere as little as possible with the safe and unobstructed passage of traffic and the unobstructed use of adjoining property. Utility shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the City ordinances or traffic control plans approved by the City consistent with state law and MPWS Section 01570 as modified by the City.
 - (2) Whenever Utility excavates in any right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the

City for a permit to do so in compliance with the ordinances and regulations of the City requiring permits to operate in the right-of-way. In no case shall any such work commence within any right-of-way without a permit, except as otherwise provided in this Ordinance. During the progress of the work, Utility shall not unnecessarily obstruct the passage or use of the right-of-way, and shall provide the City with plans, maps, and information showing the proposed and final location of any facilities in accordance with subsection (i) herein.

- (b) Abandonment of Utility's Facilities. Facilities laid, installed, constructed, or maintained in the right-of-way by Utility may be abandoned in place after notification of such intent is provided to the City. The City may require removal of abandoned facilities in conjunction with the process described in subsection (h), Relocation. All necessary permits must be obtained prior to commencing removal.
- (c) Restoration after Construction.
 - (1) Utility shall, after any installation, construction, relocation, maintenance, or repair of facilities within the Franchise area, restore the right-of-way to at least the condition the same was in immediately prior to any such abandonment, installation, construction, relocation, maintenance or repair as determined by the City Engineer or designee. All concrete encased monuments, which have been disturbed or displaced by such work, shall be restored pursuant to all federal, state and local standards and specifications. Utility agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole cost and expense.
 - (2) If it is determined that Utility has failed to restore the right-of-way in accordance with this section, the City shall provide Utility with written notice including a description of actions the City believes necessary to restore the right-of-way. If the right-of-way is not restored in accordance with the City's notice within fifteen (15) days of that notice, the City, or its authorized agent, may restore the right-of-way. Upon request from the Utility, the City may agree to an extension to the time provided to restore the right-of-way as long as doing so does not endanger the public. Utility is responsible for all costs and expenses incurred by the City in restoring the right-of-way in accordance with this Section. The rights reserved to the City under this paragraph shall be in addition to those otherwise provided by this Franchise.
- (d) Bonding Requirement. Utility must comply with the City's standard bonding requirement for working in the City's right-of-way.
- (e) Emergency Work, Permit Waiver. In the event of any emergency where any facilities located in the right-of-way are broken or damaged, or if Utility's construction area for their facilities is in such a condition as to place the health or safety of any person or property in imminent danger, Utility shall immediately take any necessary emergency measures to repair or remove its facilities without first applying for and obtaining a permit as required by this Franchise. However, this emergency provision shall not relieve Utility from later obtaining any necessary permits for the emergency work. Utility shall apply for the required permits the next business day following the emergency work or as soon as practical given the nature and duration of the emergency.
- (f) Safety.
 - (1) The Utility, in accordance with applicable federal, state, and local safety rules and regulations shall, at all times, employ ordinary care in the installation,

maintenance, and repair utilizing methods and devices commonly accepted in their industry of operation to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.

- (2) All of Utility's facilities in the right-of-way shall be constructed and maintained in a safe and operational condition.

(g) Dangerous Conditions, Authority for City to Abate.

- (1) Whenever Facilities or the operations of the Utility cause or contribute to a condition that appears to endanger any person or substantially impair the lateral support of the adjoining right-of-way, public or private property, the Director may direct the Utility, at no charge or expense to the City, to take actions to resolve the condition or remove the endangerment. Such directive may include compliance within a prescribed time period.
- (2) In the event the Utility fails or refuses to promptly take the directed action, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent imminent injury or damages to persons or property, the City may take such actions as it believes are necessary to protect persons or property and the Utility shall be responsible to reimburse the City for its costs.

(h) Relocation of System Facilities.

- (1) Utility agrees and covenants to protect, support, temporarily disconnect, relocate or remove from any right-of-way its facilities without cost to the City, when so required by the City to facilitate the completion of or as a result of a public project, provided that Utility shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same right-of-way and upon approval by the City, any facilities required to be temporarily disconnected or removed. As used in this Section, the term "public project" is a project included in any City adopted Capital Improvement Program.
- (2) All Facilities utilized for providing gas distribution service within Utility's service area and within the right-of-way shall be considered owned, operated and maintained by Utility.
- (3) If the City determines that a public project necessitates the relocation of Utility's existing facilities, the City shall utilize the following process unless otherwise agreed:
 - a. As soon as possible, but not less than sixty (60) days prior to the commencement of such project, provide Utility with written notice requiring such relocation; and
 - b. Provide Utility with copies of any plans and specifications pertinent to the requested relocation and a proposed temporary or permanent relocation for Utility's facilities.
 - c. After receipt of such notice and such plans and specifications, Utility shall complete relocation of its facilities at no charge or expense to the City at least ten (10) days prior to commencement of the project, unless otherwise agreed.
- (4) Utility may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise Utility in writing if any of the alternatives are suitable to accommodate the work that necessitates the relocation of the facilities.

If so requested by the City, Utility shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by Utility full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, Utility shall relocate its facilities as provided in this Section.

- (5) The provisions of subsection (h) herein shall not preclude the Utility from seeking reimbursement for relocation expenses from state or federal resources as long as doing so does not impair the interests of the City.
- (6) The provisions of subsection (h) herein shall in no manner preclude or restrict Utility from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person other than the City, where the improvements to be constructed by said person are not or will not become City owned, operated or maintained, provided that such arrangements do not unduly delay or increase the cost of a planned City construction project.

(i) Utility's Maps and Records

- (1) As a condition of this Franchise, and without charge to the City, Utility agrees to provide the City with record plans, maps, and records that show the vertical and horizontal location of its facilities within the right-of-way using a minimum scale of one inch equals one hundred feet (1"=100'). This information is to be provided in digital format that can be readily imported into the City's Geographic Information System (GIS), and, upon request, in hard copy plan form used by Utility. This information shall be provided between one hundred twenty (120) and one hundred eighty (180) days of the effective date of this Ordinance and shall be updated by the Utility utilizing information in their possession upon reasonable request by the City.
- (2) The City will keep the information provided by the Utility confidential to the extent allowed by law. If the City gets a records request demanding disclosure of Utility system information previously provided to the City by the Utility, then the City will provide the Utility notice of such request and provide the Utility the opportunity to seek to prevent the disclosure of said information through appropriate legal action.

Sec. 7-1507. Planning Coordination.

- (a) System Information. Utility shall submit information related to the general location, proposed location, and size of all existing and proposed Facilities within the City as requested by the Director within a reasonable time, not exceeding sixty (60) days from receipt of a written request for such information.
 - (1) Utility will update information provided to the City under this Section whenever there are major changes in Utility's system plans for Billings.
 - (2) The City will provide information relevant to the Utility's operations within a reasonable period of written request to assist the Utility in the development or update of its System Plan. Provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.

- (b) System Development Information. Utility will assign a representative whose responsibility shall be to coordinate with the City on planning for Capital Improvement Program projects. At a minimum, such coordination shall include the following:
- (1) By October 31st of each year, Utility shall provide the Director with a schedule of its planned capital improvements for the following calendar year, which may affect the right-of-way for that year;
 - (2) Utility shall meet with the City, other franchisees and users of the right-of-way, according to a schedule to be determined by the City, to schedule and coordinate construction; and
 - (3) All construction locations, activities, and schedules shall be coordinated, as required by the Director to minimize public inconvenience, disruption, or damages.
- (c) Emergency Operations. The City and Utility agree to cooperate in the planning and implementation of emergency operations response procedures.

Sec. 7-1508. Indemnification.

- (a) Utility hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards, attorney's fees, or liability to any person, including claims by Utility's own employees to which Utility might otherwise be immune, arising from personal injury or damage to property allegedly due to the negligent or intentional acts or omissions of Utility, its agents, servants, officers or employees in performing activities authorized by this Franchise. This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of the acts or omissions of Utility, its agents, servants, officers or employees except for claims for injuries and damages caused by the sole negligence of the City. If final judgment is rendered against the City, its elected officials, employees, agents, and volunteers, or any of them, Utility shall satisfy and pay the judgment. The City may appear in any proceeding it deems necessary to protect the City's or the public's interests.
- (b) Inspection or acceptance by the City of any work performed by Utility at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. These indemnification obligations of Utility in Section 8.1 shall extend to and include any and all claims that have not yet resulted in a suit and any asserted or submitted claims that may be settled prior to the culmination of any litigation or the institution of any litigation.
- (c) In the event Utility refuses to undertake the defense of any filed suit or any claim asserted against the City, after the City's request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and Utility's refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Utility, then Utility shall pay all of the City's costs and expenses for defense of the action, including reasonable attorneys' fees of recovering under this indemnification clause as well as any judgment against the City.
- (d) In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Utility and the City, its

officers, employees and agents, Utility's liability hereunder shall be only to the extent of Utility's comparative negligence. This waiver has been mutually negotiated by the parties.

- (e) The City hereby releases and agrees to indemnify, defend and hold harmless the Utility, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards or liability to any person arising from Utility's compliance with Section 7-1504. This indemnification is contingent upon Utility's compliance with Section 7-1504.

Sec. 7-1509. Insurance.

- (a) Utility shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Utility, its agents or employees. A combination of self-insurance and excess liability insurance may be utilized by Utility. Utility shall provide to the City an insurance certificate and proof of self-insurance, if applicable, evidencing the required insurance and a copy of the additional insured endorsements, for City's inspection prior to the commencement of any work or installation of any Facilities pursuant to this Franchise, and such insurance shall evidence the following required insurance:
 - (1) Automobile Liability insurance for owned, non-owned and hired vehicles with limits no less than \$2,000,000 Combined Single Limit per accident for bodily injury and property damage; and
 - (2) Commercial General Liability insurance policy, written on an occurrence basis with limits no less than \$750,000 dollars per claim and 1.5 million dollars per occurrence or \$500,000 dollars combined single limit together with a one million dollars (\$1,000,000) excess or umbrella policy. The City shall be named as a primary, additional insured. The Utility's policy shall be endorsed to be primary and noncontributory. Utility shall also maintain a policy of Professional Liability insurance in an insurable amount not less than \$750,000 dollars per claim and 1.5 million dollars per occurrence. Utility shall demonstrate written proof of these mandatory minimum coverages and noncontributory endorsement by providing a Certificate of Insurance to the City evidencing such prior to execution of this contract for personal injury, bodily injury and property damage. Coverage shall include premises, operations, independent contractors, products completed operations, personal injury and advertising injury. There shall be no endorsement or modification of the Commercial General Liability insurance excluding liability arising from explosion, collapse or underground property damage.
 - (3) Excess Liability in an amount of \$5,000,000 each occurrence and \$5,000,000 aggregate limit. The City shall be named as an additional insured on the Excess Liability insurance policy.
- (b) Payment of deductible or self-insured retention shall be the sole responsibility of Utility.
- (c) The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, or employees. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Utility's insurance shall be primary. Any insurance, self insurance, or insurance pool

coverage maintained by the City shall be excess of Utility's insurance and shall not contribute with it. Coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City.

- (d) Utility shall require all its subcontractors to carry insurance consistent with this section and shall provide evidence of such insurance to the City upon request.

Sec. 7-1510. Enforcement.

- (a) In addition to all other rights and powers retained by the City under this Franchise, the City reserves the right to revoke and terminate this Franchise and all rights and privileges of the Utility in the event of a substantial violation or breach of its terms and conditions.
- (b) A substantial violation or breach by a Utility shall include, but shall not be limited to, the following:
 - (1) An uncured violation of any material provision of this Franchise, or any material rule, order or regulation of the City made pursuant to its power to protect the public health, safety and welfare;
 - (2) An intentional evasion or knowing attempt to evade any material provision of this Franchise or practice of any fraud or deceit upon the system customers or upon the City;
 - (3) Failure to provide the services specified in the Franchise;
 - (4) Misrepresentation of material fact during negotiations relating to this Franchise or the implementation thereof;
 - (5) A continuous and willful pattern of grossly inadequate service;
 - (6) An uncured failure to pay fees associated with this Franchise;
- (c) No violation or breach shall occur which is without fault of the Utility or the City, or which is as a result of circumstances beyond the Utility's or the City's reasonable control. Neither the Utility, nor the City, shall be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, agents or employees; provided, however, that damage to equipment causing service interruption shall be deemed to be the result of circumstances beyond a Utility's or the City's control if it is caused by any negligent act or unintended omission of its employees (assuming proper training) or agents (assuming reasonable diligence in their selection), or sabotage or vandalism or malicious mischief by its employees or agents. A Utility, or the City, shall bear the burden of proof in establishing the existence of such conditions.
- (d) Except in the case of termination pursuant to subsection (b)(4) above, prior to any termination or revocation, the City, or the Utility, shall provide the other with detailed written notice of any substantial violation or material breach upon which it proposes to take action. The party who is allegedly in breach shall have a period of 60 days following such written notice to cure the alleged violation or breach, demonstrate to the other's satisfaction that a violation or breach does not exist, or submit a plan satisfactory to the other to correct the violation or breach. If, at the end of said 60-day period, the City or the Utility reasonably believes that a substantial violation or material breach is continuing and the party in breach is not taking satisfactory corrective action, the other may declare that the party in breach is in default, which declaration must be in writing. Within 20 days after receipt of a written declaration of default, the party that is alleged to be in default may request, in writing, a hearing before a "hearing examiner" as provided by the City's

development regulations. The hearing examiner's decision may be appealed to any court of competent jurisdiction.

- (e). The City may, in its discretion, provide an additional opportunity for the Utility to remedy any violation or breach and come into compliance with this agreement so as to avoid the termination or revocation.
- (f) Any violation existing for a period greater than 30 days may be remedied by the City at the Utility's expense.

Sec. 7-1511. Survival.

All of the provisions, conditions and requirements of Section 7-1506(a) Excavation, Section 7-1506(b) Abandonment Of Utility's Facilities, Section 7-1506(c) Restoration After Construction, Section 7-1506(g) Dangerous Conditions, Authority For City To Abate, Section 7-1506(h) Relocation of System Facilities, and Section 7-1508 Indemnification, of this Franchise shall be in addition to any and all other obligations and liabilities Utility may have to the City at common law, by statute, or by contract, and shall survive the City's Franchise to Utility for the use of the areas mentioned in Section 7-1502 herein, and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Franchise Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of Utility and all privileges, as well as all obligations and liabilities of Utility shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever Utility is named herein.

Sec. 7-1512. Assignment.

This Franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, without the written approval of the City. This paragraph shall not act to require City approval of any Utility action to mortgage or otherwise encumber its facilities, or other action related to corporate financing, financial reorganization, or refinancing activity.

Sec. 7-1513. Notice.

Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

Region Manager
Montana-Dakota Utilities Co.
P.O. Box 2546
Billings, MT. 59112-2546
Phone: (406) 896-4221
Fax: (406) 896-4272

City Administrator
City of Billings
P.O. Box 1178
Billings, MT 59103
Phone: (406) 657-8433
Fax: (406) 657-8390

Sec. 7-1514. Non-Waiver.

The failure of either party to enforce any breach or violation by the other party of any provision of this Franchise shall not be deemed to be a waiver or a continuing waiver by the non-breaching

party of any subs

Sec. 7-1515. Alternate Dispute Resolution.

If the parties are unable to resolve disputes arising from the terms of this Franchise, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the parties. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.

Sec. 7-1516. Entire Agreement. This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

Sec. 7-1517. Directions to City Clerk.

The City Clerk is hereby authorized and directed to forward certified copies of this ordinance to the Utility set forth in this ordinance. The Utility shall have sixty (60) days from receipt of the certified copy of this ordinance to accept in writing the terms of the Franchise granted to the Utility in this ordinance.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any Section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause or phrase of this Franchise Ordinance. The Parties may amend, repeal, add, replace, or modify any provision of this Franchise to preserve the intent of the parties as expressed herein prior to any finding of invalidity or unconstitutionality. To this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of _____, 2005.

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

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Amended Lot 6, Block 1, Country Homes Subdivision, Preliminary Plat

DEPARTMENT: Planning and Community Services

PRESENTED BY: Wyeth Friday, Planner I, through Ramona Mattix, Planning Director

PROBLEM/ISSUE STATEMENT: On April 1, 2005, the subdivider of this property, Holly Wedel, applied for preliminary plat approval for the Amended Lot 6, Block 1, Country Homes Subdivision. This subdivision would create two residential lots. The property is located at 1908 Bitterroot Drive in the Billings Heights. The City Council will review the preliminary plat and make a decision regarding approval at its May 9, 2005 meeting.

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

FINANCIAL IMPACT: When the property is developed the new residents will need City services. It is unknown if the value of the proposed home will generate sufficient taxes and fees to pay for the required services. However, this property will use existing City sewer lines in the alley behind the property.

RECOMMENDATION

Planning staff recommends that the Billings City Council conditionally approve the preliminary plat of Amended Lot 6, Block 1, Country Homes Subdivision, and accept the attached findings of fact.

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

ATTACHMENTS

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

INTRODUCTION

On April 1, 2005 the Planning Department received a preliminary plat application for the Amended Lot 6, Block 1, Country Homes Subdivision. The 23,000-square-foot property is located on the west side of Bitterroot Drive in the Billings Heights. The City Council must approve, conditionally approve or deny the preliminary plat within 35 working days of its submittal.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on April 1, 2005.
- Staff was scheduled to receive comments from reviewing departments/agencies by April 18, 2005.
- The City Council will consider the application at its meeting on May 9, 2005.

BACKGROUND

The subject property is legally described as Amended Lot 6, Block 1, Country Homes Subdivision. The property is zoned R-7000 and the proposed subdivision contains 2 single-family residential lots. The property has one existing residence located on the proposed Lot 6A of the subdivision.

General location:	1908 Bitterroot Drive in the Billings Heights
Legal Description:	Amended Lot 6, Block 1, Country Homes Subdivision,
Subdivider:	Holly R. Wedel
Owner:	Holly R. Wedel
Engineer and Surveyor:	North Star Land Services
Existing Zoning:	R-7000
Surrounding zoning:	North: R-7000 South: R-7000 East: R-7000 West: R-7000
Existing land use:	One Single-family dwelling
Proposed land use:	Two single-family dwellings or duplex units
Gross area:	23,037.652 square feet
Proposed number of lots:	2
Lot size:	Max.: 10,878.826 square feet

Min.: 10,878.826 square feet

Parkland requirements:

No parkland dedication is required

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS

1. To minimize the effects on local services and bring the Subdivision Improvement Agreement into compliance with the rules, regulations, and policies of the City of Billings, prior to final plat approval the subdivider shall:
 - Remove the first paragraph of Section VI. Utilities in the Subdivision Improvement Agreement.
 - Remove the sentence that reads "When and if new construction takes place on this property, all storm water from a 24-hour, 100-year storm will be retained on site" from Section V. Storm Drainage in the Subdivision Improvement Agreement.
2. To minimize the effects on local services, prior to final plat approval the subdivider shall replace the language in Part B of Section II. Conditions that Run with the Land of the Subdivision Improvement Agreement with the following language: "Bitterroot Drive is classified as a Principal Arterial in the area of this subdivision. Structures built on this subdivision must meet a structural setback of 80-feet from the centerline of Bitterroot Drive as per BMC 27-602."
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES

None were requested.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting but nearby property/business owners may attend the Council meeting. The Planning Department received no public comments or questions about the subdivision up to the time this report was submitted to the City Council.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, Transportation Plan and Heritage Trail Plan is discussed in the Findings of Fact.

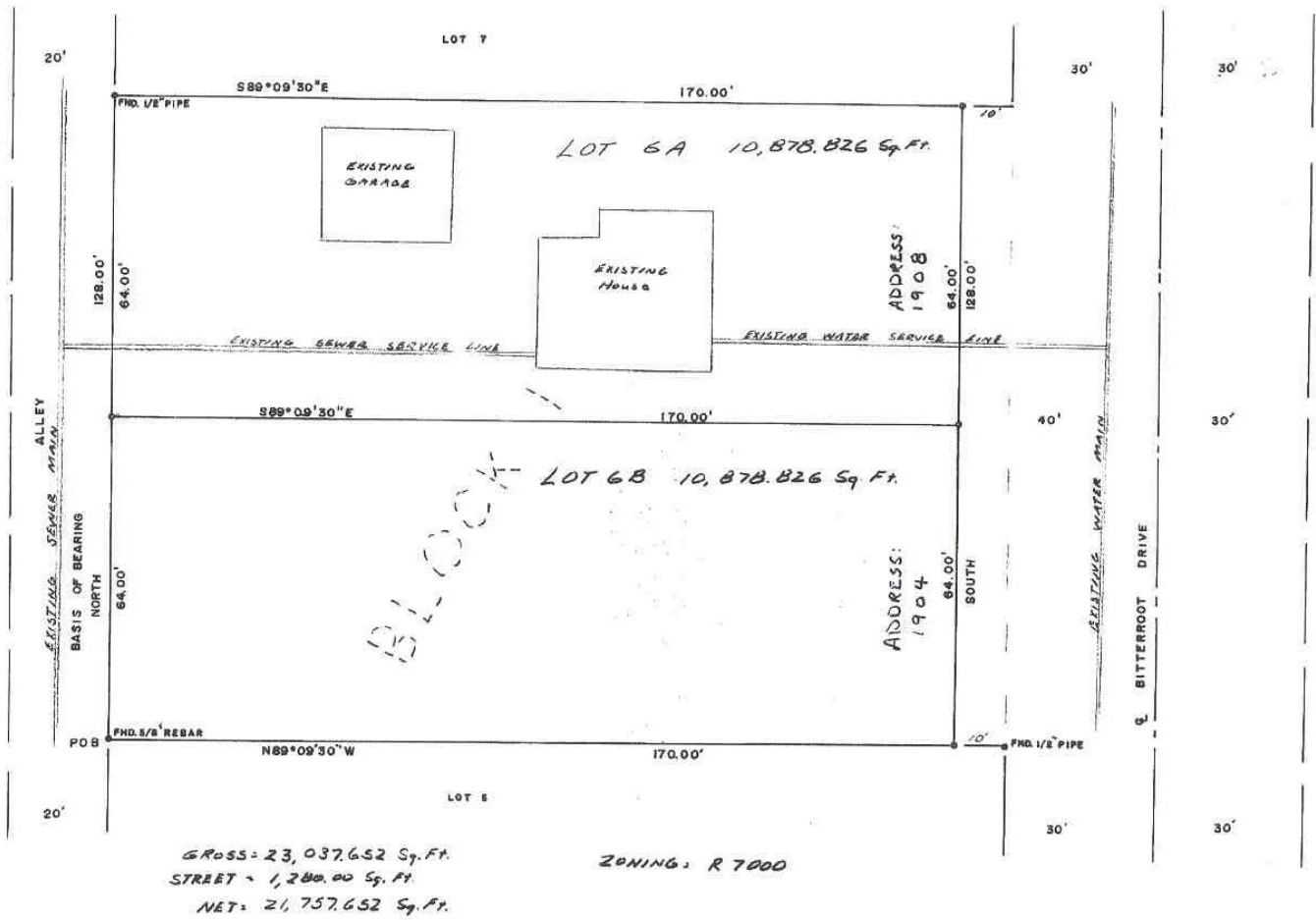
RECOMMENDATION

Planning staff recommends that the Billings City Council conditionally approve the preliminary plat of Amended Lot 6, Block 1, Country Homes Subdivision, and accept the attached findings of fact.

ATTACHMENTS

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

ATTACHMENT A
Plat of Amended Lot 6, Block 1, Country Homes Subdivision



ATTACHMENT B
Site Photographs



Figure 1: Looking northwest across Bitterroot Drive at the subject property. The existing residence is visible at the right in the photo and the vacant portion of the lot that would be Lot 6B is visible at center and left in the photo.



Figure 2: Looking southwest across Bitterroot Drive at the subject property. The existing residence and detached garage is visible in the center of the photo. A detached garage on the property to the north is visible on the right edge of the photo.

ATTACHMENT C
Findings of Fact

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

1. Effects on agriculture

This subdivision should have no impact on agriculture or agricultural water user facilities. The subject property is located in an existing residential area of the Billings Heights where there is no agricultural activity. There are no irrigation ditches on or adjacent to this property.

2. Effect on local services

- a. **Utilities** – Water and sanitary sewer lines will be extended by the developer from the Bitterroot Drive right-of-way for water and the alley right-of-way for sewer. The County Water District of Billings Heights will provide domestic water service to the subdivision. The existing home on the property is already served by the Water District and new development of the property also may be served by the Water District. Sanitary sewer service is provided by the City of Billings. The existing home on the property is served by sewer line running in the alley behind the property. New development on the property also may be served by connecting to this same sewer line. The City Public Works Department is requiring the subdivider to remove the first paragraph on Section VI. Utilities in the SIA. Public Works staff found that the language provided in the second paragraph is acceptable for the purposes of extension and connection to the City sewer system (**See Condition 1**).

New development on the property will comply with the City of Billings *Stormwater Management Manual* and be approved by the City Engineer. The property is currently located outside of the City's existing stormwater facilities system, so storm water will be retained on site. The City Engineering Department is requiring that the subdivider remove the language in Section V. Storm Drainage of the SIA that refers to retaining stormwater on site from a 24-hour, 100-year event. City Engineering staff only wants the language referencing compliance with the *Stormwater Management Manual* to be included in the SIA. The subdivider does have this language in place (**See Condition 1**).

Private utilities will be extended to this property under the companies' operating rules. The utilities for new development on this subdivision will come either from the alley behind the property or from the Bitterroot Drive right-of-way. All utilities serving new development on this subdivision shall be buried if possible.

- b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- c. **Streets** - The subdivider proposes to have a single new access to Lot 6B off of Bitterroot Drive. The existing residence on Lot 6A is already served via an access on Bitterroot Drive. The subdivider is dedicating an additional 10-feet of right-of-way for

Bitterroot Drive to make a total half right-of-way of 40 feet. This is to accommodate future expansion of Bitterroot Drive. Bitterroot Drive is classified as a Principal Arterial in the area of this subdivision. Structures located on this property must meet a structural setback of 80-feet from the centerline of Bitterroot Drive as per BMC 27-602. This should be noted in the “Conditions that Run with the Land” Section of the Subdivision Improvement Agreement (**See Condition 2**).

- d. **Emergency services** – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station at this time is Station #6 at 1601 St. Andrews in the Billings Heights. The Fire Department has not identified any concerns with the proposed subdivision. The Police Department has not identified any concerns with this subdivision. AMR provides medical care and transport for this subdivision and did not have any concerns with this subdivision.
- e. **Schools** – The subdivision is in the School District #2. No comments have been received from School District #2.
- f. **Parks and Recreation** – Because this is a minor plat, no parkland dedication is required.
- g. **MET Transit** – MET Transit’s nearest route is at the intersection of Bitterroot and Elaine Street about 1/10 of a mile from the subdivision. The creation of this subdivision will not cause MET to expand its service area.

3. Effect on the natural environment

The subject property is level ground with one existing residence. The area all around the property is currently developed for residential uses so impacts to the natural environment should be minimal.

4. Effect on wildlife and wildlife habitat

There should be no effect on wildlife and its habitat. The property is not habitat for any known endangered species, there is residential development all around the property, and no comments were received by Montana Fish, Wildlife and Parks.

5. Effect on the public health, safety and welfare

There do not seem to be any threats to the public health and safety from this subdivision as proposed. There is adequate access to the property for emergency services from Bitterroot Drive and the alley behind the property.

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

Since this is a minor subdivision, an Environmental Assessment is not required.

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

1. 2003 Growth Policy:

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

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

2. Urban area transportation plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. The proposal to dedicate an additional 10 feet of right-of-way for Bitterroot Drive for future expansion complies with the Transportation Plan's identification of Bitterroot Drive as a Principal Arterial. This subdivision complies with the Transportation Plan.

3. Heritage Trail Plan

The subdivision is within the jurisdictional area of the Heritage Trail Plan. The Plan does identify Bitterroot Drive as an arterial bikeway, so eventually the street should be striped for bike lanes. There are no plans to do so at this time and this subdivision does not conflict with the Heritage Trail Plan.

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

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

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

The subdivision will use Water District of Billings Heights domestic water service, City sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

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

The property is within the R-7000 zoning district. The proposed lot sizes for this subdivision, at more than 9,600-square-feet each, would allow single-family residential or duplex uses on the property. The proposal meets zoning requirements.

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

The subdivision abuts public street rights-of-way in the front and a public alley right-of-way on the back. Utilities will access this subdivision from one, or both, of these public rights of way.

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

Both lots will have access to Bitterroot Drive, a public street.

CONCLUSIONS OF FINDING OF FACT

The proposed Amended Lot 6, Block 1 of the Country Homes Subdivision does not create any adverse impacts that warrant denial of the subdivision. The subdivision will impact local services and cause some increase in demand for those services. However, when the vacant parcel is developed the homeowners will pay property taxes and fees that should help to support those services. The proposed subdivision conforms to some of the goals and policies of the 2003 Growth Policy. The proposal also is in conformance with the Transportation and Heritage Trail plans. The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each parcel.

Approved by the Billings City Council, May 9, 2005.

Charles F. Tooley, Mayor

ATTACHMENT D - Mayor's Approval Letter

May 9, 2005

Holly R. Wedel
1908 Bitterroot Drive
Billings, MT 59105

Dear Holly R. Wedel:

On May 9, 2005 the Billings City Council conditionally approved the preliminary plat of Amended Lot 6, Block 1 of Country Homes Subdivision. The conditions of approval are as follows:

1. To minimize the effects on local services and bring the Subdivision Improvement Agreement into compliance with the rules, regulations, and policies of the City of Billings, prior to final plat approval the subdivider shall:
 - Remove the first paragraph of Section VI. Utilities in the Subdivision Improvement Agreement.
 - Remove the sentence that reads “When and if new construction takes place on this property, all storm water from a 24-hour, 100-year storm will be retained on site” from Section V. Storm Drainage in the Subdivision Improvement Agreement.
2. To minimize the effects on local services, prior to final plat approval the subdivider shall replace the language in Part B of Section II. Conditions that Run with the Land of the Subdivision Improvement Agreement with the following language: “Bitterroot Drive is classified as a Principal Arterial in the area of this subdivision. Structures built on this subdivision must meet a structural setback of 80-feet from the centerline of Bitterroot Drive as per BMC 27-602.”
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

If you have questions please contact Wyeth Friday in the Planning Department at 247-8660 or by email at fridayw@ci.billings.mt.us.

Sincerely,

Charles F. Tooley, Mayor

Cc: Tom Kelly, North Star Land Services, P.C. ([Back to Consent Agenda](#))

W

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Preliminary Plat of Riverfront Pointe Subdivision
DEPARTMENT: Planning and Community Services, Ramona Mattix, AICP, Planning Director
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On March 1, 2005, the owner of the subject property applied for preliminary major plat approval for Riverfront Pointe Subdivision, which contains 175 lots on approximately 74 acres of land. The City Council will review the preliminary plat and approve, conditionally approve, or deny the proposed subdivision at the May 9, 2005, meeting.

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

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property may further develop, resulting in additional tax revenues for the City. However, it is unknown if the value of these proposed homes will generate sufficient taxes and fees to pay for the required services.

RECOMMENDATION

The Yellowstone County Board of Planning recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, approval of the variance, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

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

INTRODUCTION

On March 1, 2005, the owner of the subject property applied for preliminary major plat approval for Riverfront Pointe Subdivision, which contains 175 lots on approximately 74 acres of land; five (5) lots are proposed for commercial uses, approximately eight (8) lots are proposed for multi-family residential uses, and 162 lots are proposed for single-family/duplex uses. The Yellowstone County Board of Planning conducted a public hearing on this proposed subdivision on April 26, 2005, and recommends that the Billings City Council conditionally approve this preliminary plat and the requested variances.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Division on March 1, 2005.
- A departmental review meeting was conducted with the subdivider and their representative on March 17, 2005.
- The preliminary plat was resubmitted with revisions based on department reviews on March 24, 2005.
- The Planning Board reviewed the plat on April 12, 2005.
- The Planning Board will conduct a public hearing on April 26, 2005, and forward a recommendation to the City Council.
- The City Council will consider the preliminary plat on May 9, 2005.

BACKGROUND

On March 1, 2005, the Planning Department received a preliminary plat application for Riverfront Pointe Subdivision. The subject property contains approximately 74 acres to be developed into 175 commercial, single-family, and multi-family residential lots. The property contains an existing single-family residence with various outbuildings on proposed Lot 17, Block 10 and the proposed parkland area. As a result of this application, the outbuildings will be removed in order to allow the development of the park. The single-family residence will be maintained until such time that Lot 17, Block 10 is developed for a commercial use. The subdivider is proposing a phased development; Phase 1 will include the proposed commercial lots, most of the residential lots west of the centerline of the subject property, and the proposed park located along the southern boundary of the property. As indicated by the applicant's representative, the proposed commercial uses will likely be services for the subdivision, however at this time, the subdivider does not wish to limit the uses from those permitted within the Highway Commercial (HC) zoning district.

The subject property is bordered on the north by commercial uses including an auto detail shop, on the south by the Holy Cross Cemetery, and on the east and west by agricultural land and single-family residences.

General location:

South of the West Billings Interchange; From Mullowney Lane to South 12th Street West northeast of the intersection of Elysian Road and Mullowney Lane

Legal Description:

SW1/4 Section 17, T1S, R26E

Subdivider:	Regal Land Development, Inc.
Owner:	Same
Engineer and Surveyor:	Engineering Inc.
Existing Zoning:	Highway Commercial
Existing land use:	Single-Family Residence with Cultivated Agricultural Land
Proposed land use:	Commercial and Residential Uses
Gross area:	74.56 acres
Net area:	54.81 acres
Proposed number of lots:	175
Lot size:	Max: 6,600 square feet Min.: 177,890 square feet (4.08 acres)
Parkland requirements:	Subdivider is proposing to dedicate 6.10 acres of parkland within the subdivision.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

In order to mitigate the effects on agriculture and agricultural water users' facilities, local services, the natural environment, wildlife and wildlife habitat and protect public health, safety and welfare, the planning staff recommends the following conditions of approval:

1. Further lot sale restrictions shall be identified in the Subdivision Improvements Agreement (SIA) for any lots used for storm drain detention beyond the phasing identified in the SIA. *(Recommended by the City Engineering Division)*
2. Due to concerns regarding the access restrictions for the commercial lots along Mullowney Lane and the trip distribution assumptions used in the TAS update, the plat and SIA shall conform to the recommendations in the final TAS as approved by the City Traffic Engineer. *(Recommended by the City Engineering Division)*
3. All internal roads shall be depicted on the plat as dedicated to the public. *(Recommended by City-County Planning)*
4. The subdivider shall depict 8-foot easements on the plat in accordance with the highlighted easement areas indicated on the plat review by the Montana-Dakota Utilities Company. *(Recommended by Montana-Dakota Utilities)*
5. A 1-foot no access strip shall be depicted along the eastern boundaries of Lots 1-5, Block 9, in order to restrict access from South 12th Street West. *(Recommended by City-County Planning)*
6. Section 2.B. shall further include "The Montana Fish, Wildlife, and Parks Department does not provide assistance unless there is damage to commercial crops or a threat to public health and safety." *(Recommended by the Montana Fish, Wildlife, and Parks Department)*
7. The subdivider shall work with the Alternative Modes Coordinator and the Parks and Recreation Department regarding the legal language for the proposed Heritage Trail Easement located along the southern boundary of the subject property. The finalized easement document shall be submitted with the final plat application. *(Recommended by the Alternative Modes Coordinator)*
8. The proposed Heritage Trail easement shall be widened to 20-feet in order to accommodate maintenance vehicles. *(Recommended by the Alternative Modes Coordinator))*
9. The subdivider shall provide legal documentation that the Heritage Trail can be constructed across the Suburban Ditch and a bridge compliant with ADA standards can be constructed across the ditch. *(Recommended by the Parks and Recreation Department)*
10. Information regarding who is responsible for the construction of the proposed bridge crossing and Heritage Trail improvements shall be stated in the SIA. Additional

information regarding how the proposed Heritage Trail will cross South 12th Street shall be provided. *(Recommended by the Parks and Recreation Department)*

11. The applicant shall work with the Parks and Recreation Department to develop a complete park master plan to be reviewed and adopted by the City Council. A park maintenance district shall be created for the maintenance of the parks within the proposed subdivision. *(Recommended by the Parks and Recreation Department)*
12. The plat shall be amended to include the revised parkland dedication north of the Suburban Ditch and the 20-foot wide Heritage Trail easement with modifications to acreage, as required by the Parks and Recreation Department. *(Recommended by the Parks and Recreation Department)*
13. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
14. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance from Section 23-602(a), BMCC, which specifies that an alley shall be provided in commercial and industrial districts. The City Council and/or Planning Board may waive this requirement, provided that other definite and assured provisions are made for adequate service access. Due to the restricted accesses to the commercial lots along Mallowney Lane, 40-foot controlled access points, the construction of additional service roads or alleys is precluded for these lots. Staff finds that adequate service access has been provided for the site and that the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance from Section 23-601(f), BMCC, which specifies that continuations of streets in contiguous territory shall be so aligned as to ensure that their centerlines coincide and have matching names. The proposed entrances to the subdivision align with Interstate Avenue and Titan Avenue located along the western border of Mallowney Lane, however the applicant has requested alternate names in order to match the theme of the proposed subdivision. The Fire Department, as well as the Engineering Division stated that there were no concerns with this proposal, provided that the names of the proposed internal streets do not conflict with names elsewhere in the City or County. The County GIS department did review this application and noted only one name change for an internal road located on the eastern portion of the site, now named Prairie Meadow Lane. Staff finds that the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance to permit 50-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets. Engineering staff is supportive of this variance, as a

50-foot width is adequate to accommodate the proposed traffic generation for the subdivision. Similar variances have been approved by the City Council, provided that a 5-foot easement for sidewalks, street lights, and fire hydrants is provided on both sides of the right-of-way. Furthermore, the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance from Section 23-605(d), BMCC, which states that double frontage lots should be avoided. As depicted on the plat, proposed Lots 1-5, Block 9, will be bordered on the west by Prairie Meadow Lane and on the east by South 12th Street West. Staff finds that this variance is acceptable, provided that a 1-foot no access strip is provided along the eastern boundaries of the lots in order to prevent access from 12th Street West. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

STAKEHOLDERS

A public hearing was conducted on April 26, 2005. There was no public comment received at that meeting or any additional public input up until the time that this staff report was submitted.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the Transportation Plan and Heritage Trail Plan is discussed within the Findings of Fact.

RECOMMENDATION

The Yellowstone County Board of Planning recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, approval of the variance, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of Riverfront Pointe

PRELIMINARY PLAT OF
RIVERFRONT POINTE SUBDIVISION
 SITUATED IN THE SW 1/4 OF SECTION 17, T. 1 S., R. 26 E., P.M.M.
 YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: REGAL LAND DEVELOPMENT, INC.
 PREPARED BY: ENGINEERING, INC.
 SCALE: 1" = 100'

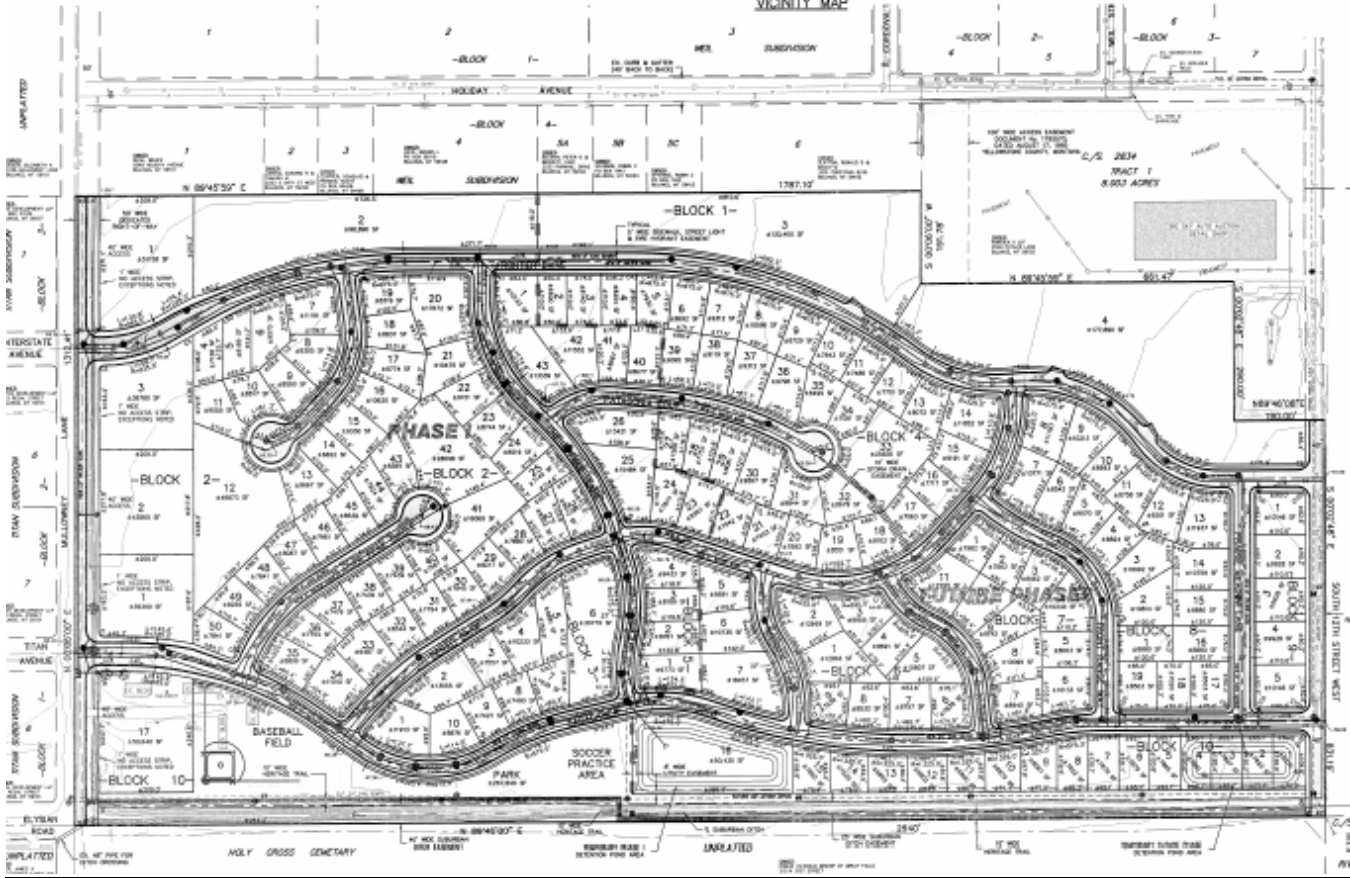
MARCH, 2005
 BILLINGS, MONTANA



PLAT DATA

GROSS AREA	= 174.56 AC
NET AREA	= 254.81 AC
NUMBER OF LOTS	= 175
MINIMUM LOT SIZE	= 46,600 SF
MAXIMUM LOT SIZE	= 2,407,182 SF
LINEAL FEET OF STREETS	= 211,810
PARKLAND REQUIREMENT	= 26.03 AC
PARKLAND DEDICATION	= 46.10 AC
EXISTING ZONING	= HIGHWAY COMMERCIAL
SURROUNDING ZONING:	
NORTH	= HIGHWAY COMMERCIAL
SOUTH	= PUBLICS
EAST	= AG. OPEN
WEST	= HIGHWAY COMMERCIAL/AG. OPEN
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL DEVELOPMENT/COMMERCIAL

VICINITY MAP



ATTACHMENT B
Site Photographs



Figure 1: View from the center of the property along Mallowney Lane south toward the existing single-family home on proposed Lot 17, Block 10.



Figure 2: View from the center of the property along Mallowney Lane north toward the commercial uses on the adjacent properties.



Figure 3: View from the center of the property southeast toward the existing outbuildings located on the future park.



Figure 4: View from the center of the property looking east along the western boundary of the proposed commercial lots.



Figure 5: View from Mullooney Lane toward the adjacent agricultural uses to the west.

ATTACHMENT C

Findings of Fact

The Planning Board is forwarding the recommended Findings of Fact for Riverfront Pointe Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [YCSR Section 3(C)(3)(a) and MCA 76-3-608 (3) (a)]

1. Effect on agriculture and agricultural water user facilities

The subject property currently contains a single-family residence and agricultural land, which has been utilized for crop production in previous years.

There is a 25-foot wide Suburban Ditch Easement located along the southern boundary of the subject property, which is utilized by properties to the east. No changes are proposed for this ditch as indicated in the submitted Subdivision Improvements Agreement (SIA). In addition, there is a Canyon Creek Lateral located along the eastern border of Mullowney Lane that services this property. This lateral will be eliminated at the head gate once the subdivision has substantially developed. No changes in alignment or alterations are proposed to this lateral at this time.

2. Effect on local services

- c. **Utilities** – Water to the subject property will be extended from the existing 16-inch water main in South 12th Street West and the 12-inch water mains located within Holiday Avenue and Mullowney Lane. An additional 16-inch water main will be installed in proposed Sacagawea Drive from South 12th Street West to Mullowney Lane to serve the proposed subdivision. Sewage disposal for the subdivision will be via an existing 24-inch trunk sewer main located within South 12th Street West from Midland Road to Sacagawea Drive. This 24-inch main will be extended for improvements to Phase I and an additional 8-inch lateral sewer line will be constructed within proposed Boundary Waters Circle, Glacier Peak Circle, Frontier Drive, Denali Drive, and Sacagawea Drive.

Private utilities will be extended to this property utilizing 8-foot easements, as required by the Montana-Dakota Utilities Company (Condition #3).

- d. **Stormwater** – As specified in the submitted Subdivision Improvements Agreement (SIA), stormwater will be retained onsite through a combination of surface drainage and curbs and gutters that drain to underground storage. Phase I of the development will utilize an interim detention pond located on Lot 16, Block 10, until an outfall for stormwater has been approved and constructed. There is also a 60-foot stormwater easement located along the southern boundary of the property to provide for the future construction of a trunk storm drain. At the time of connection to the City system, the detention areas can be eliminated and the existing storm drain lines can become part of

the City system. All street drainage improvements, detention ponds, and development on the lots shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual*.

- e. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- f. **Streets** - Access to the proposed subdivision will be via Muldowney Lane and South 12th Street West, which are existing City right-of-ways bordering the subject property on the east and west. Improvements to Muldowney Lane will include standard curb, gutter and paving to the 26-foot half-width (center point) of the street adjacent to the west of the proposed commercial lots. Improvements to South 12th Street West will include curb, gutter, and asphalt to a half width of 32 feet (center point) along the western boundary of the road adjacent to proposed lots 1-5, Block 9. A 5-foot wide boulevard sidewalk is to be installed with the improvements along the east side of Muldowney Lane and the 7-foot wide curbside is proposed on the west side of South 12th Street West.

All of the lots will be accessed utilizing interior streets, which will be constructed with standard curb and gutter and 37-feet of pavement from back of curb to back of curb, with the exception of Sacagawea Drive and Frontier Drive. These streets will begin with a 49-foot pavement width at Muldowney Lane and transition to a 37-foot pavement width at South 12th Street West. Though the proposed pavement widths satisfy the standards necessary for emergency vehicle access and traffic circulation, the subdivider has requested a variance to permit 50-feet of right-of-way where 60-feet is required. Staff is supportive of this variance, provided that 5-foot easements are provided on each side of the street to accommodate sidewalks, street lights, and fire hydrants. Internal sidewalks will include 4-foot wide boulevard walks on each side of the street.

A Traffic Accessibility Study (TAS) update was submitted with the application, as well as the original TAS for Weil Subdivision located directly adjacent to the north of the subject property. The TAS was reviewed by the Engineering Division expressed concerns regarding the access restrictions for the commercial lots along Muldowney Lane and the trip distribution assumptions used in the update. As such, Condition #2 requires that the plat and SIA conform to the recommendations in the final TAS as approved by the City Traffic Engineer.

- g. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West (Station #5). The subdivision is located within the ambulance service area of American Medical Response(AMR). In their review AMR stated that there are no necessary changes required for staffing at this time, however, as the City expands additional staff will be required.
- h. **Schools** – The subdivision is located within School District #2. No comments have been received from School District #2.

- i. **Parks and Recreation** – As part of this major plat, the subdivider is required to provide 6.03 acres of dedicated parkland. As indicated on the submitted plat, the subdivider is proposing to provide approximately 6.14 acres of parkland along the southern boundary of the property. The proposed parkland acreages include the 60-foot storm drain and ditch located along the southern boundary of the property. The Parks and Recreation Department has stated in their review that it is not desirable to accept parkland that includes a ditch and stormwater drainage area due to health, safety, and maintenance concerns. As required by Condition #12, the parkland dedication shall be revised, as follows:

- Dedicate 2.8 acres north of the Suburban Ditch to the western boundary of proposed Lot 16, Block 10.
- Dedicate parkland for the Heritage Trail, approximately 1.21 acres (20 ft. x 2640 ft.)
- Provide a cash-in-lieu payment for the remaining 2.02 acres to satisfy the parkland requirement.

Condition #11 requires the applicant to work with the Parks and Recreation Department to create a master plan to be adopted by the City Council. Furthermore, as park maintenance district shall be created for the maintenance of the proposed park.

3. Effect on the natural environment

There should be minimal effects on the natural environment with the development of this subdivision. The subdivision is located in an area that is relatively level and has been used for crop production. There is commercial development to the north of this property, as well as residential development to the west.

Soils – The Soil Survey of Yellowstone County indicates that the soils in this area consist of predominately silty clays, which with the high water table in this area have a potential for flooding, shrinking, and swelling. The movement of these layers can cause shifting in footings and structural damage to foundations if not properly designed. A note has been added to the SIA regarding the presence of these soils and that a geotechnical study may be required with building permit submittals.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the General Conditions the Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is in close proximity to prime deer, antelope and wild turkey habitat and it is likely that homeowners will experience damage to landscaping. As required by Condition #5, the statement shall be amended to include that the Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

5. Effect on the public health, safety and welfare

There are no known health or safety hazards on the property. This property is not within a mapped floodway or flood zone.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and YCSR Section 11)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? [YCSR Section 3 (C)(3)(b)]

1. Yellowstone County-City of Billings 2003 Growth Policy

- a. **Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns (p. 5).**

The proposed subdivision is consistent with the surrounding residential and commercial uses.

- b. **Goal: More housing and business choices within each neighborhood (p. 6).**

The proposed subdivision would provide for more housing choices within this portion of the city through the proposed mixture of multi-family, duplexes, and single-family residential uses. Furthermore, the proposal will also provide commercial amenities within close proximity of the existing and proposed residences.

- c. **Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 10).**

The proposed subdivision will provide public streets improved to city standards that connect with existing streets. Thus, creating more efficient transportation connections and ease of traffic flow.

- d. **A well maintained network of safe and interconnected sidewalks (p. 10).**

As part of this subdivision, the subdivider will be providing internal sidewalks for the development, as well as external sidewalks along Mullowney Lane and South 12th Street West.

- e. **Goal: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness (p. 9).**

The subdivider has proposed a Heritage Trail easement along the southern boundary of the site, which will be connected to Riverfront Park and the Conservation Education Center to the east as additional properties develop. Additionally, the applicant has proposed two (2) 6-foot wide bike lanes along Mullowney Lane.

2. Urban Area 2000 Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The subdivision is not identified on the Heritage Trail Plan; however, the Alternative Modes Coordinator has indicated that the preservation of a trail corridor is desirable due to the close proximity of the subdivision to Riverfront Park and the Conservation Education Center. As indicated on the submitted plat, the subdivider is proposing a 10-foot wide Heritage Trail easement along the southern boundary of the property. Additionally, Condition #8 requires that the proposed Heritage Trail easement, which is to be dedicated as parkland, be widened to 20-feet in order to accommodate maintenance vehicles.

Muldowney Lane is depicted within the Transportation Plan as a Primary District Connector for a bikeway. As such, the applicant has proposed two (2) 6-foot bike lanes on Muldowney Lane and the Heritage Trail along the northern boundary of the Suburban Ditch for construction in Phase I. The proposed Trail does cross the ditch at the boundary line for Phase I, as depicted on the plat, therefore, Condition # 9, requires the subdivider to provide written documentation that a bridge is permitted across the Suburban Ditch. This crossing shall be reviewed and approved by the Parks and Recreation Department for ADA compliance. Additional information shall be added to the SIA regarding who is responsible for the construction and associated costs of the trail and the bridge is required by Condition #10.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and YCSR Section 3(C)(3)(d)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in 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? [YCSR Section 3(C)(3)(e)]

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

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [YCSR Section 3(C)(3)(f)]

The subject property is located within the Highway Commercial (HC) zoning district. Section 27-310(e)(1), BMCC, specifies that dwelling units within commercial and industrial zoning districts shall satisfy the standards set forth within the Residential Multi-Family Restricted (RMF-R) zoning district. Any commercial development will be required to satisfy the standards set forth for the Highway Commercial (HC) zoning district, including setbacks, buffer areas, and lot coverages. In addition, since the proposed commercial properties abut residential uses to the

east, landscaping buffers and/or fences will be required to help mitigate impacts on those properties at the time of site plan development.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and YCSR Section 3(C)(3) (g)]

As required by Condition #3, the applicant shall provide 8-foot utility easements, where indicated on the plat review submitted by the Montana-Dakota Utilities Company.

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 YCSR Section 3(C)(3)(h)]

Legal and physical access to the proposed subdivision will be provided through dedicated right-of-ways off of Mullowney Lane and South 12th Street West.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Riverfront Pointe Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, May 9, 2005.

Charles F. Tooley, Mayor

ATTACHMENT D
Mayor's Approval Letter

May 9, 2005

Regal Land Development, Inc.
P.O. Box 80445
Billings, Montana

Dear Sirs:

On May 9, 2005, the Billings City Council conditionally approved the preliminary plat of Riverfront Pointe Subdivision. The conditions of approval are as follows:

1. Further lot sale restrictions shall be identified in the Subdivision Improvements Agreement (SIA) for any lots used for storm drain detention beyond the phasing identified in the SIA. *(Recommended by the City Engineering Division)*
2. Due to concerns regarding the access restrictions for the commercial lots along Mallowney Lane and the trip distribution assumptions used in the TAS update, the plat and SIA shall conform to the recommendations in the final TAS as approved by the City Traffic Engineer. *(Recommended by the City Engineering Division)*
3. All internal roads shall be depicted on the plat as dedicated to the public. *(Recommended by City-County Planning)*
4. The subdivider shall depict 8-foot easements on the plat in accordance with the highlighted easement areas indicated on the plat review by the Montana-Dakota Utilities Company. *(Recommended by Montana-Dakota Utilities)*
5. A 1-foot no access strip shall be depicted along the eastern boundaries of Lots 1-5, Block 9, in order to restrict access from South 12th Street West. *(Recommended by City-County Planning)*
6. Section 2.B. shall further include "The Montana Fish, Wildlife, and Parks Department does not provide assistance unless there is damage to commercial crops or a threat to public health and safety." *(Recommended by the Montana Fish, Wildlife, and Parks Department)*
7. The subdivider shall work with the Alternative Modes Coordinator and the Parks and Recreation Department regarding the legal language for the proposed Heritage Trail Easement located along the southern boundary of the subject property. The finalized easement document shall be submitted with the final plat application. *(Recommended by the Alternative Modes Coordinator)*
8. The proposed Heritage Trail easement shall be widened to 20-feet in order to accommodate maintenance vehicles. *(Recommended by the Alternative Modes Coordinator))*

9. The subdivider shall provide legal documentation that the Heritage Trail can be constructed across the Suburban Ditch and a bridge compliant with ADA standards can be constructed across the ditch. *(Recommended by the Parks and Recreation Department)*
10. Information regarding who is responsible for the construction of the proposed bridge crossing and Heritage Trail improvements shall be stated in the SIA. Additional information regarding how the proposed Heritage Trail will cross South 12th Street shall be provided. *(Recommended by the Parks and Recreation Department)*
11. The applicant shall work with the Parks and Recreation Department to develop a complete park master plan to be reviewed and adopted by the City Council. A park maintenance district shall be created for the maintenance of the parks within the proposed subdivision. *(Recommended by the Parks and Recreation Department)*
12. The plat shall be amended to include the revised parkland dedication north of the Suburban Ditch and the 20-foot wide Heritage Trail easement with modifications to acreage, as required by the Parks and Recreation Department. *(Recommended by the Parks and Recreation Department)*
13. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
14. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

The Billings City Council also approved the following variances from the City Subdivision Regulations with the preliminary plat approval:

- A variance from Section 23-602(a), BMCC, which specifies that an alley shall be provided in commercial and industrial districts.
- A variance from Section 23-601(f), BMCC, which specifies that continuations of streets in contiguous territory shall be so aligned as to ensure that their centerlines coincide and have matching names.
- A variance to permit 50-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets.
- A variance from Section 23-605(d), BMCC, which states that double frontage lots should be avoided.

Should you have questions please contact Aura Lindstrand with the Planning Department at 247-8663 or by email at lindstranda@ci.billings.mt.us.

Sincerely,

Charles F. Tooley, Mayor

Pc: Rick Leuthold, Engineering, Inc.

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

X

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Preliminary Plat of Riverfront Pointe Subdivision
DEPARTMENT: Planning and Community Services, Ramona Mattix, AICP, Planning Director
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On March 1, 2005, the owner of the subject property applied for preliminary major plat approval for Riverfront Pointe Subdivision, which contains 175 lots on approximately 74 acres of land. The City Council will review the preliminary plat and approve, conditionally approve, or deny the proposed subdivision at the May 9, 2005, meeting. The owner is Regal Land Development, Inc. and the representing agent is Engineering, Inc.

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

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property may further develop, resulting in additional tax revenues for the City. However, it is unknown if the value of these proposed homes will generate sufficient taxes and fees to pay for the required services.

RECOMMENDATION

The Yellowstone County Board of Planning recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, approval of the variances, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

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

INTRODUCTION

On March 1, 2005, the owner of the subject property applied for preliminary major plat approval for Riverfront Pointe Subdivision, which contains 175 lots on approximately 74 acres of land; five (5) lots are proposed for commercial uses, approximately eight (8) lots are proposed for multi-family residential uses, and 162 lots are proposed for single-family/duplex uses. The Yellowstone County Board of Planning conducted a public hearing on this proposed subdivision on April 26, 2005, and recommends that the Billings City Council conditionally approve this preliminary plat and the requested variances.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Division on March 1, 2005.
- A departmental review meeting was conducted with the subdivider and their representative on March 17, 2005.
- The preliminary plat was resubmitted with revisions based on department reviews on March 24, 2005.
- The Planning Board reviewed the plat on April 12, 2005.
- The Planning Board conducted a public hearing on April 26, 2005, and forwarded a recommendation to the City Council.
- The City Council will consider the preliminary plat on May 9, 2005.

BACKGROUND

On March 1, 2005, the Planning Department received a preliminary plat application for Riverfront Pointe Subdivision. The subject property contains approximately 74 acres to be developed into 175 commercial, single-family, and multi-family residential lots. The property contains an existing single-family residence with various outbuildings on proposed Lot 17, Block 10 and the proposed parkland area. As a result of this application, the outbuildings will be removed in order to allow the development of the park. The single-family residence will be maintained until such time that Lot 17, Block 10 is developed for a commercial use. The subdivider is proposing a phased development; Phase 1 will include the proposed commercial lots, most of the residential lots west of the centerline of the subject property, and the proposed park located along the southern boundary of the property. As indicated by the applicant's representative, the proposed commercial uses will likely be services for the subdivision, however at this time, the subdivider does not wish to limit the uses from those permitted within the Highway Commercial (HC) zoning district.

The subject property is bordered on the north by commercial uses including an auto detail shop, on the south by the Holy Cross Cemetery, and on the east and west by agricultural land and single-family residences.

General location:

South of the West Billings Interchange; From Mullowney Lane to South 12th Street West northeast of the intersection of Elysian Road and Mullowney Lane

Legal Description:

SW1/4 Section 17, T1S, R26E

Subdivider:	Regal Land Development, Inc.
Owner:	Same
Engineer and Surveyor:	Engineering Inc.
Existing Zoning:	Highway Commercial
Existing land use:	Single-Family Residence with Cultivated Agricultural Land
Proposed land use:	Commercial and Residential Uses
Gross area:	74.56 acres
Net area:	54.81 acres
Proposed number of lots:	175
Lot size:	Max: 6,600 square feet Min.: 177,890 square feet (4.08 acres)
Parkland requirements:	Subdivider is proposing to dedicate 6.10 acres of parkland within the subdivision.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

In order to mitigate the effects on agriculture and agricultural water users' facilities, local services, the natural environment, wildlife and wildlife habitat and protect public health, safety and welfare, the planning staff recommends the following conditions of approval:

1. Further lot sale restrictions shall be identified in the Subdivision Improvements Agreement (SIA) for any lots used for storm drain detention beyond the phasing identified in the SIA. *(Recommended by the City Engineering Division)*
2. Due to concerns regarding the access restrictions for the commercial lots along Mullowney Lane and the trip distribution assumptions used in the TAS update, the plat and SIA shall conform to the recommendations in the final TAS as approved by the City Traffic Engineer. *(Recommended by the City Engineering Division)*
3. All internal roads shall be depicted on the plat as dedicated to the public. *(Recommended by City-County Planning)*
4. The subdivider shall depict 8-foot easements on the plat in accordance with the highlighted easement areas indicated on the plat review by the Montana-Dakota Utilities Company. *(Recommended by Montana-Dakota Utilities)*
5. A 1-foot no access strip shall be depicted along the eastern boundaries of Lots 1-5, Block 9, in order to restrict access from South 12th Street West. *(Recommended by City-County Planning)*
6. Section 2.B. shall further include "The Montana Fish, Wildlife, and Parks Department does not provide assistance unless there is damage to commercial crops or a threat to public health and safety." *(Recommended by the Montana Fish, Wildlife, and Parks Department)*
7. The subdivider shall work with the Alternative Modes Coordinator and the Parks and Recreation Department regarding the legal language for the proposed Heritage Trail Easement located along the southern boundary of the subject property. The finalized easement document shall be submitted with the final plat application. *(Recommended by the Alternative Modes Coordinator)*
8. The proposed Heritage Trail easement shall be widened to 20-feet in order to accommodate maintenance vehicles. *(Recommended by the Alternative Modes Coordinator)*
9. The subdivider shall provide legal documentation that the Heritage Trail can be constructed across the Suburban Ditch and a bridge compliant with ADA standards can be constructed across the ditch. *(Recommended by the Parks and Recreation Department)*
10. Information regarding who is responsible for the construction of the proposed bridge crossing and Heritage Trail improvements shall be stated in the SIA.

Additional information regarding how the proposed Heritage Trail will cross South 12th Street shall be provided. *(Recommended by the Parks and Recreation Department)*

11. The applicant shall work with the Parks and Recreation Department to develop a complete park master plan to be reviewed and adopted by the City Council. A park maintenance district shall be created for the maintenance of the parks within the proposed subdivision. *(Recommended by the Parks and Recreation Department)*
12. The plat shall be amended to include the revised parkland dedication north of the Suburban Ditch and the 20-foot wide Heritage Trail easement with modifications to acreage, as required by the Parks and Recreation Department. *(Recommended by the Parks and Recreation Department)*
13. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
14. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance from Section 23-602(a), BMCC, which specifies that an alley shall be provided in commercial and industrial districts. The City Council and/or Planning Board may waive this requirement, provided that other definite and assured provisions are made for adequate service access. Due to the restricted accesses to the commercial lots along Mallowney Lane, 40-foot controlled access points, the construction of additional service roads or alleys is precluded for these lots. Staff finds that adequate service access has been provided for the site and that the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance from Section 23-601(f), BMCC, which specifies that continuations of streets in contiguous territory shall be so aligned as to ensure that their centerlines coincide and have matching names. The proposed entrances to the subdivision align with Interstate Avenue and Titan Avenue located along the western border of Mallowney Lane, however the applicant has requested alternate names in order to match the theme of the proposed subdivision. The Fire Department, as well as the Engineering Division stated that there were no concerns with this proposal, provided that the names of the proposed internal streets do not conflict with names elsewhere in the City or County. The County GIS department did review this application and noted only one name change for an internal road located on the eastern portion of the site, now named Prairie Meadow Lane. Staff finds that the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance to permit 50-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets. Engineering staff is supportive of this variance, as a 50-foot width is adequate to accommodate the proposed traffic generation for the subdivision. Similar variances have been approved by the City Council, provided that a 5-foot easement for sidewalks, street lights, and fire hydrants is provided on both sides of the right-of-way. Furthermore, the proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance from Section 23-605(d), BMCC, which states that double frontage lots should be avoided. As depicted on the plat, proposed Lots 1-5, Block 9, will be bordered on the west by Prairie Meadow Lane and on the east by South 12th Street West. Staff finds that this variance is acceptable, provided that a 1-foot no access strip is provided along the eastern boundaries of the lots in order to prevent access from 12th Street West. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

STAKEHOLDERS

A public hearing was conducted on April 26, 2005. There was no public comment received at that meeting or any additional public input up until the time that this staff report was submitted.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the Transportation Plan and Heritage Trail Plan is discussed within the Findings of Fact.

RECOMMENDATION

The Yellowstone County Board of Planning recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, approval of the variances, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

- E. Preliminary Plat & Master Plan
- F. Site photographs
- G. Findings of Fact
- H. Mayor's approval letter

ATTACHMENT A

Preliminary Plat of Riverfront Pointe

PRELIMINARY PLAT OF
RIVERFRONT POINTE SUBDIVISION
SITUATED IN THE SW 1/4 OF SECTION 17, T. 1 S., R. 26 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: REGAL LAND DEVELOPMENT, INC.
PREPARED BY: ENGINEERING, INC.
SCALE: 1" = 100'

MARCH, 2005
BILLINGS, MONTANA



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SOUTH	= PUBLICS
EAST	= AG. OPEN
WEST	= HIGHWAY COMMERCIAL/AG. OPEN
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL DEVELOPMENT/COMMERCIAL

VICINITY MAP



ATTACHMENT B
Site Photographs



Figure 1: View from the center of the property along Mallowney Lane south toward the existing single-family home on proposed Lot 17, Block 10.



Figure 2: View from the center of the property along Mallowney Lane north toward the commercial uses on the adjacent properties.



Figure 3: View from the center of the property southeast toward the existing outbuildings located on the future park.



Figure 4: View from the center of the property looking east along the western boundary of the proposed commercial lots.



Figure 5: View from Muldowney Lane toward the adjacent agricultural uses to the west.

ATTACHMENT C

Findings of Fact

The Planning Board is forwarding the recommended Findings of Fact for Riverfront Pointe Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [YCSR Section 3(C)(3)(a) and MCA 76-3-608 (3) (a)]

1. Effect on agriculture and agricultural water user facilities

The subject property currently contains a single-family residence and agricultural land, which has been utilized for crop production in previous years.

There is a 25-foot wide Suburban Ditch Easement located along the southern boundary of the subject property, which is utilized by properties to the east. No changes are proposed for this ditch as indicated in the submitted Subdivision Improvements Agreement (SIA). In addition, there is a Canyon Creek Lateral located along the eastern border of Mullowney Lane that services this property. This lateral will be eliminated at the head gate once the subdivision has substantially developed. No changes in alignment or alterations are proposed to this lateral at this time.

2. Effect on local services

- j. **Utilities** – Water to the subject property will be extended from the existing 16-inch water main in South 12th Street West and the 12-inch water mains located within Holiday Avenue and Mullowney Lane. An additional 16-inch water main will be installed in proposed Sacagawea Drive from South 12th Street West to Mullowney Lane to serve the proposed subdivision. Sewage disposal for the subdivision will be via an existing 24-inch trunk sewer main located within South 12th Street West from Midland Road to Sacagawea Drive. This 24-inch main will be extended for improvements to Phase I and an additional 8-inch lateral sewer line will be constructed within proposed Boundary Waters Circle, Glacier Peak Circle, Frontier Drive, Denali Drive, and Sacagawea Drive.

Private utilities will be extended to this property utilizing 8-foot easements, as required by the Montana-Dakota Utilities Company (Condition #3).

- k. **Stormwater** – As specified in the submitted Subdivision Improvements Agreement (SIA), stormwater will be retained onsite through a combination of surface drainage and curbs and gutters that drain to underground storage. Phase I of the development will utilize an interim detention pond located on Lot 16, Block 10, until an outfall for stormwater has been approved and constructed. There is also a 60-foot stormwater easement located along the southern boundary of the property to provide for the future construction of a trunk storm drain. At the time of connection to the City system, the

detention areas can be eliminated and the existing storm drain lines can become part of the City system. All street drainage improvements, detention ponds, and development on the lots shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual*.

1. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- m. **Streets** - Access to the proposed subdivision will be via Mullooney Lane and South 12th Street West, which are existing City right-of-ways bordering the subject property on the east and west. Improvements to Mullooney Lane will include standard curb, gutter and paving to the 26-foot half-width (center point) of the street adjacent to the west of the proposed commercial lots. Improvements to South 12th Street West will include curb, gutter, and asphalt to a half width of 32 feet (center point) along the western boundary of the road adjacent to proposed lots 1-5, Block 9. A 5-foot wide boulevard sidewalk is to be installed with the improvements along the east side of Mullooney Lane and the 7-foot wide curbwalk is proposed on the west side of South 12th Street West.

All of the lots will be accessed utilizing interior streets, which will be constructed with standard curb and gutter and 37-feet of pavement from back of curb to back of curb, with the exception of Sacagawea Drive and Frontier Drive. These streets will begin with a 49-foot pavement width at Mullooney Lane and transition to a 37-foot pavement width at South 12th Street West. Though the proposed pavement widths satisfy the standards necessary for emergency vehicle access and traffic circulation, the subdivider has requested a variance to permit 50-feet of right-of-way where 60-feet is required. Staff is supportive of this variance, provided that 5-foot easements are provided on each side of the street to accommodate sidewalks, street lights, and fire hydrants. Internal sidewalks will include 4-foot wide boulevard walks on each side of the street.

A Traffic Accessibility Study (TAS) update was submitted with the application, as well as the original TAS for Weil Subdivision located directly adjacent to the north of the subject property. The TAS was reviewed by the Engineering Division expressed concerns regarding the access restrictions for the commercial lots along Mullooney Lane and the trip distribution assumptions used in the update. As such, Condition #2 requires that the plat and SIA conform to the recommendations in the final TAS as approved by the City Traffic Engineer.

- n. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West (Station #5). The subdivision is located within the ambulance service area of American Medical Response(AMR). In their review AMR stated that there are no necessary changes required for staffing at this time, however, as the City expands additional staff will be required.
- o. **Schools** – The subdivision is located within School District #2. No comments have been received from School District #2.

p. Parks and Recreation – As part of this major plat, the subdivider is required to provide 6.03 acres of dedicated parkland. As indicated on the submitted plat, the subdivider is proposing to provide approximately 6.14 acres of parkland along the southern boundary of the property. The proposed parkland acreages include the 60-foot storm drain and ditch located along the southern boundary of the property. The Parks and Recreation Department has stated in their review that it is not desirable to accept parkland that includes a ditch and stormwater drainage area due to health, safety, and maintenance concerns. As required by Condition #12, the parkland dedication shall be revised, as follows:

- Dedicate 2.8 acres north of the Suburban Ditch to the western boundary of proposed Lot 16, Block 10.
- Dedicate parkland for the Heritage Trail, approximately 1.21 acres (20 ft. x 2640 ft.)
- Provide a cash-in-lieu payment for the remaining 2.02 acres to satisfy the parkland requirement.

Condition #11 requires the applicant to work with the Parks and Recreation Department to create a master plan to be adopted by the City Council. Furthermore, as park maintenance district shall be created for the maintenance of the proposed park.

3. Effect on the natural environment

There should be minimal effects on the natural environment with the development of this subdivision. The subdivision is located in an area that is relatively level and has been used for crop production. There is commercial development to the north of this property, as well as residential development to the west.

Soils – The Soil Survey of Yellowstone County indicates that the soils in this area consist of predominately silty clays, which with the high water table in this area have a potential for flooding, shrinking, and swelling. The movement of these layers can cause shifting in footings and structural damage to foundations if not properly designed. A note has been added to the SIA regarding the presence of these soils and that a geotechnical study may be required with building permit submittals.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the General Conditions the Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is in close proximity to prime deer, antelope and wild turkey habitat and it is likely that homeowners will experience damage to landscaping. As required by Condition #5, the statement shall be amended to include that the Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

5. Effect on the public health, safety and welfare

There are no known health or safety hazards on the property. This property is not within a mapped floodway or flood zone.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and YCSR Section 11)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? [YCSR Section 3 (C)(3)(b)]

1. Yellowstone County-City of Billings 2003 Growth Policy

- f. **Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns (p. 5).**

The proposed subdivision is consistent with the surrounding residential and commercial uses.

- g. **Goal: More housing and business choices within each neighborhood (p. 6).**

The proposed subdivision would provide for more housing choices within this portion of the city through the proposed mixture of multi-family, duplexes, and single-family residential uses. Furthermore, the proposal will also provide commercial amenities within close proximity of the existing and proposed residences.

- h. **Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 10).**

The proposed subdivision will provide public streets improved to city standards that connect with existing streets. Thus, creating more efficient transportation connections and ease of traffic flow.

- i. **A well maintained network of safe and interconnected sidewalks (p. 10).**

As part of this subdivision, the subdivider will be providing internal sidewalks for the development, as well as external sidewalks along Mallowney Lane and South 12th Street West.

- j. **Goal: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness (p. 9).**

The subdivider has proposed a Heritage Trail easement along the southern boundary of the site, which will be connected to Riverfront Park and the Conservation

Education Center to the east as additional properties develop. Additionally, the applicant has proposed two (2) 6-foot wide bike lanes along Mallowney Lane.

2. Urban Area 2000 Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The subdivision is not identified on the Heritage Trail Plan; however, the Alternative Modes Coordinator has indicated that the preservation of a trail corridor is desirable due to the close proximity of the subdivision to Riverfront Park and the Conservation Education Center. As indicated on the submitted plat, the subdivider is proposing a 10-foot wide Heritage Trail easement along the southern boundary of the property. Additionally, Condition #8 requires that the proposed Heritage Trail easement, which is to be dedicated as parkland, be widened to 20-feet in order to accommodate maintenance vehicles.

Mallowney Lane is depicted within the Transportation Plan as a Primary District Connector for a bikeway. As such, the applicant has proposed two (2) 6-foot bike lanes on Mallowney Lane and the Heritage Trail along the northern boundary of the Suburban Ditch for construction in Phase I. The proposed Trail does cross the ditch at the boundary line for Phase I, as depicted on the plat, therefore, Condition # 9, requires the subdivider to provide written documentation that a bridge is permitted across the Suburban Ditch. This crossing shall be reviewed and approved by the Parks and Recreation Department for ADA compliance. Additional information shall be added to the SIA regarding who is responsible for the construction and associated costs of the trail and the bridge is required by Condition #10.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and YCSR Section 3(C)(3)(d)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in 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.

1. Does the subdivision conform to sanitary requirements? [YCSR Section 3(C)(3)(e)]

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

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [YCSR Section 3(C)(3)(f)]

The subject property is located within the Highway Commercial (HC) zoning district. Section 27-310(e)(1), BMCC, specifies that dwelling units within commercial and industrial zoning districts shall satisfy the standards set forth within the Residential Multi-Family Restricted (RMF-R) zoning district. Any commercial development will be required to satisfy the standards

set forth for the Highway Commercial (HC) zoning district, including setbacks, buffer areas, and lot coverages. In addition, since the proposed commercial properties abut residential uses to the east, landscaping buffers and/or fences will be required to help mitigate impacts on those properties at the time of site plan development.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and YCSR Section 3(C)(3) (g)]

As required by Condition #3, the applicant shall provide 8-foot utility easements, where indicated on the plat review submitted by the Montana-Dakota Utilities Company.

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 YCSR Section 3(C)(3)(h)]

Legal and physical access to the proposed subdivision will be provided through dedicated right-of-ways off of Mullowney Lane and South 12th Street West.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Riverfront Pointe Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, May 9, 2005.

Charles F. Tooley, Mayor

ATTACHMENT D
Mayor's Approval Letter

May 9, 2005

Regal Land Development, Inc.
P.O. Box 80445
Billings, Montana

Dear Sirs:

On May 9, 2005, the Billings City Council conditionally approved the preliminary plat of Riverfront Pointe Subdivision. The conditions of approval are as follows:

4. 1. Further lot sale restrictions shall be identified in the Subdivision Improvements Agreement (SIA) for any lots used for storm drain detention beyond the phasing identified in the SIA. *(Recommended by the City Engineering Division)*
5. Due to concerns regarding the access restrictions for the commercial lots along Mullooney Lane and the trip distribution assumptions used in the TAS update, the plat and SIA shall conform to the recommendations in the final TAS as approved by the City Traffic Engineer. *(Recommended by the City Engineering Division)*
6. All internal roads shall be depicted on the plat as dedicated to the public. *(Recommended by City-County Planning)*
7. The subdivider shall depict 8-foot easements on the plat in accordance with the highlighted easement areas indicated on the plat review by the Montana-Dakota Utilities Company. *(Recommended by Montana-Dakota Utilities)*
8. A 1-foot no access strip shall be depicted along the eastern boundaries of Lots 1-5, Block 9, in order to restrict access from South 12th Street West. *(Recommended by City-County Planning)*
9. Section 2.B. shall further include "The Montana Fish, Wildlife, and Parks Department does not provide assistance unless there is damage to commercial crops or a threat to public health and safety." *(Recommended by the Montana Fish, Wildlife, and Parks Department)*
10. The subdivider shall work with the Alternative Modes Coordinator and the Parks and Recreation Department regarding the legal language for the proposed Heritage Trail Easement located along the southern boundary of the subject property. The finalized easement document shall be submitted with the final plat application. *(Recommended by the Alternative Modes Coordinator)*
11. The proposed Heritage Trail easement shall be widened to 20-feet in order to accommodate maintenance vehicles. *(Recommended by the Alternative Modes Coordinator)*

12. The subdivider shall provide legal documentation that the Heritage Trail can be constructed across the Suburban Ditch and a bridge compliant with ADA standards can be constructed across the ditch. *(Recommended by the Parks and Recreation Department)*
13. Information regarding who is responsible for the construction of the proposed bridge crossing and Heritage Trail improvements shall be stated in the SIA. Additional information regarding how the proposed Heritage Trail will cross South 12th Street shall be provided. *(Recommended by the Parks and Recreation Department)*
14. The applicant shall work with the Parks and Recreation Department to develop a complete park master plan to be reviewed and adopted by the City Council. A park maintenance district shall be created for the maintenance of the parks within the proposed subdivision. *(Recommended by the Parks and Recreation Department)*
15. The plat shall be amended to include the revised parkland dedication north of the Suburban Ditch and the 20-foot wide Heritage Trail easement with modifications to acreage, as required by the Parks and Recreation Department. *(Recommended by the Parks and Recreation Department)*
16. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
17. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

The Billings City Council also approved the following variances from the City Subdivision Regulations with the preliminary plat approval:

- A variance from Section 23-602(a), BMCC, which specifies that an alley shall be provided in commercial and industrial districts.
- A variance from Section 23-601(f), BMCC, which specifies that continuations of streets in contiguous territory shall be so aligned as to ensure that their centerlines coincide and have matching names.
- A variance to permit 50-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets.
- A variance from Section 23-605(d), BMCC, which states that double frontage lots should be avoided.

Should you have questions please contact Aura Lindstrand with the Planning Department at 247-8663 or by email at lindstranda@ci.billings.mt.us.

Sincerely,

Charles F. Tooley, Mayor

Pc: Rick Leuthold, Engineering, Inc.

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

Y

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Estates at Briarwood--Final Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

PROBLEM/ISSUE STATEMENT: This final plat is being presented to the City Council for approval. The preliminary plat was approved by the Council on July 12, 2004. The subject property is zoned Planned Unit Development underlying districts of R-9600 and Residential Multi-Family (lots 1-4 of Block 4) and is located north of McMasters Road and Ridgewood Estates and will create new street frontage. The subdivision will create 27 lots for residential 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 27 residential lots will increase the City's tax revenue on this parcel.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of the Estates at Briarwood.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Menholt Subdivision Amended Lot 1, Block 1 -- 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 September 13, 2004. The subject property is zoned Controlled Industrial and is located west of 29th Street West and south of King Avenue West and will not create new street frontage. The subdivision will create one (1) additional lot from an existing 11 acre parcel. The new lot will have access off Cel Avenue a local access street. 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 one (1) additional lot for commercial uses will increase the City's tax revenue on this parcel.

RECOMMENDATION

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

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Payment of Claims
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,152,395.51 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 8, 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, May 9, 2005

TITLE: Payment of Claims
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,115,999.96 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 15, 2005 is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT:

A -- List of claims greater than \$2500

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

MONDAY, May 9, 2005

SUBJECT: Public Service Report and Public Hearing, Annexation 05-02, 40.5 acres of unplatted land, proposed Bishop Fox Subdivision

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

PROBLEM/ISSUE STATEMENT: The petitioners and owners, Bishop Fox Company, are requesting approval of the petition to annex a portion of the W1/2,W1/2,SW1/4 Section 32, T. 1N, R. 25 E., containing approximately 40.5 acres, in accordance with 7-2-4601 et. seq., MCA. The owners are requesting annexation in order to obtain municipal sewer and water for a proposed 5-lot commercial and residential subdivision being reviewed concurrently with the petition to annex. This public service report is being presented for Council's consideration at this time.

ALTERNATIVES ANALYZED: The City Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. Generally, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

A. Resolution

INTRODUCTION

The owner submitted a petition for annexation on March 7, 2005, for a 40.5-acre property located on the east side of 54th Street West, north of Grand Avenue. The owner also submitted a 5-lot minor preliminary subdivision plat application on March 15, 2005. Upon annexation the zoning of the property will automatically convert from Agricultural- Open Space to Residential-9,600 however the applicant submitted a zone change application concurrent with the annexation petition. The zone change application #756 was approved on first reading by the City Council on April 25, 2005 and will be heard for 2nd reading on May 9, 2005. The owners plan to develop this property for commercial uses, a new Episcopal Church campus, provide a lot for the development of a new fire station to serve the West Billings neighborhood and develop several acres for single family housing. The City approved expansion of the Urban Planning Area on April 22, 2002 to include this property along with an additional 4,350 acres in the West Billings area.

PROCEDURAL HISTORY

- Request for Urban Planning Area expansion approved April 22, 2002.
- Petition for annexation and subdivision submitted March 7, 2005.
- Request for a zone change submitted March 7, 2005.
- City Council voted on April 25, 2005, to acknowledge receipt of the petition for annexation and set a date for public hearing on May 9, 2005.
- If the Council approves the petition for annexation, it shall hold the First Reading and Public Hearing on a resolution to adjust the City Council Ward boundaries on June 13, 2005 and the Second Reading on June 27, 2005.
- Concurrent applications:
 - Preliminary plat application for the Bishop Fox Subdivision will be presented to Council for its action on April 25, 2005.
 - First reading of Zone Change #756 will be presented to the City Council on April 25, 2005. The second reading of the zone change is scheduled for May 9, 2005.

BACKGROUND

The Urban Planning Study that incorporated this property and an additional 4,350 acres in the West Billings area was previously approved by City Council in 2002. The approval of the Study and expansion of the Urban Planning Area is required prior to annexation of any property to the City of Billings. This petition for annexation is for a 40.5-acre parcel located north of Grand Avenue and east of 54th Street West.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation complies with the recently adopted Annexation Policy criteria as follows:

1. The area is located within the Limits of Annexation and within the Urban Planning Area.
2. The City is able to provide adequate services.
3. The proposed improvements meet City standards.

4. Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
5. Residential densities will be approximately 4 to 8 dwelling units per acre.
6. The proposed annexation meets the goals of the City-County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments and Yellowstone County were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. All City departments responded favorably. No comments were received from School District #2.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service is available adjacent to the subject property in Grand Avenue and 54th Street West. An existing 12-inch main is located within 54th Street West right-of-way and will provide for a future connection to the property.

Sewer: A 15-inch sanitary sewer line is located in 54th Street West which provides options for future connections. The future subdivision will connect to City sewer and pay the required construction and system development fees. Individual services will be required to pay connection fees.

Stormwater: Stormwater runoff will be detained on-site and the stormwater collection facilities will be designed and constructed in accordance with City regulations at time of development.

Transportation: The annexation area is located near the intersection of Grand Avenue and 54th Street West. Both routes are classified as arterials. Upon approval of the subdivision, the subdivider will be contributing financially to improvements at the intersection of Grand Avenue and 54th Street West and Rimrock Road and 54th Street West. The subdivider will also dedicate 60 feet of right-of-way to the City and financially secure the cost of improvements to this part of Grand Avenue and 54th Street West.

Fire Stations: Primary fire protection will be provided by Fire Station #3 at 1928 17th St. West. A new fire station is planned for proposed Lot 2 of the proposed Bishop Fox Subdivision. When completed, this fire station will service this subdivision and the West Billings neighborhood.

Parks: The area to be annexed is within the benefited area of the future Cottonwood Park. Upon approval of future subdivisions, the subdivider will contribute funding towards the development of this park and the subdivision will become part of the Cottonwood Park

Maintenance District. Additional park facilities may be dedicated within future subdivisions and will be required to be constructed at the time of those future subdivisions.

Bicycle and pedestrian facilities: The future subdivision will be required to install sidewalks at the time of development. 54th Street West is identified as an on-street connector in the Heritage Trail Plan. When 54th Street West is improved in the future, on-street striping for bike lanes will be provided.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

Transit: MET does not regularly serve this area, but paratransit services will be provided.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area.

Police: The Police Department had no objection with this annexation request.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: General Fund services such as Legal and Finance have indicated that they will not be negatively impacted.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Gazette. The Planning Division has received no comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

There are two land use plans that guide development in the vicinity of the Study Area; The West Billings Plan and the 2003 Growth Policy.

The annexation is consistent with the following Growth Policy goals:

- Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
- More housing and business choices within each neighborhood (Land Use Element Goal, page 6)
- A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness (Open Space and Recreation Element Goal, page 8).

- Safe traffic speeds consistent with the surrounding uses (Transportation Element Goal, page 9).
- Visually appealing rights-of-way that serve the needs of all uses (Transportation Element Goal, page 10).

The annexation is *not* consistent with these goals:

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, page 6).
- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6).

The annexation is generally consistent with the West Billings Plan's policies.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

ATTACHMENTS

- A. Resolution

RESOLUTION NO. 05-

A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITIONS FOR ANNEXATION
AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of Unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana; Being bounded on the south side by Certificate of Survey No 1877, on the west side by Amended Plat of Lot 65A of the Amended Lots 65-68, 93-100 and 125-128 of Sunny Cove Fruit Farms, and on the north by Certificate of Survey No 1952.

Containing 40.568 gross and net acres, more or less.

(Annexation 05-02)

2. CONDITIONS. The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- a. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 9th day of May, 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley, MAYOR

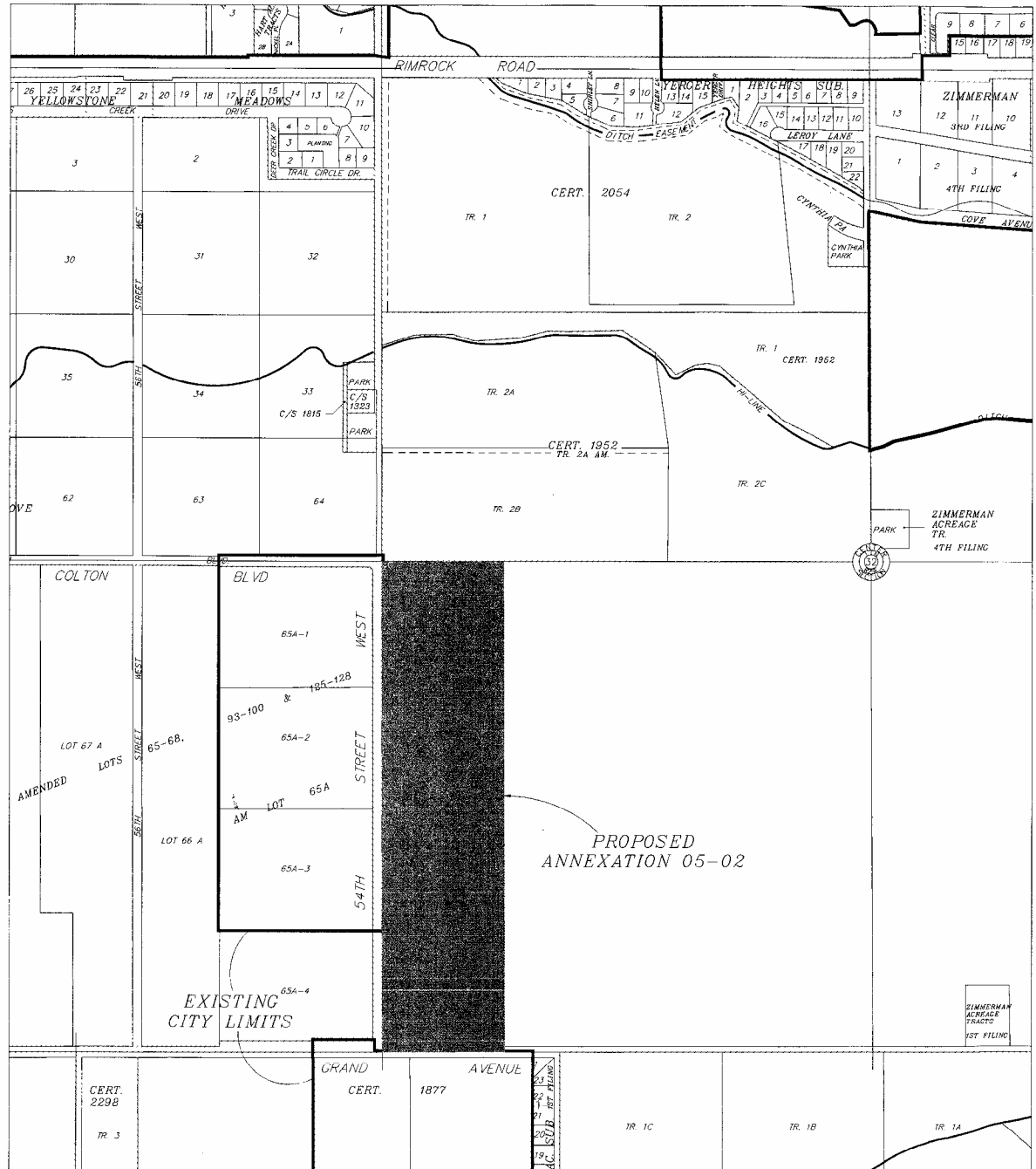
ATTEST:

BY: _____

Marita Herold, CMC/AAE CITY CLERK

(AN 05-02)

EXHIBIT 99 A



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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
MONDAY, MAY 9, 2005

SUBJECT: Public Service Report and Public Hearing Annexation 05-03,
Certificate of Survey 1877, Tract 3

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: The petitioner and owner, DC Capital Real Estate, LLC, is requesting approval of the petition to annex a portion of the E1/2NW1/4 Section 4, T. 1S., R. 25 E., containing approximately 25 acres, in accordance with 7-2-4601 et. seq., MCA. The owner is requesting annexation in order to obtain municipal sewer and water for a proposed 57-lot residential subdivision. This public service report describes the City's capacity to serve the proposed development.

ALTERNATIVES ANALYZED: The City Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. While the annexation will increase the City's tax base, in general, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

2. That prior to development of the site the following shall occur:
 - b. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - c. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District and developing a neighborhood park within the subdivision.

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

ATTACHMENT

A. Resolution

INTRODUCTION

The owner submitted a petition for annexation for a 25-acre property located southeast of the intersection of Grand Avenue and 54th Street West on November 1, 2004. The owner also intends to submit a 57-lot preliminary subdivision plat application in the near future. Upon annexation the zoning of the property will automatically convert from Agricultural- Suburban to Residential-9,600. The owner plans to develop this property for single family residential use. The City approved expansion of the Urban Planning Area on April 22, 2002, to include this property along with an additional 4,350 acres in the West Billings area.

PROCEDURAL HISTORY

- Request for Urban Planning Area expansion approved April 22, 2002.
- Petition for annexation and subdivision submitted November 1, 2004.
- City Council voted to acknowledge receipt of the petition for annexation and set a date for public hearing on April 25, 2005.
- If the Council approves the petition for annexation, it shall hold the First Reading and Public Hearing on a resolution to adjust the City Council Ward boundaries on May 23, 2005, and the Second Reading on June 13, 2005.

BACKGROUND

The Urban Planning Study that incorporated this property and an additional 4,350 acres in the West Billings area was previously approved by City Council in 2002. The approval of the Study and expansion of the Urban Planning Area is required prior to annexation of any property to the City of Billings. This petition for annexation is for a 25-acre parcel located south of Grand Avenue and west of 52nd Street West.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation complies with the recently adopted Annexation Policy criteria as follows:

- The area is located within the Limits of Annexation and within the Urban Planning Area.
- The City is able to provide adequate services.
- The proposed improvements meet City standards.
- Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
- Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
- Residential densities will be approximately 4 dwelling units per acre.
- With the exception of being contiguous to existing City limits, the proposed annexation meets the goals of the City-County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan

including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments and Yellowstone County were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. All City departments responded favorably. No comments were received from School District #2. Yellowstone County requested that upon subdivision approval, 52nd Street West be improved to County road standards and the names of connecting roadways be continued.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service will be extended from the north through the Vintage Estates Subdivision, First Filing. The water service originates from a 20 inch water main in Grand Avenue.

Sewer: Sewer lines will also be extended from a 27-inch sanitary sewer line located in Grand Avenue through Vintage Estates, First Filing. A temporary lift station may be required to utilize the sewer line in Grand Avenue until a line can be extended south to Central Avenue. The future subdivision will connect to City sewer and pay the required construction and system development fees. Individual services will be required to pay connection fees.

Stormwater: Stormwater runoff will be detained on-site and eventually discharge from this property to the Big Ditch. The stormwater collection facilities will be designed and constructed in accordance with City regulations at time of development.

Transportation: The annexation area is located near what would be the extension of Broadwater Avenue. The Transportation Plan classifies Broadwater and its extensions as collector streets. A portion of Broadwater Avenue is dedicated along the south boundary of the parcel to be annexed. The owners do not intend to incorporate this dedication as part of the future subdivision but would connect a proposed subdivision road with Dovetail Lane to the east and continue north into Vintage Estates Subdivision, First Filing. A connection to the west was platted in the First Filing to continue the east-west connection of this collector route. The proposed meandering alignment of this collector is consistent with the Transportation Plan.

The parcel to be annexed is bordered to the east by 52nd Street West. This right-of-way will be included in the annexation.

Fire Stations: Primary fire protection will be provided by Fire Station #5 located at 604 S. 24th Street West. A new fire station is planned for construction at the corner of 54th Street West and Grand Avenue. This station should be functioning by 2008 and will service this area at that time.

Parks: The area to be annexed is within the benefited area of the future Cottonwood Park. Upon approval of the subdivision, the subdivider will contribute funding towards the development of this park and the subdivision will become part of the Cottonwood Park

Maintenance District. The subdivider also intends on setting aside approximately .5 acres for a neighborhood park. The Parks, Recreation and Public Lands Department has requested that the subdivider form a Park Maintenance District and develop the neighborhood park as the subdivision develops. These requests are included in the resolution of annexation.

Bicycle and pedestrian facilities: The First Filing of Vintage Estates Subdivision dedicated a 20-foot right-of-way along the Big Ditch for a bike path. The parcel to be annexed will have direct access to the bike path through a network of sidewalks and a bridge across the Big Ditch.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

Transit: MET does not regularly serve this area, but paratransit services will be provided.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area. The Fire Department commented on the need for additional resources as a result of this and other annexations.

Police: The Police Department had no objection with this annexation request.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: General Fund services such as Legal and Finance have indicated that they will not be negatively impacted.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Gazette. The Planning Division has received no comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

There are two land use plans that guide development in the vicinity of the Study Area; The West Billings Plan and the 2003 Growth Policy.

The annexation is consistent with the following Growth Policy goals:

- Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
- More housing and business choices within each neighborhood (Land Use Element Goal, page 6)

- A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness (Open Space and Recreation Element Goal, page 8).
- Safe traffic speeds consistent with the surrounding uses (Transportation Element Goal, page 9).
- Visually appealing rights-of-way that serve the needs of all uses (Transportation Element Goal, page 10).

The annexation is *not* consistent with these goals:

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, page 6).
- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6).

The annexation is generally consistent with the West Billings Plan's policies.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District and developing a neighborhood park within the subdivision.

ATTACHMENT

- A. Resolution

RESOLUTION NO. 05-

A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITIONS FOR ANNEXATION
AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the E1/2 NW1/4 of Section 4, T.1S., R.25E., P.M.M.,

Yellowstone County, Montana, more particularly described as:

Certificate of Survey 1877, Tract 3, Recorded April 20, 1979, Under Document

No. 1125965, Records of Yellowstone County, Montana; including all adjacent

right-of-way of 52 Street West and Broadwater Avenue, containing 24.828 gross

acres and 22.763 net acres, more or less. See Exhibit "A" Attached.

(Annexation (# 05-03))

2. CONDITIONS. The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- c. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - d. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District and developing a neighborhood park within the subdivision.
3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 9th day of May, 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley, MAYOR

ATTEST:

BY: _____

Marita Herold, CMC/AAE CITY CLERK

(AN 05-03)

[illegible]

(Back to Regular Agenda)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: Public Hearing and Resolution Renaming Arlene Street to Zimmerman Trail

DEPARTMENT: Public Works Department

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

PROBLEM/ISSUE STATEMENT: During the process of acquiring right of way from the Zimmerman family for the Arlene Street extension project, the Zimmerman family requested the new roadway alignment be named after their family homestead. Their desire is that after the roadway is constructed, and the family homestead is developed, their family's contribution in pioneering Billings will be recognized in the continuation of Zimmerman Trail. The Arlene Corridor project will construct a new arterial street from the south end of what is presently Arlene Street, past Poly Drive, Colton Blvd and Grand Avenue all the way to Broadwater Avenue as part of a major transportation improvement for Billings (W.O. 01-06 Arlene Corridor). This project will connect Highway 3 at Zimmerman Trail south to South 32nd Street West.

ALTERNATIVES ANALYZED:

- Name change from Arlene Street to Zimmerman Trail.
- Leave this section of the new arterial corridor named Arlene Street.

FINANCIAL IMPACT: None.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass a resolution changing the name of Arlene Street to Zimmerman Trail and keep the existing house numbers the same.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS:

Attachment A – Map showing Arlene Street parcels to be affected by the name change (1 page)

Attachment B – Draft Resolution (1 page)

Attachment C – Signed “Consent to Change Name of Arlene Street” forms (17 pages)

INTRODUCTION

The Zimmerman family, with whom the City of Billings negotiated right-of-way for the extension of the Arlene Corridor, is interested in having the Arlene Street section and the new arterial roadway renamed Zimmerman Trail. Construction of the new arterial street is presently underway from the south end of what is presently Arlene Street, past Poly Drive, Colton Blvd to Grand Avenue as part of a major transportation improvement for Billings (W.O. 01-06 Arlene Corridor). The City of Billings is still in negotiation on the section of roadway from Grand Avenue to Broadwater Avenue.

PROCEDURAL HISTORY

- Roy Zimmerman approached City staff regarding his family's desire to have the existing Arlene Street section of the new arterial roadway renamed "Zimmerman Trail" or "Zimmerman Road."
- The Deputy City Attorney provided reference to Montana State Code section 7-14-4112 *Change of name of street* and BMCC Sec. 22-701, 22-702, and 22-703 and outlined the steps necessary to accomplish the name change.
- The Deputy City Attorney wrote to Mr. John Heidema, Customer Service Manager for the United States Postal Service (USPS), on September 4, 2004, explaining the request and asking for the USPS's feedback on the proposed change.
- The City received a response from Mr. Heidema that the USPS has no objection to changing the street name as long as the house numbers remain the same. They further advised that they can set up a program to automatically send a letter addressed to an Arlene Street address to the same address on the new Zimmerman Trail.
- Zimmerman family members canvassed the area and obtained signatures from 17 property owners stating they have no objection to the name change from Arlene Street to Zimmerman Trail.
- City staff prepared draft resolution for City Council consideration May 9, 2005.

BACKGROUND

City staff sees certain advantages to the name change. The northern terminus of Arlene Street is directly across Rimrock Road from what is now the southern terminus of Zimmerman Trail. It would be less confusing if both roadways had the same name. The portion of Zimmerman Trail that now goes from Rimrock Road up to Highway 3 has been an important thoroughfare from the river valley to the bench at the top of the rims for cattle herds, sheep bands, and now automobile drivers since the earliest days of settlement activities in the late 1800's. It is an historic name, and it would help people all along the route to know they are on a street that goes to the top of the rims if the road bore the Zimmerman Trail name all the way from Highway 3 south to Broadwater Avenue.

ALTERNATIVES ANALYSIS

- Pursue a name change from Arlene Street to Zimmerman Trail as specified in MCA 7-14-4112 and BMCC Sec. 22-701, 22-702, and 22-703.
- Leave this section of the new arterial corridor named Arlene Street.

STAKEHOLDERS

The Zimmerman family canvassed the existing Arlene Street residents that will be affected by this proposed street name change. Of the 29 affected properties, 17 property owners signed statements stipulating they understood the proposal and they had no objection to the name change to Zimmerman Trail.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Changing the name of Arlene Street section of the new arterial corridor will provide continuity with the existing Zimmerman Trail.

RECOMMENDATION

Staff recommends that the City Council pass a resolution changing the name of Arlene Street to Zimmerman Trail and keep the existing house numbers the same.

ATTACHMENTS:

Attachment A – Map showing Arlene Street parcels to be affected by the name change (1 page)

Attachment B – Draft Resolution (1 page)

Attachment C – Signed “Consent to Change Name of Arlene Street” forms (17 pages)

RESOLUTION NO. 05-_____

A RESOLUTION PURSUANT TO BILLINGS, MONTANA
CITY CODE ARTICLE 22-7001, RENAMING THE STREET
PRESENTLY NAMED ARLENE STREET, FROM RIMROCK
ROAD SOUTH TO POLY DRIVE, TO ZIMMERMAN TRAIL
AND KEEPING THE HOUSE NUMBERS THE SAME.

WHEREAS, the City Council has authority to change the name of any street or avenue pursuant to Section 22-700, Billings, Montana, City Code (BMCC); and

WHEREAS, the City Clerk published a notice of the public hearing in accordance with Section 22-702, Billings, Montana, City Code (BMCC); and

WHEREAS, the City Clerk mailed a notice of the public hearing to each property owner, or his agent on Arlene Street (from Rimrock Road south to Poly Drive) in accordance with Section 22-701, Billings, Montana, City Code (BMCC); and

WHEREAS, on Monday, _____, the City Council held a public hearing on the renaming of Arlene Street, from Rimrock Road south to Poly Drive; and

WHEREAS, the Billings City Council finds that renaming Arlene Street, from Rimrock Road south to Poly Drive, is in the best interests of the City and the inhabitants thereof.

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

That once a copy of this resolution is filed with the Yellowstone County Clerk and Recorder, the street of Arlene Street, from Rimrock Road south to Poly Drive, is deemed changed to Zimmerman Trail.

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

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley, Mayor

ATTEST:

BY: _____
Marita Herold, CMC/AAE

Tax Code #	Parcel Legal	Parcel Address	Property Owner Name
A24343A	Racquet Club Hgts Sub 2nd 1 5 open area	Rimrock Road	City of Billings
A24345	Racquet Club Heights Sub 2nd Lot 3 Blk 5	2850 Arlene Street	Mark D Wright
A24347	Racquet Club Heights Sub 2nd Lot 6 Blk 5	2820 Arlene Street	Mark D Wright
A24348	Racquet Club Heights Sub 2nd Lot 7 Blk 5	2802 Arlene Street	Theodore R & Janet E
A24350	Racquet Club Heights Sub 2nd Lot 9 Blk 5	2740 Arlene Street	Sharon M Fletcher
A24350A	Racquet Club Heights Sub 2nd Lot 10 Blk 5 Open Area	2802 Arlene Street	Theodore R & Janet E
A24349	Racquet Club Heights Sub 2nd 8 5	2786 Arlene Street	Roxy L Denning
A24351	Racquet Club Heights 2nd 11 5	3505 Racquet Club Drive	Michael W & Linda N C
A24359	Racquet Club Heights Sub 2nd Lot 19 Blk 5 Open Area	Racquet Drive	John & Sheri D Reitz
A08042	Goyer Sub 8 2	2526 Arlene Street	Fary L & Marie E Ott
A08041	Goyer Sub 7 2	2524 Arlene Street	Joseph R Vanderloos
A08040	Goyer Sub 6 2	2522 Arlene Street	Sean & Tamara M Line
A08039	Goyer Sub 5 2	2520 Arlene Street	Edith I Twomey
A08038	Goyer Sub 4 2	2518 Arlene Street	Kenrick C Welch
A08037	Goyer Sub 3 2	2510 Arlene Street	Gregory W & Cinda S
A08035	Goyer Sub E 75' of 1 & 2 2 (less 144.5 sq ft street)(92)	3421 Poly Drive	James H Delano
A08036	Goyer Sub W 60' of 1 & 2 2	3423 Poly Drive	Fred D Weschenfelder
A08027	Goyer Sub 1 1 (less 144.5 sqft street)(92)	3415 Poly Drive	David C & Janet R Wy
A08028	Goyer Sub 2 1	2509 Arlene Street	Robin F Turner
A08029	Goyer Sub 3 1	2513 Arlene Street	Ned & Janice Ashcraft
A08030	Goyer Sub 4 1	2515 Arlene Street	Stewart J & Kimberly Y
A08031	Goyer Sub 5 1	2517 Arlene Street	Triple D Enterprises LL
A08032	Goyer Sub 6 1	2521 Arlene Street	Robert & Michelle Gas
A08033	Goyer Sub 7 1	2525 Arlene Street	Helen Bates
A08034	Goyer Sub 8 1	2529 Arlene Street	Glenna Haaland
A23232A	Racquet Club Heights Sub 1st 4 3	Arlene Street	Yellowstone County
A23230	Racquet Club Heights Sub 1st 1 3	3486 Racquet Drive	McDonald Revocable T
A23242	Racquet Club Heights Sub 1st 12 4	2705 Arlene Street	Robert & Kari Gunn
A23241	Racquet Club Heights Sub 1st 11 4	2741 Arlene Street	Dean G & Brenda M E
A23238	Racquet Club Heights Sub 1st 8 4	2745 Arlene Street	William J & June A Gr
A23237A	Racquet Club Heights Sub 1st 7 4	Arlene Street	City of Billings
A23232B	Racquet Club Heights Sub 1st 1 4	Rimrock Road	City of Billings

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 9, 2005

TITLE: FY2005-2009 Consolidated Plan and FY05-06 Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs

DEPARTMENT: Planning and Development Services

PRESENTED BY: Ramona Mattix and John Walsh

PROBLEM/ISSUE STATEMENT: The City Council previously held a public hearing on the City of Billings FY2005-2006 CDBG and HOME Programs and the FY2005-2009 Consolidated Plan on Monday, April 25, 2005. Council action is now scheduled for May 9th.

ALTERNATIVES ANALYZED: No additional alternatives have been analyzed.

FINANCIAL IMPACT: The public hearing resulted in additional public input on the use of CDBG & HOME resources in Billings. In FY2005/2006 the City has \$957,953 in new CDBG funding and \$678,192 in HOME funding available for allocation this year. An additional \$56,533 in CDBG funding is available to allocate this year from projects that have been canceled or completed and \$44,251 from completed HOME projects, resulting in a total of \$1,014,486 available for allocation in CDBG funding and \$722,443 in HOME funding. Federal revenues received for the CDBG and HOME programs are provided through the U.S. Department of Housing and Urban Development.

RECOMMENDATION

Staff recommends that the City Council approve the City's FY 2005-2009 Consolidated Plan and the allocation of CDBG and HOME funds in the community for FY2005/06. The recommendation on the allocation of FY05/06 funds has been prepared by the City's Community Development (CD) Board.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. 2005-2006 Consolidated Plan Executive Summary (10)
- B. Community Development Board Recommendation (2)

- C. CDBG/HOME Programs FY2005-06 Project Summaries (8)
- D. Task Force Input (5)
- E. FFY05-06 Revenue (1)

INTRODUCTION

The Community Development Board has made recommendations to City Council on the allocation of CDBG and HOME funding for FY2005-2006. On April 25th, the City Council held a public hearing to receive additional public input on the recommendations and the allocation of CDBG and HOME resources in the community.

Also for consideration is the 2005-2009 Consolidated Plan. The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive coordinated fashion utilizing available federal and non-federal resources. The Consolidated Plan includes the one-year Action Plan for FY 2005 which will serve as the budget for the City's FY 2005/2006 CDBG and Home Programs. Project summaries for activities proposed this year are included as Attachment B. The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinley Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinley funds or HOPWA funds and the City's Consolidated Plan is focused on CDBG and HOME activities. The Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

The City Council is asked to consider the input received on April 25th and make a final decision on the FY2005-2006 CDBG and HOME budgets and FY2005-2009 Consolidated Plan on Monday, May 9, 2005.

PROCEDURAL HISTORY

The City of Billings has been receiving CDBG funds since the mid-1970s and HOME funds since the early 1990s. These funds are provided by the Federal government and are primarily targeted in Billings to address the affordable housing and neighborhood revitalization needs of the community. The FY2005-2006 budget represents the 1st year Action Plan to implement the City's 5-Year Consolidated Plan. The Draft FY2005-2009 Consolidated Plan, described below, identifies strategies for the use of housing and community development resources in the community.

In allocating CDBG and HOME resources, the City of Billings goes through an extensive process to gather public input on the use of the funds. This year applications were available at the beginning of December and due at the end of January 2005. Task force input was requested in February and March. The Community Development Board held budget hearings on the use of the CDBG and HOME resources on March 29th and 30th and prepared its recommendation on April 5th. A copy of the priorities of the task forces, as received during this process, is included in Attachment D.

The City Council public hearing on April 25th was part of the 30-day public comment period on the program beginning April 7th and extending to May 7th. The City Council is scheduled to act on the CDBG and HOME programs on May 9th. An application will then be submitted to HUD for its review and the program year will begin July 1, 2005.

BACKGROUND

The April 25th public hearing on the 2005-2009 Consolidated Plan and the FY2005-2006 CDBG/HOME budget was part of the public input process for the use of these funds in the community. Each year the City of Billings requests applications for the use of these funds for housing and community development activities. These applications are then forwarded to the Community Development Board, which prepares its recommendation for the City Council consideration. An important consideration each year is the allocation of CDBG funding for public service activities. The City of Billings is allowed by HUD to allocate 15% of its CDBG resources to nonprofit organizations or other projects classified as public service activities, ranging from daycare to crime prevention activities.

The City is also required to provide no more than 20% of its CDBG funding for administration, fair housing and planning type activities and **must** provide 15% of its annual HOME allocation for activities carried out by nonprofit housing development organizations or CHDOs (Community Housing Development Organizations). CDBG and HOME resources represent the main Federal commitment to communities to address the need to preserve the existing supply of affordable housing and promote the development of new affordable housing. Few other federal, state or local resources are available to address these housing needs.

ALTERNATIVES ANALYZED

The allocation of funding is restricted by the eligibility requirements for CDBG and HOME funding. Projects are focused on activities that promote new affordable housing or preserving the existing supply of affordable housing and those neighborhoods where the affordable housing stock is located. The applications for housing and neighborhood activities are consistent with this focus. The CD Board reviewed the proposed projects and analyzed various alternatives for funding.

STAKEHOLDERS

Stakeholders for the CDBG and HOME programs include:

1. Neighborhood task forces, which are consulted throughout the year regarding neighborhood needs and solutions to those needs utilizing both CDBG and HOME resources. Task forces are asked to comment on or prioritize the applications. These priorities have been provided in Attachment D for your review.

2. Applicants for funding. The City receives applications from a variety of nonprofit organizations which apply for public service funding or for housing funding, such as, Living Independently for Today and Tomorrow and Yellowstone County Council on Aging. A summary of the applicants is included as Attachment C and the complete applicants are available online at <http://www.ci.billings.mt.us/Online/living.php>.
3. The Community Development Board, as an advisory body to the City Council, provides detailed oversight to both the CDBG and HOME programs throughout the year and has gone through an extensive process to prepare its recommendations for City Council consideration.

CONSISTENCY WITH ADOPTED POLICIES OR PLAN

Projects proposed for consideration are consistent with the goals and objectives of the proposed FY2005-2009 Consolidated Plan for the use of CDBG & HOME resources in Billings. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment completed for the City of Billings by Montana State University-Billings Center for Applied Economic Research. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) An aging population and the associated increase in the percentage of the population with disabilities; (3) A slight decrease in the price of rental housing and short term concern over the number of multi-family units scheduled to be constructed in 2005 and 2006; and (4) The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

Strategy #1

Promote the Preservation of the existing supply of affordable housing in the community by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;
- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

Strategy #2

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located by:

- Upgrading the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,
- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

Strategy #3

Promote New Affordable Housing Opportunities by:

- Encouraging the development of new affordable single, multi family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

Strategy #4

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

Strategy #5

Improve the economic conditions of lower income households in the community by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and

- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

Proposed goals and objectives for each of these strategies for FY2005 through FY2009 are identified in the Executive Summary of the Consolidated Plan included as Attachment A. The complete Draft FY 2005-2009 Consolidated Plan including the 2005 MSU-B Housing Needs Assessment is available for review at <http://www.ci.billings.mt.us/Online/living.php>

SUMMARY

N/A

RECOMMENDATION

Staff recommends that the City Council approve the City's FY 2005-2009 Consolidated Plan and the allocation of CDBG and HOME funds in the community for FY2005/06. The recommendation on the allocation of FY05/06 funds has been prepared by the City's Community Development (CD) Board.

ATTACHMENTS

- A. 2005-2006 Consolidated Plan Executive Summary* (10)
- B. Community Development Board Recommendation (2)
- C. CDBG/HOME Programs FY2005-06 Project Summaries (8)**
- D. Task Force Input (5)
- E. FY05-06 Revenue (1)

* The Draft 2005-2009 Consolidated Plan is available for review online at
<http://www.ci.billings.mt.us/Online/living.php>

** Each application is available for review on line at:
<http://www.ci.billings.mt.us/Online/living.php>

City of Billings

FY2005-2009 CONSOLIDATED PLAN

DRAFT

APRIL 2005

EXECUTIVE SUMMARY

The City of Billings Consolidated Plan for the five year period from FY 2005 through FY 2009 will be considered by the Billings City Council on May 9th following a 30 day public comment period extending from April 7th to May 7th. City Council Action on the Consolidated Plan will follow a plan development process which included the development of the 2005 Billings Housing Needs Assessment undertaken by Montana State University-Billings, input from five neighborhood groups, public hearings on housing and community development needs on March 29th and March 30th, and a public hearing on the draft FY2005-2009 Consolidated Plan and FY2005 Action Plan on April 25th.

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive coordinated fashion utilizing available federal and nonfederal resources. The Consolidated Plan includes the one-year Action Plan for FY 2005 which will serve as the budget for the City's FY 2005/2006 Community Development Block Grant (CDBG) Program and Home Investment Partnership Program (HOME). The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinley Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinley funds or HOPWA funds and the City's Consolidated Plan is focused on CDBG and HOME activities. The Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an

examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) An aging population and the associated increase in the percentage of the population with disabilities; (3) A slight decrease in the price of rental housing and short term concern over the number of multi-family units scheduled to be constructed in 2005; and (4) The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

Addressing these community characteristics requires the continuation of existing partnerships and developing new partnerships between public, private and non-profit sectors of the community.

STRATEGIC PLAN

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

Strategy #1

Promote the Preservation of the existing supply of affordable housing in the community by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;
- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

Strategy #2

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located by:

- Upgrading the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,

- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

Strategy #3

Promote New Affordable Housing Opportunities by:

- Encouraging the development of new affordable single, multi family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

Strategy #4

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

Strategy #5

Improve the economic conditions of lower income households in the community by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and
- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

Specific actions for each of these strategies for Fiscal Years FY2005 through FY2009 are identified below. The complete Draft FY 2005-2009 Consolidated Plan including the 2005 MSU-B Housing Needs Assessment is available for review at <http://www.ci.billings.mt.us/Online/living.php>.

Strategy #1 - Promote the Preservation of the existing supply of affordable housing in the community		
<i>Objective</i>	<i>Implementation Plan</i>	<i>5-Year Goal</i>
Provide affordable financing to lower income homeowners to perform needed repairs	Complete substantial rehabilitation work through the Housing Rehabilitation Loan Program	75 homes
	Complete minor rehabilitation work through the Minor Home Repair Program	100 homes
	Provide funding for single purpose rehabilitation projects targeted to elderly and special needs lower income homeowners	20 ramps 150 elderly repairs
	Pursue grant and private funding to support activities that increase resources available for housing rehabilitation activities	20 home repairs
Provide affordable financing to rehabilitate rental units affordable to lower income residents	Complete substantial rehabilitation work to rental units for occupancy by lower income, elderly and special needs households	50 Rental Units
	Pursue private resources to support rental rehabilitation activities	Promote the use of Fannie Mae's America's Community Fund for rental rehabilitation activities
Reduce the loss of existing standard housing units affordable to lower income households due to redevelopment activities	Organize task force of organizations involved with redevelopment activities to promote the preservation of the existing supply of affordable housing and to mitigate the effects of demolition or conversion when it does occur	Housing Preservation Guidelines

Strategy #2 Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located		
<i>Objective</i>	<i>Implementation Plan</i>	<i>5-Year Goal</i>
Preserve the housing stock in older lower income neighborhoods	<p>See Strategy #1</p> <p>Support house painting program for lower income homeowners.</p> <p>Support Tree Program to remove and replace diseased or dangerous trees for lower income homeowners</p> <p>Support activities that help preserve historic properties</p>	<p>40 homes</p> <p>80 trees</p> <p>Implement annual YHPB work plan</p>
Provide incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods	<p>See Strategy #3</p> <p>Provide funding for Affordable Housing Volunteer Demolition program to eliminate blighted substandard properties in lower income neighborhoods and replace with new affordable housing</p>	<p>5 properties</p>
Support activities that provide amenities and address the infrastructure needs of older lower income neighborhoods	<p>Support planned neighborhood improvements included in City's Capital Improvement Plan</p> <p>Provide Special Assessment Grants for lower income households to help pay for SID's resulting from the City's public improvement projects</p> <p>Encourage the redevelopment of the South 27th Street Corridor</p> <p>Encourage the implementation of the Heritage Trail Bike Plan in lower income areas</p> <p>Promote historic preservation activities in a coordinated manner through Historic Preservation Organizations</p>	<p>Implement CIP</p> <p>100 Homeowners</p> <p>3 new redevelopment projects (800 block S. 28th, 700 block S. 27th & 500 block S. S7th)</p> <p>2 projects in lower income areas</p> <p>Implement annual</p>

		YHPB work plan
Support efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities	Support Neighborhood Planning efforts and provide on-going support for monthly task force meetings	Complete Neighborhood Plans

Strategy #3 Promote New Affordable Housing Opportunities		
<i>Objective</i>	<i>Implementation Plan</i>	<i>5-Year Goal</i>
Encourage the development of new affordable single family, and multi family, special needs housing in the community through private developers and non-profits	Provide funding through the CDBG,HOME, and Other Affordable Housing Funds to encourage the development of new affordable housing in the community emphasizing: New/converted Elderly and Disabled housing New/converted Special needs housing New/converted housing in lower income neighborhoods (Strategy #2) New/converted housing for very low and extremely low renters	100 units
	Provide funding to Community Development Housing Development Organizations (CHDOs) to undertake activities to meet priority affordable housing needs	50 units
	Complete Phase II & III of the Kings Green Affordable Housing Project	25 units
	Work to address loss of mobile/manufactures housing affordable to lower income households	Establish work group to study & make recommendations
	Work with Affordable Housing task force to identify and address barriers to affordable housing and to encourage infill development	Establish work group to study & make recommendations
	Support activities of the Housing Authority of Billings and other assisted housing providers to meet the needs of very low-income households	Support implementation of HAB's 5-Year Plan
	Provide funding for support services to address the needs of the homeless, elderly, and special needs populations	Homemaker services, runaway services, housing counseling, emergency rent/mortgage,

		victims of domestic abuse, Medication assistance
Promote homeownership	<p>Assist lower income households achieve home ownership through the City's First Time Homebuyer program and low interest "set aside" financing available through Montana Board of Housing (MBOH)</p> <p>Participate with Montana Homeownership Network to increase First Time Homebuyer opportunities in the City leveraging resources available through Fannie Mae, MBOH etc.</p> <p>Support homebuyer education in partnership with Montana Homeownership Network</p> <p>Support Billings American Indian Homeownership Partnership effort to increase homeownership rates for Native Americans and other minorities in the community</p>	<p>125 homebuyers</p> <p>125 homebuyers</p> <p>750 households</p> <p>Implementation of partnership goal to increase the homeownership rate for Native Americans in Billings</p>

Strategy #4- Work as an active partner with non-profits, neighborhood groups, and others to address housing & community development needs		
<i>Objective</i>	<i>Implementation Plan</i>	<i>5-Year Goal</i>
Encourage housing & community and development organizations to work together to build strong community structures to better address needs and respond to opportunities	Sponsor the Affordable Housing Task Force which brings together organizations such as the Housing Authority of Billings, Habitat for Humanity, HRDC, Big Sky EDA, homeWord, Realtors and Lenders to address affordable housing issues of common concerns	Implementation of Task force work Plan
	Sponsor the Adjacent Neighborhood Committee which brings together the City's neighborhood task forces and Downtown Partnership	Host bi-monthly meetings
	Support the activities of the Billings American Indian Homeownership Partnership which brings together approximately 20 organizations to increase the homeownership rate for Native Americans	Implementation of partnership goal to increase the
	Support Neighborhood Task Forces to identify and address neighborhood needs	homeownership rate for Native Americans in Billings.
Support activities that promote fair housing and increase awareness of the rights and	Undertake fair housing activities in a coordinated manner	Complete Neighborhood Plan & support distribution of Month Newsletter Implement existing FY2003-2007 Fair

Strategy #5 Improve the economic conditions of lower income households in the community

<i>Objective</i>	<i>Implementation Plan</i>	<i>5-Year Goal</i>
Support efforts of community organizations to address the human service needs of lower income residents of the community in general and lower income neighborhoods in particular,	Utilize up to 15% of CDBG funding for public service activities to improve the economic conditions of lower income households	Develop Performance measures to determine impact of assisted activities
Support the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households	Provide technical assistance to lower income households interested in starting or expanding an existing business	Provide Technical assistance to 500 lower income households

COMMUNITY DEVELOPMENT BOARD RECOMMENDATIONS
FY 2005-2006

CDBG/HOME GRANT HISTORY (Current Projects ONLY)			2001-2002	2002-2003	2003-2004	2004-2005	2005-2006 Requested	CD Staff Recommen. CDBG Funds HOME Funds		CD Board Recommendations CDBG Funds HOME Funds	
Admin / Planning / Fair Housing	HN-1	CDBG Administration	\$165,694	\$172,402	\$175,000	\$173,493	\$175,000	\$173,800		\$173,800	
	HN-2	HOME Administration	\$54,648	\$57,138	\$60,000	\$63,629	\$65,000		\$66,000		\$66,000
	HN-3	Professional Services	\$10,000			\$15,000	\$5,000			\$0	
	HN-4	Yellowstone Historic Preservation Board	\$7,500	\$7,500	\$7,500	\$7,500	\$6,500	\$6,500		\$6,500	
	HN-5	Community Housing Resource Board	\$15,000	\$15,000	\$15,000	\$15,000	\$17,500	\$13,000		\$0	
	HN-6	Community Housing Resource Board - HOME FUNDS					\$2,500		\$2,000		\$0
		FAIR HOUSING ACTIVITIES								\$13,000	\$2,000
Affordable Housing Activities	HN-7	Housing Rehabilitation Loan Program	\$20,000	\$250,000	\$300,000	\$300,000	\$300,000	\$250,000		\$250,000	
	HN-8	Minor Home Repair Program	\$80,000	\$100,000	\$115,000	\$100,000	\$100,000	\$60,000		\$60,000	
	HN-9	Rental Rehabilitation Program	\$40,000	\$20,000	\$40,000	\$40,000	\$60,000	\$40,000		\$57,290	
	HN-10	HOME/CDBG Affordable Housing Support	\$170,253	\$250,000	\$464,000	\$500,000	\$400,000		\$271,133		\$271,133
	HN-11	HOME First Time Home Buyer Program	\$300,000	\$200,000	\$100,000	\$175,000	\$300,000		\$300,000		\$300,000
		homeWORD - Homebuyer Education					\$3,000		\$3,000		\$3,000
	HN-12	Set-Aside for CHDOs	\$75,450	\$75,300	\$84,703	\$84,535	\$80,310		\$80,310		\$80,310
	HN-13	Living Independently for Today & Tomorrow	\$15,000	\$15,000	\$15,000	\$10,000	\$12,500	\$10,000		\$10,000	
	HN-14	Yellowstone County Council on Aging	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000		\$5,000	
	HN-15	Rebuilding Together				\$5,000	\$5,000	\$5,000		\$5,000	
Neighborhood Projects	HN-16	CDBG Demolition Program	\$20,000			\$10,000				\$0	
	HN-17	Property Management	\$12,000	\$12,000	\$12,000	\$10,000	\$8,000	\$8,000		\$8,000	
	HN-18	Special Assessment Grants	\$85,000	\$50,000	\$50,000	\$40,000	\$50,000	\$40,000		\$40,000	
	HN-19	Paint Program				\$5,000	\$5,000	\$2,000		\$2,000	
Park Improvement Projects	HN-20	South West Bike Path					\$150,000	\$234,790		\$150,000	
	HN-21	PRPL-Skate Park - The Galles Building Improvements					\$60,000			\$30,000	
	HN-22	PRPL - South Park - Pool Heater				\$81,000	\$30,000			\$30,000	

		Athletic Park Pool Heater					\$100,000			\$10,000	
Econ Dev	HN-23	BSEDA		\$10,000		\$10,000	\$10,000	\$10,000		\$7,500	
Total:							\$1,950,310	\$858,090	\$722,443	\$858,090	\$722,443
Public Service Activities (see page 2):							\$271,635	\$156,396		\$156,396	NA
Unallocated Funds:										\$0	\$0
TOTAL ALL PROJECTS:							\$2,221,945	\$1,014,486	\$722,443	\$1,014,486	\$722,443

Community Development Board Notes

1. The Board recommends \$10,000 be awarded to fair housing activities in general through a Request for Proposal Process and \$5,000 allocated to the CHRB.
2. The Board recommends \$10,000 in funding for the Athletic Pool Heater with the provision that the Cobb Field feasibility study include the future of Athletic Pool.
3. The Board recommends \$150,000 be added to the existing \$60,000 in CDBG funding for bike trails in the Southwest Corridor Neighborhood with the provision that the funds would be dependent on securing CTEP funding in FY2006 (Fall 2005 Application) to match the \$60,000 currently reserved for the project

COMMUNITY DEVELOPMENT BOARD RECOMMENDATIONS
FY 2005-2006 CD BOARD RECOMMENDATIONS

		CDBG Grant History (current projects only)		2001-2002	2002-2003	2003-2004	2004-2005	Amount Requested	CD Board Recommendation
Public Service Activities	PS-1	Billings Chapter Prevention of Elder Abuse		\$6,000	\$5,667	\$9,500	\$9,500	\$9,025	\$9,025
	PS-2	Billings Food Bank		\$8,000	\$6,667	\$16,000	\$10,000	\$20,000	\$10,000
	PS-3	Billings Healthy Community Coalition		\$5,000	\$2,667	\$9,500	\$9,500	\$9,500	\$9,500
	PS-4	Boys & Girls Club - Bair Family Clubhouse		\$4,500	\$3,667	\$4,000	\$4,000	\$5,000	\$5,000
	PS-5	Boys & Girls Club - Castlerock Clubhouse						\$5,000	\$0
	PS-6	Community Housing Investment Program (CHIP)						\$6,200	\$0
	PS-7	Family Service, Inc.		\$12,000	\$16,667	\$17,000	\$20,000	\$30,000	\$20,000
	PS-8	Friendship House - Summer Enrichment		\$9,000	\$11,717	\$9,000	\$10,000	\$15,000	\$12,000
	PS-10	HRDC - Growth Thru Art		\$10,000	\$9,667	\$10,000	\$10,000	\$20,000	\$11,771
	PS-11	HRDC - Housing Counseling						\$15,000	\$10,000
	PS-12	Interfaith Hospitality Network - IHN Day Center						\$7,560	\$5,000
	PS-13	Open Bible Christian Center						\$15,000	\$0
	PS-14	Parents Let's Unite for Kids			\$2,167	\$2,500	\$2,500	\$5,000	\$2,500
	PS-15	Senior Helping Hands Program, Inc.		\$15,000	\$14,667	\$18,000	\$20,000	\$19,000	\$19,000
	PS-16	Southgate COP Shop		\$4,500	\$4,167	\$6,000	\$6,000	\$6,000	\$0
	PS-17	Tree Trimming, Planting & Removal		\$15,000	\$15,000	\$15,000	\$10,000	\$15,000	\$10,000
	PS-18	Tumbleweed Runaway Program, Inc.		\$16,000	\$16,000	\$15,050	\$15,050	\$20,000	\$12,500
	PS-19	Young Families Early Head Start		\$8,500	\$7,117	\$10,000	\$11,000	\$32,000	\$10,000
	PS-20	Young Life - Campership Fund						\$5,250	\$0
	PS-21	YWCA of Billings Children's/Women's Services		\$2,000	\$1,667	\$2,000	\$2,100	\$2,100	\$2,100
	PS-22	YWCA Gateway House		\$10,000	\$4,667	\$10,000	\$8,000	\$10,000	\$8,000
Total:				#####	#####	\$153,550	#####	\$271,635	\$156,396
Amount Available:									\$156,396
Difference:								\$271,635	\$0

COMMUNITY DEVELOPMENT APPLICANTS
HOUSING & NEIGHBORHOOD ACTIVITIES
TABLE OF CONTENTS
FY 2005 - 2006

ADMINISTRATION / PLANNING

HN-1	CDBG Administration	\$175,000
HN-2	HOME Administration	\$ 65,000
HN-3	Professional Services	\$ 5,000
HN-4	Yellowstone Historic Preservation Board	\$ 6,500

FAIR HOUSING ACTIVITIES

HN-5	Community Housing Resource Board (CHRB)	\$ 17,500
HN-6	Community Housing Resource Board (HOME Funds)	\$ 2,500

AFFORDABLE HOUSING ACTIVITIES

HN-7	Housing Rehabilitation Loan Program	\$300,000
HN-8	Minor Home Repair Program	\$100,000
HN-9	Rental Rehabilitation Program	\$ 60,000
HN-10	HOME / CDBG Affordable Housing Support Program	\$400,000
HN-11	HOME First Time Home Buyer Program	\$300,000
HN-12	HOME Set-Aside Community Development Organizations (CHDO)	\$ 80,309
HN-13	Living Independently for Today & Tomorrow (LIFTT) - Ramps Project ...	\$ 12,500
HN-14	Yellowstone County Council on Aging - Minor Home Repair Program	\$ 5,000
HN-15	Rebuilding Together - Home Rehabilitation	\$ 5,000

NEIGHBORHOOD PROJECTS

HN-16	CDBG Demolition Program	\$ 000
HN-17	Property Management	\$ 8,000
HN-18	Special Assessment Grants	\$ 50,000
HN-19	Paint Program	\$ 5,000
HN-20	South West Bike Path	\$150,000

PARK IMPROVEMENT PROJECTS

HN-21	PRPL – Skate Park – The Galles Building Improvements	\$ 60,000
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HN-22	PRPL – South Park – Pool Heater.....	\$ 30,000
HN-23.....	PRPL – Athletic Park – Pool Heater.....	\$100,000

ECONOMIC DEVELOPMENT

HN-24	BSEDA - Small Business Development Center.....	\$ 10,000
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Total Amount Requested: \$1,947,309

COMMUNITY DEVELOPMENT APPLICANTS
HOUSING & NEIGHBORHOOD ACTIVITIES - PROJECT SUMMARIES
FY 2005 - 2006

<i>ADMINISTRATION / PLANNING</i>		
HN-1	<p><i>CDBG Administration</i></p> <p>Funds are requested for general administration expenditures, salaries, and wages for Community Development Manager, CD Grants Coordinator, and half of Senior Office Assistant position. CDBG also provides the resources for administration of other grant programs related to community development received by the City.</p>	\$175,000
HN-2	<p><i>HOME Administration</i></p> <p>Funds are requested for general HOME administration expenditures, salary and benefits for HOME Program Coordinator.</p>	\$65,000
HN-3	<p><i>Professional Services</i></p> <p>Funds are used to contract for professional services on an as-needed basis. These funds will be available to assist the Community Development (CD) Office to meet CDBG / HOME requirements when staff time is limited and to assist the CD Office, its sub-recipients, and lower-income neighborhoods to undertake planning and feasibility analysis to pursue needed projects and maximize the impact of CDBG and HOME resources in the community.</p>	\$5,000
HN-4	<p><i>Yellowstone Historic Preservation Board</i></p> <p>Funds will be used to match \$5,500 in grant funding made available to Certified Local Governments for historic preservation activities through the Montana State Historic Preservation Office. This funding is used to carry out historic preservation activities in Billings and Yellowstone County.</p>	\$6,500
<i>FAIR HOUSING ACTIVITIES</i>		
HN-5	<p><i>Community Housing Resource Board (CHRB) – CDBG Funding</i></p> <p>Funds are requested to further Fair Housing opportunity in Billings through community education and outreach. To enable the City of Billings to fulfill its proposed activities under the adopted Fair Housing Action Plan which is a requirement to be eligible for all CDBG funds. The CHRB's approach is to bring diverse populations of the Billings community together to work toward the common goal of fair and affordable housing.</p>	\$17,500
HN-6	<p><i>Community Housing Resource Board (CHRB) – HOME Program</i></p> <p>Funds are requested to further Fair Housing opportunity in Billings through community education and outreach. To enable the City of Billings to fulfill its proposed activities under the adopted Fair Housing Action Plan which is a requirement to be eligible for all CDBG funds. The CHRB's approach is to bring diverse populations of the Billings community together to work toward the common goal of fair and affordable housing.</p>	\$2,500
<i>AFFORDABLE HOUSING ACTIVITIES</i>		
HN-7	<p><i>Housing Rehabilitation Loan Program</i></p> <p>Funds are requested to rehabilitate approximately 15 homes throughout the City of Billings. The program is intended to provide affordable financing to low / moderate income applicants to provide substantial improvements that help preserve the City's affordable housing stock and revitalize older neighborhoods. Funds will be used to partially fund the CD Grants Coordinator and Loan Processor positions.</p>	\$300,000

HN-8	<p><i>Minor Home Repair Program</i></p> <p>Funds are requested to assist approximately 40 low-income homeowners with emergency repairs related to basic systems or accessibility for a physically disabled occupant. The program is available for mobile / manufactured mobile homes and for owner / occupied homes that are not appropriate for the Housing Rehabilitation Loan Program.</p>	\$100,000
HN-9	<p><i>Rental Rehabilitation Program</i></p> <p>Funds are requested to rehabilitate approximately 12 rental properties located throughout the City of Billings. Program funds will provide matching grant funds of up to \$5,000 per unit for the rehabilitation of substandard properties to be occupied by low-income renters. This program also includes the Overcoming Hurdles Program which is a grant of up to \$5,000 per unit to help pay for historic preservation requirements and lead-based paint remediation.</p>	\$60,000
HN-10	<p><i>HOME / CDBG Affordable Housing Support Program</i></p> <p>Funds are requested to encourage the development of affordable housing for lower-income households in the City of Billings. Applicants for this program can be for-profit developers or non-profit agencies.</p>	\$400,000
HN-11	<p><i>HOME First Time Home Buyer Program</i></p> <p>Funds are requested to assist approximately 30 to 40 low-income families in the purchase of their first home. The program is designed to provide financial assistance to help qualify for traditional housing financial programs to purchase a home. Funds will be used to provide down payment assistance, closing costs, and minor repairs.</p>	\$300,000
HN-12	<p><i>HOME Set-Aside Community Development Organizations (CHDO)</i></p> <p>As a recipient of HOME funds, the City of Billings must provide at least 15% of its funding for CHDO activities. This funding is requested for CHDOs to develop affordable housing in the community.</p>	\$80,309
HN-13	<p><i>Living Independently for Today & Tomorrow (LIFTT) - Ramps Project</i></p> <p>Funds are requested to construct or provide maintenance work on ramps for low-income persons with disabilities to access their homes. Approximately 5 households would be assisted.</p>	\$12,500
HN-14	<p><i>Yellowstone County Council on Aging - Minor Home Repair Program</i></p> <p>Funds are requested for this Minor Home Repair program which assists low-income persons over the age of 60 with safety-related repairs.</p>	\$5,000
HN-15	<p><i>Rebuilding Together - Home Rehabilitation</i></p> <p>Funds are requested to rebuild, revitalize, and / or renew 3 - 5 homes for low-income homeowners. Volunteers paint, clean, weatherize, and do carpentry, plumbing, roofing, and electrical work.</p>	\$5,000
<i>NEIGHBORHOOD PROJECTS</i>		
HN-16	<p><i>CDBG Demolition Program</i></p> <p>Funds are requested to demolish properties that are burned out or blighted and dangerous to the community. All buildings demolished are not feasible to rehabilitate. Funds would also be used to pay the costs of demolition-related expenses such as board-ups and asbestos inspections and abatement.</p>	\$ -0-
HN-17	<p><i>Property Management</i></p> <p>Funds are requested to pay existing SIDs and maintain weeds and snow on property previously acquired through the CDBG program. These properties are primarily located along South 27th Street.</p>	\$8,000

HN-18	<i>Special Assessment Grants</i> Funds are requested to provide grant funds to lower-income households impacted by Special Improvement District assessments for public improvements such as curb, gutter, and sidewalk projects in lower income areas.	\$50,000
HN-19	<i>Paint Program</i> Funds are requested to assist approximately 10 Billings homeowners to purchase paint and painting materials in order to paint the exterior of their owner-occupied homes. This program would be available to both stick-built and mobile / manufactured homes who meet total household income of 60% median income or less.	\$5,000
HN-20	<i>South West Bike Path</i> Funds are requested to construct a bike path on King Avenue East from South Billings Blvd. to Washington Street.	\$150,000
<i>PARK IMPROVEMENT PROJECTS</i>		
HN-21	<i>PRPL – Skate Park – The Galles Building Improvements</i> Funding is requested to pay for materials, equipment, supplies and miscellaneous expenses to renovate the former Galles Filter Building located next to the new skatepark in the South Side Neighborhood.	\$60,000
HN-22	<i>PRPL – South Park Pool Heater</i> Funding is requested to install a gas fired pool water heater in South Park pool and to purchase a custom size pool blanket and deck reels to facilitate covering the pool at night to retain heat.	\$30,000
HN-23	<i>PRPL – Athletic Park Pool Heater</i> Funding is requested to install a gas fired pool water heaters in Athletic Park pool and to purchase a pool blanket and deck reels to facilitate covering the pool at night to retain heat.	\$100,000
<i>ECONOMIC DEVELOPMENT</i>		
HN-24	<i>Big Sky Economic Development Authority (BSEDA) - Small Business Development Center</i> Funding is requested to provide technical assistance, counseling, and Pre-Business Workshops to low and moderate income persons in the City of Billings interested in starting or expanding a business.	\$10,000

*COMMUNITY DEVELOPMENT APPLICANTS***PUBLIC SERVICE ACTIVITIES****TABLE OF CONTENTS****FY 2005 - 2006**

PS-1	Billings Chapter Prevention of Elder Abuse	\$ 9,025
PS-2	Billings Food Bank	\$20,000
PS-3	Billings Healthy Comm. Coalition	\$ 9,500
PS-4	Boys & Girls Club of Yellowstone County (Bair Family Clubhouse)	\$ 5,000
PS-5	Boys & Girls Club of Yellowstone County (Castle Rock Clubhouse)	\$ 5,000
PS-6	Community Housing Investment Program	\$ 6,200
PS-7	Family Service, Inc.	\$30,000
PS-8	Friendship House - Summer Enrichment Program	\$15,000
PS-9	homeWORD – Homebuyer Education	\$ 3,000
PS-10	HRDC - Growth Thru Art	\$20,000
PS-11	HRDC – Housing Counseling	\$15,000
PS-12	Interfaith Hospitality Network – IHN Day Center	\$ 7,560
PS-13	Open Bible Christian Center – Power House Youth at Risk	\$15,000
PS-14	Parents Let’s Unite for Kids (PLUK) – Training for Special Needs	\$ 5,000
PS-15	Senior Helping Hands Program, Inc. - Home Health	\$19,000
PS-16	Southgate Cop Shop	\$ 6,000
PS-17	Tree Trimming, Planting, & Removal Program	\$17,000
PS-18	Tumbleweed Runaway Program, Inc.	\$20,000
PS-19	Young Family Early Head Start	\$32,000
PS-20	Young Life – Campership for Riverside Middle School Kids	\$ 5,250
PS-21	YWCA - Children’s Services	\$ 2,100
PS-22	YWCA - Gateway House Services	\$10,000
Total Amount Requested:		<u>\$274,635</u>

COMMUNITY DEVELOPMENT APPLICANTS
PUBLIC SERVICE ACTIVITIES - PROJECT SUMMARIES
FY 2005 - 2006

PS-1	<i>Billings Chapter Prevention of Elder Abuse</i> BCPEA's mission is to prevent neglect and abuse of elderly and disabled persons through education, public awareness and intervention. Funds are requested to pay a large portion of the salary of its elder Support Social Worker's salary, which will enable her to work full-time with and on behalf of seniors and developmentally disabled adults in our community.	\$9,025
PS-2	<i>Billings Food Bank</i> Funds are requested to purchase a forklift for use in a second warehouse.	\$20,000
PS-3	<i>Billings Healthy Community Coalition - Medication Assistance Program</i> Funds are requested for overall support of the Deering site, for the Medication Assistance Program (MAP) which includes expanded hours of MAP staff.	\$9,500
PS-4	<i>Boys & Girls Club of Yellowstone County – 5-Core Program at Bair Family Clubhouse</i> Funds are requested to pay part-time college students to assist in providing new needed programs at the club.	\$5,000
PS-5	<i>Boys & Girls Club of Yellowstone County – 5-Core Program at Castle Rock Clubhouse</i> Funds are requested to partially fund the technology program with a part-time staff member under the direction of the Director of Program Development.	\$5,000
PS-6	<i>Community Housing Investment Program</i> Funds are requested to provide scholarships for training in order to ensure that participants receive the most effective information and other tools from certified trainers to maximize their limited funds.	\$6,200
PS-7	<i>Family Service, Inc.</i> Funds are requested to prevent homelessness of families living in low-income situations. Services are available to help with rents, mortgages, utilities, and deposits.	\$30,000
PS-8	<i>Friendship House - Summer Enrichment Program</i> Funds are requested for personnel and administrative costs associated with the Summer Enrichment Program (SEP). SEP is a comprehensive program that addresses the multi-needs of youth ages 4 - 12 and provides basic human service needs.	\$15,000
PS-9	<i>homeWORD – Homebuyer Education</i> Funds are requested to fill the funding gap that is needed to fully support the Billings' Homeownership Center (HOC), which provides critical homebuyer training and financial education to low and moderate income households in Yellowstone County.	\$3,000
PS-10	<i>HRDC - Growth Thru Art</i> Funds are requested to fund personnel and administrative costs allowing the organization to continue to provide ongoing studio experiences, workshops, presentations and exhibitions, and opportunities to celebrate artists' personal growth through artistic expression for adults with disabilities.	\$20,000
PS-11	<i>HRDC – Housing Counseling</i> Funding is requested to provide pre-purchase counseling, rental counseling, default/foreclosure counseling and reverse mortgage counseling to residents of the City of Billings.	\$15,000

PS-12	<i>Interfaith Hospitality Network – IHN Day Center – From Homelessness to Independence</i>	\$7,560
	Funding is requested to pay for utilities where clients shower, use laundry services, gas for the van which transports clients from the Day Center to their host congregations where they sleep at night; two phone lines, a fax line and Internet for clients to use in looking for housing, employment and to list on forms requiring a home phone, and for children to do their homework on-line.	
PS-13	<i>Open Bible Christian Center – Power House Youth at Risk</i>	\$15,000
	Funding is requested to provide staffing, cost of temporary housing, insurance, utilities, food, transportation, and counseling services to troubled youths.	
PS-14	<i>Parents Let's Unite for Kids (PLUK) – Resource Development and Training for Parents of Kids with Special Needs</i>	\$5,000
	Funds are requested to upgrade/increase services provided by PLUK to Billings area children and their families, focusing on clientele from lower income families in an effort to ensure information and training opportunities are reaching those families and being accessed.	
PS-15	<i>Senior Helping Hands Program, Inc. - Home Health & Care Services for Indigent Seniors</i>	\$19,000
	Funding is requested to provide in-home housekeeping, meal preparation, transportation, personal care, hygiene assistance, medication management, and nursing care to indigent, at-risk seniors. This program allows elders to remain in their own home, part of their community in a safe, comfortable environment.	
PS-16	<i>Southgate Cop Shop</i>	\$6,000
	Funding is requested for general operating costs for the Southgate Cop Shop. Expenses include rent, utilities, insurance, and task force support.	
PS-17	<i>Tree Trimming, Planting, & Removal Program</i>	\$15,000
	Funding is requested to remove diseased or dangerous trees and to plant new trees for low-income households throughout the City of Billings.	
PS-18	<i>Tumbleweed Runaway Program, Inc. - Runaway & Homeless Youth Program (RHY)</i>	\$20,000
	Funding is requested for wage / salary for one direct service person working as a counselor, mentor, and service broker to troubled youth and their families.	
PS-19	<i>Young Family Early Head Start - Child Care for High School Parents</i>	\$32,000
	Funding is requested to support salaries for staff who provide comprehensive child care and development services to infants and toddlers whose parents are teenagers, completing their high school education.	
PS-20	<i>Young Life – Campership Funds for Riverside Middle School Kids</i>	\$5,250
	Funding is requested to be used solely to send 15 kids to camp which costs \$350 per participant. This pays for their transportation, food, lodging and all of the activities provided at the camp.	
PS-21	<i>YWCA - Children's Services</i>	\$2,100
	Funding is requested to provide partial scholarships to low and moderate income families accessing YWCA Children's Services programs for affordable and quality care / educational experiences. The programs include preschool, child care, and after-school care.	
PS-22	<i>YWCA - Gateway House Domestic Violence & Sexual Assault Services</i>	\$10,000
	Funding is requested to support general operating expenses of the program, which includes housing, support, education, and advocacy for victims of domestic violence and sexual assault.	

*Central Terry Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 10, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Top Priorities-10 responses</i>
<i>Administration & Planning</i>		
CDBG Administration	\$175,000	6
HOME Administration	\$65,000	0
Professional Services	\$5,000	17
Yellowstone Historic Preservation Board	\$6,500	22
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	17
Community Housing Resource Board	\$2,500	0
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	48 3 rd
Minor Home Repair Program	\$100,000	60 1 st
Rental Rehabilitation Program	\$60,000	16
HOME/CDBG Affordable Housing Support	\$400,000	29 9 th
HOME First Time Home Buyer Program	\$300,000	43 5 th
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	14
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	31 8 th
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	56 2 nd
Rebuilding Together - Home Rehabilitation	\$5,000	45 4 th
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	0
Property Management	\$8,000	9
Special Assessment Grants	\$50,000	26 10 th
Paint Program	\$5,000	42 6 th
South West Bike Path	\$150,000	9
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	1
PRPL South Park Pool Heater	\$30,000	22
Athletic Pool Heater	\$100,000	34 7 th
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	0

*North Elevation Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 15, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities 3 responses</i>
<i>Administration & Planning</i>		
CDBG Administration	\$175,000	
HOME Administration	\$65,000	
Professional Services	\$5,000	
Yellowstone Historic Preservation Board	\$6,500	8 7 th tie
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	2
Community Housing Resource Board	\$2,500	1
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	10 5 th tie
Minor Home Repair Program	\$100,000	10 5 th tie
Rental Rehabilitation Program	\$60,000	
HOME/CDBG Affordable Housing Support	\$400,000	8 7 th tie
HOME First Time Home Buyer Program	\$300,000	13 4 th
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	2
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	4
Rebuilding Together - Home Rehabilitation	\$5,000	5 10 th
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	
Property Management	\$8,000	3
Special Assessment Grants	\$50,000	4
Paint Program	\$5,000	8 7 th tie
South West Bike Path	\$150,000	
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	21 1 st
PRPL South Park Pool Heater	\$30,000	18 3 rd
Athletic Pool Heater	\$100,000	20 2 nd
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	

*North Park Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 1, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Top Priorities-7 responses</i>
<i>Administration & Planning</i>		
CDBG Administration	\$175,000	2
HOME Administration	\$65,000	0
Professional Services	\$5,000	2
Yellowstone Historic Preservation Board	\$6,500	9
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	5
Community Housing Resource Board	\$2,500	0
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	27 6 th tie
Minor Home Repair Program	\$100,000	28 5 th
Rental Rehabilitation Program	\$60,000	25 10 th
HOME/CDBG Affordable Housing Support	\$400,000	26 9 th
HOME First Time Home Buyer Program	\$300,000	33 3 rd
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	5
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	10
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	34 2nd
Rebuilding Together - Home Rehabilitation	\$5,000	27 6th tie
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	0
Property Management	\$8,000	8
Special Assessment Grants	\$50,000	10
Paint Program	\$5,000	10
South West Bike Path	\$150,000	7
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	30 4th
PRPL South Park Pool Heater	\$30,000	27 6th tie
Athletic Pool Heater	\$100,000	54 1st
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	5

*South Side Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 17, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities – 14 responses</i>
<i>Administration & Planning</i>		
CDBG Administration	\$175,000	1
HOME Administration	\$65,000	
Professional Services	\$5,000	
Yellowstone Historic Preservation Board	\$6,500	5
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	1
Community Housing Resource Board	\$2,500	6
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	77 3 rd
Minor Home Repair Program	\$100,000	81 2 nd
Rental Rehabilitation Program	\$60,000	17
HOME/CDBG Affordable Housing Support	\$400,000	66 5 th
HOME First Time Home Buyer Program	\$300,000	72 4 th
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	16
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	28
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	43 9 th
Rebuilding Together - Home Rehabilitation	\$5,000	48 8 th
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	1
Property Management	\$8,000	0
Special Assessment Grants	\$50,000	27
Paint Program	\$5,000	50 7 th
South West Bike Path	\$150,000	34
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	57 6 th
PRPL South Park Pool Heater	\$30,000	87 1 st
Athletic Pool Heater	\$100,000	22
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	15

*South West Corridor Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 24, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities -- 15 Responses</i>
<i>Administration & Planning</i>		
CDBG Administration	\$175,000	18
HOME Administration	\$65,000	0
Professional Services	\$5,000	2
Yellowstone Historic Preservation Board	\$6,500	13
K. Fair Housing Activities		
Community Housing Resource Board	\$17,500	3
Community Housing Resource Board	\$2,500	0
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	60 7 th
Minor Home Repair Program	\$100,000	87 1 st
Rental Rehabilitation Program	\$60,000	44 10 th
HOME/CDBG Affordable Housing Support	\$400,000	61 6 th
HOME First Time Home Buyer Program	\$300,000	70 5 th
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	3
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	37
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	72 3 rd
Rebuilding Together - Home Rehabilitation	\$5,000	79 2 nd
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	5
Property Management	\$8,000	13
Special Assessment Grants	\$50,000	57 8 th
Paint Program	\$5,000	43
South West Bike Path	\$150,000	71 4 th
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	30
PRPL South Park Pool Heater	\$30,000	52 9 th
Athletic Pool Heater	\$100,000	8
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	10

Revenue FY05/06

CDBG REVENUE

HUD CDBG Grant	\$ 805,288	
Misc. Revenue	5,000	
Loan Principal	8,000	
Loan Interest	10,000	
Reprogrammed Funds	56,533	(cancelled or completed projects)
Housing Rehab Loans	60,000	
Prior Year Program Income	<u>69,665</u>	(program income received in excess of estimate)
Total	<u>\$1,014,486*</u>	

*Public Service Funding \$156,396
15% of \$805,288 and previous year program income (\$150,665) = \$143,393
+ Reprogrammed Public Service funding \$ 13,003
\$5,000 - FY04/05 Reserved for Task Force Insurance
\$3,000 - FY03/04 KIDS Summer Program
\$ 3 - FY01/02 Big Brothers & Sisters
\$5,000 - FY01/02 Police Abandoned Vehicle Program

HOME REVENUE

HUD HOME Grant	\$535,395
FTHB Payback	100,000
Reprogrammed Funds (cancelled or completed projects)	44,251
Prior Year Program Income (program income received in excess of estimate)	<u>42,797</u>
Total	<u>\$722,443</u>

CDBG REPROGRAMMED

FY04/05 Contingency	\$16,360
FY03/04 Admin Savings	\$ 6,831
FY03/04 Contingency	\$13,144
FY03/04 KIDS	\$ 3,000
FY03/04 Pioneer Park	\$ 5
FY01/02 Big Brothers	\$ 3
FY01/02 Abandoned vehicle	\$ 5,000
FY98/00 Affordable Housing	\$ 9,134
FY97/98 Affordable Housing	<u>\$ 3,056</u>
TOTAL	<u>\$56,533</u>

HOME REPROGRAMMED

FY04/05 Contingency	\$ 5,883
FY03/04 Contingency	\$23,733
FY03/04 Admin Savings	\$12,635
FY00/01 Contingency	<u>\$ 2,000</u>
TOTAL	<u>\$44,251</u>

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