

# CITY OF BILLINGS

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

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## REVISED AGENDA

COUNCIL CHAMBERS

September 26, 2005

6:30 P.M.

**CALL TO ORDER – Mayor Tooley**

**PLEDGE OF ALLEGIANCE – Mayor Tooley**

**INVOCATION – Councilmember Larry Brewster**

**ROLL CALL**

**MINUTES – September 12, 2005**

**COURTESIES**

**PROCLAMATIONS**

- Sept. 23: American Indian Heritage Day
- Oct 9-15: Fire Prevention Week

**BOARD & COMMISSION REPORTS**

**ADMINISTRATOR REPORTS – Tina Volek**

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #12, #13 & #14 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) 9-1-1 Plant Equipment Telephone System Upgrade for the City of Billings Joint City/County 9-1-1 Center.** (Opened 9/13/05). Recommend Qwest Communication, \$104,111.40.  
[\(Corresponding Staff Memo A1\)](#)

**(2) One (1) New Current Model 24" x 40" Radial Stacking Conveyor for City of Billings Street/Traffic Division.** (Opened 9/13/05). Recommend Western Plains, \$25,900.00.  
[\(Corresponding Staff Memo A2\)](#)

**(3) W.O. 05-01A: Michigan Street Reconstruction (Water and Sewer Replacement) Project.** (Opened 9/6/05). (Delayed from 9/12/05). Recommend JEM Contracting, \$93,043.00.  
[\(Corresponding Staff Memo A3\)](#)

**(4) Truck Chassis, Tilt Cabs for the Solid Waste Division.** (Opened 8/23/05). (Delayed from 9/12/05). Recommend Tri-State Truck & Equipment for Schedules I – III; Schedule I: \$109,141.00, Schedule II: \$107,353.00 and Schedule III: \$106,198.00.  
[\(Corresponding Staff Memo A4\)](#)

**B. Contract** with Mailing Technical Services for full range of mailing services for the City, term: 3 years with an option to renew for an additional 2 years.

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

**C. Contract** with Associated Employers of Montana and Employers Association, Inc. to complete the classification and compensation plan, \$31,700.00.

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

**D. Lease Agreement** with Macerich Rimrock Limited Partnership for space for the Cop Shop West, \$0.00, term: 3 years.

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

**E. Agreements with Wells Fargo Bank:**

(1) Sale and Purchase Agreement of existing automatic teller (ATM) site of the City of Billings.

(2) Temporary Leaseback Agreement from the City to Wells Fargo, \$4,062.50/month.

(3) Wells Fargo ATM Site Lease of the Park II Garage Space from the City to Wells Fargo, \$2,850.00/month with a 2.5%/year inflator; term: 13 years with an option to renew for two 10-year terms.

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

**F. W.O. 00-15: Grand Avenue Right-of-Way Agreement** with Welborn Land & Livestock Company on a tract of land located in Lot 1, Block 2, Algeo Subdivision, \$0.00.

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

**G. Approval** of the 2005 Edward Byrnes Justice Assistance Grant (JAG), \$92,924.00 and authorization for the Mayor to sign the award documents.  
[\(Corresponding Staff Memo G\)](#)

**H. Magic City Blues Festival** Street Closure request, Montana Avenue between the 2300 and 2500 Blocks from 9:00 a.m. on Friday, August 11, 2006, until 5:00 p.m. on Sunday, August 13, 2006.

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

**I. Approval** of the Domestic Violence Unit and Victim Witness Assistance Subgrants from the Montana Board of Crime Control (MBCC); (Domestic Violence grant: \$55,000.00; City match: \$49,962.83. Victim Witness grant: \$38,000.00; City match: \$62,406.48.)

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

**J. Resolution of Intent to Sell** City-owned real property described as Lot 8A, Block 13, Lake Hills Subdivision, 18<sup>th</sup> filing and setting a public hearing date for 10/24/05.

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

**K. Preliminary Plat** of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision, Timothy G. and Teresa A. Lehman, owners; approval of preliminary plat and adoption of the findings of fact.

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

**L. Bills and Payroll.**

(1) August 26, 2005

[\(Corresponding Staff Memo L1\)](#)

(2) September 2, 2005

[\(Corresponding Staff Memo L2\)](#)

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

**REGULAR AGENDA:**

**2. PUBLIC HEARING** on the FY 2004 Community Development Block Grant Program (CDBG) and HOME Investment Partnership Program Comprehensive Annual Performance Evaluation Report (CAPER).

**(Action:** public hearing only.)

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

**3. PUBLIC HEARING AND RESOLUTIONS** regarding the original spread assessments on the following Special Improvement Districts:

**(A) SID 1358:** construction of curb, gutter, sidewalks, sanitary sewer mains, sanitary sewer services, water mains, water services and necessary street improvements to portions of C/S 793, Deep Power Subdivision and Lake Hills Subdivision.

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

**(B) SID 1365:** installation of water, sanitary sewer, storm drain and street improvements in Lake Hills Subdivision, 25<sup>th</sup> filing.

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

**(C) SID 1366:** construction of a park, city water supply, concrete parking lot and storm drain in Rimrock West Estates Subdivision, 1<sup>st</sup> – 5<sup>th</sup> filings and C/S 1350.

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

**(D) SID 1371:** installation of water, sanitary sewer, storm drain and street improvements in Blue Meadow Acreage Tracts, Monty's Place Subdivision, C/S 369 Amended, C/S 369 Third Amended and C/S 1188.

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

**(E) SW 2401:** miscellaneous sidewalk, curb and gutter improvements located in areas throughout the City.

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

**(F) SW 2402:** sidewalks in the Washington School area.

Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

**4. PUBLIC HEARING AND RESOLUTIONS** regarding the respread of assessments on the following Special Improvement Districts:

**(A) SID 1258:** (Combining tax codes), paving, widening, curb, gutter, sidewalk and storm drain extension located in Maltese Sub. and Hansen Sub.

[\(Corresponding Staff Memo 4A\)](#)

**(B) SID 1332 & 1341:** (Combining tax codes); SID 1332 is for curb, gutter, sidewalk and street improvements in Circle Fifty Sub., SID 1341 is for park improvements located in Circle Fifty Sub.

[\(Corresponding Staff Memo 4B\)](#)

**(C) SID 1332, 1341 & 1353:** (Combining tax codes); SID 1332 is for curb, gutter, sidewalk and street improvements in Circle Fifty Sub., SID 1341 is for park improvements located in Circle Fifty Sub., SID 1353 is for water, sewer, storm drain, curb, gutter, and street improvements located in Circle Fifty/Hancock Grand Sub.

[\(Corresponding Staff Memo 4C\)](#)

**(D) SID 1341 & 1353:** (Splitting tax codes); SID 1341 is for park improvements located in Circle Fifty Sub., SID 1353 is for water, sewer, storm drain, curb, gutter, and street improvements located in Circle Fifty/Hancock Grand Sub.

[\(Corresponding Staff Memo 4D\)](#)

**(E) SID 1346:** (Splitting tax code); streetscape improvements located on N. Broadway, Montana Avenue to 4<sup>th</sup> Ave. N.

[\(Corresponding Staff Memo 4E\)](#)

(F) **SID 1356:** (Splitting tax code); water, storm drain, curb, gutter, and street improvements located in Studer Acreage Tracts Sub.  
[\(Corresponding Staff Memo 4F\)](#)

(G) **SID 1360:** (Respread based on actual costs); installation of water, sanitary sewer, storm drain and street improvements in Transtech Center Subdivision, Gabel Subdivision - 2<sup>nd</sup> filing, Tierra Yellowstone Industrial Park, Subdivision, Gabel Road Commercial Center Sub., Parkco Industrial Sub., Millennium Market Sub., and Broso Valley Sub.

[\(Corresponding Staff Memo 4G\)](#)

(H) **SW 2001:** (Combining tax codes); Broadwater Phase I Sidewalk, Curb and gutter located in Normandy Addition, 3<sup>rd</sup> filing.

[\(Corresponding Staff Memo 4H\)](#)

(I) **SW 2011:** (Combining tax codes); sidewalk, curb and gutter in Foster Addition.

[\(Corresponding Staff Memo 4I\)](#)

(J) **SW 9898:** (Combining tax codes); miscellaneous sidewalk, curb and gutter improvements in Non-Task Force areas throughout the City.

[\(Corresponding Staff Memo 4J\)](#)

Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

5. **PUBLIC HEARING AND RESOLUTIONS** fixing the amount of the annual special assessments for FY2006 and levying and assessing special assessments for:

(A) **Encumbrances, obstructions or encroachments** on, over, across or above the streets, avenues, sidewalks or alleys of the City;

(B) **Weed Cutting and removal;**

(C) **Park Maintenance Districts:** PMD #4005, #4012, #4014, #4023, #4026, #4027 and #4029.

Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 5\)](#)

6. **PUBLIC HEARING AND FIRST READING ORDINANCE expanding** the boundaries of Ward II to include recently annexed property in Annex #05-08, described as: a 33.71 acre parcel described as Tracts 1 and 2, C/S 3190, located at 120 Wicks Lane, Ernest and Francisca Shaw, petitioners. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 6\)](#)

7. **PUBLIC HEARING AND RESOLUTION** annexing Grand Acre Park and right-of-way, an undeveloped 0.363-acre parcel located on Broadwater

Avenue, west of 52<sup>nd</sup> St. W, DC Capital Real Estate, LLC petitioner. (#05-09). Staff recommends approval of the resolution with conditions.

**(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 7\)](#)

8. **PUBLIC HEARING AND RESOLUTION** revising the *Heritage Trail*, The Greater Billings Non-Motorized Trail Plan. Staff makes no recommendation.

**(Action:** approval or disapproval of resolution revising the plan.)

[\(Corresponding Staff Memo 8\)](#)

9. **PUBLIC HEARING AND SPECIAL REVIEW #793:** a special review for an All Beverage liquor license with gaming in a Community Commercial zone described as Lots 20 & 21 of Block 1, Murn-Morrow Subdivision, located at 1720 Grand Avenue. Mayflower of China, Shelly Ma, owner; Angelina and Patrick Cormier, agents. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 9\)](#)

10. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #766:** a text amendment to the Unified Zoning Regulations, amending BMCC Sections 27-201 and 27-306, adding a definition of limited Pharmaceutical manufacturing and setting limited pharmaceutical manufacturing uses allowed in Highway Commercial and Controlled Industrial Zoning Districts. Zoning Commission recommends approval.

**(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 10\)](#)

11. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Section 11-102; providing for new Council Ward boundaries, establishing an effective date, repealing all previous ward boundaries and providing a severability clause. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 11\)](#)

12. **UPDATE ON SPECIAL REVIEW #782:** a special review to permit a temporary go-kart track on a property zoned R-9600 and located at 1235 West Wicks Lane. Harvest Church, owner; Glenn Fournier, agent.

**(Action:** council update report only; no action necessary.)

[\(Corresponding Staff Memo 12\)](#)

13. **SPECIAL REVIEW #790:** a special review to allow on-premise beer service without gaming on Block 2, Lot 10 Claimstake Subdivision, located at 2701 Enterprise Ave., Suite 1. Delbert L. Bailey and Timothy Dernbach, owners; Tim Mohr, agent. Zoning Commission recommends conditional approval. (Public hearing held 8/22/05). **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 13\)](#)

14. **PROFESSIONAL SERVICES CONTRACT** with Peaks to Plains Design P.C. for Castle Rock Park Spray Ground Facility, \$32,382.00. (Delayed from 9/12/05). Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 14\)](#)
15. **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**

# A1

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

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**TITLE:** BID AWARD – 9-1-1 Plant Equipment Telephone System Upgrade

**DEPARTMENT:** Fire

**PRESENTED BY:** Marv Jochems, Fire Chief

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**PROBLEM/ISSUE STATEMENT:** The existing 9-1-1 Plant Telephone system is not running on an NT Microsoft 'platform'. In order to get the new upgrades and updates from Plant, we must upgrade our telephone consoles to an NT platform. In January, 2005, the Joint City-County 9-1-1 Advisory Board approved a motion to upgrade the Plant telephone system to an NT platform using 9-1-1 Grant funds and to amend the 91-1- Plan with the State of Montana to reflect this expenditure.

A call for sealed bids was published on August 25, September 1 and 8, 2005. Bid opening was held September 13, 2005.

**FINANCIAL IMPACT:** Funding from the State of Montana 9-1-1 Grant and was approved as a supplemental request in the FY 2006 budget.

#### **RECOMMENDATION**

Staff recommends that Council approve the staff recommendation to award the bid to Qwest Communications, the only bid received, for their bid of \$ 104,111.40.

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

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# A2

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

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**TITLE:** Radial Stacking Conveyor

**DEPARTMENT:** Public Works Department

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

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**PROBLEM/ISSUE STATEMENT:** This Radial Stacking Conveyor is in the City's Equipment Replacement Program, and was approved by City Council during the FY 05/06 budget process. The budget estimate for this item is \$40,000. The unit's function is to stack winter sand, ice slicer and road chips in the materials storage building at the BOC facility.

The Street/Traffic Division advertised for sealed bids for the Radial Stacking Conveyor on September 1<sup>st</sup> & 8th with a bid opening on September 13, 2005. The following bids were received.

Western Plains        \$25,900.00

**FINANCIAL IMPACT:** 1 bid was received for the replacement of the Radial Stacking Conveyor, Western Plains was the only bid.

### **RECOMMENDATION**

Staff recommends that Council award bid to Western Plains for the Radial Stacking Conveyor at a cost of \$25,900.

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

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# A3

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 26, 2005

**TITLE:** W.O. 05-01A, 2005 Water and Sewer Replacement Projects,  
Contract Award (Michigan Street Reconstruction)

**DEPARTMENT:** Public Works

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

**PROBLEM/ISSUE STATEMENT:** The project will include reconstruction of Michigan Street due to related improvements and installation of new utilities installed as part of the WO 05-01 Water and Sewer replacement project. This project will provide a reconstructed street facilities infrastructure due to the non-repairable street conditions. The project limits are from Poly Drive on the south to Rimrock Road on the north. These areas have been identified for utility rehabilitation/street replacement by City of Billings staff.

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

<b>Project Number</b>	<b>WO 05-01</b>
<b>Amount and Sources of Funds</b>	
Water Reconstruction Funds	\$
30,043.00	
Paving Program Funds	\$
63,000.00	
<b>Total</b>	\$
<b>93,043.00</b>	

Bids were opened on September 6, 2005 with the following results:

#### WO 05-01A (Michigan Ave. Reconstruction)

<b>Firm</b>	<b>Bid</b>
JEM Contracting	\$ 93,043.00
JTL Group	\$ 134,740.00
Engineers Estimate	\$86,000.00

**RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 05-01A JEM Contracting in the amount of \$93,043.00.

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

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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

**TITLE:** Approval of Award to Purchase Three New 2006 Tilt Cabs and Chassis for the Solid Waste Division

**DEPARTMENT:** Public Works/Solid Waste Division

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

**PROBLEM/ISSUE STATEMENT:** The current Solid Waste Division FY06 Budget includes funds to replace three older garbage trucks. All are included in the approved Equipment Replacement Plan and they are scheduled to be purchased this fiscal year.

Public Works bid the truck chassis separate from the compactor bodies. This bid recommendation is for the truck chassis only. The truck chassis will be delivered to the compactor manufacturer for installation of the packer body. That vendor is then required to deliver the completed truck to the City of Billings. Bids were advertised August 11 and 18.

This item was delayed from the City Council meeting on September 12, 2005 so additional information could be provided to Council members regarding this bid.

**FINANCIAL IMPACT:** The Solid Waste Division budgeted adequate funds to purchase three truck chassis. Three bids were received August 23, 2005 as follows:

### **SCHEDULE I - 62,000 GVW CAB & CHASSIS WITH DUAL STEERING**

<u>Equipment</u>	<u>Tri-State Equipment</u>	<u>I State Truck Center</u>	<u>Tri-State</u>
Brand	Auto Car	Freightliner	Mack
Total Bid-Each	\$109,141	\$103,431	No Bid

### **SCHEDULE II - 62,000 GVW CAB & CHASSIS**

<u>Equipment</u>	<u>Tri-State Equipment</u>	<u>I-State Truck Center</u>	<u>Tri-State</u>
Brand	Auto Car	Freightliner	Mack
Total Bid-Each	\$107,353	\$101,501	\$106,500

**SCHEDULE III - 58,000 GVW CAB & CHASSIS**

	<u>Tri-State Equipment Equipment</u>	<u>I-State Truck Center</u>	<u>Tri-State</u>
Brand	Auto Car	Freightliner	Mack
Total Bid-Each	\$106,198	\$101,367	\$106,203

Two of the bids submitted did not meet all of the specifications. The bid submitted by I-State did not meet the specifications for the radiator and they exceed the maximum allowable cab width. Specifications also indicate that a previous history of poor performance will exclude a bidder from consideration. Two of the Freightliner trucks currently in the fleet have had many problems such as over-heating, steering, and cab structural problems. The bid submitted by Tri-State for the Mack truck also had several exceptions to specifications. The Auto Car meets all the specifications.

**RECOMMENDATION**

Staff recommends that Council award the contract for purchase of three 2006 model tilt cabs and chassis as follows:

Schedule I –One Unit – Tri State Truck & Equipment	\$109,141
Schedule II – One Unit – Tri State Truck & Equipment	\$107,353
Schedule III – One Unit – Tri State Truck & Equipment	\$106,198

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

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# B

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

**TITLE:** Consideration of Proposals for Mail Services from Qualified Businesses or Individuals to Provide a Full Range of Mailing Services for the City of Billings.

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

**PROBLEM/ISSUE STATEMENT:** The City of Billings has requested proposals from qualified businesses or individuals to provide a full range of mail services for the City of Billings. The intent of this request was to solicit proposals to provide all mail services for a period of 3 (three) years with an option to renew for an additional 2 years.

The Mail RFP was advertised on 08/11/05 and 08/18/05 with proposals due on 08/30/05. A review committee comprised of five City employees was present on 08/31/05 to evaluate the two proposals received. The proposals were rated on the companies' years in the business, ability to offer requested services and cost of the requested services.

**FINANCIAL IMPACT:** The City departments/divisions using the centralized mail services will realize an overall savings of \$2,000 or 4% per year for mail expenditures. Letters for example will cost \$.03 less under this contract.

#### **RECOMMENDATION**

Staff recommends that Council award the contract to Mailing Technical Services.

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

#### **ATTACHMENT**

A- Two Copies of the Contract

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# C



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

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**TITLE:** Classification & Compensation Study Contract with Associated Employers of Montana and Employers Association, Inc.

**DEPARTMENT:** Administration

**PRESENTED BY:** Bruce McCandless, Deputy City Administrator

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**PROBLEM/ISSUE STATEMENT:** The Council will consider approving a contract with Associated Employers of Montana and Employers Association, Inc. to prepare a classification and compensation plan for the City. This is follow-up to work that was performed by Fox-Lawson Associates, who produced a plan in 2004 that was too complex and expensive to implement. The Classification and Compensation Committee, made up of union and non-union employees and City Councilors, recommends that the Council approve this contract. The City Council tabled this item on August 8, 2005 and referred it to a work session on September 6<sup>th</sup>.

**ALTERNATIVES ANALYZED:** Three alternatives were considered:

- Have Fox Lawson redo the study based upon new guidance from the Class & Comp Committee;
- Have another firm conduct an analysis based upon new guidance from the Class & Comp Committee.
- Abandon the Class and Comp effort and use the present system.

**FINANCIAL IMPACT:** The consultant's cost proposal ranges from \$31,700 to \$37,200. The more expensive proposal includes having the consultant conduct a new salary survey for the compensation component. Staff believes that it can gather salary information from the Fox-Lawson survey and locally available resources. \$25,000 was budgeted in FY 06 to conduct the study, so a budget amendment will probably be requested later in the year.

### **RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute a contract with Associated Employers of Montana and Employers Association, Inc., for the amount of \$31,700, to complete the classification and compensation plan.

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

**ATTACHMENTS**

A:      Contract for Professional Services

## **INTRODUCTION**

The Council will consider approving a contract with Associated Employers of Montana and Employers Association, Inc. to prepare a classification and compensation plan for the City.

## **BACKGROUND**

The City's present classification and compensation system was adopted in 1993. The staff members that were trained to implement and maintain the system have left the City's employment, so the system hasn't been accurately and consistently used for the past five years. The result is that the City may have improperly classified employees and the compensation system may be out of step with the employment market.

In the FY 2003 budget the City Council approved the expenditure of \$200,000 to hire a consulting firm to conduct a classification and compensation study. That approval included a plan to appoint a committee consisting of union and non-union employees and Council members to recommend a consulting firm and guide the project. On May 12, 2003, the City Council approved the committee recommendation to contract with Fox Lawson & Associates for \$78,000. The study began in May of 2003 and was completed in September of 2004.

The final results of the Fox Lawson study were unacceptable because; 1) the implementation cost was too high, 2) too many job descriptions were combined and eliminated and 3) the compensable factors or classification elements were not well understood or compatible with the City's jobs. Discussions were held with Fox Lawson to correct these concerns however, it was determined that any major overhaul of the report would be seen as "playing with the data." After considerable discussion among the Classification & Compensation Committee members, it was determined that a different consultant should complete the plan. The Committee requested consultant proposals, interviewed three and is recommending that the Council approve a contract with Associated Employers of Montana and Employers Association, Inc.

## **ALTERNATIVES ANALYSIS** There are three possible alternatives:

- Have Fox Lawson redo the study based upon new guidance from the Class & Comp Committee. This option was discussed within the Committee and it was determined that a fresh start with a new consultant is necessary.
- Have another firm conduct an analysis based upon new guidance from the Class & Comp Committee.
- Abandon the Class and Comp effort and use the present system. This would require the consultant that created the system 12 years ago to train the HR staff and Classification Committee on how to use and maintain the system. Discussions were held with that consultant and the Committee feels that a new look at our system is necessary.

## **RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute a contract with Associated Employers of Montana and Employers Association, Inc., for the amount of \$31,700, to

complete the classification and compensation plan.

**ATTACHMENTS**

A: Contract for Professional Services

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D

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, September 26, 2005**

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**TITLE:** Lease Agreement between Macerich Rimrock Limited Partnership and the City of Billings for a Police Mall Facility

**DEPARTMENT:** Billings Police Department

**PRESENTED BY:** Jerry Archer, Chief of Police

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**PROBLEM/ISSUE STATEMENT:** The Billings Police Department needs a larger single facility to provide community oriented policing program services. Rimrock Mall has offered a 2,922 square foot space for a new Police Mall Facility. Council is being asked to approve this lease agreement for a 3-year period commencing October 1, 2005, and authorize the Mayor to sign.

**ALTERNATIVES ANALYZED:** This is a prime location for the City, which is being offered at no lease cost. Alternatives were sought extensively, but no responses were received. This proposal is most beneficial to the City of Billings, the Billings Police Department, and to Rimrock Mall, who, for their donation of space, benefits by the visibility of Police presence at the Mall, and the highly visible programs which increase traffic to the Mall.

**FINANCIAL IMPACT:** There will be no leasing fee charged to the City. Rimrock Mall designates the donation value at \$65,000 per year. The Billings Police Department does have \$9,000 budgeted in the current year's budget for utility costs and \$18,686 budgeted for remodel expenses. Utility costs will be an on-going responsibility in future budget years.

**RECOMMENDATION**

Staff recommends that Council approve the lease agreement with Macerich Rimrock Limited Partnership for new space to be occupied by the Billings Police Department Volunteer Program.

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

Attachment

A – Lease Agreement between Macerich Rimrock Limited Partnership and City of Billings

## **INTRODUCTION**

The Billings Police Department needs a larger single facility to provide community oriented policing program services. Rimrock Mall has offered a 2,922 square foot space for a Police Mall Facility. Council is being asked to approve this lease agreement for a 3 year period commencing October 1, 2005, and authorize the Mayor to sign.

## **BACKGROUND**

Current space in Cop Shop West is inadequate for the increasing demand for services. Rimrock Mall was approached about providing additional space and they have offered this 2922 square foot area formerly occupied by Sydney's, next to Penney's in the mall. The space will offer indirect interior access from the main mall and access from the outside parking lot. The City of Billings and Rimrock Mall are partnering to establish a more visible presence and improved access to law enforcement programs and possibly other City government services, including non-traditional hours at a location convenient to the public with readily available parking. Rimrock Mall is providing this space for no cost to the City, other than paying utilities and improvements. Renovations to the space will be accomplished with budgeted funds, volunteer labor, and construction donations. The programs the Police Department proposes to provide in the new facility are the Crime Prevention Center (including Neighborhood Watch, McGruff House, Operation ID, Adopt-A-Cop, Bicycle Registration, Stranger Danger Classes, Child Identification, Identity Theft, and Crime Prevention Classes), the Cop Shop Program, the Municipal Court Support Program, Animal Shelter Volunteer Program, and Volunteer Special Projects Program, and the Chaplains Program. Officers will use the facility 24 hours a day for writing reports, shoplifter processing and other office/computer support. There are currently 100+ volunteers who will work out of the facility and it is expected to increase the number of volunteers in the future.

This space would also support a potential future service like "City Hall in the Mall", a concept popular in many malls around the country. Such services could include but not limited to, Parks and Rec reservations, payment of water bills, payment of taxes, payment of parking tickets, purchase of bus passes, etc.

## **RECOMMENDATION**

Staff recommends that Council approve the lease agreement with Macerich Rimrock Limited Partnership for new space to be occupied by BPD Volunteer Program.

## **ATTACHMENT**

A – Lease Agreement between Macerich Rimrock Limited Partnership and City of Billings

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

# E

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

<b>TITLE:</b>	Approval of the Following Three Agreements with Wells Fargo Bank; (1) Sale and Purchase Agreement of Existing Automatic Teller Site to the City, (2) the Temporary Leaseback Agreement from the City to Wells Fargo, and (3) the Wells Fargo ATM Site Lease of the Park II Garage Space from the City to Wells Fargo
<b>DEPARTMENTS:</b>	Aviation and Transit/Administration
<b>PRESENTED BY:</b>	J. Bruce Putnam, A.A.E., Director of Aviation and Transit Bruce McCandless, Deputy City Administrator

**PROBLEM/ISSUE STATEMENT:** The City staff has been working diligently and cooperatively with Wells Fargo Bank staff to negotiate a sale of their current drive up facility on Second Avenue and 26th; a leaseback of this site to Wells Fargo for their temporary use; and a lease to Wells Fargo for new drive up facilities that will be constructed on the ground level of the Park II expansion. These negotiations have been successfully completed and the Council will consider approving them. The execution by both parties will bring significant benefit to both in the form of constructing a much needed new MET Transit Operations Center and a new drive up banking facility for Wells Fargo, tied to their downtown branch bank.

**FINANCIAL IMPACT:** The impacts are as follows:

- The MET Operations Center site will be purchased for the accepted appraisal value of \$975,000. All Transit Center site acquisition and construction costs will be funded from a combination of FTA Federal Discretionary Funds that will be received in two increments (\$4.383 million). These funds were secured for the City by Senator Burns. The local share Transit funding totals about \$1.1 million and is included in the 2006-11 CIP and the Transit budget. These funds will be expended over about a two-year period as the construction occurs following the Park II expansion and relocating the drive up banking function to that site.
- The leaseback Agreement will provide payments from Wells Fargo to the Aviation and Transit Department of \$4,062.50 per month during the period of their continued occupancy of the purchased site, pending the completion of their new facilities under Park II.

- The Park II drive up bank lease will generate \$2,850 per month for the Parking Division.

**RECOMMENDATION**

Staff recommends that delaying action on the three (3) Agreements with Wells Fargo Bank to October 11, 2005.

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

## **INTRODUCTION**

The City Council will consider approving three agreements with Wells Fargo Bank: (1) purchasing the bank's drive up banking facility at 203 N. 26th Street; (2) leasing that property to Wells Fargo while new drive up facilities are being constructed; and (3) leasing ground floor space in the Park II expansion to Wells Fargo for their new drive up bank facilities.

## **BACKGROUND**

The City MET Transit Division has been searching for several years for a new off-street location for its downtown Operations Center. Recent committees comprised of downtown business persons, citizens, and staff recommended the Wells Fargo drive up bank located at 203 N. 26th Street and the Council accepted it. Wells Fargo is willing to sell its property and relocate its drive up banking facility to nearer their downtown branch bank. Negotiations were successful and the three Agreements that embody the business deals are being brought forward for Council approval.

The City is using 80% FTA grant funding to purchase the 41,000 square foot site and construct the Operations Center. Construction of the much needed, new facilities will begin 12–18 months from now, following completion of the Park II improvements. The recommended purchase price of \$975,000 is based on two (2) appraisals and a review appraisal that confirmed that price. A written offer was sent to Wells Fargo in August after the appraisals were approved by the FTA.

If the bank sells its drive up property to the City, it must remain in that location until its replacement facilities are ready for occupancy. A property lease from the City to Wells Fargo for that interim occupancy has been negotiated. The proposed lease rate is based on the purchase price and a 5% ROI, which equals \$4,062.50 per month. The lease term is flexible, but the bank must vacate the property within 180 days following the City's notice that the Park II facilities are ready for the bank to begin installing its equipment.

The City is constructing a Park II expansion and the ground floor area is proposed for the new drive up. The City's designer is working cooperatively with Wells Fargo to accommodate the drive up, while ensuring that the parking operations can be effectively conducted on the upper floors. The triple-net lease has an initial term of 2018 and has two, ten-year extensions. The lease rate of \$2,850/month is equivalent to the revenue that the City would receive if the space were used for leased parking, but that amount is supported by other indicators of leased property value. The lease contains an annual lease payment inflator of 2.5%/year and establishes a method to determine the appropriate lease rate during the term extension periods.

## **RECOMMENDATION**

Staff recommends that delaying action on the three (3) Agreements with Wells Fargo Bank to October 11, 2005.

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

**AGENDA ITEM:****CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 26, 2005**

**TITLE:** WO 00-15 Grand Avenue Right-of-Way Agreement with Welborn Land & Livestock Company

**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 8<sup>th</sup> Street West to 12<sup>th</sup> 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 with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. Welborn Land & Livestock Company, owner of the property at 905 Grand Avenue, Grandstand Casino, 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:**

1. Approve the Right-of-Way Agreement with Welborn Land & Livestock Company and authorize the Mayor to sign the subdivision plat once completed.
2. Do not approve the Right-of-Way Agreement with Welborn Land & Livestock Company or authorize the Mayor to sign the subdivision plat once completed.

**FINANCIAL IMPACT:** The Welborn Land & Livestock Company has agreed to donate right-of-way for a handicap ramp at 905 Grand Avenue.

**RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreement with Welborn Land & Livestock Company and authorize the Mayor to sign the subdivision plat dedicating the right-of-way once completed.

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

ATTACHMENT

A. Right-of-Way Agreement with Welborn Land & Livestock Company

## **INTRODUCTION**

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> 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. All but six properties have agreed to sell or donate the necessary right-of-way for the project.

## **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. 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 8<sup>th</sup> Street West to 12<sup>th</sup> 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.

## **ALTERNATIVES ANALYSIS**

Approve the Right-of-Way Agreement with Welborn Land & Livestock Company 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 Welborn Land & Livestock Company 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 Welborn Land & Livestock Company and authorize the Mayor to sign the subdivision plat dedicating the right-of-way once completed.

## **ATTACHMENTS**

- A. Right-of-Way Agreement with Welborn Land & Livestock Company

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# G

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

**TITLE:** Award Documents – 2005 Edward Byrnes Justice Assistance

Grant

(JAG Grant) - \$91,924

**DEPARTMENT:** Billings Police Department

**PRESENTED BY:** Jerry Archer, Chief of Police

**PROBLEM/ISSUE STATEMENT:** On August 30, 2005, the City of Billings was awarded a JAG Grant in the amount of \$91,924. This grant will be shared by the Billings Police Department and the Yellowstone County Sheriff's Office to provide technology and equipment, video enhancement systems, tasers and portable radio units. A meeting was held between the Billings Police Dept. and Yellowstone County Sheriff's Office and the decision was made that the City would receive 51% of the grant award since we would be administering the grant, and the County would receive the remaining 49%. Staff is requesting approval of the grant award and authorize the Mayor to sign the award documents.

**FINANCIAL IMPACT:** There will be no cost to the City.

#### **RECOMMENDATION**

Staff recommends that Council approve the 2005 JAG grant award in the amount of \$91,924 and authorize the Mayor to sign the award documents.

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

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

H

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, September 26, 2005**

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**TITLE:** Magic City Blues Festival Street Closure request

**DEPARTMENT:** Parks, Recreation and Public Lands

**PRESENTED BY:** Gene Blackwell, Interim Parks, Recreation and Public Lands Director

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**PROBLEM/ISSUE STATEMENT:** Tim Goodridge of the Magic City Blues Festival requests the closure of Montana Avenue between the 2300 and 2500 blocks from 9:00am on Friday, August 11, 2006, until 5:00pm on Sunday, August 13, 2006, for the annual Magic City Blues Festival. Please see enclosed map of event layout and letters of support from Montana Avenue business owners.

Recommended conditions of approval include Magic City Blues Festival:

1. Contact all businesses and make them aware of the event
2. Clean the area to be used following the event and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide certificate of insurance naming City of Billings as additional insured (will be obtained at least one month prior to event)
5. Obtain the proper permit for alcohol consumption in the public right of way from the Billings Police Department
6. Provide security for the event
7. Provide and install adequate traffic barricades and signs directing motorists around closure

**ALTERNATIVES ANALYZED:**

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

**FINANCIAL IMPACT:** There are no costs to the City of Billings other than administrative time to process permit. Traffic control and litter removal are to be paid for by the event sponsors.

## **RECOMMENDATION**

Staff recommends that Council approve the closures named above for the annual Magic City Blues Festival.

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

## **ATTACHMENTS**

- A. Letter from Tim Goodridge and support letters (8 pages)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Map outlining closure (1 page)

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

AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

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**TITLE:** Approval of Domestic Violence Unit & Victim Witness Assistance Sub-Grants

**DEPARTMENT:** City Attorney's Office

**PRESENTED BY:** Brent Brooks, City Attorney

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**PROBLEM/ISSUE STATEMENT:** Since July 2000, the City Attorney's Office has annually applied for federal Violence Against Women Act monies through the Montana Board of Crime Control (MBCC) in the form of Sub-Grants. These sub-grants help fund the City Attorney's Office Domestic Violence Unit and Victim Witness Assistance Program, which together provide statutorily mandated services to victims of violent crime including domestic violence, sexual assault, stalking, assault and violations of protective orders, pursuant to MCA Section 46-24-201 through Section 46-24-213 (2003).

**FINANCIAL IMPACT:**

- The total amounts of the sub-grant awards from the Board of Crime Control for 2005-2006 are \$38,000.00 (partial funding for the Victim Witness Assistance Program Director and Victim Witness Specialist positions) and \$55,000.00 (partial funding for the Domestic Violence Dedicated Prosecutor and Victim Witness Specialist positions). Without this grant funding, the City would have the burden of fully funding these positions in order to maintain the staff and materials necessary to fulfill statutorily mandated services to victims of violent crime.
- Each year the grant award amounts have been estimated into the fiscal year general fund budget. For FY 2006, the City's match for the Victim Witness Assistance Program totals \$62,406.48. For the Domestic Violence Unit the City's match is \$49,962.83.

**RECOMMENDATION**

Staff recommends that Council approves the acceptance of the Domestic Violence Unit and Victim Witness Assistance Program grants as offered by the Montana Board of Crime Control.

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

**ATTACHMENTS**

- A. Victim Witness Program
- B. Domestic Violence Unit

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J

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, September 26, 2005**

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**TITLE:** Resolution of Intent to Sell Lot 8A, Block 13, Lake Hills Subdivision, 18<sup>th</sup> Filing

**DEPARTMENT:** Public Works

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

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**PROBLEM/ISSUE STATEMENT:** The City of Billings owns Lot 8A, Block 13, Lake Hills Subdivision, 18<sup>th</sup> Filing, as shown on the attached map. Lot 8A was acquired from Yellowstone County in 1994, who acquired it through a tax delinquency. Lot 8A is worthless to the city and unable to fit a structure due to its small land area. David and Ralna Cunningham, owners of both lots adjacent to Lot 8A, have offered to purchase Lot 8A from the city. They have offered the city \$1.69 per square foot, which is the same price they paid for another vacant lot within their subdivision in April 2005.

**ALTERNATIVES ANALYZED:**

3. Approve Resolution of Intent to Sell Lot 8A, Block 13, Lake Hills Subdivision 18<sup>th</sup> Filing and set a public hearing for October 24, 2005.
4. Do not approve the Resolution of Intent to Sell Lot 8A, Block 13, Lake Hills Subdivision 18<sup>th</sup> Filing.

**FINANCIAL IMPACT:** The Cunninghams are willing to pay \$1.69 per square foot, which is comparable to another recent purchase of theirs in the neighborhood. The total area of Lot 8A is 1,724 square feet. The total cost David and Ralna Cunningham would pay the city is \$2,913.56.

**RECOMMENDATION**

Staff recommends that Council approve the Resolution of Intent to Sell Lot 8A, Block 13, Lake Hills Subdivision 18<sup>th</sup> Filing, and set a public hearing for October 24, 2005.

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

**ATTACHMENT**

- B. Map depicting lot proposed to be sold
- C. Proposal to Purchase City-Owned Property prepared by David and Ralna Cunningham
- D. Resolution of Intent to Sell Lot 8A, Block 13, Lake Hills Subdivision, 18<sup>th</sup> Filing

**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 SOLD, DECLARING THE INTENT OF THE CITY TO DISPOSE OF THE PROPERTY AND AUTHORIZING CITY OFFICIALS TO PROCEED.

WHEREAS, the City of Billings finds it necessary or desirable to dispose of property it currently owns, located on Lake Hills Drive and described as Lot 8A, Block 13, Lake Hills Subdivision 18<sup>th</sup> Filing, in the City of Billings, Yellowstone County, Montana, and,

WHEREAS, Article 22-900 BMCC requires the city to declare its intention to dispose of such lands, giving the public the opportunity to be heard regarding such action, and setting a public hearing date, 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, place of public hearing and the existing and proposed use.

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

PUBLIC HEARING. The public hearing date has been set for October 24, 2005, at 6:30 o'clock p.m. in the Council Chambers, located on the Second Floor of the Police Facility, 220 North 27<sup>th</sup> 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 October 6<sup>th</sup> and 13<sup>th</sup>, 2005, and to mail a copy of such notice to all property owners within the three hundred (300) foot notification area.

APPROVED AND PASSED by the City Council of the City of Billings this 26<sup>th</sup> day of September, 2005.

THE CITY OF BILLINGS:

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

ATTEST:

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

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# K

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 2005

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**TITLE:** Preliminary Plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision

**DEPARTMENT:** Planning and Community Services, through Ramona Mattix, AICP, Planning Director

**PRESENTED BY:** Lora Mattox, Planner II

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**PROBLEM/ISSUE STATEMENT:** The applicant is requesting preliminary plat approval of Amended Lots 1 and 2, Block 3 of Reiter-Beswick, which was submitted on August 15, 2005. The owners are Timothy G. and Teresa A. Lehman. Pursuant to Section 23-404(c) of the Billings City Code, the City Council shall act on a preliminary minor plat within 35 working days of the application submittal.

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

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

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

**RECOMMENDATION**

Staff recommends that the City Council conditionally approve the Preliminary Plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision and adopt the Findings of Fact as presented in the staff report.

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

**ATTACHMENTS**

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

## **INTRODUCTION**

The Preliminary Plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision is a minor plat that would create two lots for residential use. The subject property is zoned Residential 9600 and Lot 1B has an existing house on it. The subject property is located on the south side of Poly Drive where it intersects Woody Drive.

## **PROCEDURAL HISTORY**

- The preliminary plat application was submitted to the Planning Department on August 15, 2005.
- The City Council will consider the preliminary plat application at its meeting on September 26, 2005.
- The City Council's decision can be appealed to the District Court.
- The applicants applied for and were granted a variance to decrease the minimum required lot area from 9600 square feet to 8,317 square feet and 9,450 square feet from a 17,750 square foot lot in a Residential 9600 zoning district.

## **BACKGROUND**

General location:	2230 Poly Drive
Legal Description:	Lot 1 and North 3.42 Feet of Lot 2, Block 3, Reiter-Beswick Subdivision
Subdivider/Owner:	Timothy G. and Teresa A. Lehman
Engineer and Surveyor:	Tom Kelly, PLS
Existing Zoning:	Residential 9600
Surrounding zoning:	Residential 9600
Existing land use:	Residential
Proposed land use:	Residential
Gross area:	18,003 Square Feet
Lots:	2
Max.	9,685 square feet
Min.	8,370 square feet
Dedications:	None – previously met

## **ALTERNATIVES ANALYSIS**

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

### **RECOMMENDED CONDITIONS**

1. Within the Sidewalks and Streets section of the Subdivision Improvements Agreement (SIA), language needs to be replaced. It must read "Upon development or redevelopment of the lots, any defective or deficient curb, gutter, or sidewalk must be removed and replaced. No additional improvements are proposed with this subdivision but are included in the waiver of right to protest attached." *(Recommended by the City of Billings Engineering Department)*
2. Within the Street Lighting and Traffic Control Devices section of the SIA, the language must be amended to read "No additional improvements are proposed with this subdivision but are included in the waiver of right to protest attached." *(Recommended by the City of Billings Engineering Department)*
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **VARIANCES**

No variances requested.

### **STAKEHOLDERS**

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

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

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

**RECOMMENDATION**

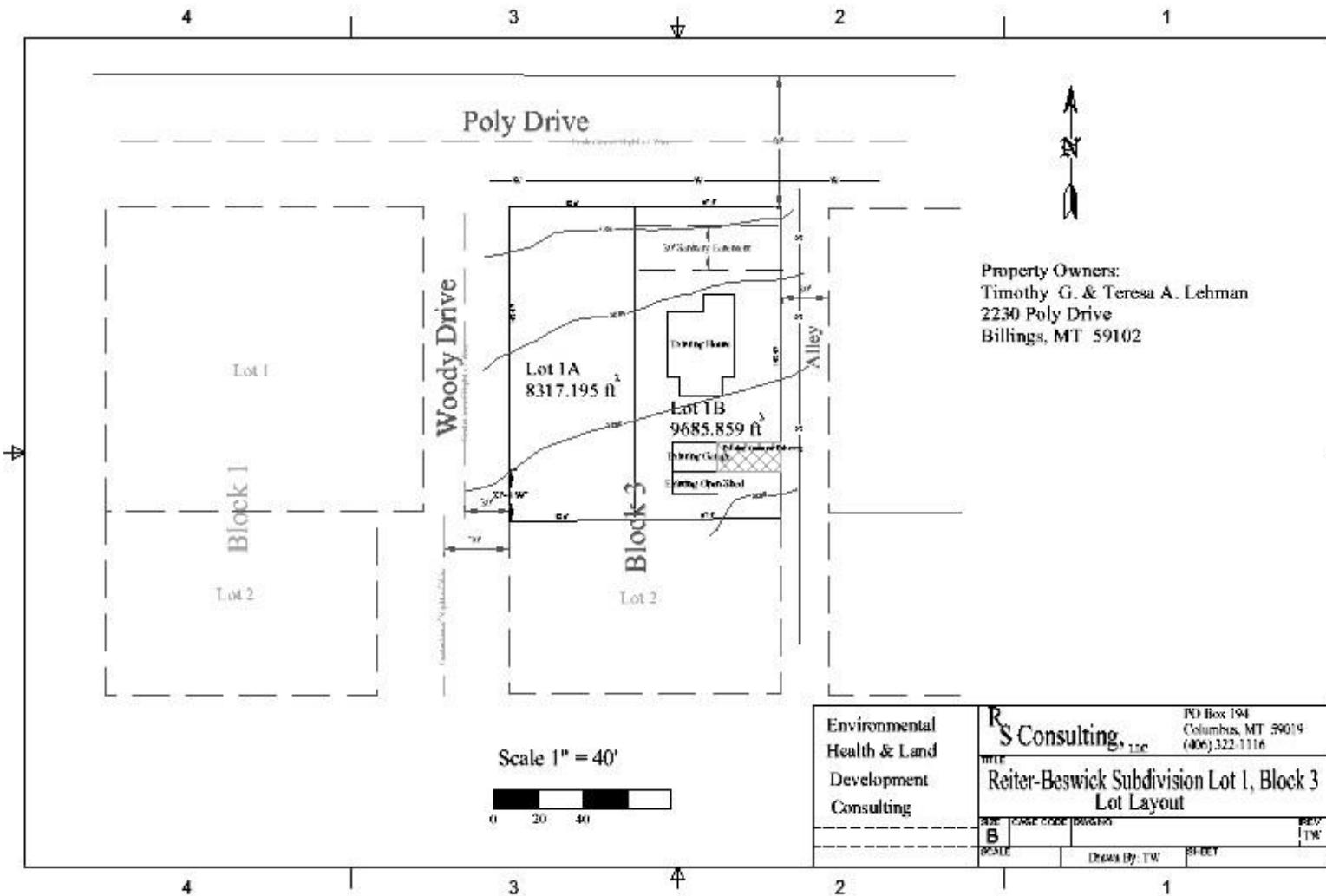
Staff recommends that the City Council conditionally approve the Preliminary Plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision and adopt the Findings of Fact as presented in the staff report.

**ATTACHMENTS**

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

**ATTACHMENT A**

Preliminary plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision



**ATTACHMENT B**  
Site Photographs



Figure 1: View south from Poly Drive at subject property.



Figure 2: View in front of subject property west along Poly Drive



Figure 3: View of subject property from Woody Drive



Figure 4: View east along Poly Drive

**ATTACHMENT C**  
Mayor's approval letter  
Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision

September 26, 2005

Timothy G. and Teresa A. Lehmean  
2230 Poly Drive  
Billings, Montana 59102

Dear Property Owner:

On September 26, 2005, the Billings City Council approved the preliminary plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision, subject to the following conditions of approval:

1. Within the Sidewalks and Streets section of the Subdivision Improvements Agreement (SIA), language needs to be replaced. It must read "Upon development or redevelopment of the lots, any defective or deficient curb, gutter, or sidewalk must be removed and replaced. No additional improvements are proposed with this subdivision but are included in the waiver of right to protest attached." *(Recommended by the City of Billings Engineering Department)*
2. Within the Street Lighting and Traffic Control Devices section of the SIA, the language must be amended to read "No additional improvements are proposed with this subdivision but are included in the waiver of right to protest attached." *(Recommended by the City of Billings Engineering Department)*
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions regarding the conditions of approval, please contact Lora Mattox with Planning and Community Services at 247-8622 or by email at [mattoxl@ci.billings.mt.us](mailto:mattoxl@ci.billings.mt.us).

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

Sincerely,

---

Charles F. Tooley, Mayor

pc: Travis West, R.S.

**ATTACHMENT D**  
**Findings of Fact**  
Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision

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

**1. Effect on agriculture and agricultural water users' facilities**

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

**2. Effect on local services**

- a. Utilities – Water and sewer lines are in place along Poly and Woody Drive. Those utilities have sufficient capacity to serve the property.
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for the additional waste.
- c. Streets – The current access for Lot 1B is Poly Drive. The access for the new lot (Lot 1A) will be Woody Drive. No street dedication or construction is proposed at this time, but a waiver of right to protest future SID's for such improvements will be filed with the final plat.
- d. Emergency services – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1928 17<sup>th</sup> Street West. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. Schools – The proposed subdivision is located within School District #2. No comments were received from School District #2
- f. Parks and Recreation – There is no parkland dedication requirement, as this is a minor plat.
- g. MET Transit – The subject property is serviced by MET transit as it is located on a Poly Drive which is a MET route.
- h. Mail Delivery - No comments were received from The United States Postal Service.

3. Effect on the natural environment

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

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

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

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

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

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

1. Growth Policy

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

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

*The proposed subdivision is consistent with the neighborhood character and surrounding land use patterns.*

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

*The proposed subdivision will contain a single-family residence which is compatible with the surrounding R-9600 zoning.*

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

*The subdivision may be considered infill and does not contribute to urban sprawl. There are no open space buffers planned as part of this subdivision.*

**2. Urban Area Transportation Plan**

Poly Drive is identified on the functional classification map as a minor arterial. No improvements are necessary for Poly Drive as a result of this subdivision.

**3. Heritage Trail Plan**

The Heritage Trail Plan identifies Poly Drive as a primary on street bikeway. No improvements are proposed to the trail system as a result of this subdivision.

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

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

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

The subject property is served by municipal water, sewer, storm drain and solid waste services, which will be extended from Poly or Woody Drive. All services are approved and regulated by state and federal authorities.

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

The subject property is located within the Residential 9600 (R-9600) zoning district. The subdivider is proposing two (2) single-family residences. As Poly Drive is a minor arterial, the residential setback from a minor arterial will be required. This setback is 70' from the centerline of Poly Drive.

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

The utility easements are satisfactory.

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

Legal and physical access will be provided via private driveways from Woody Drive.

## **CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of Amended Lots 1 and 2, Block 3, Reiter-Beswick Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- There should be small effects on local services because this is an in-fill project and the subdivider will be responsible for most of the capital facilities that are needed to serve the property.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and doesn't conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations and satisfies sanitary, easement and zoning requirements. Legal and physical access is provided to the parcel.

**Approved by the Billings City Council on September 26, 2005**

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Charles F. Tooley, Mayor

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

**AGENDA ITEM:**



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## **CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, September 26, 2005**

---

**TITLE:** Payment of Claims

**DEPARTMENT:** Administration – Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,194,421.57 have been audited and are presented for your approval for payment. A complete listing of the claims dated August 26, 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

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

# L2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 26, 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 \$744,675.53 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 2, 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:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 26, 2005**

---

**TITLE:** Public Hearing on September 26<sup>th</sup>, 2005 on the Federal FY2004 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Ramona Mattix

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**PROBLEM/ISSUE STATEMENT:** Each year the City of Billings is required to report on the results of its federally funded CDBG and HOME programs and submit a report to HUD within 90 days of the end of the program year, June 30, 2005. As part of this report process, the City of Billings must make the report available for public comment for a 15-day period and hold a public hearing on this performance during this period. The September 26<sup>th</sup> Public Hearing will be undertaken in conjunction with the 15-day public review and comment period extending from September 12<sup>th</sup> through September 26<sup>th</sup>. A notice of the availability of the draft report has been published and provided to community partners. No Council action is required.

**ALTERNATIVES ANALYZED:** Alternatives to the Public Hearing, which is required for receipt of federal CDBG and HOME funds, have not been considered.

**FINANCIAL IMPACT:** The Annual Performance Report reports on the City's progress in achieving the goals of its Five Year Consolidated Plan. The period covered by the FFY2005 report represents progress under the City's fifth year of the Five Year Consolidated Plan. The City received \$990,929.00 in new federal CDBG funding and \$2,263,005.76 in new HOME funding for Federal Fiscal Year (FFY) 2004 activities.

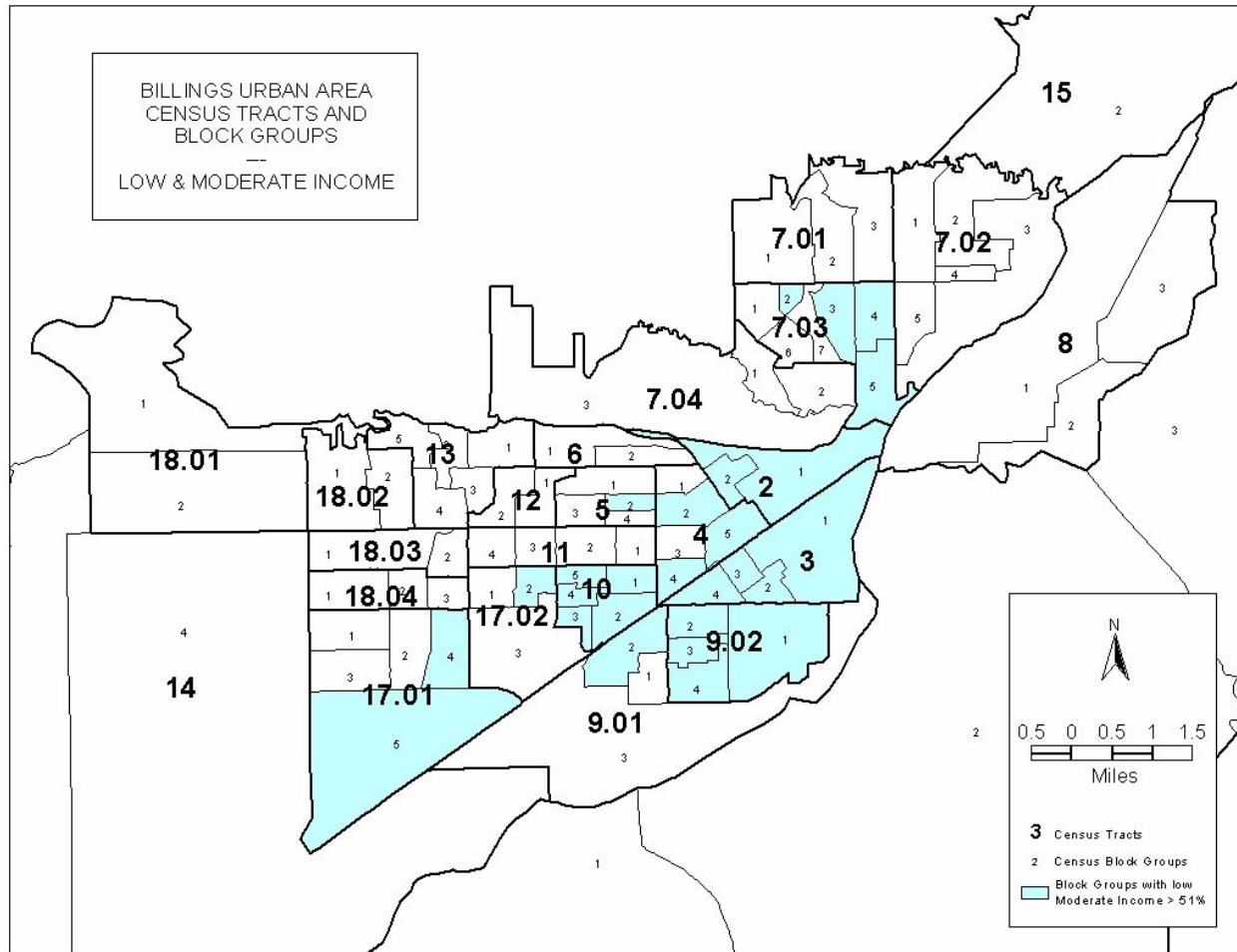
**RECOMMENDATION**

Staff recommends that Council hold a Public Hearing on September 26<sup>th</sup> to receive input on the City's Draft Comprehensive Annual Performance Evaluation Report available for public comment beginning September 12<sup>th</sup> and lasting through September 26<sup>th</sup>.

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

## ATTACHMENTS

A. FFY2004 Comprehensive Annual Performance Evaluation Report – On file in City Clerk's Office



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# 3A



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District 1358

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment resolution SID 1358 has been completed by the Finance Division and is ready to spread on the tax rolls. This project is for construction of curb and gutter, sidewalks, sanitary sewer mains, sanitary sewer services, water mains, water services, and necessary street improvements to portions of C/S 793, Deep Powder Subdivision, and Lake Hills Subdivision. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 1358 are assessed per lot. The net effective interest rate is 3.93%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 4.43%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council pass the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

**Attachment A**

SID #1358

Description of Property:

SUBDIVISION	BLK	TRACT	LOT/
Lake Hills Subdivision, 1st Filing	3	2	
Lake Hills Subdivision, 1st Filing	3	3	
Lake Hills Subdivision, 1st Filing	3	4	
Lake Hills Subdivision, 1st Filing	3	5	
Lake Hills Subdivision, 1st Filing	3	6	
Lake Hills Subdivision, 1st Filing	3	7	
Lake Hills Subdivision, 1st Filing	3	8	
Lake Hills Subdivision, 2nd Filing	4	1-A-1	
Lake Hills Subdivision, 3rd Filing	5	1	
Lake Hills Subdivision, 3rd Filing	5	2	
Lake Hills Subdivision, 3rd Filing	5	2	
Lake Hills Subdivision, 3rd Filing	5	2	
Lake Hills Subdivision, 3rd Filing	5	2	
Lake Hills Subdivision, 3rd Filing	5	2	
Lake Hills Subdivision, 3rd Filing	5	3	
Lake Hills Subdivision, 3rd Filing	5	4	
Lake Hills Subdivision, 3rd Filing	5	5	
Lake Hills Subdivision, 3rd Filing	5	6	
Lake Hills Subdivision, 3rd Filing	5	7	
Lake Hills Subdivision, 3rd Filing	6	8	
Lake Hills Subdivision, 3rd Filing	7	11	
Lake Hills Subdivision, 3rd Filing	7	12	
Lake Hills Subdivision, 3rd Filing	7	13	
Lake Hills Subdivision, 3rd Filing	7	14	
Lake Hills Subdivision, 3rd Filing	7	15	
Lake Hills Subdivision, 3rd Filing	7	16	
Lake Hills Subdivision, 3rd Filing	7	17	
Lake Hills Subdivision, 3rd Filing	7	18	
Lake Hills Subdivision, 4th Filing	20	5	
Lake Hills Subdivision, 4th Filing	20	6	

Lake Hills Subdivision, 4th Filing	20	7
Lake Hills Subdivision, 4th Filing	20	8
Lake Hills Subdivision, 4th Filing	20	9
Lake Hills Subdivision, 4th Filing	20	10
Lake Hills Subdivision, 4th Filing	20	11
Lake Hills Subdivision, 4th Filing	20	12
Lake Hills Subdivision, 4th Filing	20	13
Lake Hills Subdivision, 4th Filing	20	14
Lake Hills Subdivision, 4th Filing	20	15
Lake Hills Subdivision, 4th Filing	20	16
Lake Hills Subdivision, 4th Filing	20	17
Lake Hills Subdivision, 4th Filing	20	18
Lake Hills Subdivision, 4th Filing	21	1
Lake Hills Subdivision, 4th Filing	21	2
Lake Hills Subdivision, 4th Filing	21	3
Lake Hills Subdivision, 4th Filing	21	4
Lake Hills Subdivision, 4th Filing	21	5
Lake Hills Subdivision, 4th Filing	21	6
Lake Hills Subdivision, 4th Filing	21	7
Lake Hills Subdivision, 4th Filing	21	8
Lake Hills Subdivision, 4th Filing	21	9
Lake Hills Subdivision, 4th Filing	22	1
Lake Hills Subdivision, 4th Filing	22	2
Lake Hills Subdivision, 4th Filing	22	3
Lake Hills Subdivision, 4th Filing	22	4
Lake Hills Subdivision, 4th Filing	22	5
Lake Hills Subdivision, 4th Filing	22	6
Lake Hills Subdivision, 4th Filing	22	7
Lake Hills Subdivision, 4th Filing	22	8
Lake Hills Subdivision, 16th Filing	15	1
Lake Hills Subdivision, 16th Filing	16	1
Lake Hills Subdivision, 16th Filing	16	2
Lake Hills Subdivision, 16th Filing	16	21
Lake Hills Subdivision, 17th Filing	11	9
Lake Hills Subdivision, 17th Filing	11	10
Lake Hills Subdivision, 17th Filing	12	9
Lake Hills Subdivision, 17th Filing	12	10
Lake Hills Subdivision, 17th Filing	12	11
Lake Hills Subdivision, 17th Filing	12	12

Lake Hills Subdivision, 17th Filing	15	8
Lake Hills Subdivision, 17th Filing	15	9
Lake Hills Subdivision, 17th Filing	15	10
Lake Hills Subdivision, 17th Filing	15	11
Lake Hills Subdivision, 17th Filing	16	8
Lake Hills Subdivision, 17th Filing	16	9
Lake Hills Subdivision, 17th Filing	16	10
Lake Hills Subdivision, 17th Filing	16	11
Lake Hills Subdivision, 17th Filing	16	12
Lake Hills Subdivision, 17th Filing	16	13
Lake Hills Subdivision, 17th Filing	16	14
Lake Hills Subdivision, 17th Filing	16	15
Lake Hills Subdivision, 18th Filing	10	11
Lake Hills Subdivision, 18th Filing	10	12
Lake Hills Subdivision, 18th Filing	12	1
Lake Hills Subdivision, 18th Filing	12	12A
Lake Hills Subdivision, 18th Filing	12	13
Lake Hills Subdivision, 18th Filing	12	14
Lake Hills Subdivision, 18th Filing	12	15
Lake Hills Subdivision, 18th Filing	13	2
Lake Hills Subdivision, 18th Filing	13	3
Lake Hills Subdivision, 18th Filing	13	4
Lake Hills Subdivision, 18th Filing	13	5
Lake Hills Subdivision, 18th Filing	13	6
Lake Hills Subdivision, 18th Filing	13	7
Lake Hills Subdivision, 18th Filing	13	16
Lake Hills Subdivision, 18th Filing	13	17
Lake Hills Subdivision, 18th Filing	13	18
Lake Hills Subdivision, 18th Filing	13	19
Lake Hills Subdivision, 18th Filing	13	20
Lake Hills Subdivision, 18th Filing	13	21
Lake Hills Subdivision, 18th Filing	13	22
Lake Hills Subdivision, 18th Filing	14	1
Lake Hills Subdivision, 18th Filing	14	2
Lake Hills Subdivision, 18th Filing	14	3
Lake Hills Subdivision, 18th Filing	14	3
Lake Hills Subdivision, 18th Filing	14	3
Lake Hills Subdivision, 18th Filing	14	3

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Lake Hills Subdivision, 18th Filing	14	4
Lake Hills Subdivision, 18th Filing	14	4
Lake Hills Subdivision, 18th Filing	14	4
Lake Hills Subdivision, 18th Filing	14	5
Lake Hills Subdivision, 18th Filing	14	5
Lake Hills Subdivision, 18th Filing	14	5
Lake Hills Subdivision, 18th Filing	14	5
Lake Hills Subdivision, 18th Filing	14	6A
Lake Hills Subdivision, 18th Filing	14	7
Lake Hills Subdivision, 26th Filing	24	13
Lake Hills Subdivision, 26th Filing	24	14
Lake Hills Subdivision, 26th Filing	24	15A
Lake Hills Subdivision, 26th Filing	24	15B
Certificate of Survey No. 793		B
Deep Powder Subdivision	1	1
Deep Powder Subdivision	1	2
Deep Powder Subdivision	1	3
Deep Powder Subdivision	1	4
Deep Powder Subdivision	1	5
Deep Powder Subdivision	2	1
Deep Powder Subdivision	2	2
Deep Powder Subdivision	2	3
Deep Powder Subdivision	2	4
Deep Powder Subdivision	2	5
Deep Powder Subdivision	2	6
Deep Powder Subdivision	2	7
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Deep Powder Subdivision	2	9
Deep Powder Subdivision	2	10
Deep Powder Subdivision	2	11
Deep Powder Subdivision	2	12
Deep Powder Subdivision	2	13
Deep Powder Subdivision	2	14

Deep Powder Subdivision	2	15
Deep Powder Subdivision	2	16
Deep Powder Subdivision	2	17
Deep Powder Subdivision	2	18
Deep Powder Subdivision	2	19
Deep Powder Subdivision	2	20
Deep Powder Subdivision	2	21
Deep Powder Subdivision	2	22
Deep Powder Subdivision	2	23

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# 3B



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District 1365

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment resolution SID 1365 has been completed by the Finance Division and is ready to spread on the tax rolls. This project is for the installation of water, sanitary sewer, storm drain, and street improvements, in Lake Hills Subdivision, 25th Filing. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 1365 are assessed per lot. The net effective interest rate is 3.93%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 4.43%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

***Attachment A***

SID #1365

Description of Property:

<b>SUBDIVISION</b>	<b>BLK</b>	<b>TRACT</b>
Lake Hills Subdivision, 25th Filing	63	21
Lake Hills Subdivision, 25th Filing	63	23
Lake Hills Subdivision, 25th Filing	63	25

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# 3C



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District 1366

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment resolution SID 1366 has been completed by the Finance Division and is ready to spread on the tax rolls. This project is for construction of a park, city water supply, concrete parking lot, and storm drain in Rimrock West Estates Subdivision 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> filings and C/S 1350. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 1366 are assessed per lot. The net effective interest rate is 3.93%. Under the State statute 7-12-4189, the City is required to add ½ of 1% for a total rate of 4.43%. The ½ of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

**Attachment A**

SID #1366

Description of Property:

<b>LEGAL</b>
RIMROCK WEST ESTATES SUB 2ND FILING 5 2
RIMROCK WEST ESTATES SUB 2ND FILING 6 2
RIMROCK WEST ESTATES SUB 2ND FILING 7 2
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RIMROCK WEST ESTATES SUB 2ND FILING 9 2
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RIMROCK WEST ESTATES SUB 11 1
RIMROCK WEST ESTATES SUB 12 1
RIMROCK WEST ESTATES SUB 13 1
RIMROCK WEST ESTATES SUB 14-A-1 1 2ND AMND LOT 14A & 14B
RIMROCK WEST ESTATES SUB 14B-1 1 2ND AMEND LOT 14A & 14B
RIMROCK WEST ESTATES SUB AMND 1A1 2
RIMROCK WEST ESTATES SUB AMND LOT 1-A-2 BLK 2
RIMROCK WEST ESTATES SUB AMND LOTS 1-4 AMND 2A 2
RIMROCK WEST ESTATES SUB AMND LOTS 1-4 AMND 2B 2
RIMROCK WEST ESTATES SUB AMND LOTS 1-4 AMND 2C 2

RIMROCK WEST ESTATES SUB 3A 2 (AMND LOTS 1-4 BLK 2)
RIMROCK WEST ESTATES SUB 3B 2(AMND LOTS 1-4 BLK 2)
RIMROCK WEST ESTATES SUB 3C 2 (AMND LOTS 1-4 BLK 2)
RIMROCK WEST ESTATES SUB 4A & 4B 2 AMND LOTS 1-4
RIMROCK WEST ESTATES SUB 1 3
RIMROCK WEST ESTATES SUB 2A 3
RIMROCK WEST ESTATES SUB 2B 3
C/S 1350 TRCT 1A AMND IN NW4 33 1N 25E

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# 3D



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District 1371

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment resolution SID 1371 has been completed by the Finance Division and is ready to spread on the tax rolls. This project is for the installation of water, sanitary sewer, storm drain, and street improvements, in Blue Meadow Acreage Tracts, Monty's Place Subdivision, C/S 369 Amended, C/S 369 Third Amended, and C/S 1188. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 1371 are assessed per lot. The net effective interest rate is 3.93%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 4.43%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

**Attachment A**

SID #1371

Description of Property:

<b>SUBDIVISION</b>	<b>BLK</b>	<b>LOT/ TRACT</b>
Amended Plat of Lot 1 Blue Meadow Acreage Tracts		1
Amended Plat of Lot 1 Blue Meadow Acreage Tracts		6
Blue Meadow Acreage Tracts		2
Amended Plat of Lot 3 Blue Meadow Acreage Tracts		3A
Amended Plat of Lot 3 Blue Meadow Acreage Tracts		3D
Blue Meadow Acreage Tracts		4
Monty's Place Subdivision	1	10
Monty's Place Subdivision	1	11
Monty's Place Subdivision	1	12
Monty's Place Subdivision	1	13
C/S 369 Amended		A
C/S 369 Third Amended		A-1
C/S 369 Third Amended		A-2
C/S 1188		1

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# 3E



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District Sidewalk 2401

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment resolution Special Improvement District Sidewalk 2401 has been completed by the Finance Division and is ready to spread on the tax rolls. Special Improvement District Sidewalk 2401 is for miscellaneous sidewalk, curb, and gutter improvements located in areas throughout the City of Billings. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 2401 are assessed per lot. The net effective interest rate is 3.80%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 4.30%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

**Attachment A**

SW2401

Description of Property:

Lot	Block	Subdivision
13-17	70	BILLINGS ORIGINAL TOWN
18-24	70	BILLINGS ORIGINAL TOWN
13-18	93	BILLINGS ORIGINAL TOWN
23 AND 24	96	BILLINGS ORIGINAL TOWN
9	100	BILLINGS ORIGINAL TOWN
4-5	196	BILLINGS ORIGINAL TOWN
5-6	196	BILLINGS ORIGINAL TOWN
9 & 10	196	BILLINGS ORIGINAL TOWN
11 AND 12	196	BILLINGS ORIGINAL TOWN
1 & 2	198	BILLINGS ORIGINAL TOWN
3 & 4	198	BILLINGS ORIGINAL TOWN
5	198	BILLINGS ORIGINAL TOWN
6	198	BILLINGS ORIGINAL TOWN
7	198	BILLINGS ORIGINAL TOWN
8	198	BILLINGS ORIGINAL TOWN
9 & S. 1/2 OF 10 N. 1/2 LOT 10 &	198	BILLINGS ORIGINAL TOWN
11,12	198	BILLINGS ORIGINAL TOWN
13-14 & N. 1/2 OF 15	198	BILLINGS ORIGINAL TOWN
S. 1/2 OF 15 & 16-		
17	198	BILLINGS ORIGINAL TOWN
18-19	198	BILLINGS ORIGINAL TOWN
20-21	198	BILLINGS ORIGINAL TOWN
22 & N. 1/2 OF 23	198	BILLINGS ORIGINAL TOWN
23-24	198	BILLINGS ORIGINAL TOWN
23 and 24	198	BILLINGS ORIGINAL TOWN
5 and 6	208	BILLINGS ORIGINAL TOWN
5 and 6	208	TOWN OF BILLINGS
1-2	209	BILLINGS ORIGINAL TOWN
3-4	209	BILLINGS ORIGINAL TOWN
5 and 6	209	BILLINGS ORIGINAL TOWN
7 and 8	209	BILLINGS ORIGINAL TOWN
9 and 10	209	BILLINGS ORIGINAL TOWN
11 and 12	209	BILLINGS ORIGINAL TOWN
11 and 12	209	BILLINGS ORIGINAL TOWN
13 and 14	209	BILLINGS ORIGINAL TOWN
15 and 16	209	BILLINGS ORIGINAL TOWN
17 and 18	209	BILLINGS ORIGINAL TOWN
19-20	209	BILLINGS ORIGINAL TOWN
23 AND 24	209	BILLINGS ORIGINAL TOWN
6- 7	222	BILLINGS ORIGINAL TOWN
9-10	236	BILLINGS ORIGINAL TOWN

1 - 5	293	BILLINGS ORIGINAL TOWN
1 to 5	293	BILLINGS ORIGINAL TOWN
1- 5	293	BILLINGS ORIGINAL TOWN
22-24	293	BILLINGS ORIGINAL TOWN
22-24	293	BILLINGS ORIGINAL TOWN
22-24	293	BILLINGS ORIGINAL TOWN
1-2 & S 1/2 OF 3	3	BARNES SUBD 2ND
5-6	7	BARNES SUBD
7-8	7	BARNES SUB 4TH
9	7	BARN ES SUB 4TH
3	1	BARTH-FORTIN SUB
33-36	3	BROADWATER SUBD
5	1	BURG SUB
30	2	CENTRAL HEIGHTS
31	2	CENTRAL HEIGHTS
1-3	11	COLLEGE SUBD
7	4	COWLEY SUB 2ND
8	4	COWLEY SUB
5	3	CRAWFORD SUB
2	2	DINGLE SUB
28	6	EVERGREEN SUB
29-30	6	EVERG REEN SUB
13-20	25	FOSTERS ADD
7	10	GORHAM PARK SUBD
6	1	GRANDVIEW SUB
3	0	GREEN VALLEY SUBAND ADJ VA C ALLEY
11	0	GREEN VALLEY SUB & ADJ VAC ALLEY
38 to 41	35	HIGHLAND ADDITION AMENDED
42	9	LILLIS SUBD
4	8	POLY VISTA SUB
2	8	POLY VISTA SUB
3	8	POLY VISTA SUB
12	2	ROOKHUIZEN SUBD
3	0	SHEA TRACTS SUBD
1-2	20	SOUTHWEST ADD
3-4	20	SOUTHWEST ADDITION
5-6	20	SOUTHWEST ADDITION
7-8	20	SOUTHWEST ADDITION
9-10	20	SOUTHWEST ADDITION
11 and 12	20	SOUTHWEST ADD
13-14	20	SOUTHWEST ADDITION
15-16	20	SOUTHWEST ADDITION
17-18	20	SOUTHWEST ADDITION
18-19	20	SOUTHWEST ADDITION
19-20	20	SOUTHWEST ADDITION
21,22	20	SOUTHWEST ADDITION
23-24	20	SOUTHWEST ADDITION
43 and 44	26	WEST SIDE ADD
1	0	HELEN PARK SUBD
13	33	LAKE HILLS SUBD

14	34	LAKE HILLS SUBD
19	34	LAKE HILLS SUBD
8	36	LAKE HILLS SUBD
8	37	LAKE HILLS SUBD
2	1	G AND G ESTATES SUB D
1	12	TERRAC ESTATES SUB
1	1	COS 375 3RD AMEND

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3F



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**SUBJECT:** Public Hearing regarding the Original Spread Resolution Special Improvement District Sidewalk 2402

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment resolution Special Improvement District Sidewalk 2402 has been completed by the Finance Division and is ready to spread on the tax rolls. SID 2402 is for sidewalks in the Washington School area. This project and bond sale has previously been approved by council.

**FINANCIAL IMPACT:** The costs associated with Special Improvement District Sidewalk 2402 are assessed per lot. The net effective interest rate is 3.80%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 4.30%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution.

**RECOMMENDATION**

Staff recommends that a public hearing be held and Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description  
B-Resolution

**Attachment A**

SW2402

Description of Property:

Lot	Block	Subdivision
Tract 1		C/S 536
Tract A		C/S 449
Tract B		C/S 449
13	305	Billings 1st
13	305	Billings 1st
N 50' of Lot 1	14	Sunnyside Sub
S 50' of N 100' of Lot 1	14	Sunnyside Sub
S 50' of N 1/2 of Lot 1	14	Sunnyside Sub
N 50' of S 1/2 of Lot 1	14	Sunnyside Sub
S 100' of Lot 1	14	Sunnyside Sub
N 50' of Lot 4	14	Sunnyside Sub
S 100' of N 1/2 of Lot 4	14	Sunnyside Sub
S 150' of 4	14	Sunnyside Sub
Tract A	1	C/S 262
2	1	Sunnyside Sub, 3rd Am. Sunnyside Sub, 3rd
N 40' of Lot 3	1	Amended
S 50' of Lot 3	1	Sunnyside Sub. 3rd Am.
4	1	Sunnyside Sub
5	1	Sunnyside Sub
1 to 4	303	Billings 1st Add
5 & 6	303	Billings 1st
7 & 8	303	Billings 1st
9 & 10	303	Billings 1st
11 & 12	303	Billings 1st
Tract 1	1	C/S 65
Tracts 1 & 2	1	C/S 476
W 1/2 of N 50' of S 320' of 7	1	Burnstead
N 50' of S 100' of the N 340' of 7	1	Burnstead
S 50' of N 340' of 7	1	Burnstead Sub
7	00	Burnstead
7	000	Burnstead
N 1/2 of the N 1/2 of 8	1	Burnstead Sub
S 1/2 of the N 1/2 of 8	1	Burnstead
N 1/2 of the S 1/2 of Lot 8	1	Burnstead Sub
S 63.5' of Lot 8	1	Burnstead
21	0	Burnstead
21	0	Burnstead Sub
21	0	Burnstead

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# 4A



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement District 1258

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. SID 1258 is for paving, widening, curb, gutter, sidewalk, and storm drain extension located in Maltese Sub & Hansen Sub. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

### **RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

### **ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

Maltese Sub & Hansen Sub

Tax code voided                    A10837A

Combined with tax code            A10837

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1258, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1258 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 1-2 BLK 2 MALTESE SUB AMD 64821 SQ FT (COMBO W/A10837A) (05)

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1258

3. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF

BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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# 4B



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement Districts 1332 & 1341

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. SID 1332 is for curb, gutter, sidewalk and street improvements located in Circle Fifty Sub. SID 1341 is for park improvements located in Circle Fifty Sub. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

*Attach  
ment A*

Circle Fifty Sub

Tax code voided                    A26429

Combined with tax code            A26428

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDs 1332 & 1341, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICTS, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDs 1332 & 1341 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 5 & 6 BLK 1 CIRCLE FIFTY SUBD COMBINED W/A26429 (05)

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SIDs 1332 & 1341

3. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, SEPTEMBER 26, 2005**

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement Districts 1332, 1341, & 1353

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. SID 1332 is for curb, gutter, sidewalk and street improvements located in Circle Fifty Sub. SID 1341 is for park improvements located in Circle Fifty Sub. SID 1353 is for water, sewer, storm drain, curb, gutter, and street improvements located in Circle Fifty/Hancock Grand. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description  
B-Combine Assessment Resolution

***Attachment A***

Circle Fifty/Hancock Grand

Tax code voided                    A26435

Combined with tax code            A26434

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDs 1332, 1341, & 1353 IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICTS, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDs 1332, 1341, & 1353 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 5 & 6A BLK 2 CIRCLE FIFTY SUBD 85,564 SQ FT COMBO W/A26435 (05)

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SIDs 1332, 1341, & 1353

3. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF

BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, SEPTEMBER 26, 2005**

---

**SUBJECT:** Re-spread Resolution for a Property Split in Special Improvement Districts 1341 & 1353

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into two (2) parcels by request of the property owner. SID 1341 is for park improvements located in Circle Fifty Sub. SID 1353 is for water, sewer, storm drain, curb, gutter, and street improvements located in Circle Fifty/Hancock Grand. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

Circle Fifty Subdivision

Original tax code                    A26533

New tax codes                      A26533A  
    A26533B

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDs 1341 & 1353, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICTS, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

**6. RE-LEVY AND RE-ASSESSMENT**

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDs 1341 & 1353 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

UNIT 3803 OF LOCHLEVEN TOWNHOMES 1/2 INT IN COMMON ELEMENTS LOC @ LT 8 BLK 10

UNIT 3805 OF LOCHLEVEN TOWNHOMES 1/2 INT IN COMMON ELEMENTS LOC @ LT 8 BLK 10

**7. DISPOSITION OF COLLECTION**

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SIDs 1341 & 1353

**8. NOTICE AND HEARING.**

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

**9. CERTIFICATION.**

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

10. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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# 4E



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Re-spread Resolution for a Property Split in Special Improvement District 1346

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into thirteen (13) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 1346 is streetscape improvements located in N Broadway: Montana Ave to 4th Ave N. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

N Broadway: Mt Ave to 4th Ave N

Original tax code                    A00640

New tax codes                    A00640A

                                  A00640B

                                  A00640C

                                  A00640D

                                  A00640E

                                  A00640F

                                  A00640G

                                  A00640H

                                  A00640I

                                  A00640J

                                  A00640K

                                  A00640L

                                  A00640N

**Attachment B**

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1346, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

11. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1346 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

UNIT 101 STAPLETON BUILDING (05) 5.9438% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 102 STAPLETON BUILDING (05) 2.9054% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 103 STAPLETON BUILDING (05) 4.1941% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 104 STAPLETON BUILDING (05) 6.0403% INT IN COMMON ELEMENTS LOC @ LTS 104  
BLK 93  
UNIT 105 STAPLETON BUILDING (05) 3.2378% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 201 STAPLETON BUILDING (05) 26.8563% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 301 STAPLETON BUILDING (05) 26.8564% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 401 STAPLTON BUILDING (05) 4.4321% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK  
93  
UNIT 402 STAPLTON BUILDING (05) 3.9239% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK  
93  
UNIT 403 STAPLETON BUILDING (05) 3.9196% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 404 STAPLETON BUILDING (05) 5.4249% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93  
UNIT 405 STAPLETON BUILDING (05) 2.5731% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93

UNIT 406 STAPLETON BUILDING (05) 3.6923% INT IN COMMON ELEMENTS LOC @ LTS 1-4  
BLK 93

12. DISPOSITON OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1346

13. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

14. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

15. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement District 1356

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into four (4) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 1356 is for water, storm drain, curb, gutter, and street improvements located in Studer Acreage Tracts Sub. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

Studer Acreage Tracts Sub

Original tax code                    C03640

New tax codes                    C03640  
                                  C14763  
                                  C14764  
                                  C14765

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1356, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

**16. RE-LEVY AND RE-ASSESSMENT**

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1356 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 3B STUDER ACREAGE TRACTS SUBD AMD 63,461 SF (05)  
LT 3A STUDER ACREAGE TRACTS SUB AMD 63,395 SF (OLD C03640) (05)  
LT 3C STUDER ACREAGE TRACTS SUB AMD 30,026 SF (OLD C03640) (05)  
LT 3D STUDER ACREAGE TRACTS SUB AMD 30,073 SF (OLD C03640) (05)

**17. DISPOSITION OF COLLECTION**

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1356

**18. NOTICE AND HEARING.**

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

**19. CERTIFICATION.**

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

20. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Public Hearing regarding the Re-Spread Resolution Special Improvement District 1360

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following assessment resolution has been completed by the Finance Division and is ready to spread on the tax rolls. SID 1360 was originally spread based on bond cost and is now being re-spread based on overall construction cost which was lower than the engineers estimate. This project is for installing water, sanitary sewer, storm drain, and street improvements located in Transtech Center Subdivision; Gabel Subdivision; 2nd Filing; Tierra Yellowstone Industrial Park Subdivision; Gabel Road Commercial Center Sub; Parkco Industrial Subdivision; Millennium Market Subdivision; and Broso Valley Subdivision. This project and bond sale, and the original spread on tax rolls were previously approved by council.

**FINANCIAL IMPACT:** The costs associated with SID 1360 are assessed per lot. The net effective interest rate is 5.31%. Under the State statute 7-12-4189, the City is required to add  $\frac{1}{2}$  of 1% for a total rate of 5.81%. The  $\frac{1}{2}$  of 1% will be used as additional security on bond issues, as stated in the final bond resolution. Interest earnings and prior collections are subtracted from the final construction cost and spread to the appropriate properties. Any remaining fund balances are used to call bonds.

**RECOMMENDATION**

Staff recommends that a public hearing be held and Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Lot & Block Description

B-Resolution

**Attachment A**

SID #1360

Description of Property:

<b>SUBDIVISION</b>	<b>BLK</b>	<b>LOT/ TRACT</b>
Transtech Center Subdivision	1	1
Transtech Center Subdivision	1	2A-1
Transtech Center Subdivision	1	4A
Transtech Center Subdivision	1	5A-1
Transtech Center Subdivision	1	6A-1
Transtech Center Subdivision	1	7
Transtech Center Subdivision	1	8
Transtech Center Subdivision	1	9
Transtech Center Subdivision	1	10
Transtech Center Subdivision	1	11
Transtech Center Subdivision	1	12
Transtech Center Subdivision	1	13
Transtech Center Subdivision	1	14A
Transtech Center Subdivision	1	14B
Transtech Center Subdivision	1	15A
Transtech Center Subdivision	1	15B
Transtech Center Subdivision	1	16
Transtech Center Subdivision	1	17
Gabel Subdivision, 2nd Filing	1	1
Gabel Subdivision, 2nd Filing	1	2
Gabel Subdivision, 2nd Filing	1	3
Gabel Subdivision, 2nd Filing	1	4
Gabel Subdivision, 2nd Filing	1	5
Gabel Subdivision, 2nd Filing	1	11
Gabel Subdivision, 2nd Filing	1	13
Gabel Subdivision, 2nd Filing	1	14
Gabel Subdivision, 2nd Filing	1	15
Gabel Subdivision, 2nd Filing	1	16
Gabel Subdivision, 2nd Filing	1	17
Gabel Subdivision, 2nd Filing	1	18
Gabel Subdivision, 2nd Filing	1	19

Gabel Subdivision, 2nd Filing	2	1
Gabel Subdivision, 2nd Filing	2	2
Gabel Subdivision, 2nd Filing	2	3
Gabel Subdivision, 2nd Filing	2	4
Gabel Subdivision, 2nd Filing	2	5
Gabel Subdivision, 2nd Filing	2	6
Gabel Subdivision, 2nd Filing	2	7
Gabel Subdivision, 2nd Filing	2	8
Tierra Yellowstone Industrial Park Subdivision	1-A	1
Tierra Yellowstone Industrial Park Subdivision	1-A	2
Tierra Yellowstone Industrial Park Subdivision	1-A	3
Tierra Yellowstone Industrial Park Subdivision	1-A	4
Tierra Yellowstone Industrial Park Subdivision	1-A	5
Tierra Yellowstone Industrial Park Subdivision	1-A	6
Tierra Yellowstone Industrial Park Subdivision	1-A	7
Tierra Yellowstone Industrial Park Subdivision	1-A	8
Tierra Yellowstone Industrial Park Subdivision	2-A	8
Tierra Yellowstone Industrial Park Subdivision	2-A	9A
Tierra Yellowstone Industrial Park Subdivision	3-A	2
Tierra Yellowstone Industrial Park Subdivision	3-A	3
Tierra Yellowstone Industrial Park Subdivision	3-A	4
Tierra Yellowstone Industrial Park Subdivision	5	1
Tierra Yellowstone Industrial Park Subdivision	5	2
Tierra Yellowstone Industrial Park Subdivision	5	3

C/S No. 1147		22
C/S No. 1147		23
C/S No. 1147		24
Gabel Road Commercial Center Sub	1	1
Gabel Road Commercial Center Sub	1	2
Gabel Road Commercial Center Sub	1	3
Gabel Road Commercial Center Sub	1	4
Gabel Road Commercial Center Sub	1	5
Gabel Road Commercial Center Sub	1	6
Gabel Road Commercial Center Sub	1	7
Gabel Road Commercial Center Sub	1	8
Gabel Road Commercial Center Sub	1	9
Gabel Road Commercial Center Sub	1	10A
Gabel Road Commercial Center Sub	1	11A
Gabel Road Commercial Center Sub	1	12
C/S No. 1401 - 4th Amendment		2B
C/S No. 2297		1B
C/S No. 2297		2
C/S No. 2158		2B
Parkco Industrial Subdivision		2
Parkco Industrial Subdivision		3-A
Parkco Industrial Subdivision		4-A-1
Parkco Industrial Subdivision		4-B
Millennium Market Subdivision	1	1A
Millennium Market Subdivision	1	3
Millennium Market Subdivision	1	6
Millennium Market Subdivision	1	7
Millennium Market Subdivision	1	8

Millennium Market Subdivision	1	9
Millennium Market Subdivision	1	10
Millennium Market Subdivision	1	11
Millennium Market Subdivision	1	12
Broso Valley Subdivision	1	1
Broso Valley Subdivision	1	2
Broso Valley Subdivision	1	3
Broso Valley Subdivision	1	4
Broso Valley Subdivision	1	5
Broso Valley Subdivision	1	6
Broso Valley Subdivision	1	7
Broso Valley Subdivision	1	19
Broso Valley Subdivision	1	20
Broso Valley Subdivision	2	2
Broso Valley Subdivision	2	3
Broso Valley Subdivision	2	4
Broso Valley Subdivision	2	5
Broso Valley Subdivision	2	6
Broso Valley Subdivision	2	7
Broso Valley Subdivision	2	8
Broso Valley Subdivision	2	9
Broso Valley Subdivision	2	10
Broso Valley Subdivision	2	11
Broso Valley Subdivision	2	12
Broso Valley Subdivision	2	13
Broso Valley Subdivision	2	14
Broso Valley Subdivision	2	15
Broso Valley Subdivision	3	1
Broso Valley Subdivision	3	2
Broso Valley Subdivision	3	3
Broso Valley Subdivision	3	4
Broso Valley Subdivision	3	5
Broso Valley Subdivision	3	6
Broso Valley Subdivision	3	7
Broso Valley Subdivision	4	1
Broso Valley Subdivision	4	2
Broso Valley Subdivision	4	3
Broso Valley Subdivision	4	4
Broso Valley Subdivision	4	5

Broso Valley Subdivision	4	6
Broso Valley Subdivision	4	7
Broso Valley Subdivision	4	8
Broso Valley Subdivision	4	9
Broso Valley Subdivision	4	10
Broso Valley Subdivision	4	11
Broso Valley Subdivision	4	12

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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, SEPTEMBER 26, 2005**

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement District Sidewalk 2001

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. Special Improvement District Sidewalk 2001 is for Broadwater Phase I sidewalk, curb, and gutter located in Normandy Add 3rd Filing. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

Normandy Add 3rd Filing

Tax code voided                    A12295

Combined with tax code            A11380

**Attachment B**

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDEWALK 2001, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

21. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDEWALK 2001 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 1-2 BLK 1 NORMANDY ADD 3RD & LT 5 BLK 1 OLSON SYDNEY T SUB 26059 SQ FT  
(COMBO W/A12295) (05)

22. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SIDEWALK 2001

23. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

24. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF

BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

25. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement District Sidewalk 2011

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. Special Improvement District Sidewalk 2011 is for sidewalk, curb, and gutter improvements located in Foster Add. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description

B-Combine Assessment Resolution

***Attachment A***

Foster Add

Tax code voided                    A07315

Combined with tax code            A07309

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDEWALK 2011, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

**26. RE-LEVY AND RE-ASSESSMENT**

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDEWALK 2011 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LTS 13-24A BLK 45 FOSTERS ADDTION (05) 39964 SQ FT (COMBO W/A07309-16)

**27. DISPOSITON OF COLLECTION**

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 2011

**28. NOTICE AND HEARING.**

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

**29. CERTIFICATION.**

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF

BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

30. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, SEPTEMBER 26, 2005**

---

**SUBJECT:** Re-spread Resolution for a Property Combine in Special Improvement District Sidewalk 9898

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. One (1) tax code has been voided and the square footage has been assigned to the second tax code. Special Improvement District Sidewalk 9898 is for miscellaneous sidewalk, curb, and gutter improvements located in Non-Task Force areas throughout the City of Billings. This project, bond sale and the original spread on tax rolls was previously approved by council.

**FINANCIAL IMPACT:** The original assessment is re-spread over the new parcel for the same cost and interest rate.

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 26, 2005.

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

**ATTACHMENTS**

A-Tax Code Description  
B-Combine Assessment Resolution

***Attachment A***

Billings Original Townsite

Tax code voided                    A00311

Combined with tax code            A00310

***Attachment B***

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SIDEWALK 9898, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

31. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SIDEWALK 9898 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HERINAFTER DESCRIBED:

LT 11-12 BLK 50 BILLINGS ORIGINAL TOWN 7000 SQ FT COMBO W/A00311 (05)

32. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 9898

33. NOTICE AND HEARING.

THAT ON MONDAY THE 26<sup>TH</sup> DAY OF SEPTEMBER, 2005 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 15 AND SEPTEMBER 22, 2005, IN THE BILLINGS TIMES.

34. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF

BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

35. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, September 26, 2005**

---

**SUBJECT:** Annual Assessments for Fiscal Year 2006

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** The following annual assessment resolutions have been completed by the Finance Department and are ready to spread on the tax rolls.

Encroachment  
Weed Cutting and Removal  
Park Maintenance Districts

Encroachment fees are determined through an application process in Public Works. The application fee is \$50, then, the annual fee is \$1.00 per square foot of encroachment. Weed cutting and removal charges are determined by the cost to cut and remove the weeds plus administrative fees for Code Enforcement. The assessments for Park Maintenance Districts are calculated using the budgeted expenditures assessed to each parcel by assessment method (per lot, square feet, etc.).

**ALTERNATIVES ANALYZED**

1. Not recover costs incurred
2. Recover costs through assessments

**RECOMMENDATION**

Staff recommends that a public hearing be held and that Council passes the resolutions on September 26, 2005.

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

**ATTACHMENTS**

A-Encroachment Annual Assessment Resolution  
B-Weed Cutting & Removal Annual Assessment Resolution  
C-Park Maintenance Assessment Resolution

**EXHIBITS**

A-Encroachment Properties  
B-Weed Listing

**Attachment A**

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION FIXING THE AMOUNT OF THE ANNUAL SPECIAL ASSESSMENT TAX FOR THE FISCAL YEAR 2006 TO BE PAID BY PERSONS, FIRMS, AND CORPORATIONS, MAINTAINING ENCUMBRANCES, OBSTRUCTIONS, OR ENCROACHMENTS ON, OVER, ACROSS, OR ABOVE THE STREETS, AVENUES, SIDEWALKS, OR ALLEYS OF THE CITY OF BILLINGS AND LEVYING AND ASSESSING SAID SPECIAL ASSESSMENT TAX.

WHEREAS, Chapter 13 of the Billings, Montana City Code provides that every person, firm, or corporation that has or maintains any encumbrances, obstructions, or encroachments on, over, across, or above any street, avenue, sidewalk, or alley shall pay an annual rental, and

WHEREAS, Billings, Montana City Code, Section 13-303 provides that the City Council shall annually, by resolution, make a special assessment for such rental upon certain lots abutting on that part of the street, avenue, sidewalk, or alley upon which encumbrance, obstruction, or encroachment on the owner of such abutting lot or lots.

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

1. ANNUAL ASSESSMENT FOR RENTAL: That for the purposes of collecting said rents for the fiscal year 2006 for said encumbrances, obstructions, and encroachments on, over, across, or above the streets, avenues, alleys, and sidewalks of the City of Billings, there is hereby fixed, levied and assessed a special assessment tax upon the lots or parcels of land provided in the schedule attached, described as EXHIBIT "A" and by this reference made a part hereof.

2. DISPOSITION OF COLLECTIONS. All monies collected from said taxes shall be paid to the General Fund of the City of Billings, Montana.

3. NOTICE OF HEARING. That on Monday the 26<sup>th</sup> day of September, 2005 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 15 and September 22, 2005, in the Billings Times.

4.        CERTIFICATION.        The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the city administrator of the city of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

5.        EFFECTIVE DATE.        This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

RESOLUTION 05\_\_\_\_\_

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY  
WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE  
COST OF CUTTING AND/OR EXTERMINATING WEEDS.

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described in the schedule attached, described as EXHIBIT "B" and by this reference made a part hereof.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. All monies collected from taxes shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. That on Monday the 26<sup>th</sup> day of September, 2005 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 15 and September 22, 2005, in the Billings Times.

5. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the Finance Director of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

6.        EFFECTIVE DATE.        This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2005**

CITY OF BILLINGS:

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

ATTEST:

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

***Exhibit B***

**ASSESSED TO TAXES SEPTEMBER 2005 - BY M/R #**

**OCT 2004 ASSESSMENTS:**

<u>NAME</u>	<u>AR #</u>	<u>TAX CODE</u>	<u>AMOUNT</u>	<u>COMMENTS</u>
Greg & Becky Pekovich	8871	A 12057	242.45	
Kenneth A. Glock	9670	A 1316	328.56	
Heather Long	10721	A 26267	298.58	
Michael & David Groshens	10822	A 16292	181.25	
Weber Investment Group	12035	A 1624	453.04	
FCC-2	12100	A 3905 1	391.06	
Lee T. Dinius	15912	A 14589	401.03	
L.D.S. Church	15930	A 22021	237.89	
Pierce Building	15995	D 1494	191.74	
Michael Semmens	15996	A 16249	191.74	
Terri D. Tibbets	16181	C 9794	292.43	
<hr/>				
Total Asseeements from Oct '04			3209.77	
<hr/>				

**JUNE-AUG 2005 ASSESSMENTS:**

<u>NAME</u>				
Kenneth A. Glock	7819	A 02042	365.55	
Victoria M. Moreno	7823	A 01745	308.46	
Burlington Northern	8673	D 12178	420.96	
Heather Long	10721	A 26267	340.35	
John G. Gountannis	10810	A 16471	394.71	
Joni Kunkel	10821	A 16291	400.96	
Holly Dean Huennekens, Trust	11365	D 04753	216.01	
Robert Pulver	11521	A 25078	354.73	
Dwight & Kathleen A. Johnson	12193	A 08826	216.62	
Richard Nesson, Trustee	16688	A 10218	75.00	
Bill Carroll	16706	A 02136	50.00	
Wells Fargo PDS Services	16712	A 15543	235.37	
Richard P. Blanksma	16743	A 02886	216.01	
Cody Morse	16744	A 14101	252.45	
Kenneth M. Schafer	16745	A 03232	272.23	
West Parkway investors #0515	16825	D 01379	308.46	
Boomer Oil & Gas, Inc.	16846	A 01398	262.23	
Boyer Land LLC	16847	A 27499	554.05	
Sarah K. Smith	16848	A 2858B	308.46	
Paul L. Menholt	16891	C 13338	285.22	
Kenneth W. & Mojan Myers	16893	C 13343	456.16	
Kent E. & Dawn M. White	17093	A 28983	255.99	
Steve & Sok Sun Kerns	17094	C 00392	340.35	

**Billings Elementary School 17095 A 30624 302.21**

**Dist.**

<b>Ted P. Goodwin</b>	<b>17096</b>	<b>C 03640</b>	<b>455.96</b>
<b>Cal N. Kunkel</b>	<b>17097</b>	<b>A 16455</b>	<b>247.87</b>

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**Total Asseeements JUN-AUG '05 7,896.37**

**GRAND TOTAL ASSESSED SEPT 2005 11,106.14**

=====

RESOLUTION 05-\_\_\_\_\_

A RESOLUTION LEVYING AND ASSESSING ALL PROPERTY WITHIN PARK MAINTENANCE DISTRICTS AN AMOUNT EQUAL TO THE COST OF MAINTAINING THE IMPROVEMENTS IN SAID PARK MAINTENANCE DISTRICTS WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND FINAL ADOPTION.

WHEREAS, certain Park Maintenance Districts within the City have been created and constructed, and

WHEREAS, certain improvements within those Park Maintenance Districts require maintenance, and

WHEREAS, M.C.A. Section 7-12-4162 provides that the City may levy and assess the costs of maintenance against said districts.

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

1. **MAINTENANCE OF IMPROVEMENTS.** Certain improvements including trees, shrubs, grass and care thereof require maintenance with certain Park Maintenance Districts.

2. **MAINTENANCE DISTRICT BOUNDARIES.** The boundaries of the park maintenance districts are established by resolution and are on file in the City Clerk's office.

3. **ASSESSMENT METHOD.** The entire maintenance costs shall be assessed against the entire district, each lot or parcel of land within said district to be assessed for that part of the whole costs which its area bears to the area of the entire district exclusive of streets, avenues, alleys and public places all as provided

in M.C.A. Section 7-12-4162.

4. **COST OF MAINTENANCE.** The City Council estimates that the cost of maintenance for the fiscal year 2006 for the following Park Maintenance Districts is:

PARK MAINT. DISTRICT	NUMBER	PER SQ FT	PROPERTY
<b>HIGH SIERRA</b>	PMD 4005	.0054522	8,197,581
<b>CIRCLE 50 PMD</b>	PMD 4012	.0057106	3,332,922
<b>RUSH SUB</b>	PMD 4014	.00206	3,728,186
<b>RIMROCK WEST PARK</b>	PMD 4023	84.29 PER LOT	247 LOTS
<b>UINTA PARK SUB</b>	PMD 4026	68.15 PER LOT	169 LOTS
<b>IRONWOOD ESTATES</b>	PMD 4027	.00421	4,270,911
<b>COTTONWOOD GROVE</b>	PMD 4029	1,092,703	.00239

5. **DISPOSITION OF COLLECTIONS.** The monies collected from the tax shall be paid into the respective Park Maintenance Funds.

6. **NOTICE OF HEARING.** That on Monday the 26<sup>th</sup> day of September, 2005 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, Billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 15 and September 22, 2005, in the Billings Times.

7. **CERTIFICATION.** The City Clerk is hereby directed upon final passage and approval of this Resolution to certify a copy thereof to the City Administrator of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Treasurer and a copy to the Yellowstone County Assessor.

8. EFFECTIVE DATE. This Resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 26th day of **September**,  
**2005**

CITY OF BILLINGS:

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

ATTEST:

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

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## AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 26, 2005**

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**TITLE:** Public Hearing and First Reading of an Ordinance expanding Ward II

**DEPARTMENT:** Planning and Community Services Department through Ramona Mattix, AICP, Planning Director

**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** On September 12, 2005, the City Council adopted Resolution No. 05-18333 annexing 33.71 acres located directly adjacent to the north of Uinta Park Subdivision, south of Wicks Lane (Annexation #05-08). As required by the adopted Annexation Policy, the property is required to be included in one (1) of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward II will be conducted on September 26, 2005. The second reading of the ordinance is scheduled for Council action on October 11, 2005.

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

**RECOMMENDATION**

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

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

**ATTACHMENT**

A: Ward Ordinance and Exhibit A

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

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

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

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

A tract of land situated in the NW 1/4 of Section 22, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as: Certificate of Survey 3190, Tracts 1 and 2, Recorded May 11, 2004, Under Document No. 3287254, Records of Yellowstone County, Montana; Containing 33.711 gross and net acres, more or less.

(# 05-08) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 26th day of September, 2005.

PASSED by the City Council on the second reading this 11th day of October, 2005.

THE CITY OF BILLINGS:

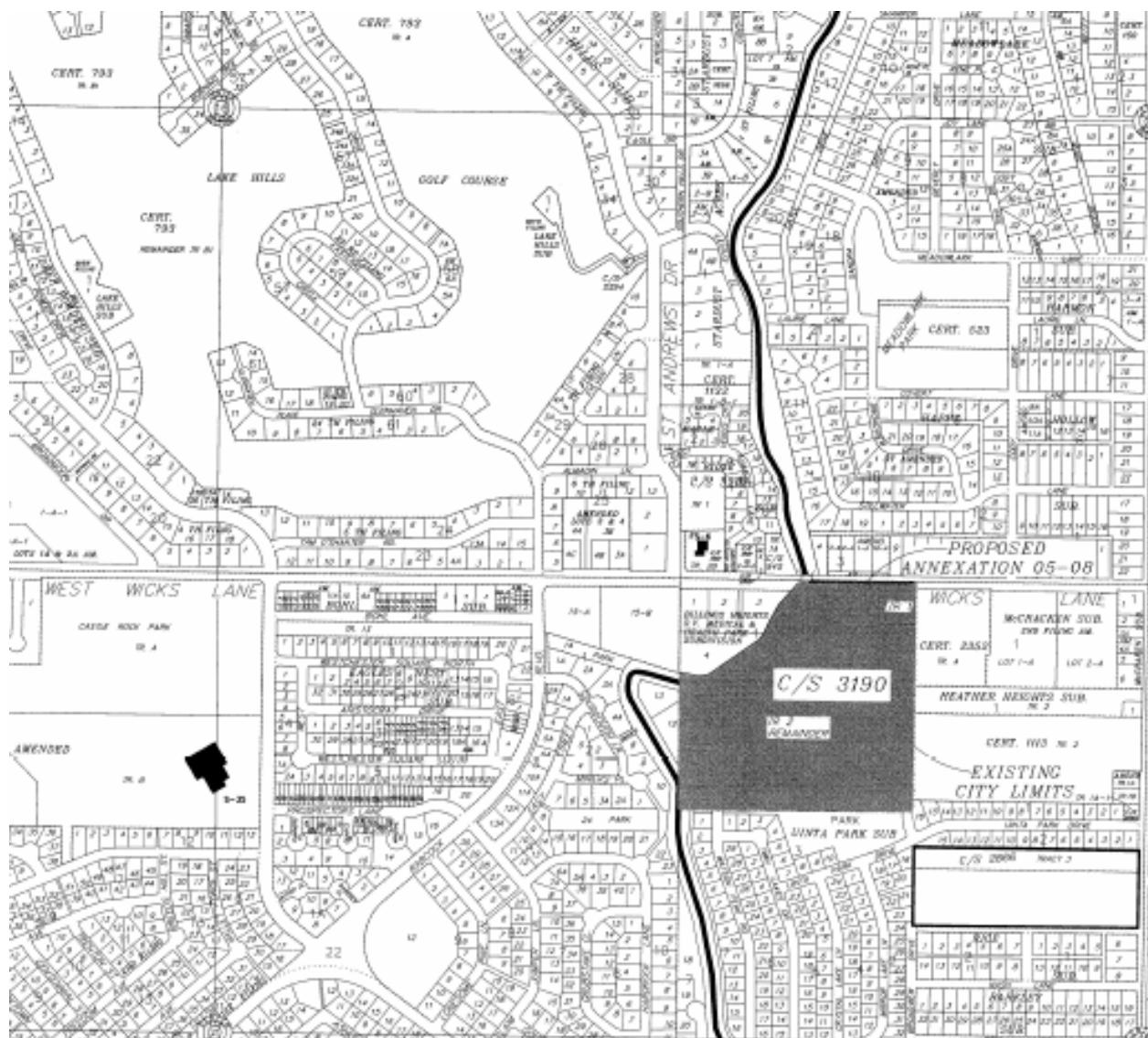
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Charles F. Tooley, MAYOR

ATTEST:

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

## Exhibit A



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**MONDAY, SEPTEMBER 26, 2005**

**SUBJECT:** **Public Service Report and Public Hearing Annexation 05-09, Grand Acres Park (abandoned)**

**DEPARTMENT:** **Planning and Community Services Department**

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

**PROBLEM/ISSUE STATEMENT:** The owner, DC Capital Real Estate, LLC, is petitioning to annex land to the City of Billings under 7-2-4600, MCA. The .294-acre, undeveloped parcel is located at the on Broadwater Avenue, west of 52<sup>nd</sup> Street West. The adjacent Broadwater Avenue right-of-way will also be annexed bringing the total area to .363 acres. The parcel was once a County park, dedicated with the Grand Acres Subdivision. The legal description of the parcel is simply, Grand Acre Park, Grand Acre Subdivision. The park was determined abandoned by the Montana Department of Revenue in 1997 and is now owned by the DC Capital Real Estate, LLC. The property is contiguous with the Legacy Subdivision, a recently annexed and subdivided property. The petitioner is requesting annexation in order to incorporate this parcel into the subdivision and obtain city water and sewer services. City Council acknowledged receipt of this petition and set a public hearing date for September 26, 2005.

**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:

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.

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

**ATTACHMENT**

A. Resolution

## **INTRODUCTION**

The owner received approval for a petition for annexation of a 25-acre property located southeast of the intersection of Grand Avenue and 54<sup>th</sup> Street West on May 9, 2004. This petition included most of the property subject to a 57-lot preliminary subdivision plat application conditionally approved on August 22, 2005. During review of the subdivision, it was determined that the subdivision included non-annexed territory, a parcel legally described as Grand Acres Park (abandoned). As a condition of preliminary plat approval, the subdivider is required to annex this parcel to the City of Billings.

## **PROCEDURAL HISTORY**

- Request for Urban Planning Area expansion approved April 22, 2002.
- Petition for annexation and subdivision submitted August 12, 2005.
- City Council voted to acknowledge receipt of the petition for annexation and set a date for public hearing on September 26, 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 October 11, 2005, and the Second Reading on October 24, 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 the third for an area that includes contiguous subdivision. The other recent annexations were for the Vintage Estates Subdivision and Legacy Subdivision. Omission of this small parcel from the previous petitions was an oversight by the petitioners. The oversight was due to the fact that Grand Acres Park had a separate legal description than the other annexed parcels.

Grand Acres Park was dedicated to the County as a requirement for parkland dedication in 1959. The park was declared abandoned by the Montana Department of Revenue in 1997. The current owners purchased the abandoned park from the original landowners in 2004.

## **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. Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
6. Residential densities will be approximately 4 dwelling units per acre (when it is incorporated as part of the subdivision).

7. 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 or Yellowstone County.

**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 retained 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 along 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 owner does 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 surrounded to the east, north and west by land within the City, and County property to the south. The right-of-way of Broadwater Avenue will also be included in the annexation. The total area to be annexed, including the right-of-way is .363 acres.

**Fire Station:** Primary fire protection will be provided by Fire Station #5 located at 604 S. 24<sup>th</sup> Street West. A new fire station is planned for construction at the corner of 54<sup>th</sup> 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 owner and subdivider also intends to set 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 NW1/4 of Section 4, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as: Grand Acres Subdivision, First Filing, Grand Acres Park, Recorded June 16, 1959, Under Document No. 623226, Records of Yellowstone County, Montana; including all adjacent right-of-way of Broadwater Avenue. Containing 0.363 gross and 0.294 net acres, more or less. (# 05-09) See Exhibit "A" Attached

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

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.
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 26th day of September, 2005.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_

Charles F. Tooley, MAYOR

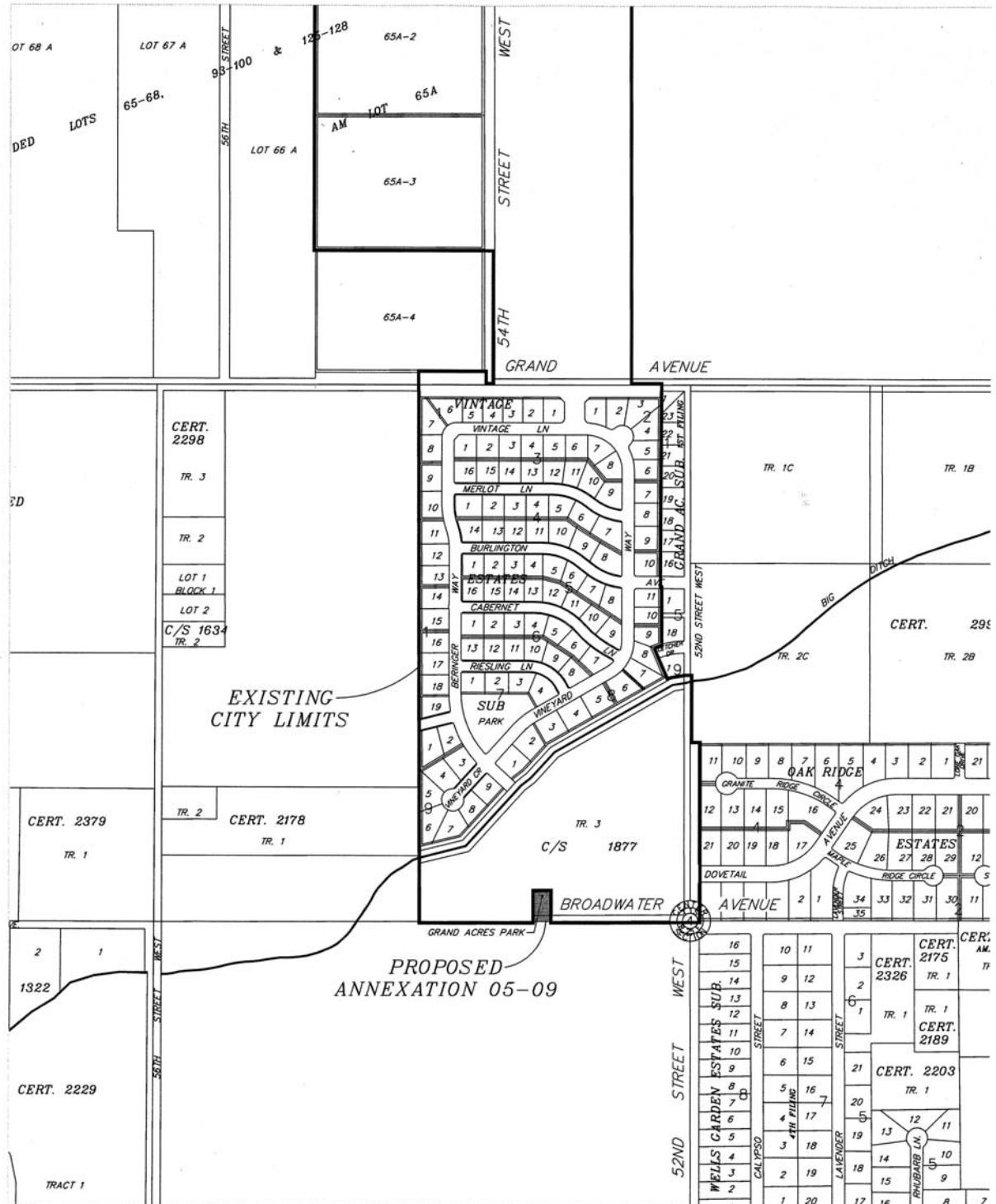
ATTEST:

BY: \_\_\_\_\_

Marita Herold, CMC/AAE CITY CLERK

(AN 05-09)

*EXHIBIT "A"*



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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 26, 2005**

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**TITLE:** Public Hearing and Resolution on Amendments to the Heritage Trail, The Greater Billings Non-Motorized Trail Plan

**DEPARTMENT:** Planning and Community Services Department

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

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**PROBLEM/ISSUE STATEMENT:** The Heritage Trail Plan was adopted by the City Council on May 24, 2004. The Plan is meant to serve as a decision-making guide for the governing bodies when considering dedication, donation, funding or construction of proposed trails and trail corridors. An integral portion of this plan is the Trail and Bikeway Plan map. The map shows the location of existing bikeways, and existing and proposed multi-use trail corridors. Also shown on the map are existing soft-surface trails and proposed greenways. The Yellowstone County Commissioners received a petition in June, 2005, signed by 307 residents of the Blue Creek area, requesting revisions to the map to "clearly color-code and identify proposed trails that cross private lands." The petition also requested that the legend and text include a statement "that clearly indicates that proposed actions on private land are not actually designated." On behalf of those residents, the County Commissioners have requested revisions to the Heritage Trail Plan.

The Heritage Trail Plan was federally funded and formally adopted by the Yellowstone County Planning Board, the City Council, the Board of County Commissioners, and the Transportation Policy Coordinating Committee. Any revisions to the plan must follow a similar procedure including a public hearing before each of these policy bodies. The Planning Board held its public hearing on August 23, 2005, and acted on the amendments on September 13, 2005. The Board voted to:

- 1) Adopt the Proposed Provisions for Amending the Heritage Trail Plan (Attachment C);
- 2) Retain the Tour Map showing existing on-street routes and off-street trails;
- 3) Amend Plan language to state "The purpose and intent of the Heritage Trail Plan is not to condemn private property and/or utilize procedures of eminent domain in order to construct public trails on private lands."
- 4) Substitute a stylized, schematic planning map for proposed trails shown on the current "Trails and Bikeways Plan" map and

The Planning Board also encouraged neighborhood plans to map specific alignments for proposed trails after involving affected property owners.

On September 13, 2005, the County Commissioners held a public hearing and voted to:

- 1) Adopt the Proposed Provisions for Amending the Heritage Trail Plan (Attachment C); and
- 2) "Amend the map to remove any reference to non-motorized trails, greenways or public trail system on private property unless secured by permission of the landowner" throughout the County.

The Planning Board, City Council, and County Commissioners will forward their vote to the Policy Coordinating Committee meeting to be scheduled in October, 2005. The final member of that Committee, Bruce Barrett, District Manager for the Montana Department of Transportation, will submit his vote at the committee meeting.

**ALTERNATIVES ANALYZED:** The City Council may consider any or all of the actions taken by the Planning Board and the County Commissioners. The City Council may also choose other options, including no action. The action supported by the City Council will be brought forward to the Transportation Policy Coordinating Committee by the Mayor.

**FINANCIAL IMPACT:** There is potentially no financial impact to the City as a result of the actions taken by the Planning Board or the County Commissioners. Neither of these actions have an effect on proposed trails identified in the City limits.

### **RECOMMENDATION**

Staff believes this is a policy matter of the governing bodies and is forwarding no recommendation.

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

### **ATTACHMENTS**

- A. Petition Requesting Revisions to the Heritage Trail Plan Map and Text
- B. Yellowstone County Resolution #05-55
- C. Proposed Provisions for Amending the Heritage Trail Plan
- D. Petition Opposing BOCC Resolution 05-55
- E. Yellowstone County Planning Board Resolution (9/13/05)
- F. Yellowstone County Board of Commissioners Resolution (9/13/05)
- G. Written Public Comment
- H. Information in Regards to Concerns about the Heritage Trail Plan (staff memo)
- I. Potential Map Revision Scenarios
  - a. Scenario #1
  - b. Scenario #2
  - c. Scenario #3
  - d. Scenario #4
  - e. Scenario #5
- J. Heritage Trail Public Involvement Process
- K. Resolution Amending the Heritage Trail Plan

## **INTRODUCTION**

The Heritage Trail Plan was adopted by the Yellowstone County Planning Board, Billings City Council, Yellowstone County Commissioners, and the Transportation Policy Coordinating Committee in 2004. The Heritage Trail Plan updated the original non-motorized transportation plan, BikeNet, adopted in 1994. Most of the on-street bicycle routes, off-street multi-purpose trails, and greenways proposed in BikeNet continued to be proposed in the Heritage Trail Plan. The original proposals were supplemented with additional proposed network segments during the development of the Heritage Trail Plan. Both plans received extensive public involvement, although potentially affected landowners were not individually notified. A list of public meetings for the Heritage Trail Plan is provided in the attachments.

Recent opposition to the plan map and text was initiated by residents of the Blue Creek area when they noticed proposed trail corridors crossing their properties. Based on comments from these residents, the primary objections are:

1. The affected landowners were not individually notified of the planning process.
2. The proposed trails and greenways constitute a “taking” of private property rights.
3. The proposed trails and greenways, poorly coded on the map, invite abuse of property such as trespassing, criminal activity, devaluation, and activity that is incompatible with the rural character of the Blue Creek area.

Support for the plan was far less vocal but generally recognized the need for consistent planning, non-motorized recreation and commuter options, and healthy and safe routes for children.

## **PROCEDURAL HISTORY**

- June, 2005 – Yellowstone County Commissioners received a petition signed by 307 residents of the Blue Creek area requesting revisions to the Heritage Trail Plan.
- June 20, 2005 – Public meeting on Heritage Trail Plan held at the Blue Creek Elementary School, hosted by the Yellowstone County Commissioners, approximately 100 people attended.
- July 26, 2005 – Yellowstone County Commissioners adopted resolution 05-55.
- August 1, 2005 – City Council work session. County Commissioners requested City Council to increase the notification to residents affected by future plans and allow plan amendments to be initiated and approved by the governing body of the affected jurisdiction.
- August 2, 2005 – Public hearing on Heritage Trail Plan revisions held at the Blue Creek elementary School, hosted by Yellowstone County Commissioners, approximately 120 people attended.
- August 23, 2005 – Public hearing on Heritage Trail revisions held by the Yellowstone County Planning Board. Approximately 115 people attended. Board delayed decision until September 13, 2005
- September 13, 2005 – Public hearing on Heritage Trail revisions held by the Yellowstone County Commissioners. Approximately 50 people attended. Commissioners acted on recommendation to forward to PCC.
- September 13, 2005 – Yellowstone County Planning Board acted on recommendation to forward to PCC.
- September 26, 2005 – Billings City Council will hold public hearing and act on proposed Heritage Trail revisions.

- October, 2005 – Transportation Policy Coordinating Committee to act on proposed Heritage Trail revisions. Exact date to be determined.

## **BACKGROUND**

Residents of the Blue Creek area objected to the Heritage Trail map when they identified proposed trail corridors and greenways crossing their property. A petition submitted to the Yellowstone County Commissioners of over 300 people asked that:

“The Yellowstone County Commissioners order the revision of all proposed trails and greenways and any other proposed public access to the Blue Creek Area private lands shown on the Heritage Trail Map. The designation of these lands for ‘future use’ was planned without current ownership’s consent or knowledge, thereby advocating the taking of private property for the purpose of creating a multi-use trail system and allowing access for public use. The presentation, as written is confusing and misleading as to the stage of acceptance and degree of control this approved plan carries”.

The petition requested that,

“The proposals that involve private lands should be clearly color-coded and identified in the map legend. A statement should be included in the legend which clearly indicates that proposed actions on private land are not actually designated. A similar statement should be incorporated in the Summaries text and Introduction and other appropriate locations in the Heritage Trail publication so that a reader understands that this applies to all the text discussing the proposed use of private lands”.

In response to this petition, the Yellowstone County Commissioners adopted a resolution instructing “planning staff to pursue our trail system, but refrain from placing proposed trails across private property without the landowners permission.”

Testimony at public hearings was overwhelming on the side of revising the Heritage Trail Plan. Recommendations for revisions were numerous. The most recurring requests were:

- Remove the proposed trails and greenways from the map shown on private property (from the Blue Creek area).
- Add a clear statement indicating trails shown on the map that cross private property will not be developed without the permission of the property owner.
- Revise the legend and plan text to more clearly describe the intent and purpose of the proposed trails and greenways.
- Add provisions for amending the plan that permits the governing body of the jurisdiction where the amendment is located to decide on the amendment.

Testimony in favor of not revising the plan centered mainly on:

- The need for a consistent and comprehensive planning tool for non-motorized transportation options.
- The value to community health and well-being.
- The safety trails provide for children and commuters.

## **ALTERNATIVES ANALYSIS**

On September 13, 2005, the County Commissioners held a public hearing and voted to:

- 1) Adopt the Proposed Provisions for Amending the Heritage Trail Plan (Attachment C); and
- 2) “Amend the map to remove any reference to non-motorized trails, greenways or public trail system on private property unless secured by permission of the landowner” throughout the County.

The Yellowstone Board of Planning voted on September 13 to:

- 1) Adopt the Proposed Provisions for Amending the Heritage Trail Plan (Attachment C);
- 2) Retain the Tour Map showing existing on-street routes and off-street trails;
- 3) Amend Plan language to state “The purpose and intent of the Heritage Trail Plan is **not** to condemn private property and/or utilize procedures of eminent domain in order to construct public trails on private lands.”
- 4) Substitute a stylized, schematic planning map for proposed trails shown on the current “Trails and Bikeways Plan” map and

Staff has compiled five potential scenarios that respond to various public requests and the petition from the Blue Creek area, including a idealized scenario developed by the Planning Board. These scenarios demonstrate how potential alternatives may look on the revised map and how these revisions may be implemented. Staff has also developed revised language to the Plan to allow for individual plan changes by the respective governing bodies.

Scenario #1 – Remove all proposed greenways and trail corridors that cross private property from the map. This scenario relies on interpreting the text to determine the location of future trails and greenway corridors. The advantage of this scenario is that there would be no perception of private property infringement. The disadvantage is the difficulty in interpreting the text to determine the location of favorable trail alignments and connections.

Scenario #2 – Remove all proposed greenways and show proposed trail corridors as broad linear bands describing general location. Include a disclaimer stating that “Proposed trail corridors shown on this map that cross private property will not be developed without the permission of the property owner.” An advantage to this scenario is that the conceptual nature of the proposed trail is emphasized while the general location is preserved. The disadvantage is that proposed trail corridors are still shown crossing private property.

Scenario #3 – Remove all proposed greenways, leave the proposed trail corridors on the map, add the disclaimer and revise the legend to clearly distinguish which trails are proposed and which trails are existing. This scenario has the advantage of removing much of the concern regarding proposed greenways shown on private property, and clarifying that the proposed trails will not be developed without land owner permission. This scenario does not address the concern that proposed trail corridors cross private land create potential problems for affected landowners.

Scenario #4 – Remove all proposed greenways and depict the proposed trail corridors as stylized arrows connecting key destinations such as parks and schools. No specific locations for trails will be shown, thereby removing any perception of private property infringement. The

conceptual nature of the proposed corridor is preserved and a general connection is implied. This scenario would be difficult to use as a planning tool to determine specific trail locations.

Scenario #5 – The Planning Board recommended substituting the existing Trail and Bikeway Plan with a map that depicts key trail origins and destinations and graphically implies a connection between those points. This scenario removes all proposed greenways and trails but provides enough information to serve as a basis for detailed planning at the neighborhood plan level. If the neighborhood plans develop the location of potential trail alignments, this scenario would be an effective planning tool.

## **STAKEHOLDERS**

More than 400 people have attended one public meeting and three public hearings. Many of these people attended two or more of these forums. The majority of participants were in favor of revising the Heritage Trail Plan in such a way that protects the rights of property owners. Most of the testimony supported removing the proposed trail corridors and greenways from the Heritage Trail map. The opponents for revising the map were less vocal and appeared overwhelmed by the passion and emotion of the proponents. Nevertheless, many of the opponents to the Plan revision attended several, if not all, of the meetings.

## **RECOMMENDATION**

Staff believes this is a policy matter of the governing bodies and is forwarding no recommendation.

## **ATTACHMENTS**

- A. Petition Requesting Revisions to the Heritage Trail Plan Map and Text
- B. Yellowstone County Resolution #05-55
- C. Proposed Provisions for Amending the Heritage Trail Plan
- D. Petition Opposing BOCC Resolution 05-55
- E. Yellowstone County Planning Board Resolution (9/13/05)
- F. Yellowstone County Board of Commissioners Resolution (9/13/05)
- G. Written Public Comment
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- I. Potential Map Revision Scenarios
  - a. Scenario #1
  - b. Scenario #2
  - c. Scenario #3
  - d. Scenario #4
  - e. Scenario #5
- J. Heritage Trail Public Involvement Process
- K. Resolution of Intent Amending the Heritage Trail Plan

ATTACHMENT A  
Petition Requesting Revisions to the Heritage Trail Plan

Copy of the Petition in Opposition  
Attached is a list of approximately  
307 signers of the petition.

P E T I T I O N

The following landowners of and /or residents on private property in the Blue Creek Area, South of Billings, Yellowstone County, State of Montana, find it completely unacceptable that Government Agencies (*Heritage Trail Project and The City-County Planning Department*) make, publish, distribute and intend to enforce such "plans" for and on private property as shown on the *Heritage Trail Map* and written on page 41, Policy 6.1, Action 1 of the *Heritage Trail publication* adopted by the Yellowstone Planning Board on May 11, 2004 and wish to petition the following action:

Therefore, the signers of this petition request the Yellowstone County Commissioners order the revision of all proposed trails and Greenways and any other proposed public access to the Blue Creek Area private lands shown on the *Heritage Trail Map*. The designation of these lands for "future use" was planned without current ownership's consent or knowledge, thereby advocating the taking of private property for the purpose of creating a multi-use trail system and allowing access for public use. The presentation, as written, is confusing and misleading as to the stage of acceptance and degree of control this approved plan carries.

The proposals that involve private lands should be clearly color-coded and identified in the map legend. A statement should be included in the legend which clearly indicates that proposed actions on private land are not actually designated. A similar statement should be incorporated in the Summaries text and Introduction and other appropriate locations in the *Heritage Trail publication* so that a reader understands that this applies to all the text discussing the proposed use of private lands.

The signers of this petition also request that private lands be protected against any requirement regulation or other controlling organ that might be promoted as a result of this statement: "It should be required that all natural drainage ways be public right-of-way when land is sold". This statement has been made and proposed by members of the *Blue Creek Parks and Trails Committee* at public meetings in the Blue Creek Area.

SIGNED Ron Staley

Printed RON STALEY

SIGNED Cindy Staley

Printed Cindy Staley

Address 7700 Forty Road

Laurel Mt 59044

Phone 652-1661 Landowner Yes  No

Aaby, Frances R.  
Aaby, Paul & Liesa M.  
Aaby, Wm. A. & Christine  
Amundson, Randy & MJ Dimich  
Anderson, David J & June A.  
Anderson, James & Danette  
Anderson, Susan & Rick  
Atchison, Irvin & Marian  
Bailey, Jim  
Bakker, Vernon & Sharon  
Barling, Lloyd & Marge  
Becker Land & Livestock  
Becker, Jim  
Becker, Kay  
Becker, Stephen & Particia  
Bell, Carla & Randall  
Bently, Patricia  
Bergstrom, Gail & Robert  
Blackman, Pamela  
Blain, Al & Bobbie  
Blain, Gary & Vickie  
Blain, Gerhart & Aldonna  
Blain, Robert & Julie  
Blinco, Vernon W.  
Bohnet, Tim & Kelly  
Bond, Ralph, Jr & Gail M.  
Bonogofsky, Tom & Debra  
Brown, G & Nelita  
Brun, Deborah, J.  
Cardwell, Mark  
Cardwell, Tom  
Casagrande, David W.  
Cervoski, Mark  
Chamberlain, Shannon  
Clark, Alvin R. & Linda C.  
Clark, Myrtle  
Clark, Russ & Leslie

Clark, Steve  
Cooper Ranch, Inc  
Cooper, Richard & Kathleen  
Cooper, Thomas  
Cortez, Rich, III & Tina  
Craig, Ken & Susan Lovely  
Danielson, Sherry V. & Jim  
Davis, Shawn & Amy  
DeBuff, Rus  
Deckard, Kristi  
DeJarnett, Don & Mary  
Derbyshire, Richard & Mary  
Devitt, Darrell  
Diede, Sherman  
Diede, Tim  
Dolph, Doug & Diane  
Doss, Shawn & Amy  
Dunker, Scott  
Edwards, James E  
Ehlenburg, Joe & Brenda  
Fiechtner, Steve & Joyce  
Fischer, Douglas & Thana  
Fox, Richard & Judy  
Francis, Mark & Lynn  
French, Stephen H & Linda  
Fritz, Kerry L.  
Fritz, Shadd E. & LaVonne  
Gabel, Sandy  
Gairrett, Katherine  
Gardner, Grey  
Garrison, Pat & Sharon  
Geddes, Miechel C. & Sherrill A.  
Glenn, Tracy & Kathleen  
Greenwood, Jennifer & Joseph  
Grela, Stephen & Laurie  
Grunenfelder, Michael, Linda & Karen  
Hagen, Rodney L. & Jewel

Hager, Kim & Alyce  
Halland, Norman, Norma & Jacqueline  
Hansen, Melven F., Jr.  
Hanser, Raphle E.  
Hanser, Scott  
Hanser, Shawn  
Hanser, Spenser  
Harding, Ron  
Harvey, Tom & Kathy  
Haugan, Helen  
Haverland, Ted and Joanne  
Hawks, Howard  
Hegg, Robert & Cheryl  
Hess, Brad & Jennifer E. Taraes  
Hickey, Shawn  
Hobza, Brady & Kathy  
Jacobson, Kip & Lisa  
Johnson, Kelvin & Elaine  
Johnson, Robert & Michele R.  
Johnston, Davis G & Mary  
Jones, Sam & Karen  
Jussila, Neil  
Kautz, David & Barbara  
Kenny, George Dean & Joyce  
Kesler, Roger & Susan L.  
Kimmel, Virginia & Carl  
Knight, Hazel  
Knight, Lyle R. & Toril  
Kozakoff, Dimitri & Susan  
Krebill, Randy & Karen  
Krebill, Roy & Esther  
Kukowski, Chance & Tandi Lindley  
Laferriere, Gary & Marge  
Larsen, Tom & Paula  
Lauver, Dan & Barbara  
Leach, Irving & Gerri K.  
Lee, Charles, Sr,

Lee, Helen  
Lee, Jay  
Lemieux, Lance  
Liddell, Robert E. & Joan  
Lindell, Jeffrey A. & Bonnie L.  
Lodahl, Greg R. & Susan  
Love, Don & Evelyn  
Love, Judith C.  
Lowe, Rob & Loretta  
Macrow, Mitch & Mary  
Martin, Acey  
Mathews, James & Leslie  
McCombs, Sue  
McMahan, Gorden & Faye  
McMahan, Gorden & Faye  
Megorden, Craig R. & Rhonda  
Meyer, Arron & Gwen J. Brecht  
Meyer, Dan & Flori  
Miller, Joseph  
Miller, Norman  
Murphy, Charlene  
Nelson, Wanda  
Nemitz, Warren & Monita  
Newman, Barbara  
Newman, James & Wilma  
Newman, Keith  
Olsen, Marc E.  
Oster, Donna M.  
Ostermiller, Roger  
Parker, Jann  
Parsons, Nancy A.  
Pennington, Randy & Marya  
Peterson, Don  
Peterson, Mark  
Pinnick, Roger & Mary Ann  
Pinnick, Bradley E. & Jill D.  
Pinnick, Dave & Lynne

Pinnick, Ron G. & Judy  
Power, Thomas R. & Rosemary  
Purcell, Barbara  
Purcell, Mary Lynn  
Ratcliff, Joe  
Redfield, Jonathan K. & Margo K  
Remmick, Sherald & Connie  
Restad, Judy  
Restad, Noreen  
Reynolds, Lee & Linda  
Roll, Terry & Theresa  
Ruark, David & Nancy  
Sanchez, Linda Spalinger  
Schibild, Edward  
Schottlaender, Richard & Peggy  
Shaffer, Michael & Kathleen  
Sheppard, Gerald & Debra  
Silsbee, Carl & Lisa  
Simons, Craig  
Skjeret, Loren B & Jerrie Dauner  
Staley, Jim & Geraldine  
Staley, Ron & Cindy  
Steiner, Del & Elizabeth  
Steinmetz, Jeremy & Denise  
Stenger, Debra  
Stratford, R.L.  
Strobel, Steven  
Terpstra, Arthur & Dolores  
Terpstra, Steven & Kathleen  
Thompson, Andrew  
Thompson, Oscar & Vicki  
Thompson, Rachel  
Townsend, Wayn & Lori  
Turner, C. C. & Barbara  
Wagner, Jack  
Walter, Chester & Mary  
Watts, Tim & Shirlene

Weisner, Bob  
Weiss, Edward  
Weldon, Charles  
Weldon, Jeff & Leslie  
Weldon, Richard & Monica  
White, Amanda E.  
White, Patrick P.  
Wickham, Steven & Faye  
Williams, K.R.  
Young, Kenny  
Zubach, Kari

302

ATTACHMENT B  
Yellowstone County Resolution 05-55

07/25/2005 13:32 4062562777

COMMISSIONERS

PAGE 01

*Yellowstone County*

COMMISSIONERS  
(406) 256-2701  
(406) 256-2777 (FAX)

F.O. Box 35000  
Billings, MT 59107-5000  
commission@co.yellowstone.mt.us



Approved  
7-26

RESOLUTION NO. 05-55

Resolution Establishing Guidance on Proposed Trails on Maps Across Private Property

WHEREAS, the Board of County Commissioners of Yellowstone County (BOCC) is very supportive of trails and trail systems throughout Yellowstone County; and

WHEREAS, the BOCC respects private property rights; and

WHEREAS, the BOCC would like private landowner approval for proposed routes through their property; and

WHEREAS, the BOCC discourages information being disseminated which does not reflect correct and verified information; and

WHEREAS, the BOCC encourages public participation in the county trail system;

NOW, THEREFORE, BE IT RESOLVED, that the BOCC instruct planning staff to pursue our trail system, but refrain from placing proposed trails across private property without the landowners permission.

PASSED AND ADOPTED by the Board of County Commissioners, Yellowstone County, Montana on this 8th day of July, 2005.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

(SEAL)

John Ostlund, Chairman

ATTEST:

James E. Reno, Member

Tony Nave  
Clerk and Recorder

Bill Kennedy, Member

**ATTACHMENT C**  
**Proposed Provisions for Amending the Heritage Trail Plan**

**PROPOSED PROVISIONS FOR AMENDING THE HERITAGE TRAIL PLAN**  
**D R A F T**

**8.0 Plan Revisions and Amendments**

The *Heritage Trail Plan* shall be reviewed and, if necessary, updated every five years. The purpose of the update is to determine what changes are needed to address current trends and technologies, and to make sure the plan continues to reflect community needs and preferences. The *Heritage Trail Plan* may be amended at any time in the five-year period if major changes occur such as a citizen-initiated amendment, a significant budgetary change, or a change in policies of the governing body.

The five-year review and update shall follow the planning and adoption process of the original plan including:

1. Review background information.
2. Conduct public involvement to include numerous community and neighborhood meetings and workshops, press releases, surveys, and direct communication with affected individuals and organizations.
3. Update and prepare draft document and associated maps, charts and tables.
4. Forward proposed updates to the Technical Review Committee for recommendations to the Policy Coordinating Committee.
5. Schedule and conduct public hearings before the Yellowstone County Planning Board, Yellowstone County Board of County Commissions, and City of Billings City Council for their review and recommendations to the Policy Coordinating Committee.
6. Schedule and present recommendations from the Planning Board and the governing bodies to the Policy Coordinating Committee for final action.

Amendment requests can be brought forward by individuals, organizations or by any government agency. Amendments to the *Heritage Trail Plan*, other than those identified in the five-year review, shall follow the following planning and adoption process:

1. Submit request to the Yellowstone County Planning Board to initiate the amendment process.
2. Conduct public involvement to include numerous community and neighborhood meetings and workshops, press releases, surveys, and direct communication with affected individuals and organizations.
3. Update and prepare draft document and associated maps, charts and tables.
4. Schedule and conduct public hearing before the Yellowstone County Planning Board.

---

5. If the proposed amendment affects areas completely *outside* the City of Billings city limits, but within the unincorporated limit of Yellowstone County; schedule and present recommendations from the Planning Board to the Yellowstone County Board of County Commissioners for final action. The County Commissioners have the sole authority to act on amendments within the County outside of the incorporated limits of Billings or Laurel.
6. If the proposed amendment affects areas completely *inside* the City of Billings city limits; schedule and present recommendations from the Planning Board to the City of Billings City Council for final action. The City Council has the sole authority to act on amendments inside the Billings city limits.
7. For amendments that are not specific to any jurisdiction; the procedure shall be the same as described for the five-year review.

Prepared by the City/County Planning Department

8/23/05

DRAFT

**ATTACHMENT D**  
**Petition Opposing BOCC Resolution 05-55**

**Petition for Trail Planning**

July 2005

Dear Yellowstone County residents:

The Board of County Commissioners are proposing a resolution (05-55) that reads as follows:  
**“That the BOCC instruct planning staff to pursue our trail system, but refrain from placing proposed trails across private property without the landowners permission.”** If approved, this resolution would stop all future trail planning for two reasons:

- It would give landowners a virtual veto over the planning process because it would be nearly impossible to obtain the permission of every landowner along a corridor.
- It would require a huge amount of staff time.

Because nearly all property in the Billings community is private property, there would be a lot of property owners along a given corridor. If this resolution were approved, City-County Planning could no longer develop conceptual trail plans for any part of the county or city, similar to Heritage Trails. This would take away a community's right to plan its recreation and transportation future. Conceptual trail plans do not threaten private property rights because they only take effect if and when a landowner decides to subdivide and develop his/her land.

**The hearing is scheduled for July 26 at 9:30 am at the Yellowstone County Courthouse.**  
Petitions should be presented at that time. Please consider the following points:

- Our children will be safer traveling off-road to and from parks and schools;
- Our children and families will be able to get more physical exercise with trails in our community;
- Our community is growing so vehicular traffic is making bike and foot travel along roadways increasingly dangerous;
- Communities that do not plan for the future end up without trails (they are very hard to add later);
- The majority of residents in Yellowstone County have expressed support for trails but are not being heard by County Commissioners (93% in the Blue Creek Area);
- Physical exercise – running, walking, biking – is the best known way to stave off our obesity crisis and heart disease;
- Trails and greenways stimulate local economies by boosting tourism and recreation-related spending;
- Trails are shown in one study to increase property values by 9 percent.

Please share your voice – by signing and circulating the attached petition.

Sincerely,

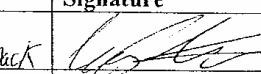
Blue Creek residents

342 signatures  
6 outside of Yellowstone  
County

**Petition for Trail Planning**

To the Yellowstone County Board of Commissioners:

We, the undersigned, residents of Yellowstone County, urge the County Commissioners to vote against the proposed resolution (No. 05-55) to require private property owners' permission prior to developing conceptual maps that incorporate private lands for future trail use. Under this resolution, trail planning would essentially stop dead, because connecting recreation or open space areas must involve private property.

Name (print)	Signature	Address	Phone/email
Cory Utterback		2004 Pinest.	—
Don Feinters	Don Feinters	714 N. 31st	256-2349
Nate Greening	Nate Greening	1244 Howard	—
Ben Bernes	Ben Bernes	350 Tefft	—
Brittany Heseth	Brittany Heseth	1931 Lilac Ln	—
Michelle Daniels	Michelle Daniels	3190 madasters	—
ALEX Schutte	ALEX Schutte	—	—
Tamara Hansen	Tamara Hansen	1931 Lilac Lane	—
Heiley Frank	Heiley Frank	3055 Olympic Blvd	—
Ben Stretter	Ben Stretter	2911 Beech Ave	652-2414
Erica Kepner	Erica Kepner	1334 Ave F	—
Thianita Munn	Thianita Munn	2339 Anderson # L	—
Wes Strode	Wes Strode	2911 Collegeton 72. 59105	—
Kim Keith	Kim Keith	72 Torch	—
Jenn Brown	Jenn Brown	1862 Dogwood	—
Mike Zirkle	Mike Zirkle	1000 Penn Ave	—
Rebecca Hunkurt	Rebecca Hunkurt	5550 Walter Hagen Dr.	—
Richard Bradley	Richard Bradley	5010 Cheyenne Tr	—

### Petition for Trail Planning

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Name (print)	Signature	Address	Phone/email
Bruce W. Larsen	Bruce W. Larsen	316 Bench Blvd	252-9692
Brenton D. Williams	Brenton D. Williams	3203 Country Club Cir	254-2601
PAIGE L. (MAYNARD) WALKER	Paige L. (MAYNARD) WALKER	1055 O'Malley Drive	406-688-0888
L. Jean Smith	L. Jean Smith	2927 Cook Ave	406-656-8178
DON WIRTH	Don Wirth	945 Poly 59102	252-8965
John Spencer	John Spencer	1001 Senora 59105 150 Two moor	245-9651
Norm Schramm	Norm Schramm		252-3128
Monica Marsteller	Monica Marsteller	99 N 19 St	248-1400
Darlene Tussing	Darlene Tussing	3033 Democrat	651-0402
Tony Pritt	Tony Pritt	3005 37th St W	655-8241
Joe Kane	Joe Kane	3015 Silverwood St	671-6775
Corey Jensen	Corey Jensen	3825 Farmington	671-0167
Tim Pritt	Tim Pritt	3005 37th St W	655-8241
Penni Reed	Penni Reed	2821 Oakley Dr	652-9338
Tom Weeks	Tom Weeks	502 Rimrock Rd	243-1950

### Petition for Trail Planning

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Name (print)	Signature	Address	Phone/email
Mullend	<i>Mullend</i>	70 68 <sup>43</sup> S 1st mt road	406 872 8250
Josh Kling	<i>Josh Kling</i>	1955 Wall St Butte, MT	(406) 782-0515
For Much	<i>For Much</i>	5324 Park Hill	(406) -298-8574
John	<i>John</i>	7107 Rockwood Billings MT	
Paul Kehler	<i>Paul Kehler</i>	2732 Frontier	628-2308
Greg Gauvin	<i>Greg Gauvin</i>	320 31 <sup>st</sup> St W	259-9191
Jeff Schatz	<i>Jeff Schatz</i>	731 Discus Cirk	652-4833
Barb Schatz	<i>Barb Schatz</i>	731 Discus Cirk	652-4833
ANDY HILDEBRANDT	<i>Andy Hildebrandt</i>	5044 Hazelwood	656-8165
Trina Cushing	<i>Trina Cushing</i>	510 pinon Dr	—
John Ruckdick	<i>John Ruckdick</i>	216 skoki Rd	248-5434
Corey Bratz	<i>Corey Bratz</i>	1716 Bitterroot Dr	260-2968
Carlos R. Toney	<i>Carlos R. Toney</i>	841 Agate	245-0965
Karen Boraczyk	<i>Karen Boraczyk</i>	1345 Jena Lane Stephens	947-2142
Kristen Gravely	<i>Kristen Gravely</i>	1345 Jena Lane Stephens	947-2142
Corey Kensemer	<i>Corey Kensemer</i>	5810 WICKER RD BOZEMAN MT 437 Bear Cr	570-6655
Jess Short	<i>Jess Short</i>	Bozeman	579-3786

Petition for Trail Planning

Name (print)	Signature	Address	Phone/email
Duane Cole	M. Duane Cole Coltripp		748-2064
Michelle Wood	Michelle Wood Big Timber		932-5916
<del>Steve K. Schatz</del>	Steve K. Schatz	Alma Gerhardt Billings	656-2172
LINSA BYAM	Linda Byam	1937 Maude Drive Billings, MT	848-3711
Rick Byam	Rick Byam	Billings, MT	248-3711
Jay Martin	Jay Martin	Laurel, MT	628-6260
Steve Gardner	Steve Gardner	BILLINGS, MT	655-0369
Alisha Walker	Alisha Walker	Billings, MT	690-K67
<del>Rockwell Dilley</del>	<del>Rockwell Dilley</del>	<del>Rockwell Dilley</del> Billings MT.	598-5163
DAVID STUSSMEIER	David Stussmeyer	Billings MT	598-3963
Vince Long	Vince Long	2619 Woodway Dr	656-0990
Amy Letson	Amy Letson	171 Erickson Ct	254-2773
Debbie Willis	Debbie Willis	612 Beverly Rd	876-5412
Shannon Unruh	Shannon Unruh	29 Florinien	252-1001
Denita Hines		Box 153 Huntley	348-3790
Peter J. Simonich	Peter J. Simonich	2310 Blue Sage Laurel	628-7420
PAM Simonich	PAM Simonich	" " " "	" " "
William Winter	William Winter	11228 <sup>th</sup> St W Billings	
Joan Jacobson	Joan Jacobson	3304 Ben Hogan St. 1197	
Dennis Kindsfater	Dennis Kindsfater	3285 Canyon Dr #5	

Petition for Trail Planning

Name (print)	Signature	Address	Phone/e-mail
1 Stephen D. Holt	<i>Stephen D. Holt</i>	659 BAZAAR Fy	406-259-6786
2 Lance Brady	<i>Lance Brady</i>	2916 Mickey Wright	406 655 3231
3 Kara Cunanan	<i>Kara Cunanan</i>	2916 monacl Rd	406 (652) 4489
4 Chuck Smith	<i>Chuck Smith</i>	2103 GREEN TERRACE	406 252 3188
5 Jennifer Smith	<i>Jennifer Smith</i>	2103 GreenTerrace	406 252 3188
6 Martha Arguelles	<i>Martha Arguelles</i>	3232 LLOYD MANGUM	406 656-7022
7 Eric Cunanan	<i>Eric Cunanan</i>	3232 LLOYD MANGUM	656-7022
8 Laura Huisgen	<i>Laura Huisgen</i>	4188 Laredo Pk	636-7265
9 Risi Arguelles	<i>Risi Arguelles</i>	3232 Lloyd Mangum	656-7022
10 DENNIS Johnson	<i>Dennis Johnson</i>	558 Park Lane	252-9613
11 Whitney Shepard	<i>Whitney Shepard</i>	417 Allison	670-2331
12 Stephanie Sulser	<i>Stephanie Sulser</i>	417 Allison	654 3365
13 Olivia Peering	<i>Olivia Peering</i>	4127 Clark	255-0801
14 Steve Stoen	<i>Steve Stoen</i>	604 Clark	252-9319
15 Ross Seltz	<i>Ross Seltz</i>	2220 Grand Teton	671-41301
16 Riley Boucher	<i>Riley Boucher</i>	2807 Lewis Ave	591-7172
17 David Shandakt	<i>David Shandakt</i>	3406 Central	656-0160
18 Jessica Tucker	<i>Jessica Tucker</i>	5115 HighTlak Rd	248-1984
19 Meredith Daniel	<i>Meredith Daniel</i>	1531 Ave F	252-3267
20			
21			
22			
23			
24			
25			

**Petition for Trail Planning**

<input type="checkbox"/> Name (print)	Signature	Address	Phone/e-mail
1 Jason Schmidt	Jason Schmidt	2812 2nd Ave N. #79 Billings, MT 59101	591-5174
2 Franice Leonard	Franice Leonard	2150 Fairview Dr Billings	656-1724
3 Jill McDowell	Jill McDowell	1044 Delphinius Dr <sup>Blgs.</sup>	245-7131
4 Tami Blesser	Tami Blesser	1046 DE Ption	245-7151
5 Logan Polkow	Logan Polkow	1434 Galaxy Dr	756-4688
6 Dace Polkow	Dace Polkow	1425 Galaxy	756-5638
7 Chris Oisted	Chris Oisted	2710 Meadow Dr.	628-7617
8 JoAnn Swanson	JoAnn Swanson	3850 Ave D	655-1248
9 Donna Swanson	Donna Swanson	3850 Ave D	655-1248
10 Charlie Jacobsen	Charlie Jacobsen	3304 Ben Hogan	656-1197
11 John Wilcox	John Wilcox	5606 Bee Searc	245-6341
12 Tami McFate	Tami McFate	1119 05 Hwy 212 S	628-2296
13 Taylor McFate	Taylor McFate	"	"
14 KayLee McFate	KayLee McFate	"	"
15 Maygan McFate	Maygan	"	"
16 Dale Wicks	Dale Wicks	37476, Ranch Way	656-2031
17 Teresa Wicks	Teresa Wicks	37476 Ranch Way	656-2031
18 Kathy Polin	Kathy Polin	503 Clark Ave	242-3808
19 Herb Delichek	Herb Delichek	P.O. Box 56, Custer	628-7418
20 Shayne Hinz	Shayne Hinz	P.O. Box 152 <sup>Hunter</sup> , MT	318-3790
21 Wade Ruten	Wade Ruten	2307 Pine St.	308-1453
22 Shirley Waldron	Shirley Waldron	1123 Princeton Blgs.	256-0070
23 DAVID Cummins	David Cummins	2227 Elm St	245-6355
24 Christy Johns	Christy Johns	3139 St Johns	656-6023
25 Hep Gilliland	Hep Gilliland	2032 Woody, Dr	651-4598

Petition for Trail Planning

Name (print)	Signature	Address	Phone/e-mail
1 Toni Lucas	Toni Lucas	4142 CRINGER 59101	251-7394
2 Shirley Swain	Shirley Swain	2950 Rev. King Creek	628-4930
3 Lacey Davenhaver	Lacey Davenhaver	24119 Upper Highwood 1001-3061	
4 Randi Guererro	Randi Guererro	1836 High Sierra Blvd	861-9875
5 Laurie Mohl	Laurie Mohl	4930 Anna Ln	654-5284
6 Sheldon King	Sheldon King	2040 Burnstead	2
7 Sally Beaura	Sally Beaura	" "	-
8 Marcy Losliz	Marcy Losliz	4119 Corbin 59106	652-7687
9 Maggie Ostermiller	Maggie Ostermiller	1126 Crist Dr 59105	690-2750
10 SARAH OSTERMILLER	SARAH OSTERMILLER	1401Ane F 59102	670-2402
11 Debbie Maguire	Debbie Maguire	3605 King F	252-7638
12 David Orr	DAVID ORR	259 NUPIAS PI	252-3872
13 Dustin Waite	Dustin Waite	1955 Carroll Heights	daw.22@hotmail.com
14 Ryan Brady	Ryan Brady	2916 Mickey Wright Ln	655-8231
15 Ken Shedd	Ken Shedd	1020 Evergreen Dr.	672-7906
16 Jonathan House	Jonathan House	2036 Fairway Dr.	256-0163
17 Leslie Small	Leslie Small	3515 Rangora	652-3489
18 Donell Small	Donell Small	3515 Rangora N	452-3289
19 Al Staszuk	Al Staszuk	217 S. Santa Fe	656-5098
20 Linda Staszuk	Linda Staszuk	217 S. Santa Fe	656-5098
21 AF Winegardner	AF Winegardner	56 Shadow 21	259-2156
22 Joyce Wilfagam	Joyce Wilfagam	30 Streetw Pl	254-9156
23 Vicki Holle	Vicki Holle	659 Bazaar Ex	259-6756
24 Reese Holle	Reese Holle	659 Bazaar Ex	259-6756
25 Charlotte Holle	Charlotte Holle	659 Bazaar Ex	259-6756

**Petition for Trail Planning**



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Name (print)	Signature	Address	Phone/email
Ken Bailey	Ken Bailey	5246 Rocky Mtn Billings, MT 59106	252-4676
Malie Dickson	Malie Dickson	4832 Ridgeview Ln 59106	652-3170
Terry Dorow	Terry Dorow	4374 Hi Line Billings, MT 59106	652-2097
JACED DILVERSON	JACED DILVERSON	7372 Ridgeview Ln 59106	652-3170
Sarah Grano	Sarah Grano	2303 South 1st Rd Billings, MT 59106	672-6749
Shay Clausen	Shay Clausen	910 E W Great Falls, MT	868-7051
Tom Gogerson	Tom Gogerson	2306 + lower Billings	248-3955
STEVE MYSSE	STEVE MYSSE	2554 BURLINGTON BILLINGS	656-2621
Chris Hostetter	Chris Hostetter	3018 1 <sup>st</sup> AVE N #2	672-0788
Kevin Fisera	Kevin Fisera	2451 Wingate Ln	656-5437
Bob			
Shawn Farman	Shawn Farman	2901 Monroe Rd	659-2920
David Kiferan	David Kiferan	2931 Taunton Rd	254-6631
Jeff Essman	Jeff Essman	3130 MacMaster	259-8404
Wilton Shmidt	Wilton Shmidt	2727 Highwood Dr	252-1846
EDWARD TURNER	EDWARD TURNER	302 1st Ave Zion, MT	245-1307
Joe, J. Messmer	Joe, J. Messmer	2000 Arbor Valley Dr Billings, MT	248-5868

Petition for Trail Planning

Name (print)	Signature	Address	Phone/email
Monte Cawston	Monte Cawston	2227 Green terrace 3035 Arnold Palmer	259-1430
Kathy Ruff	Kathy Ruff	3035 Arnold Palmer	655-4570
Darry Ruff	Darry Ruff	3035 Arnold Palmer	655-4570
Suzi Ruff	Suzi Ruff	2528 Longfellow	876-0857
Rebecca L. Shay	Rebecca L. Shay	616 Wash. Ave	628-3933
Kelly Stover	Kelly Stover	700 N. Hoback	861-0729
Shelly Horn	Shelly Horn	412 Normandy Dr. Blgs. MT 59102	256-2393
Nancy McRae	Nancy McRae	938 Bench Blvd Billings, MT 59105	855-1404
Patrick Williams	Patrick Williams	2136 4th St. Billings, MT 59101	693-2243
Heather Hardin	Heather Hardin	131 Wyoming Ave Billings, MT 59101	245-5598
LeAnn Engle	LeAnn Engle	1405 Willow	228-7585
Andrew Stump	Andrew Stump	4406 Laredo	252-2166
Caroline Ruff	Caroline Ruff	Laurel Hill	628-48860
Jeremy Williams	Jeremy Williams	236 Acres Dr Blgs. MT 59101	690-0225
Richard Rigney	Richard Rigney	2540 Broadwater Billings, MT	698-8999
Marjory C. Fosjord	Marjory C. Fosjord	407 Nelson Billings, MT	656-8708
Clayton Fosjord	Clayton Fosjord	407 Nelson Billings, MT	656-8708
Robert MacLennan	Robert MacLennan	Billings	245-3273
Glynn D. Dorn	Glynn D. Dorn	4374 Hillie Blgs. MT	652-2097
Rene Ruff	Rene Ruff	1133 Solycra Rd Gardell MT	628-1821

**Petition for Trail Planning**

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Name (print)	Signature	Address	Phone/email
Becca Dean	B. Dean	4537 Phillips	407-052-7049
Sid Harder	Sid Harder	3037 Gloriosa	656-6103
Donna Roberts	Donna Roberts	20 Summit Dr.	252-1021
W.C.	W.C.	200 Lyndale	246-7261
Jon Dycr	Jon Dycr	235 Clark	255-7327
Jennifer Anderson	Jennifer Anderson	P.O. Box 316	671-4783
Natascha Frane	Natascha Frane	2228 Green Terrace Drive	672-3155
Chris Cast	Chris Cast	3117 9th Ave N.	259-7106
Heidi Hodges	Heidi Hodges	1120 Clark Ave	245-3361
Joe Kirk	Joe Kirk	4250 Love Eagle	256-7519
Tim Harder	Tim Harder	337 Gloriosa	656-6103
Gary Daniel	Gary Daniel	1534 Ave F	252-3267
John Haistone	John Haistone	1206 Longmire	245-2745
Cecil Stegman	Cecil Stegman	1105 Tooker Ct	243-4527
MARK SWARTZ	MARK SWARTZ	622 S 51st AVE	366-0470
BILL WINSTON	BILL WINSTON	1321 Dublin	248-3125
Kyle Forman	Kyle Forman	1119 23rd St NW	652-4955

**Petition for Trail Planning**

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Name (print)	Signature	Address	Phone/email
Timothy S. Thompson	Timothy S. Thompson	1341 Ave F Billings, MT 59102	406-252-1947
Calley Thompson	Calley Thompson	1203 Poly Drive Billings, MT 59102	259-1446
Cindy Thompson	Cindy Thompson	1241 Ave. F Billings, MT	252-1947
Brian Ashworth	Brian Ashworth	1021 N 31st Billings, MT	406-252-3116
Mark Thomas	Mark Thomas	3113 Cactus Billings, MT 59102	252-5311
Patrick J. Enger	Patrick J. Enger	1186 Amendment Cir Billings, MT 59105	256-1639
Matt Roberts	Matt Roberts	1207 Parkhill Billings, MT 59102	855-2656
Angus Function	Angus Function	3113 Standard Billings, MT	248-9046
Eileen Tuss	Eileen Tuss	1207 Parkhill Billings, MT	259-5261
LYNN D. SIMONSEN	Lynn D. Simonsen	880 COBBY CIR Billings, MT	252-7783
Toshi Boushi	Toshi Boushi	7734 BOURNEMONT Billings, MT	655-3388
Brendan Murray	Brendan Murray	1010 Poly Dr. Billings, MT 59102	248-6186
DAVID KELLERHILL	David Kellerhill	946 GINGER AVE Billings, MT 59102	245-6167
CAROLINE RITTER	Caroline Ritter	703 N. 29 #201 Billings, MT 59101	252-2540
Craiglyn Hunter	Craiglyn Hunter	2215 24 <sup>th</sup> St. W. Billings, MT 59102	652-2606
Jene Sturtevant	Jene Sturtevant	740 Woodlawn Billings, MT 59102	254-9992
Ken Beckbarger	Ken Beckbarger	5715 Sweetgum Billings, MT	656-7922

## Petition for Trail Planning

## Petition for Trail Planning

To the Yellowstone County Board of Commissioners:

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James Bos - James Bos  
3104 Zimmerman  
Ron Hundt - Ron Hundt 59104  
120 Pecos Place 59102

Laurie Bauer - Laurie Bauer 59079  
5603 Silver Saddle dr

Jeff Terry Siebenaller  
361 Tabriz Drive 59105

Craig Heying Craig Heying  
2940 Stinson Ave 59102

Pam Christianson 3916 Bushwood Dr 59106  
Dorothy Mooy 2020 14th Street West 59102  
Jim Shulha 3604 Corbin Drive 59102

Angus Fulton 3113 STANFORD DR  
Mike Yonovich 1926 Third Rd. Laurel 59044  
BLGS 59102  
JERAMIE D Arthur 449 Declaration Billings 59105  
Jennifer Ouelands 429 15th St W Billings 59102

**Petition for Trail Planning**

To the Yellowstone County Board of Commissioners:

We, the undersigned, residents of Yellowstone County, urge the County Commissioners to vote against the proposed resolution (No. 05-55) to require private property owners' permission prior to developing conceptual maps that incorporate private lands for future trail use. Under this resolution, trail planning would essentially stop dead, because connecting recreation or open space areas must involve private property.

Name (print)	Signature	Address	Phone/email
Ed Whitcher		8355 Siorisham Billings MT 59106	
Don Cole	Don Cole	1911 Beverly Billings MT 59106	minusdon@yahoo
Brian Hundtffe	Brian Hundtffe	120 Pecos Billings MT 59102	656-6713
David Cushing	David Cushing	2315 S. 54th St Billings	swimster@bresnan.net
Kerry Fulton	Kerry Fulton	3113 STANFORD DR BLSS 59102	
Jim Corry	Jim Corry	4949 Slocum BLSS MT 59102	
Terri Walter	Terri Walter	3205 S. 74th St Billings MT 59106	twalter@mt.sov
Lucinda Young	Lucinda Young	1911 Beverly Hills Billings MT 59102	
Corry Warner	Corry Warner	8630 Longmeadow Billings, MT 59106	skier_girl49@hotmail.com
Don Schwentke	Don Schwentke	2201 CREEK AVE Billings 59102	
Keely Schwentke	Keely Schwentke	1215 Peony Dr Billings MT 59105	
Kevin Kofstad	Kevin Kofstad	1100 Kodenau Billings 59106	
Parker Ford	Parker Ford	5420 Melrose 59106	656-5137
Daniel Baerly	Daniel Baerly	111 Rock Hills BLSS MT	656-8342
Spoke Shop	Spoke Shop	1910 Broadwater	656-8342
Susan Barlow	Susan Barlow	1344 Ave F Billings	248-4155

## Petition for Trail Planning

**Petition for Trail Planning**

To the Yellowstone County Board of Commissioners:

We, the undersigned, residents of Yellowstone County, urge the County Commissioners to vote against the proposed resolution (No. 05-55) to require private property owners' permission prior to developing conceptual maps that incorporate private lands for future trail use. Under this resolution, trail planning would essentially stop dead, because connecting recreation or open space areas must involve private property.

Name (print)	Signature	Address	Phone/email
Ron Tussing	Ron Tussing	3033 Demarest	651-0402
Merry Ann Peters	Merry Ann Peters	104 Almaden Lane Apt B3	245-7081
Jeri Bingham	Jeri Bingham	2060 St. Johns	656-8346
Laura ESP	Laura ESP	1236 Box 2154	198-7789
Al Patterson	Al Patterson	P.O. Box 50733	670-0953
Marki Gugle	Marki Gugle	340 Garden	850-7732
Mike Baker	Mike Baker	2922 W. MacDonald Dr.	656-4267
Debra Dutton	Debra Dutton	3110 Reimus	656-0213
Jon Kohn	Jon Kohn	2902 Thousand Oaks St B195	245-4040
Howard Klostof	Howard Klostof	1410 Lewis Ave	254-2011
David Clappert	David Clappert	1711 Roosevelt	251-0569
L. Russell	L. Russell	6294 Hwy 20 Billings MT	256-9451
Jim Simpson	Jim Simpson	865 Paintbrush Pl.	651-0914
Carol Finnes	Carol Finnes	20 20th Street W.	672-9861
Chris Teller	Chris Teller	2774 Phyllis Cr	652-5844
Jim Bell	Jim Bell	3120 HARROW DR.	252-1877
Chris Kiel	Chris Kiel	3298 GRANGE AVE	208-4065

Petition for Trail Planning

Name (print)	Signature	Address	Phone/email
Gary Axman	Gary Axman	Belzoni	
Michele Barry	Michele Barry	Bozeman	
Matt Freck	Matt Freck	Billings	
Justin M. Hartman	Justin M. Hartman	Billings	
Joyce K. Hunt	Joyce K. Hunt	Billings	
Lauri D. Miron	Lauri D. Miron	Billings	
Tom F. Brown	Tom F. Brown	Billings	Tom@ brownswest.us
Egg Rawden	Egg Rawden	Billings	
Laura A. Custer	Roger Anderson	Cody, WY	rogerandmc@bellsouth.net
Jim SPIELMAN	Jim Spielman	Billings	670-9012
David Schreiber	David Schreiber	Billings	
Jeffrey Schreiber	Jeffrey Schreiber	Billings	jhschreiber@msn.com
Jeremy Kessler	Jeremy Kessler	Billings	
Terese Buckley Fahringer	Terese Buckley Fahringer	Billings	
Angie Bratton	Garry Bratton	Billings	MT
Anthony Haddock	Anthony Haddock	Billings, MT	
Joe Lockwood	Joe Lockwood	5788 Creekview Drive, Shepherd, MT	373-0722
TED Hammond	TED Hammond	1512 Hubbard	
Shawn Hob	Shawn Hob	Billings	
Linda Briggs	Linda Briggs	1236 N 31 <sup>st</sup>	248-9227

Petition for Trail Planning

Name (print)	Signature	Address	Phone/email
Kathleen Jones	Kathleen Jones	670 Tepee Tr.	248-9870
Marcus Everson	Marcus Everson	2626 Lewis Ave	171lebuff@hotmail.com
Christine Thomas	Christine Thomas	1 NW Alderson	208-1487
John Reichert	John Reichert	3321 Tatnac De	652-2792
SM Hampton	DIANE MORLEDGE-HAMPTON	2420-17th ST	248-1886
Donna Sessions	Donna Sessions	3015 Shale Rock Dr	672-57781
Micki Kuehn	Micki Kuehn	3015 Shale Rock Dr	672-6949
Don Bruey	Don Bruey	1911 Balsam Hill	855-3348
Henry in Dibus	Henry in Dibus	730 4th E #22 Billings MT	245-6892
Mallie Lyon Jensen	Mallie Lyon Jensen	22 Heartwood Lane	245-8527
Ron Fisher	Ron Fisher	2225 Willowbank	656-2490
Dave Nigh	Dave Nigh	5466 Gene Sarecentr	655-4808
Sheila McLean	Sheila McLean	2211 Green Valley	652-1831
Karen Long	Karen Long	Polgs	651-5664
Katich Zimmerman	Katich Zimmerman	Blgs 1st Ave N	591-7244
Miles Yurkewicz	Miles Yurkewicz	PO Box 30633 Billings MT 59104	672-5333
Kathy Kelker	Kathy Kelker	8438 Rimrock	652-6716
Donna	Donna	3023 Stinson	
M Cullough	M Cullough	1912	656-7800
Parker Friday	Parker Friday	3023 Stinson Ave.	656-7800
Wyeth Friday	Wyeth Friday	3023 Stinson Ave.	656-7800

<u>SIGNATURE</u>	<u>NAME</u>	<u>ADDRESS</u>
Ellie Haughton	Ellie Haughton	505 Highland Park Dr.
Paul Beets	777 North Ridge	Buffalo, NY
Margaret Boes	Margaret Boes	1403 Ave F 59102
Muriel McBride	Kitchen Gloves	1601 Beverly Hill
Julia Ling	Lorraine Eng	1405 Willow, Tonawanda
John Womeldorf	John Womeldorf	3628 55th Street

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**ATTACHMENT E**  
**Yellowstone County Planning Board Resolution (9-13-05)**

(to be inserted later)

**ATTACHMENT F**  
**Yellowstone County Board of Commissioners Resolution (09-13-05)**

(To be inserted later)

**ATTACHMENT G**  
**Written Public Comments**

Dear Ramona and Crew,

RE: Heritage Trails 9/1/2005

As we discussed, I am gravely concerned about the growing reaction to Heritage Trails. The reaction is not going to be limited to Blue Creek. The calculated misinformation by the few leaders is dishonest, and, it is clear that the Commissioners have set a course that is making the situation worse. Their public comments have given credibility to the line put forward by the anti trail leaders. I believe that the Planning Board is willing to give more positive thought to a solution. But, it is clear that that Board will do some sort of major overhaul of the map. Therefore, below are my suggestions that I would appreciate including with your ideas to the Planning Board, Commissioners and City Council.

First, I have drafted the sort of map that will serve us in Blue Creek. It generally covers the urban planning area. It obviously needs a professional to put this kind of graphic together but I believe mine is good enough to suggest how it could be done. It would mean that these areas outside of the city core would need to have separate maps. This is doable. Maybe trails in Billings's core area could remain the same as they are on the Heritage Trail maps.

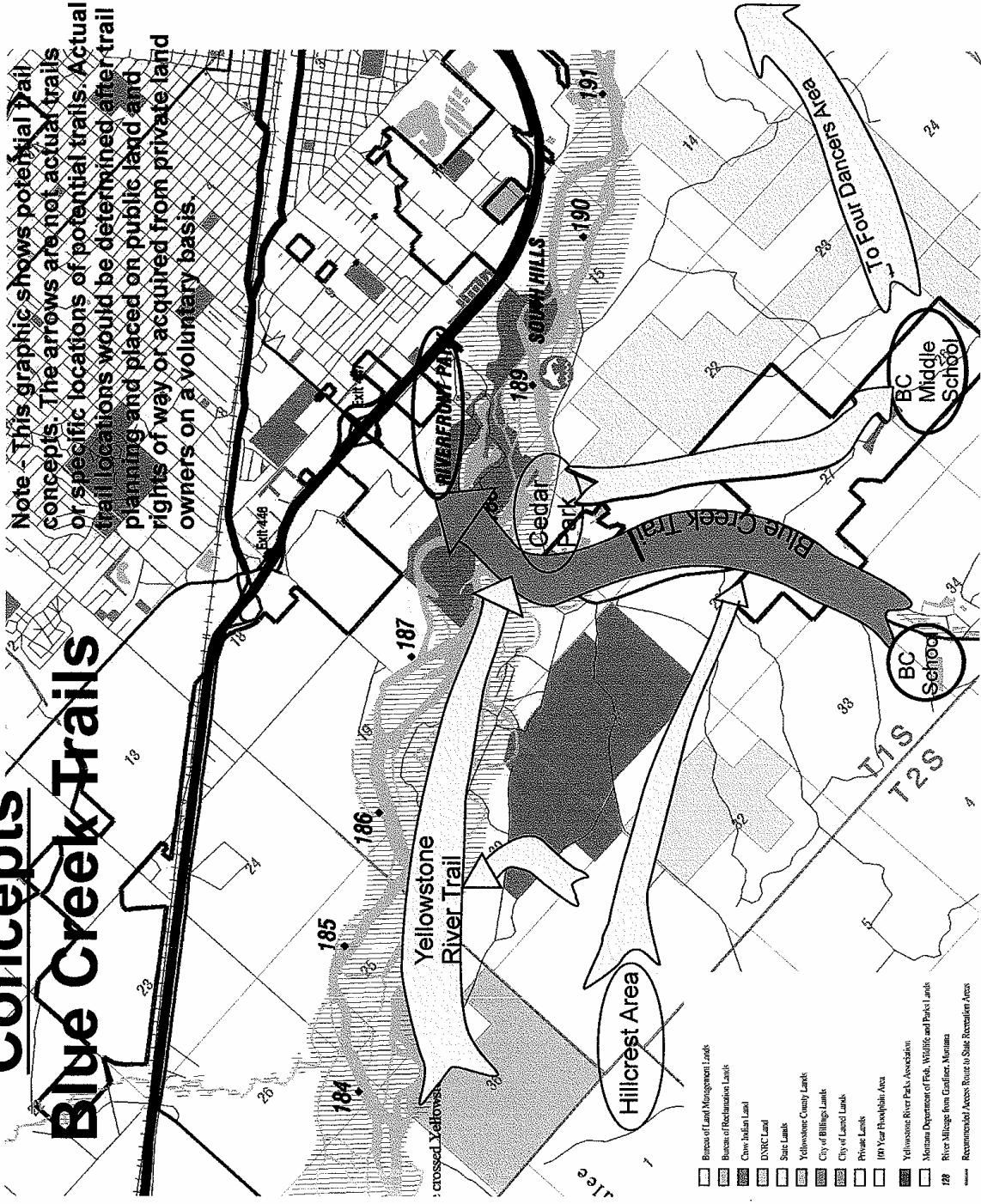
Note that I have taken off the Greenways from the maps. As much as I like the Greenways they don't mean a great deal as currently addressed in Heritage Trails. I would not fight for them. As you know, Blue Creek Trails and Parks has been doing extensive inventory of some physical and natural resource features in the Blue Creek Area. Our effort was to identify areas that are poorly suited for urban developments but have good potential for conservation corridors that could site parks and trails. I suggest that greenways be replaced by written text in Heritage Trails. Maybe wording as follows:

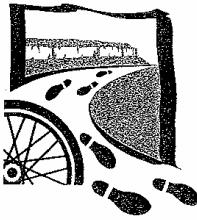
*Conservation Areas (or Areas With Limited Suitability for Urban Development) (or Unsuitable Development Areas) - Yellowstone County has areas of limited suitability for urban development. These areas are unsuitable because of steepness of slope, unstable or swelling soils, land slide potential, water drainage and floodplains. These same areas often have high esthetic and conservation values including, wildlife habitat, soil retention, visual resources, flood plains or water drainage, green space and flood retention. Some areas unsuitable for urban development are highly suitable for the location of trails and parks. As land is planned for urban development including subdivisions efforts should be made to conserve them for their inherent values. When development takes place conservation areas can be considered for trail connectivity to provide access to home to school and home to work trail systems. Some of these areas have good potential for public acquisition by private landowner donation or fee acquisition from willing landowners.*

Because of the timeframe, I have not discussed these thoughts with our Blue Creek group, so consider them mine. Please call if I can be of help. I am convinced that this issue is broader than a trails issue it is a huge assault on planning.

*Mike*  
Mike Penfold  
254-0884

# Concepts Blue Creek Trails





August 19, 2005

Dear Members of the City/County Planning Board:

As recently noted in an editorial on July 31, 2005 in the Billings Gazette:

"Bike/pedestrian trails have ranked across the nation as one of the top amenities sought by businesses and home buyers. A trail is a park that connects neighbors and encourages healthy habits. Well-planned trails are great assets to communities and to the individuals who live and work along the trails."

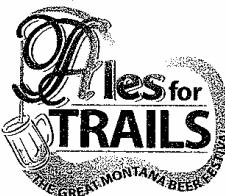
Speaking for the BikeNet board of directors, we could not agree more!

Our community is at a critical point. As our community grows and changes, the citizens look to boards like yours to have the vision and forethought to consider what our city and surrounding area should look like in 10, 15 or even 25 years. That is your charge as a Planning Board and one I'm sure you take very seriously.

Looking ahead and giving thought to the needs of a healthy community would certainly include adequate infrastructure, schools, healthcare facilities and opportunities for recreation in a safe environment. At BikeNet, we think that also means a community connected by trails, accessible to all.

[www.bikenet.org](http://www.bikenet.org)

BikeNet — P.O. Box 81146 — Billings, Montana 59108

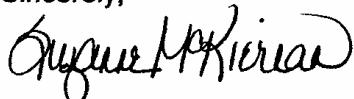


But that cannot happen without planning...looking to the future with a vision so that as development occurs, opportunities for trails are part of the planning process, not a late addition or add-on many years later. It was a special joy to see the master plan process at work as the community was involved with the Heritage Trail Plan 2 years ago and to finally see the approval of such a well-thought out plan last year. Now, it seems, we are in danger of taking steps backward by amending that plan.

The Heritage Trail Plan is a vision. Its role is to provide possibilities for trails in the community so that as development occurs, trails can be part of the planning. No one is suggesting condemnation of property for trails nor is anyone suggesting that the rights of private property owners be ignored. In fact, at its July, 2005 board meeting, the BikeNet board of directors went so far as to accept a resolution which clarifies our support of trails and our support of the rights of property owners (attached).

That same resolution speaks to the need of an atmosphere of trust and cooperation as trails are developed and that also means leadership. This is an important component and as BikeNet strives to advocate appropriately for trails, the leadership of boards such as yours to carry a vision of what our community needs for the future is also imperative. Where there is misunderstanding, let's work towards understanding by marking planning maps appropriately and clearly, designating private property. Let us all get the word out that condemnation and the use of eminent domain to build trails is not supported. However, let us not sacrifice a vision of bicycle/pedestrian trails in our city by amending the Heritage Trail Plan but instead, seek to clarify the role of planning ahead to build a city that makes us all proud.

Sincerely,



Suzanne McKiernan, President  
BikeNet Board of Directors

**Resolution On Respect for Private Property**  
Accepted by the BikeNet Board of Directors, July 20, 2005

*It is the vision of BikeNet that someday the community of Billings and its surrounding vicinity will be served by an interconnected and continuous system of bicycle and pedestrian paths that will provide a place for safe family fun and recreation separated from the road system used by motor vehicles.*

*BikeNet believes that a continuous system of bicycle and pedestrian paths will only be achieved in an atmosphere of trust and cooperation, and that right of way for paths should be obtained by voluntary gift or grant by willing property owners or by dedication as parkland when an area is slated for dense development as currently provided by Montana law.*

*BikeNet does not advocate condemnation of trail right of way across private property due to its corrosive effect on the atmosphere of trust and cooperation that will be needed to successfully complete an interconnected and continuous system of paths in and around the city of Billings.*

*BikeNet supports clearly marking private property as such, supports maintaining privacy of individuals on such private property, and supports all efforts to clearly delineate proposed trail right of way as "proposed" and privately owned property as "private" on any and all community planning documents.*

Submitted to the Yellowstone County Commissioners on August 23, 2005 by Kippen and Lisa Jacobson.

*Kippen and Lisa Jacobson*

My name is CAPT Kippen Jacobson, I have lived at 3600 Basin Creek for about 4 years. I am a public health nurse and family nurse practitioner and have served on active duty with the U.S. Public Health Service for over 20 years.

This evening, I want to briefly share some of my reasons why I think it is neither healthy nor safe for the rural community, in which I live, to have a trail system such as has the Heritage Trail system which crosses the private land of so many of the residents.

Before this, I want to quickly say, that I personally am very troubled knowing that a group of people has developed plans which include the taking of their rural neighbors' lands for their own leisure and pleasure uses. The Heritage Trail plan suggests to me, that there are people not content with the 31 plus million acres of state and federal lands available to all Montanans to recreate on, nor are they satisfied with the additional multitude of parks, lakes, rivers and other recreational opportunities available to them in and around the Billings area.

However, I mainly want to speak concerning the threat to our safety and health that the implementation of the Heritage Trail plan would bring.

This trail plan would open up many lonely and isolated areas. There would be people using these paths who have little respect for the property of others. They would find our isolated outbuildings, our groves of trees, our coulees, and other areas where they can return to and bring their parties. They would bring drinking and vandalism with them. And we would see our lands littered with garbage, property damaged and destroyed, an increase in altercations among land owners and trespassers and our roads would become more dangerous as the drunk partiers return home.

In addition, there are more and more violent crimes being perpetrated in remote and isolated settings which are made accessible to the public. An investigative report by KPHO, News 5, from Phoenix, Az was released just last week on August 16. In it, they highlight the increasing problem of marijuana farms in the National forests of Az. And I quote, "Forest officials said they suspect public lands have become increasingly popular for marijuana gardens because of the vast and remote locations patrolled only intermittently by Forest Service law enforcement."

KVAL-TV from Eugene, OR found similiar findings in its investigative report dated August 17, 2005 on crime in the national forests and grasslands of OR. In this report, Joanne Tynon, an assistant professor at OSU and who, according the article, is an expert on crime on forest lands says, "People are not used to dealing with things like murder, rape, assault and drug labs in the woods. The forests are no longer places where you can get away from it all." The article goes on, "The general public, Tynon said, appears to be only marginally aware of the increasing severity and frequency of crime in outdoor settings." This report sights geographic isolation as one of the contributing factors for this crime.

Our health and the health of our animals would also be threatened by a trail crossing on our lands. The trail users would bring their pets, and in particular dogs. Many of these animals would be poorly disciplined. As they would encounter our animals, their primitive instincts would drive them to challenge, attack and bring harm to our animals. As a matter of fact, this very thing happened two years ago to our family. My daughter, then 11 yrs. old, lost a 9 month old colt to a stray dog who attacked it and literally tore off its right hind leg, causing the colt to have to be destroyed. The dog was never identified. In addition to our livestock, our own pets and more importantly we and our children would be put at risk from these animals.

Lastly, I share with you the spread of zoonoses. Zoonoses are diseases shared in nature by humans and other animals that are normal or usual hosts. The present large areas of undisturbed lands and fences act as a barrier to the spread of these diseases. If these barriers are removed, as with a trail system, an important protective barrier to zoonoses is also removed.

Dogs have been identified as a suitable reservoir and have the ability to spread a wide variety of zoonoses. According to the CDC in Atlanta, Georgia, the following are diseases that dogs do spread to humans, cattle, sheep, goats, and/ or other animals. Most of these diseases are transmitted through their urine or feces, some through bites and other modes. This list includes: campylobacter, cryptosporidium, tapeworm, giardia, hookworm, leptospirosis, Q fever, rabies (By the way, lest you think rabies is a rare disease, the CDC reported 497 cases in domestic animals nation wide in 2001), ringworm, Rocky Mountain Spotted Fever, roundworm, and salmonella. Further, I want to remind you, this trail system would not only open our lands up to people and animals from Billings and the surrounding area, but people from all over the U.S. and even those from other countries would be able to bring their animals with their diseases across our lands.

My wife and I are very concerned about our safety and health and the threats a trail system leading through our land would bring. We want the commissioners to eliminate the plans and visions which involve the use of privately owned lands in our area. Thank you for allowing me to share my concerns with all of you.

Dear Planning Board Members: RE: Heritage Trails Hearing 8-20-05

Next Tuesday, August 23, you scheduled a public hearing on Heritage Trails. To quote from the August 9 letter to President Coons: "The Board of County Commissioners is requesting that the City-County Planning Board hold public hearings to revise the Heritage Trails Plan. The Commissioners would ask the Planning Board to remove bike trials that are on private property in the Blue Creek, Duck Creek, Pryor Creek, and Bitter Creek Areas." This is radical proposal that, coupled with the Commissioners recent Resolution 05-55, would virtually eliminate trail planning in all communities south of the Yellowstone River. It would be hard to underestimate the importance of this issue before your Board, and the impact it could have on transportation and recreation planning we so badly need in the face of expected growth in our area.

I am sure as you read the newspapers; you know much of the background on this matter. But there is more you need to understand and be aware of. Please allow me to provide you additional perspective on how this proposal could affect the Blue Creek Area.

Blue Creek is one of the fastest growing areas in Yellowstone County on a percentage basis. Between 1990 and 2000, the population of all of Yellowstone County increased 14 percent. During the same period, Blue Creek Area population grew 46 percent. Over ninety percent of the families live in the subdivisions of Aqui Esta, Cedar Park, Blue Creek Views, Quanta, Blains Mobile Home Court and Briarwood. Developers have hundreds of new homes on the drawing boards. The population of our Area is expected to reach 4,000 by 2020 and could be higher.

The Area is currently 100 percent dependant on motor vehicles for transportation. There are no trails. The only legal place for people to walk, hike or ride a bike in the Blue Creek Area is on the shoulders of subdivision, city and county roads and relatively short stretches of side walk in Briarwood. Only a handful of children can walk or ride their bikes to Blue Creek Elementary School. With no bus service, most children are driven to school by their parents; over 100 vehicles, extending well out onto Blue Creek Road, line up to drop their children off morning and afternoon. Traffic along Blue Creek Road is rapidly increasing and most parents consider the road too dangerous for children to walk.

The small playground at the school is the only public recreation facility in the Area. There are no trails, ball fields, tot lots, neighborhood or community parks. Subdivisions in the past have been approved with the minimal parkland dedication provisions of the State's subdivision laws. They have left a miserable legacy in the community: with eleven tracts of

undeveloped parkland; less than half have any value at all for recreation development. Currently, Heritage Trails is the only recreation plan in place in the community, and it speaks only to regional hike and bike trails. A principle use of Heritage Trails is in negotiations with developers as they present their subdivision plans for approval. Without it, the community would have little or no leverage during the subdivision process. Heritage Trails also qualifies the community to apply for state and federal trail grants. The concepts in Heritage Trails are critical in securing the thousands of dollars of potential state and federal matching funding. Contrary to a statement by one of the Commissioners at the July 26 hearing approving Resolution 05-55, all other sources advise that Heritage Trails is critical to future trail funding.

Heritage Trails is a vision document adopted only after considerable public involvement. It is also a concept document in that it does not provide specific locations of trails and boundaries or greenways in the Blue Creek Area. As the document states, "it is not intended to provide an engineering design or even specific trail alignments." That task is left to the design stage of trail development. Conceptual trails planned in rural areas have multiple potential locations. Even approximate alignments are only arrived at much later during the design stage when landowners are contacted and rights-of-way become more concrete. What Heritage Trails does show is a vision - how neighborhoods, as they develop, can be connected to schools, work places and potential future parks. We can't help but think how easy it would have been to have a trail to Blue Creek School during the development of Briarwood and Aqui Esta if there had been some vision statement indication the potential.

Heritage Trails was approved by the Yellowstone County Planning Board on May 11, 2004 and subsequently approved finally by the Transportation Policy Coordinating Committee in June 2004. Heritage Trails was adopted June 1, 2004, by the BOCC. It is interesting to note that no one spoke in opposition to the Plan at its adoption. The Pow Wow Park issue got significant visibility this spring and summer. Shortly afterward, a small group of Blue Creek landowners concluded they had not been sufficiently notified or consulted in the development of Heritage Trails. This was, after full coverage in the Gazette, with public meetings and hearings and all the required legal notices. Their concerns focused on the Heritage Trail map which they believed showed specific trails crossing private land. A petition circulated through rural areas of Blue Creek, and presented to the Commissioners on June 20, received 310 signatures. Signers were told the trails threatened property rights. The petition basically requested the map be clarified to show private land and that the lines on the map not show specific trail locations. Specifically, the petition requests: "Therefore, the signers of this petition request the Yellowstone County Commissioners order the revision of all proposed

trails and Greenways and any other proposed public access to the Blue Creek Area private land shown on the Heritage Trail Map....The proposals that involve private lands should be clearly color-coded and identified in the map legend." This was not a petition to remove trails from the Heritage Trails map, but, it is a reasonable request that the map and map legend be clarified.

However, the intent of the June 20 petition appears to have been deliberately overlooked during subsequent public meetings at Blue Creek School. The final meeting, an August 2, was attended by Commissioners Kennedy and Ostlund. Commissioner Ostlund broadened the issue during his opening comments at the meeting and indicated the meeting was to determine whether the map should be clarified or the Blue Creek Trails removed from Heritage Trails. At that, trail opponents at the meeting generally hardened their position and requested (demanded) that Blue Creek Trails be removed. Commissioner Ostlund then announced at the conclusion of the meeting that the Commissioners would remove the trails. This was done without discussion with Commissioner Kennedy, who was sitting next to him or Commissioner Reno who was not at the meeting. This has lead several people to conclude a decision had already made by the Commissioners before the meeting.

As indicated above, the County Commissioners unanimously approved Resolution No. 05-55 on July 26. Also at this hearing, a Commissioner stated that Heritage Trails would not be changed. Resolution 05-55 states: "NOW, THEREFORE, BE IT RESOLVED, that the BOCC instruct planning staff to pursue our trail system, but refrain from placing proposed trails across private property without the landowners (sic) permission." City County Planning staff have indicated they have received no direction from the Commissioners regarding the development of guidelines for implementing this resolution.

This startling public policy appears to be directed at both conceptual and design stages of trail planning. We take it to mean no long term planning or vision statements can be developed that might affect private property unless every affected landowner agrees to be included in the planning process. This gives local property owners a virtual veto over the planning process and, as far as we can tell, is unheard of in the world of planning. Another more optimistic way to look at this policy assumes it to focus on the later design phase of trail planning when alternative alignments for a specific trail are being planned and all affected property owners must be personally contacted. Landowners are always consulted in this phase because rights-of-way must be acquired. I am not aware of any trail right-of-way in the State that has been acquired by condemnation. Unfortunately, without clarification, or guidelines, one must assume the intent of 05-55 is to stop conceptual planning for trails. And certainly,

that is the affect of the policy, for almost all future trails will require right-of-way (ROW) from private landowners. It is the rare trail that will be entirely on public land or road ROW.

It is perhaps instructive that another petition was presented the Commissioners at the July 26 hearing. This Petition for Trail Planning was initiated by a family in Blue Creek and supported trails in Blue Creek and keeping the planning process intact. It was circulated by trail supporters across Billings and in less than a week, gathered 330 signatures. It seems to have been essentially ignored by the Commissioners.

It is unfortunate that a legitimate and resolvable concern about a map discrepancy and unclear policy has escalated into an assault on trails and planning in general. Ironically, Heritage Trails is intended to "move the community closer to achieving its vision of a cohesive system of linked trail and bikeways." Clearly, that goal is now receding.

There are excellent less destructive options to what is being proposed by the Commissioners. If it is within the powers of the Board to do so, it is suggested the proposal on the table at least be deferred, and one or more of the following alternatives considered.

- Ask the Community Council in Blue Creek to work together to make suggestions on the maps that resolve issues of land owners.
- Direct City County Planning to develop suggestions to clarify misunderstandings about the purpose of Heritage Trails.
- Trails outside of the urban planning area are extremely futuristic and could be considered at some future update of Heritage Trails.
- Shelve the issue for 2 or 3 years and see if landowners actually experience problems. In the meantime, keep Heritage Trails intact and working so the community can see its benefits.

Trail planning in Yellowstone County was dealt a severe setback on July 26 by the adoption of Resolution 05-55 which makes planning virtually impossible county-wide. The matter before the Planning Board on August 23, if approved, would effectively terminate trail planning in the Blue Creek Area by eliminating the progress and good planning that has been completed by Heritage Trails. It is unfortunate that planning is so controversial in the Rocky Mountain West. One must be cognizant that missteps at this juncture could cause an avalanche of requests from land owners who don't understand advisory policy or failed to participate when they were provided an opportunity.

Mike Penfold  
254-0884

**ATTACHMENT H**  
**Information in Regards to Concerns about the Heritage Trail Plan**



4th Floor Library  
510 Broadway

**PLANNING AND COMMUNITY  
SERVICES DEPARTMENT**



Billings, MT 59101  
406-657-8246

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**Memorandum**

**To:** City/County Planning Board  
**CC:** Yellowstone County Board of Commissioners, City of Billings Mayor & City Council  
**From:** Planning and Community Services Department  
**Date:** September 13, 2005  
**Re:** Information in Regards to Concerns about the Heritage Trail Plan

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Within the Heritage Trail Plan, the **Executive Summary** and **2.0 Benefits of Bicycle and Pedestrian Facilities** address many of the benefits and reasoning why we need a trail plan for our community. Numerous national studies and research papers were reviewed and compiled within these chapters to determine these benefits and to address property values and crime rates on property near and adjacent to the trail.

The following are some of the studies with brief summaries that address some of the concerns that were voiced in the Blue Creek area. There is a wealth of information on line, but we also have copies of this information in the Planning Department.

One of the studies, *Rail-Trails and Safe Communities (The Experience on 372 Trails)*, dealt with converted railroad beds to trails across the country, and is very applicable to any multi-use trails. This study has concluded that trails do not generate crime and if you would like to review the complete report, it can be found at:

<http://www.enhancements.org/rtcdocs/safecomm.pdf> It was even noted that the crime rate on trails is very low compared to the rate in other areas of the community and in fact crimes occurred with even less frequency on rural trails than on urban or suburban trails. This study dealt with both crimes against people, as well as crimes against property. It did not state that trails are completely void of any problems, since every form of human

September 13, 2005

activity involves risks, but it appears these are unsubstantiated fears that trails produce more crime.

Another study, *Omaha Recreational Trails: Their Effect on Property Values and Public Safety* conducted in Nebraska, found that trails are generally perceived as an economic benefit, that property owners do not appear to have a widespread concern for their safety as trespassing, theft and vandalism by trail users were relatively infrequent, that very few residents had increased home security or considered moving or wanted the trail closed and they perceived a positive relationship between the trails and neighborhood quality of life. This study is found at <http://www.americantrails.org/resources/adjacent/OmahaStudy.html>

There are numerous other articles and studies that have been written or conducted in regards to the benefits of trails which address some of the concerns such as land valuation, crime and health issues.

- From the Office of Greenways & Trails in Florida, *Thinking Green: A Guide to the Benefits and Costs of Greenways & Trails (Appendix F)* compiles the economic, human/cultural impacts and ecological benefits and costs of trails.  
<http://www.dep.state.fl.us/gwt/community/refguide/default.htm>
- American Trails has numerous articles on their web site discussing studies done in various communities including this information sheet compiled from other resources. *Trail Effects on Neighborhoods: Home Value, Safety, Quality of Life*. 1. A study and survey done on 3 trails in the Denver area found that the concerns that urban trails might adversely affect public safety and property value in surrounding neighborhoods are not substantiated by the results and the effect of a trail is beneficial, rather than detrimental.  
2. Study of Brush Creek Trail in California showed neither increased crime nor decreased property values due to trails. On the contrary, the most overwhelming opinion by resident along Brush Creek Trail is that the trail/creek has a positive effect on the quality of life in the neighborhood.

**Public Choices and Property Values** (Evidence from Greenways in Indianapolis) This study dealt with many variables between trails and greenways and found on an average that greenways have a positive effect on property prices, but not all greenways are the same nor do all greenways have the same effects.

**The Indiana Trails Study: A Study of Trails in 6 Indiana Cities:** A mail survey conducted with neighbors of the various trails found on an average of 61% of trail neighbors in all 6 cities felt the trail was a better neighbor than expected and 69% felt that the trail improved the quality of the neighborhood. Trail neighbors were heavy users of the trail and reported either no effect or a positive effect on property value and ease of selling property located adjacent to the trail. They are most dissatisfied with lack of safety patrols and parking problems in the vicinity of their property.

<http://www.americantrails.org/resources/adjacent/index.html>

- **Rails to Trails Conservancy under Trails and Greenways resources** has a wealth of information in regards to the various benefits of trails and greenways.  
**Economic Benefits of Trails and Greenways:** : A 1998 study of property along a Wisconsin trail showed that lots adjacent to the trail sold faster and for an average of 9 %

September 13, 2005

more than similar property not located next to the trail. In 2002 a survey sponsored by the National Assoc. of Realtors and the National Assoc. of Home Builders, found trails rank as the second most important community amenity out of a list of 18 choices. In North Carolina, a developer added \$5,000 to the price of 40 homes adjacent to the regional greenway and those homes were still the first to sell.

***Rail-Trails and Liability: A Primer on Trail-Related Liability Issues & Risk Management Techniques:*** This report deals with the concerns about liability issues involving public agencies and private landowner who own land adjacent to a trail or may open up their land for recreational use. Most states have laws that substantially limit public and private landowner liability. Recreational Use Statutes protect private landowners who want to open their land to the public for recreation free of charge. Private landowners who have land adjacent to a trail are also protected by trespassing laws. While concerns about liability are understandable, real-world experience show that neither public nor private landowners have suffered from trail development. This report concludes that trail-related liability is primarily a management issue. Laws are in place to protect all parties from unwarranted lawsuits and the rest is up to proper design, maintenance and management. More documents are found at their site.

<http://www.trailsandgreenways.org/resources/highlights/default.asp>

- City of Virginia Beach has complied a *FAQ (Frequently Asked Questions)* in regards to trails. These topics include crime & vandalism, safety, liability, privacy, user conflicts, litter and crossings. There is no evidence that trails cause an increase in crime. In fact, trail development may actually decrease the risk of crime in comparison to an abandoned and undeveloped corridor. Several studies show that people prefer living along a trail than an abandoned corridor. Typically, lawful trail users serve as eyes and ears for the community. With respect to liability, trails are generally covered by the overall insurance policy of the public entity that manages the trail. Public liability risks from trails are small relative to other public services like roads, playgrounds and swimming pools. By taking safety concerns into account when designing and maintaining a trail, the risks can be lowered. With respect to liability risks to trail neighbors, private landowners are protected by recreational-use statutes in all states except Alaska and in the District of Columbia. Under these statutes, a landowner who does not charge a trail access fee will not be held liable for injuries sustained on their property unless an injured person can prove "willful and wanton misconduct on the part of the landowners."

<http://www.rkkengineers.com/vbbike/trailq-a.html>

- ***The Property Value Effects of the South Ridgeline Trail***, study done in Eugene, Oregon, June 6, 2003. The study found that property values increase in relationship to closer proximity to the trail.
- ***National Association of Homebuilders and National Association of Realtors, April 2002*** Studies show that trails are the most desirable amenity, with 52% of active and older seniors saying that trails will seriously influence their buying decision.
- ***Health and Wellness Benefits*** The evidence continues to mount that an emerging health crisis in the United States is related to physical inactivity. Trails and greenways help build healthy communities by providing healthy transportation and recreation opportunities for citizens.

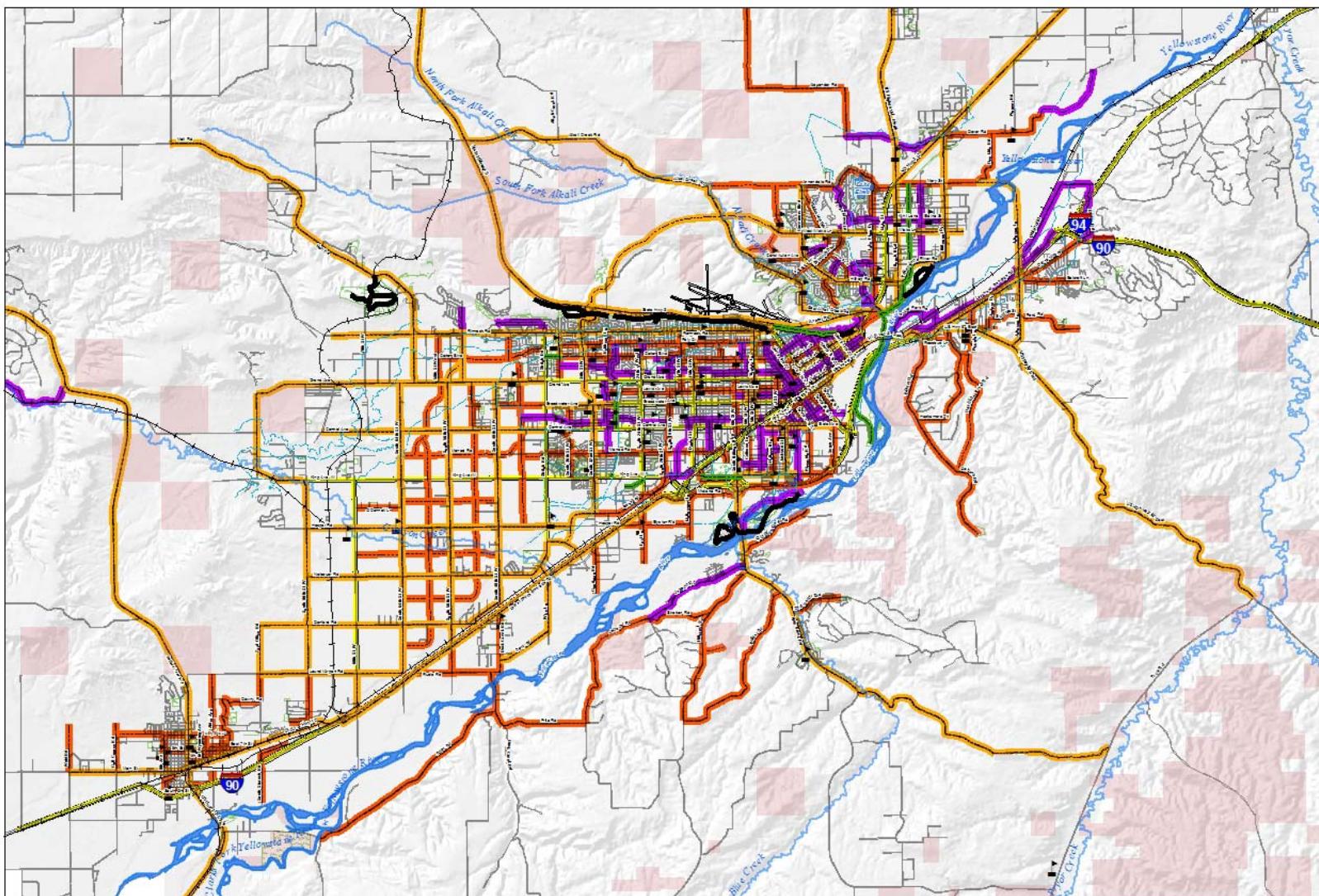
September 13, 2005

<http://www.trailsandgreenways.org/resources/benefits/topics/health.asp>

- ***Use of a Community Trail Among New and Habitual Exercisers: A Preliminary Assessment, Center for Disease Control, October 2004*** A community trail can promote physically active lifestyles. New exercisers are more dependent on trails as a primary outlet for physical activity than are habitually active exercisers. In the assessment, 98 % of new exercisers in West Virginia reported that their exercise amounts had increased when asked about a new trail's impact.

<http://www.trailsandgreenways.org/resources/highlights/online/default.asp>

ATTACHMENT I  
Alternative Map Scenarios



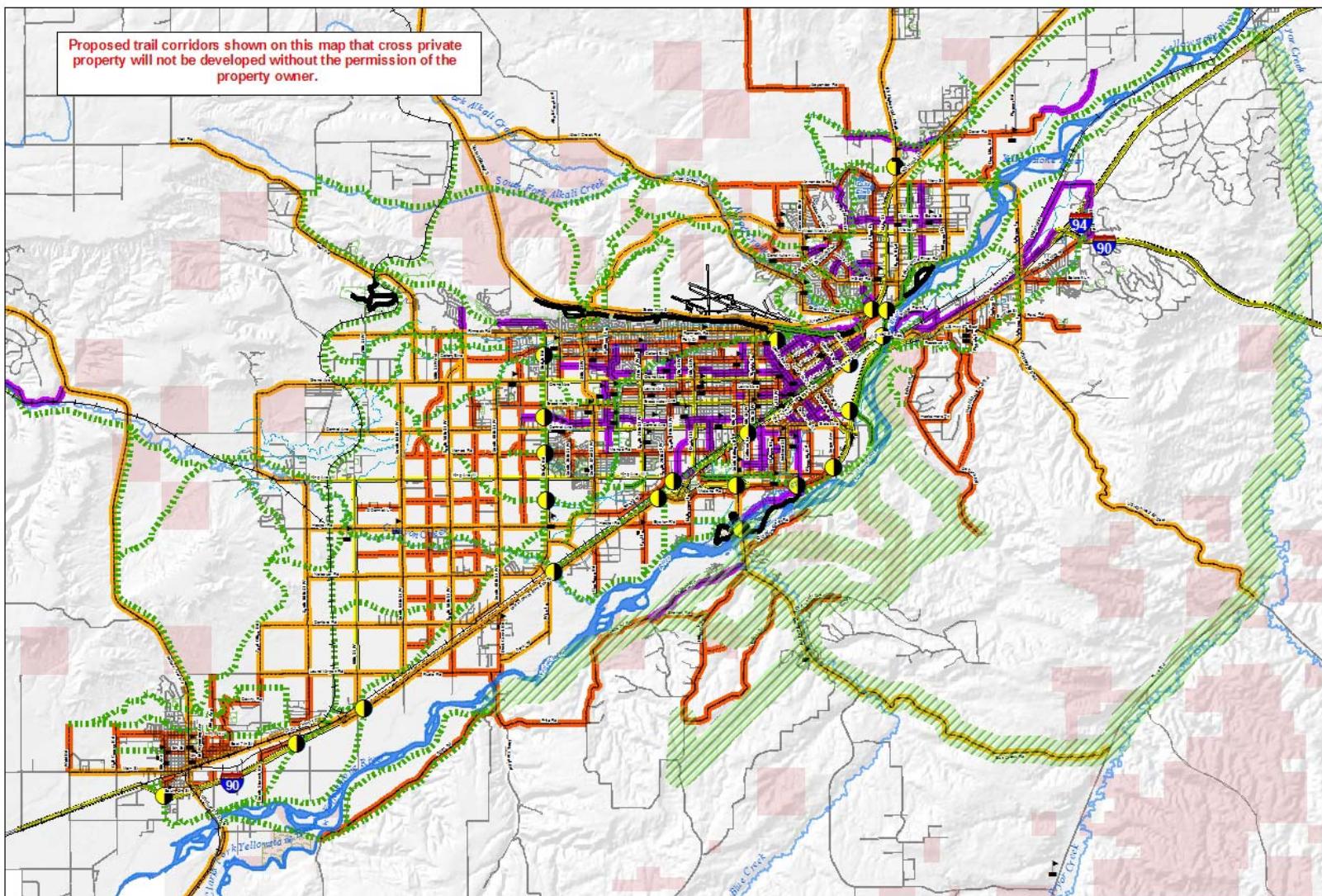
**Scenario #1 - All Proposed Trails  
and Greenways Removed**

**Trail & Bikeway Plan  
Heritage Trail**

Prepared by the Planning and Community Services Department 9/2005



07 035 0 07 1.4 Miles

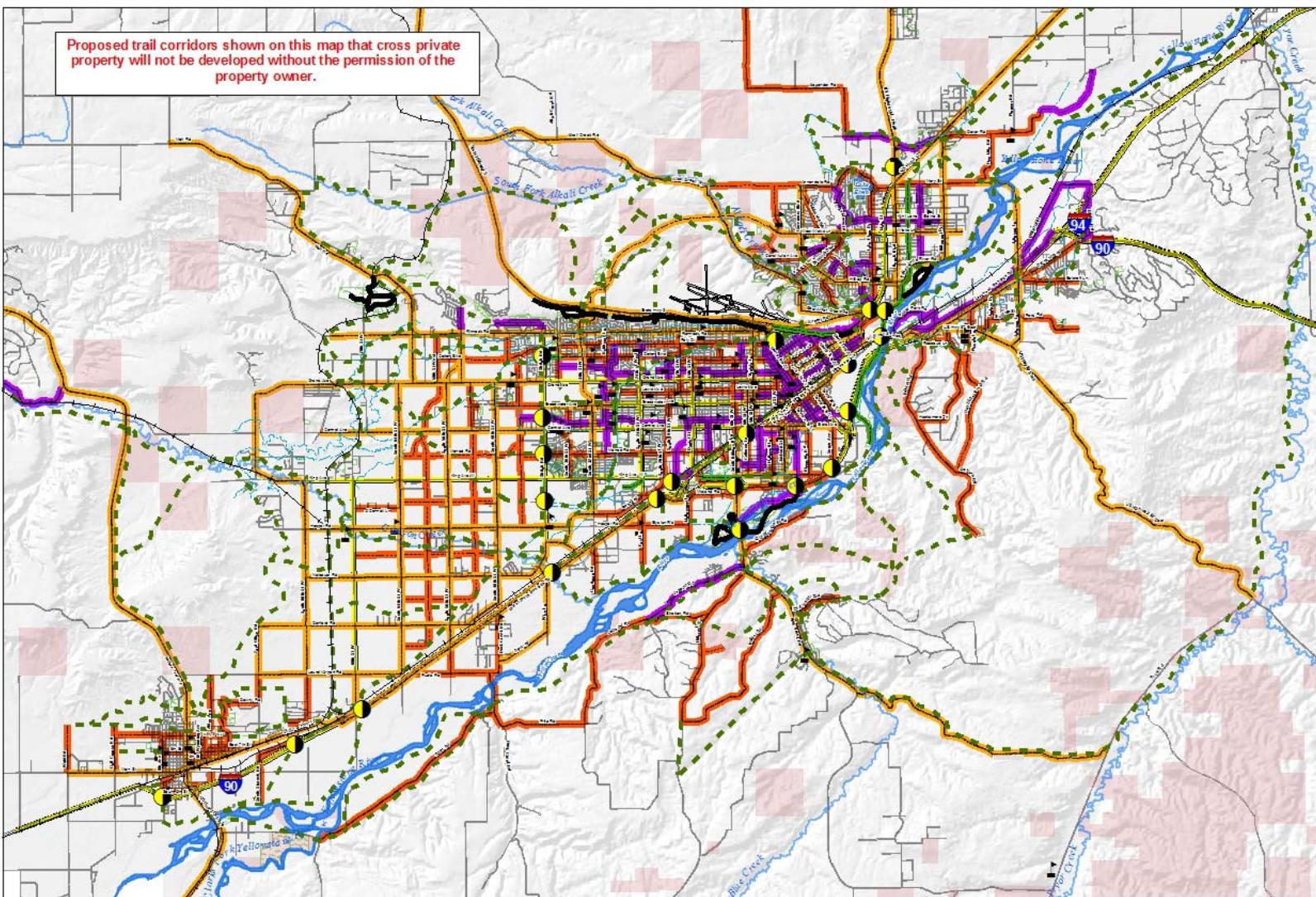


### Scenario #2- Generalized Trail Corridors

## Trail & Bikeway Plan Heritage Trail

Prepared by the Planning and Community Services Department 9/2005





Map Legend	
Existing Trails & Proposed Corridors	
Existing Multi-Use Trail	schools
Existing Bike/Surface Trail	roads
Proposed Trail Corridor	streams
Primary Bikeway	ditches
Secondary Bikeway	public lands
Aerial Bikeway	parks
Principal Vehicular Arterial	Proposed Grade Separation

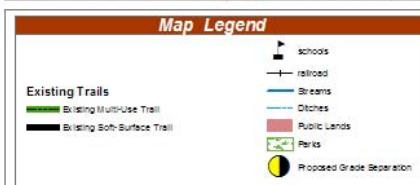
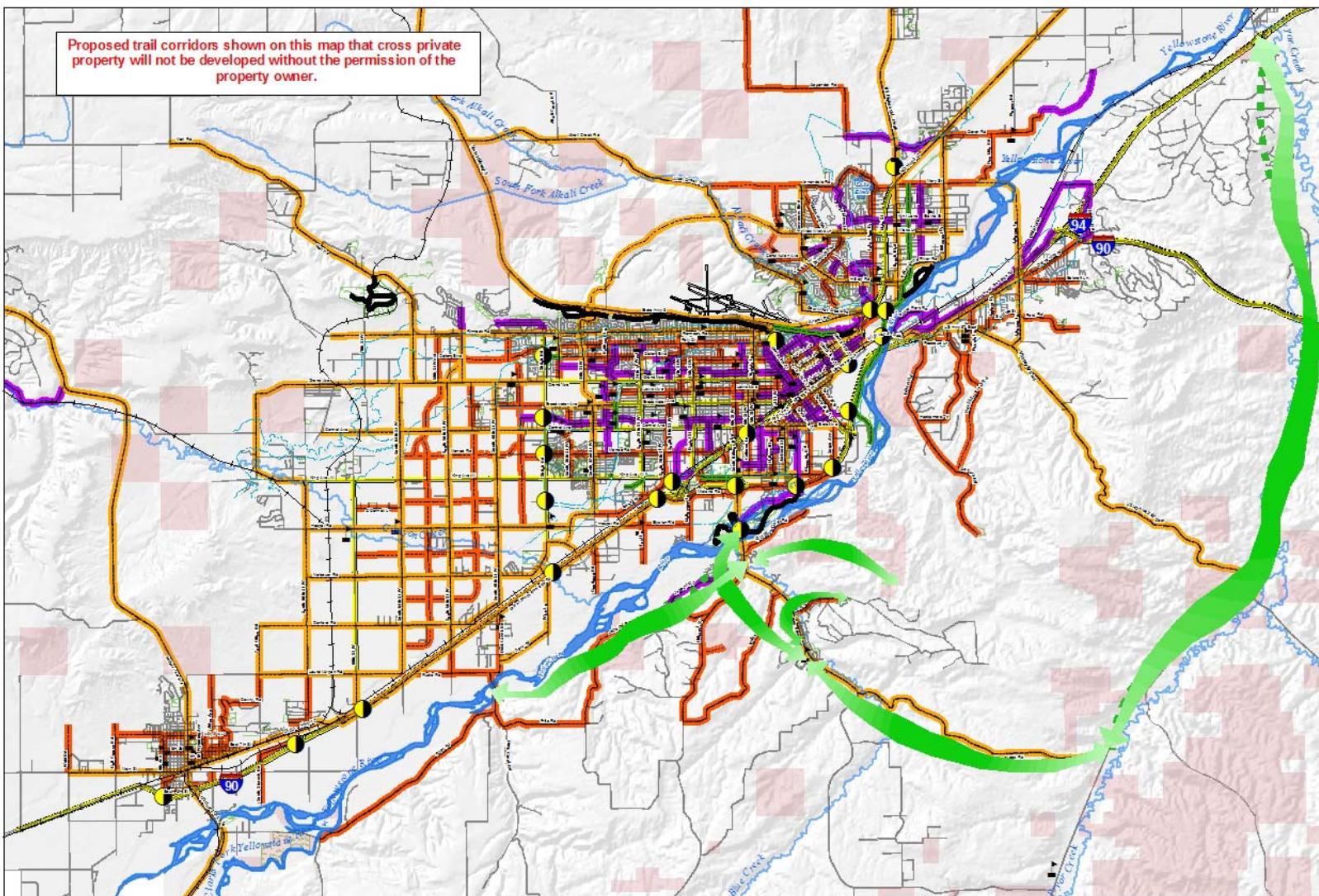


### Scenario #3- All Greenways Removed

## Trail & Bikeway Plan Heritage Trail

Prepared by the Planning and Community Services Department 8/2005





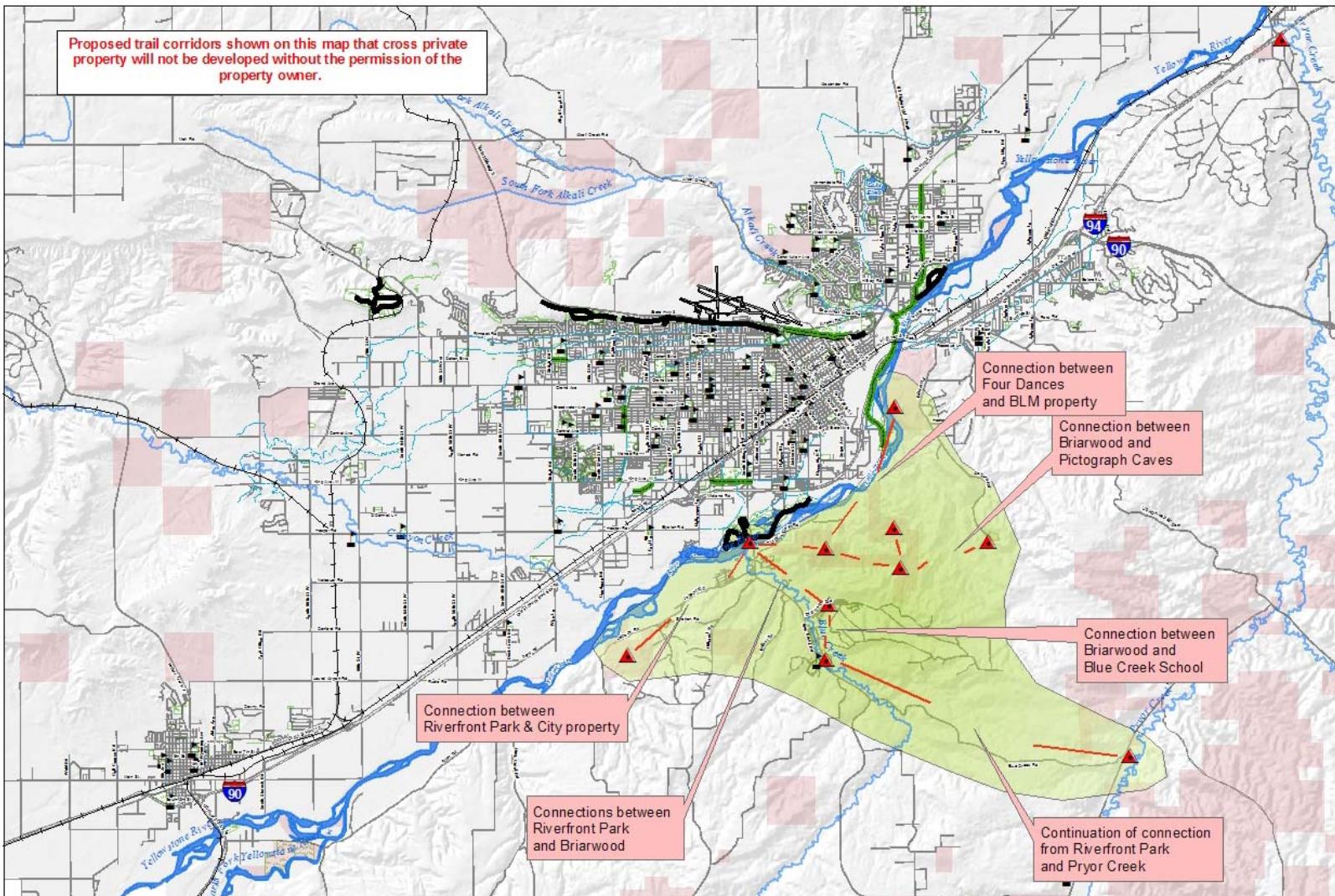
### Option #4 - Stylized Trail Corridors

## Trail & Bikeway Plan Heritage Trail

Prepared by the Planning and Community Services Department 8/2005



0.9 0.45 0 0.9 1.8  
Miles



**Map Legend**

Existing Trails	schools
Biking Multi-Use Trail	railroad
Biking Soft-Surface Trail	buses
Origins_Destinations	drives
	public lands
	parcs



**Option #5 - Graphic & Annotated Trail Recommendations**

**Trail & Bikeway Plan  
Heritage Trail**

Prepared by the Planning and Community Services Department 8/2005



1 0.5 0 1 2 Miles



## Public Process Summary

<u>Meeting</u>	<u>Date</u>	<u>Approximate # of Participants</u>
Joint Billings City Council/Laurel City Council/ Yellowstone County Commissioners	Oct 24, 2002	
Billings City Council Work Session	Nov 18, 2002	
Public Meeting #1	Dec 3, 2002	40
Pubic Meeting #2	June 3, 2003	40
Public Meeting #3	Feb 18, 2004	40
Billings City Council Work Session	April 19, 2004	
Planning Board Public Hearing	May 11, 2004	
Billings City Council Public Hearing	May 24, 2004	
County Commissioners Public Hearing	June 1, 2004	
Transportation Policy Coordinating Committee	June 30, 2004	
Lockwood Transportation District		10
Yellowstone River Parks Association		20
BikeNet		10
Kiwanis		20
Billings West End Rotary Club		35
Billings Area Chamber of Commerce Managed Growth Committee	Dec 6, 2002	15
Montana Smart Growth Committee	Jan 13, 2002	40-50

Project team members met individually with members of the following organizations on one or more occasions: Yellowstone Rim Runners, Yellowstone Valley Cycling Club, Blue Creek Trails & Parks Association.

Meetings were also held with various City and County Departments, including, City-County Planning Department, Billings Public Works Department, and Billings Department of Parks, Recreation and Public Lands.

**RESOLUTION NO. 0-\_\_\_\_\_**

**A RESOLUTION AMENDING RESOLUTION #04-18127 TO AMEND THE YELLOWSTONE COUNTY - CITY OF BILLINGS 2004 HERITAGE TRAIL PLAN.**

WHEREAS, the Heritage Trail Plan was funded using Federal Transportation Funds administered by the Metropolitan Planning Organization

WHEREAS, the Heritage Trail Plan was adopted by the Billings City Council, Yellowstone County Commissioners, the Yellowstone County Planning Board and the Transportation Policy Coordinating Committee; and

WHEREAS, the Yellowstone County Commissioners, on behalf of County residents have requested amendments to the Heritage Trail Plan; and

WHEREAS, amendments to the Heritage Trail Plan must follow the same public involvement and adoption process as the original Heritage Trail Plan; and

WHEREAS, on the 23rd day of August, 2005, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed amendments to the Heritage Trail Plan, and on the 13th day of September, 2005, the Yellowstone County Commissioners held a public hearing for the same purpose; and

WHEREAS, Legal notice was published in the Billings Gazette on the 18<sup>th</sup> and 26<sup>th</sup> days of September, 2005, stating that the Billings City Council will hold a public hearing on the 26<sup>th</sup> day of September, 2005, for the purpose of receiving public comments on the proposed amendments to the Heritage Trail Plan; and

WHEREAS, the Billings City Council held a public hearing on the 26<sup>th</sup> day of September, 2005 for the purpose of receiving public comments on the proposed amendments to the Heritage Trail Plan; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Billings City Council amends the Yellowstone County – City of Billings 2004 Heritage Trail Plan as described in Exhibit A.

APPROVED AND PASSED by the City Council of the City of Billings this 26th day of September, 2005. This resolution amends Resolution #04-18127.

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_

Marita Herold, CMC  
CITY CLERK

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, SEPTEMBER 26, 2005**

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**TITLE:** Public Hearing for Special Review #793

**DEPARTMENT:** Planning & Community Services

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

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**PROBLEM/ISSUE STATEMENT:** This is a Special Review to permit the location of an all beverage license with gaming on Lots 20 & 21 of Block 1, Murn-Morrow Subdivision at 1720 Grand Avenue in a Community Commercial zone. The subject property has a vacant restaurant, Mayflower of China and is adjacent to the Base Camp sporting goods store to the west and the Montana Harvest natural food store and Mattress King to the east. Mayflower of China, Shelly Ma is the owner and Angelina and Patrick Cormier are the agents. The Zoning Commission conducted a public hearing on September 6, 2005, and is forwarding a recommendation of conditional approval to the City Council.

**ALTERNATIVES ANALYZED:** Before taking any action on an application for a Special Review use, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The Council shall take one of the following actions:

- Approve the application;
- Conditionally approve the application;
- Deny the application;
- Allow withdrawal of the application; or
- Delay the application for a period not to exceed thirty (30) days.

**FINANCIAL IMPACT:** The special review, if approved, should have little financial impact to the City.

**RECOMMENDATION**

The Zoning Commission is recommending that the City Council grant conditional approval for Special Review #793.

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

**ATTACHMENTS**

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

## **INTRODUCTION**

The applicant is requesting a Special Review to permit on an all beverage liquor license with gaming in a Community Commercial zone in an existing building at 1720 Grand Avenue. The subject property used to support the Mayflower of China Restaurant that is now closed for business. In 2001, the Mayflower of China was granted a special review to add a beer & wine license without gaming. Prior to this special review approval, the Mayflower of China had an all beverage liquor license that was considered a legal nonconforming use. The prospective owners, Angelina and Patrick Cormier, are proposing to use an all beverage license with gaming at this location. The Zoning Commission voted 4-0 to recommend conditional approval to the City Council.

## **PROCEDURAL HISTORY**

- A special review application to allow an all beverage liquor license with gaming was received on August 1, 2005.
- The City Zoning Commission voted 4-0 at its public hearing on September 6, 2005, for conditional approval of the special review.
- The City Council will conduct a public hearing and consider this application on September 26, 2005.

## **BACKGROUND**

The subject property has been used for a restaurant with various liquor licenses since at least 1984. Grand Avenue is a principle arterial street and has the capacity to handle additional traffic. The owners intend to renovate the building to accommodate the new use. There are no schools, churches or public parks with playground equipment within 600 feet of this proposed location.

Section 27-612.A. Supplemental Commercial Development Standards specifies that a Special Review is necessary for any commercial establishment that serves alcoholic beverages as a primary or accessory use. Staff finds that the proposed use can be made to be compatible with the surrounding land uses. The primary concerns with this proposal are the residential uses directly south and the number of available off-street parking spaces. The Zoning Commission is recommending conditions that will provide additional buffering from this site to the residential uses.

The Planning staff considered the application and recommended conditional approval to the Zoning Commission. The City Zoning Commission has considered the application and is recommending conditional approval on 4-0 vote. The applicant has agreed to the conditions of approval.

## **ALTERNATIVES ANALYSIS**

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

1. Complies with all requirements of this Article (27-1500).  
*This application complies with the requirements of the zoning regulations.*
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.

This application is generally consistent with the purposes of Chapter 27 with the recommended conditions of approval.

3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

*The proposed use is compatible with the adjoining land uses.*

Further, the City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Based on the above criteria, the Zoning Commission is recommending approval with the following conditions:

1. The special review approval shall be limited to Lots 20 & 21, Block 1 of Murn-Morrow Subdivision.
2. No outdoor seating, outdoor music or outdoor public announcement systems will be allowed with this application.
3. Any existing lighting on the building or within the parking lot shall be retrofitted with full cut-off shields so light is directed to the ground and not onto adjacent property. Any new lighting shall be fitted with full cut-off shielding. Lighting of signs shall be as allowed within the City Sign Code (Section 27-701 BMCC).
4. A dumpster enclosure of sight obscuring material shall be constructed and shall have a closing gate. Acceptable materials are wood, block, stone, brick, vinyl or chain link with sight obscuring inserts.
5. All other limitations on expansion shall apply in accordance with Section 27-613 of the Billings Montana City Code.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Department points out that the use and development of the property must be in accordance with the submitted site plan.

## **STAKEHOLDERS**

The public hearing held on September 6, 2005 before the City Zoning Commission was attended by Angelina, Patrick and Michelle Cormier the agents for the application. Michelle and Angelina Cormier explained the application to the Zoning Commission. Shelley Ma, current owner of the property and Tom Emerling, Ms. Ma's agent, offered testimony regarding the previous restaurant and bar operation. Valerie Shaffer offered testimony on behalf of Mattress King located just east of the property. Her primary concern was the off-street parking. She testified that when the Mayflower of China was operating many of their customers would park in the Mattress King parking lot, sometimes leaving their cars overnight. The Cormiers indicated they would discuss the off-street parking issues with the owners of the Mattress King property prior to the City Council public hearing. The Planning Department did not receive any negative comments on the off-street parking from the Building Division or Engineering Division. The 23 off-street spaces provided have previously been deemed adequate in 2001 when the special review for a beer & wine license was reviewed by the Zoning Commission and City Council.

## **CONSISTENCY WITH ADOPTED PLANS AND POLICIES**

In addition to the above discussion in the Alternatives Analysis section, this application conforms to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- The proposal provides re-development within an existing commercial corridor.
- The proposal provides contiguous development focused in and around an existing population center.

## **RECOMMENDATION**

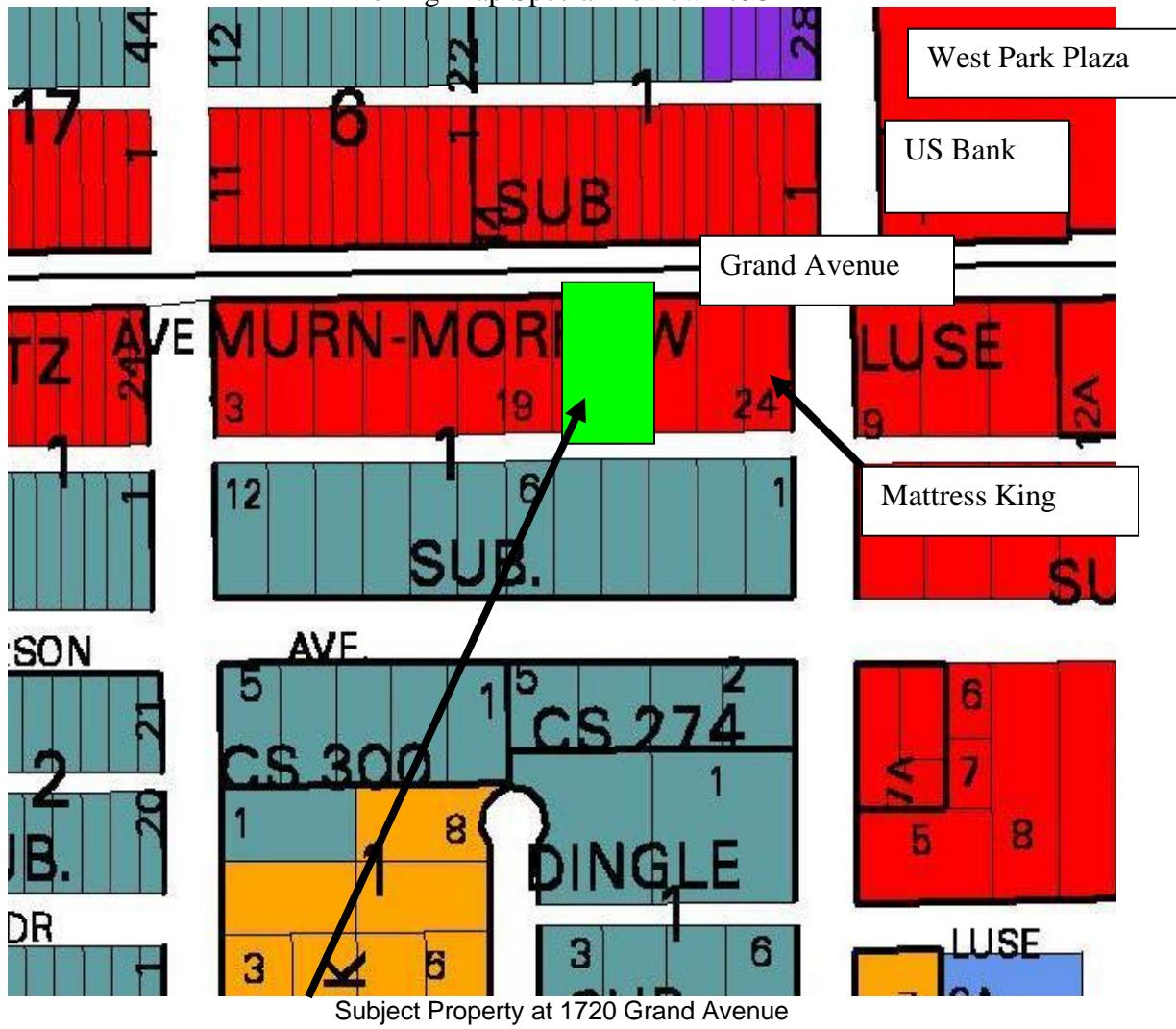
The Zoning Commission is recommending that the City Council grant conditional approval for Special Review #793.

## **ATTACHMENTS**

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

**ATTACHMENT A**

## Zoning Map Special Review #793



**ATTACHMENT B**  
Site Photographs for Special Review #793

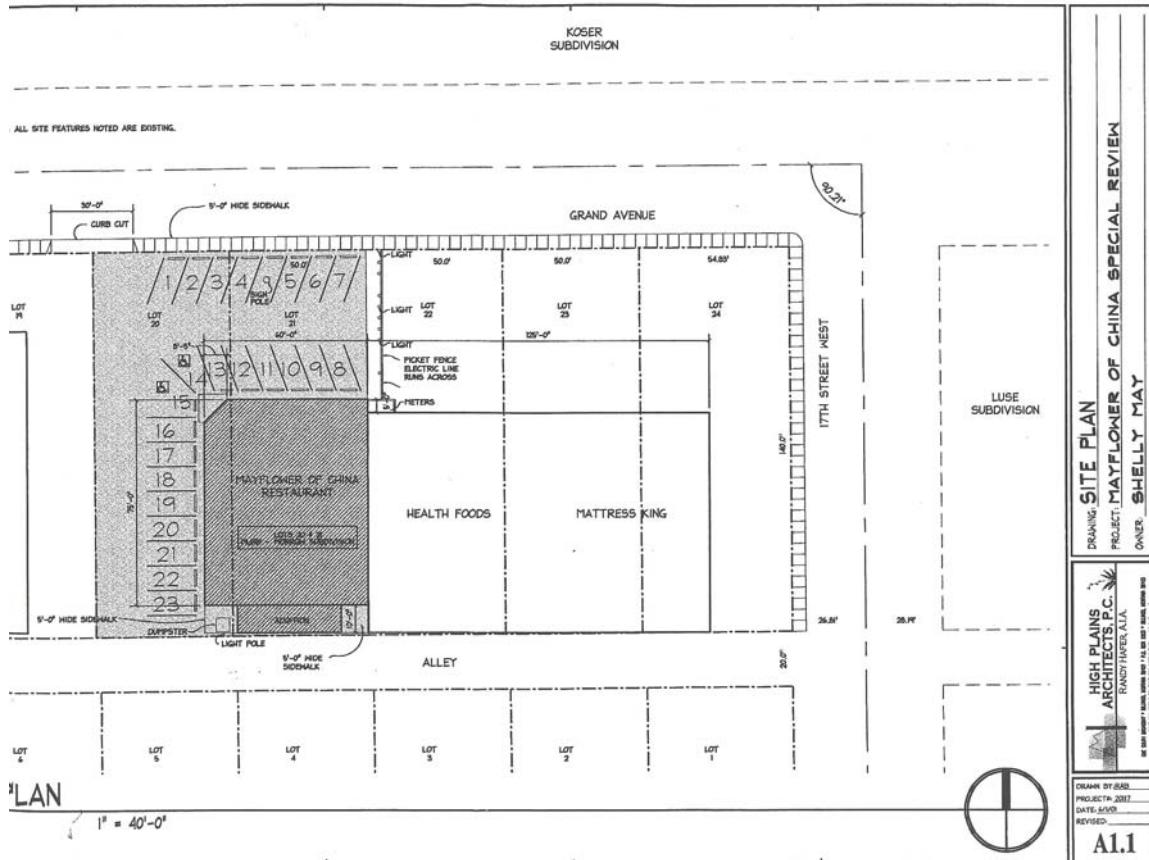


Existing building at 1720 Grand Avenue



View east along alley at rear of property

**ATTACHMENT C**  
Site Plan Special Review #793



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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, September 26, 2005**

---

**TITLE:** Zone Change #766 Public Hearing and 1<sup>st</sup> Reading of Ordinance

**DEPARTMENT:** Planning and Community Services

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

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**PROBLEM/ISSUE STATEMENT:** On July 26, 2005, at the request of All American Nutrition, the Planning Board initiated an amendment to the Unified Zoning Regulations to allow limited manufacturing of pharmaceuticals in Highway Commercial zoning districts. All American Nutrition prepares and markets nutritional supplements and is currently located at 1831 Main Street in a Highway Commercial zone. They intend to move and expand their business into the former K-Mart shopping center. It was discovered during their planning that Highway Commercial zones do not allow for the preparation of any medicinal, botanical or pharmaceutical supplies. The Zoning Commission held a public hearing on September 6, 2005, and voted 4-0 to recommend approval.

**ALTERNATIVES ANALYZED:** The City and County Zoning Commissions held public hearings on the proposed text amendments and new definition on September 6, 2005, and September 12, 2005, respectively. The Commissions held testimony before recommending approval of these changes. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

**FINANCIAL IMPACT:** This zone change should increase the City's tax base when the new zoning takes effect.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #766 and amend the Unified Zoning Regulations.

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

**ATTACHMENTS:**

- A:      Ordinance
- B:      Excerpts from the Standard Industrial Classification Manual, 1987.

## **INTRODUCTION**

The Planning Board initiated amendment is proposing to add a definition of “Limited Pharmaceutical Manufacturing” to section 27-201 of the Unified Zoning Regulations. Staff also recommended that section 27-306 (District Regulations: Commercial and Industrial Uses) be amended to add under Standard Industrial Classification Division D (28 - Chemical and Allied Products) be amended to allow limited manufacturing of Medicinal Chemicals and Botanical Products (SIC 2833) and Pharmaceutical Preparations (SIC 2834) in Highway Commercial and Controlled Industrial zoning districts. Section 27-306 is the matrix within the Unified Zoning Regulations that specifies allowed uses, special review uses and prohibited uses for each commercial or industrial zoning district.

## **PROCEDURAL HISTORY**

- On July 26, 2005, the Planning Board initiated a zone change to the Unified Zoning Regulations to allow limited pharmaceutical manufacturing in Highway Commercial zones.
- The City Zoning Commission held a public hearing on September 6, 2005, and voted 4-0 to recommend approval of the initiated Zone Change.
- The County Zoning Commission will hold a public hearing on September 12, 2005 and make a recommendation to the County Commissioners.
- The City Council will hold a public hearing on September 26, 2005, and make a decision on the zone change text amendment.
- The Board of County Commissioners will hold a public hearing on September 30, 2005, and make a decision on the zone change text amendment.
- If the Zone Change ordinance is approved on first reading, the City Council will consider it for second reading on October 11, 2005.

## **BACKGROUND**

KMT DIL, LLC is the holding company for the former K-mart property in Billings Heights. The company is represented locally by attorney Michael Dockery. In the process of marketing the property to other retailers, All American Nutrition, a pharmaceutical manufacturer located at 1831 Main Street expressed an interest in acquiring the building to expand the business. It was discovered by agents for the holding company and All American Nutrition that any type or scale of pharmaceutical manufacturing or repackaging is not an allowed use in Highway Commercial or Community Commercial zoning districts. The owner and agents for the K-mart property determined that a re-zoning to Highway Commercial combined with a request to the Planning Board to initiate a regulation change to allow limited pharmaceutical manufacturing would make this re-use of the vacant 90,000 square foot building a viable option. On July 5, 2005, K-mart submitted a zone change application to change the zoning district from Community Commercial to Highway Commercial. On July 26, 2005 the Planning Board agreed to initiate an amendment to the Unified Zoning Regulations. The City Council approved the zone change request for the former K-mart shopping center from Community Commercial to Highway Commercial on August 22, 2005. A second reading is scheduled for September 12, 2005.

The Planning Department reviewed this application and recommended approval to the Zoning Commission. The proposed uses and limitations for pharmaceutical manufacturing and re-packaging are appropriate uses for Highway Commercial and Controlled Industrial property.

The City Zoning Commission reviewed this application and held a public hearing on September 6, 2005. The Zoning Commission voted 4-0 to recommend approval of Zone Change #766.

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

The proposed amendment is consistent with the 2003 Growth Policy Plan specifically with the following goals and objectives:

- Coordinated economic development efforts that target business recruitment, retention, and expansion.
- Increase the median income of households and individuals by attracting and retaining skilled labor.
- Contiguous development focused in and around existing population centers.

### **STAKEHOLDERS**

The Zoning Commission held the public hearing on September 6, 2005, and no proponents or opponents of the proposal were present at the public hearing and the Planning Department did not receive any written objections.

### **RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #766 and amend the Unified Zoning Regulations.

### **ATTACHMENTS:**

A:      Ordinance  
B:      Excerpts from the Standard Industrial Classification Manual, 1987.

## ATTACHMENT A

## ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT  
THE BILLINGS, MONTANA CITY CODE BE AMENDED BY  
REVISING SECTION 27-201 AND SECTION 27-306; ADDING A  
DEFINITION OF LIMITED PHARMACEUTICAL MANUFACTURING  
AND SETTING LIMITED PHARMACEUTICAL MANUFACTURING  
USES ALLOWED IN HIGHWAY COMMERCIAL AND  
CONTROLLED INDUSTRIAL ZONING DISTRICTS.

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

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The Board of Planning initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. 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 proposed amendments to the City Zoning Regulations.*

**Section 2.** That the Billings, Montana City Code be amended by revising Section 27-201 to add a new definition to read as follows:

LIMITED PHARMACEUTICAL MANUFACTURING: Establishments primarily engaged in manufacturing bulk organic and inorganic medicinal chemicals and their derivatives and processing bulk botanical drugs and herbs. This definition also includes premises engaged in manufacturing, fabricating, or processing drugs in pharmaceutical preparations for human or veterinary use.

**Section 3.** That the Billings, Montana City Code be amended by revising Section 27-306 District Regulations: Commercial and Industrial Uses to read as follows:

<b>Preparations</b>				<b>A</b>		<b>A</b>	<b>A</b>		
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**Section 3. REPEALER.** All resolutions, ordinances and sections of the City Code in conflict herewith are hereby repealed.

**Section 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

**Section 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 September 26, 2005.

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

CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AAE, City Clerk

Zone Change #766  
Unified Zoning Regulations Text Amendments  
Limited Pharmaceutical Manufacturing

## **ATTACHMENT B**

Excerpts from the SIC Manual, 1987

SIC Manual is adopted as part of the Unified Zoning Regulations Section 27-307, BMCC  
SIC 2833 and SIC 2834, specified uses

### **2833 Medicinal Chemicals and Botanical Products**

Establishments primarily engaged in: (1) manufacturing bulk organic and inorganic medicinal chemicals and their derivatives and (2) processing (grading, grinding, and milling) bulk botanical drugs and herbs. Included in this industry are establishments primarily engaged in manufacturing agar-agar and similar products of natural origin, endocrine products, manufacturing or isolating basic vitamins, and isolating active medicinal principals such as alkaloids from botanical drugs and herbs.

Adrenal derivatives: bulk, uncompounded

Agar-agar (ground)

Alkaloids and salts

Anesthetics, in bulk form

Antibiotics: bulk uncompounded

Atropine and derivatives

Barbituric acid and derivatives: bulk, uncompounded

Botanical products, medicinal: ground, graded, and milled

Brucine and derivatives

Caffeine and derivatives

Chemicals, medicinal: organic and inorganic bulk, uncompounded

Cinchona and derivatives

Cocaine and derivatives

Codeine and derivatives

Digitoxin

Drug grading, grinding, and milling

Endocrine products

Ephedrine and derivatives

Ergot alkaloids

Fish liver oils, refined and concentrated for medicinal use

Gland derivatives: bulk uncompounded

Glycosides

Herb grinding, grading, and milling

Hormones and derivatives  
Insulin: bulk, uncompounded  
Kelp plants  
Mercury chlorides, U.S.P.  
Mercury compounds, medicinal: organic and inorganic  
Morphine and derivatives  
Oils, vegetable and animal: medicinal grade refined and concentrated  
Opium derivatives  
Ox bile salts and derivatives: bulk, uncompounded  
Penicillin: bulk, uncompounded  
Physostigmine and derivatives  
Pituitary gland derivatives: bulk, uncompounded  
Procaine and derivatives: bulk, uncompounded  
Quinine and derivatives  
Reserpines  
Salicylic acid derivatives, medicinal grade  
Strychnine and derivatives  
Sulfa drugs: bulk, uncompounded  
Sulfonamides  
Theobromine  
Vegetable gelatin (agar-agar)  
Vitamins, natural and synthetic: bulk, uncompounded

### **2834 Pharmaceutical Preparations**

Establishments primarily engaged in manufacturing, fabricating, or processing drugs in pharmaceutical preparations for human or veterinary use. The greater part of the products of these establishments are finished in the form intended for final consumption, such as ampoules, tablets, capsules, vials, ointments, medicinal powders, solutions, and suspensions. Products of this industry consist of two important lines, namely: (1) pharmaceutical preparations promoted primarily to the dental, medical, or veterinary professions, and (2) pharmaceutical preparations promoted primarily to the public.

Adrenal pharmaceutical preparations  
Analgesics  
Anesthetics, packaged  
Antacids

Anthelmintics  
Antibiotics, packaged  
Antihistamine preparations  
Antipyretics  
Antiseptics, medicinal  
Astringents, medicinal  
Barbituric acid pharmaceutical preparations  
Belladonna pharmaceutical preparations  
Botanical extracts: powdered, pilular, solid, and fluid, except  
Chlorination tablets and kits (water purification)  
Cold remedies  
Cough medicines  
Cyclopropane for anesthetic use (U.S.P. par N.F.), packaged  
Dermatological preparations  
Dextrose and sodium chloride injection, mixed  
Dextrose injection  
Digitalis pharmaceutical preparations  
Diuretics  
Effervescent salts  
Emulsifiers, fluorescent inspection  
Emulsions, pharmaceutical  
Fever remedies  
Galenical preparations  
Hormone preparations, except diagnostics  
Insulin preparations  
Intravenous solutions  
Iodine, tincture of  
Laxatives  
Liniments  
Lip balms  
Lozenges, pharmaceutical  
Medicines, capsuled or ampuled  
Nitrofuran preparations

Ointments  
Parenteral solutions  
Penicillin preparations  
Pharmaceuticals  
Pills, pharmaceutical  
Pituitary gland pharmaceutical preparations  
Poultry and animal remedies  
Powders, pharmaceutical  
Procaine pharmaceutical preparations  
Proprietary drug products  
Remedies, human and animal  
Sodium chloride solution for injection, U.S.P.  
Sodium salicylate tablets  
Solutions, pharmaceutical  
Spirits, pharmaceutical  
Suppositories  
Syrups, pharmaceutical  
Tablets, pharmaceutical  
Thyroid preparations  
Tinctures, pharmaceutical  
Tranquilizers and mental drug preparations  
Vermifuges  
Veterinary pharmaceutical preparations  
Vitamin preparations  
Water decontamination or purification tablets  
Water, sterile: for injections  
Zinc ointment

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**CITY COUNCIL SPECIAL SESSION AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, September 26, 2005**

---

**TITLE:** Proposed Ward Boundary Revision  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Ramona Mattix, AICP, Director

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**PROBLEM/ISSUE STATEMENT:** On August 18<sup>th</sup>, 2005, the Billings City Council held a special meeting to adopt an emergency ordinance that responded to the American Civil Liberties Union (ACLU) suit over the percentage of overall population deviation among City Wards. The emergency ordinance was effective for 90 days. This agenda item is to adopt the same ordinance at a regular meeting to permanently effect the emergency change in Ward boundaries.

**ALTERNATIVES ANALYZED:**

1. Further revise emergency Ward boundaries and deviation percentages; or
2. Continue the adopted Ward boundaries that reduced the population deviation among Wards

**FINANCIAL IMPACT:** No financial impact would result.

**RECOMMENDATION**

Staff recommends that the City Council revise Ward boundaries to reduce population deviation among Wards, and place Precinct 41 in Ward 5, thereby removing it from Ward 3.

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

**ATTACHMENT**

A: Revised Ward Boundary map Exhibit A  
B: Ordinance

## **INTRODUCTION AND HISTORY**

On January 24, 2005 City Council adopted new election Ward boundaries based on new information from the 2000 Census. The City had waited to take this action until the State of Montana completed its own redistricting based on the new Census numbers. The population numbers adopted for the Wards is contained in Table 1. The ideal population of city Ward, based solely on population numbers is 17,969. (The 2000 Census total of 89,847 people divided by 5 Wards.) The percentage of deviation is the percent the actual population deviates from the ideal.

Table 1

Ward	Population	Deviation
1	17,389	- 3.38%
2	18,605	+ 3.4 %
3	19,676	+ 9.3 %
4	17,517	- 2.66%
5	16,852	- 6.36%
Total Deviation		15.66 %

The ACLU claimed that any deviation greater than 10% establishes a *prima facie* violation of the one person, one vote entitled to citizens by the constitution. The burden of proof was on the City to justify the deviation by showing a rational and legitimate reason for the percentage difference. In the case of Billings, as was outlined in the staff report Council reviewed January 10, 2005, this 15.66 % difference was due to trying to keep existing precincts intact and trying to allow for the existing growth and annexation that has occurred since the 2000 Census.

Because of the threat of an injunction, knowing that absentee ballots must be available to voters, including military persons stationed overseas by August 24<sup>th</sup> (and therefore noticed and printed by August 18<sup>th</sup>) and desiring not to place the primary and general election in jeopardy and at risk to challenge the City Council amended Ward boundaries by emergency ordinance on August 18<sup>th</sup>, 2005. Staff is recommending retaining the shift of Precinct 41 from Ward 3 to Ward 5. This significantly reduced the deviation of Ward population and does not impact the representation filed by existing candidates in any Ward. The proposed shift and new population numbers as adopted by emergency ordinance is shown in Table 2, along with the new deviation numbers. The ideal population for a Ward was 18,122 based on the new population added by annexation.

Table 2

Ward	Population	Deviation
1	17,392	- 4.03%
2	19,139	+ 5.61%
3	17,851	- 1.50%
4	17,581	- 2.99%
5	18,647	+ 3.90%

Total Deviation	9.84%
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In this scenario, Ward 1, 2 and 4 remained as they were, and the most populated Ward 3 shifts one precinct to the least populated Ward 5.

NOTE: If all Ward populations are added up, they amount to 90,610 people. This is more than the City Census total in 2000 by 571 persons. This is because the City has annexed County populated areas since 2000 that have been added to Wards.

### **RECOMMENDATION**

Staff recommends that the City Council revise Ward boundaries to reduce population deviation among Wards, and place Precinct 41 in Ward 5, thereby removing it from Ward 3.

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

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED BY REVISING SECTION 11-102; CHANGING WARD DISTRICT BOUNDARIES TO REDUCE POPULATION DEVIATIONS

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

3. **AMENDMENT.** Pursuant to Section 11-102(c) of the Billings, Montana, City Code, the City of Billings' ward boundaries are hereby amended to reflect the 2000 census information and to reduce population deviations among the wards. The exact ward boundaries are adopted as specifically set forth in the attached Exhibit "A", which is incorporated herein by reference.
4. **CERTIFICATION.** Pursuant to Section 13-3-103, MCA, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the wards, the streets, avenues and alleys by name and the wards by number, to the Election Administrator not more than ten (10) days after the effective date of this ordinance.
3. **EMERGENCY ORDINANCE 05-5337 REPEALED.** Emergency Ordinance 05-5337 is hereby repealed on the effective date of this Ordinance.
4. **REPEALER.** All other resolutions, ordinances, and sections of the City Code that are inconsistent herewith are hereby repealed.

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

PASSED by the City Council on second reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF BILLINGS:

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\_\_\_\_\_  
Mayor

ATTEST:

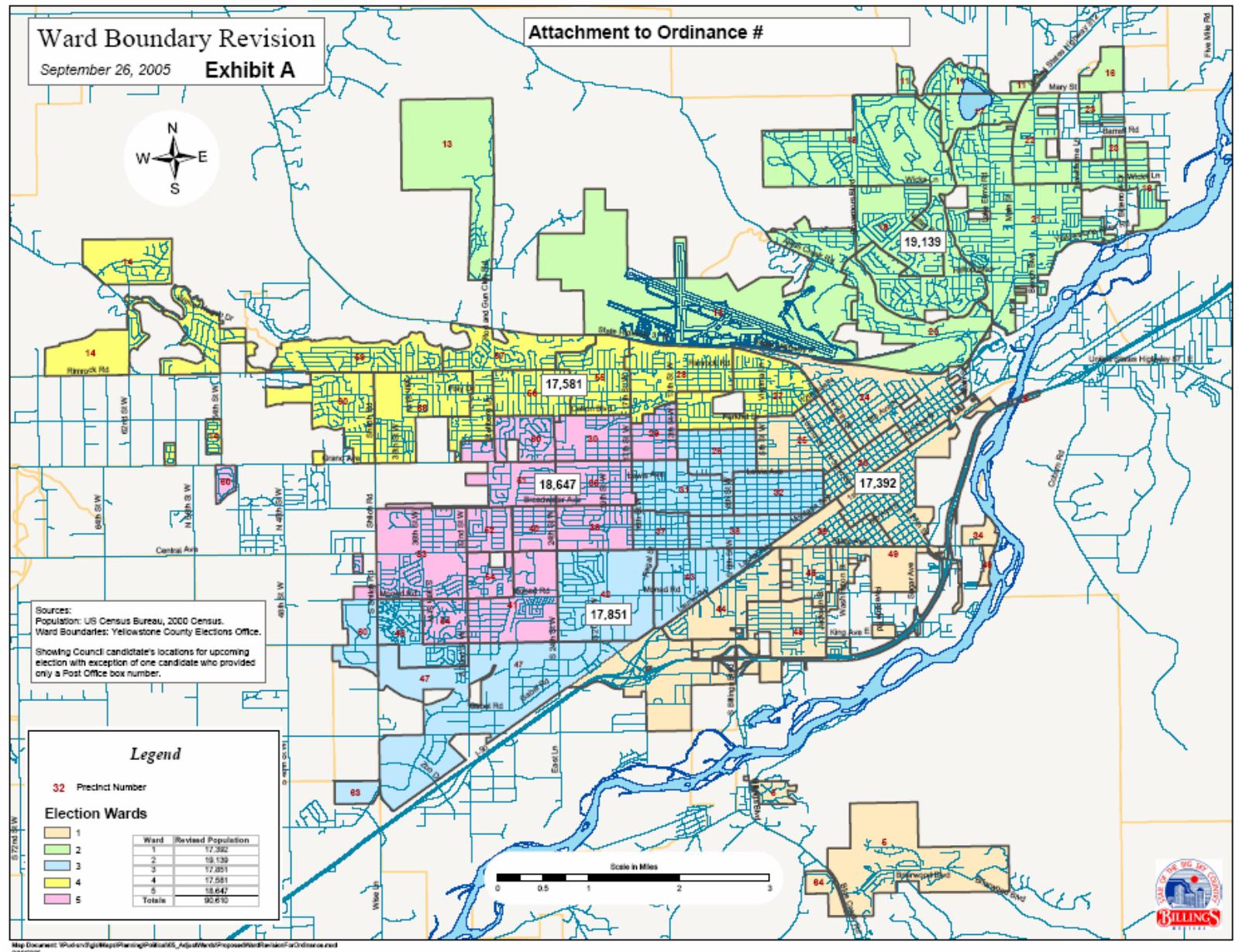
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\_\_\_\_\_  
City Clerk

## Ward Boundary Revision

September 26, 2005 **Exhibit A**

Attachment to Ordinance #



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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, SEPTEMBER 26, 2005**

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**TITLE:** Special Review #782, City Council Update  
**DEPARTMENT:** Planning & Community Services through Ramona Mattix, AICP, Planning Director  
**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** On June 13, 2005, the City Council approved a Special Review to permit a temporary go-cart track on a property located at 1235 West Wicks Lane. Due to neighborhood concerns regarding noise, pollution, and vandalism as a result of the proposed use, the City Council requested that an update be provided at the September 26<sup>th</sup> meeting for any complaints received on the proposal. The Code Enforcement Officer for this portion of City, as well as Planning staff have not received any complaints regarding the use of this property as a go-cart track. Therefore, the temporary use will be permitted to continue seasonally from May 15<sup>th</sup> to September 15<sup>th</sup> of each year until such time that Harvest Church amends its complete Master Plan to include a permanent go-cart track on the property.

**RECOMMENDATION**

No action is necessary on this item.

**Approved By:**

**City Administrator** \_\_\_\_\_

**City**

**Attorney** \_\_\_\_\_



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 26, 2005

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**TITLE:** Continued Discussion for Special Review #790

**DEPARTMENT:** Planning & Community Services

**PRESENTED BY:** Lora Mattox, Planner II, Neighborhood Planner

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**PROBLEM/ISSUE STATEMENT:** A special review request to allow on-premise beer service without gaming in Claimstake Subdivision, Block 2, Lot 10, zoned Controlled Industrial. The subject property is located at 2701 Enterprise, Suite 1. The owner is Delbert L. Bailey and Timothy Dernbach; the agent is Tim Mohr. The City Council conducted a public hearing on August 22, 2005. The City Council has requested a continuance of the discussion on this special review until the September 26, 2005, City Council meeting. This continuance was approved by a vote of 8-3. Staff has been advised to provide additional information on the Special Review requirement of a 600' separation between bars, taverns and lounges and any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield. Staff finds this criterion met as there are no church or school facilities within 600'.

**ALTERNATIVES ANALYZED:**

1. Approval;
2. Conditional approval; or
3. Denial.

**FINANCIAL IMPACT:** The special review, if approved, would increase tax revenue to the city.

**RECOMMENDATION**

The Zoning Commission is forwarding a recommendation per a 5-0 vote that the City Council grant conditional approval for Special Review #790.

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

**ATTACHMENTS**

- D. Zoning Map
- E. Site Photographs
- F. Site Plan

## **INTRODUCTION**

The applicant is requesting a special review to allow on premise beer service without gaming at a proposed microbrewery in Claimstake Subdivision, Block 2, Lot 10 zoned Controlled Industrial. The property is located at 2701 Enterprise, Suite 1. The property currently contains a 9,600 square foot office/warehouse complex which is divided into four units.

The applicant proposed to start a microbrewery in an existing but vacant office/warehouse. Although the current warehouse space meets the building requirements unique to a brewery, such as large overhead doors, high ceilings and concrete floors, the space will be altered to house the microbrewery and to meet the codes for the intended use. The proposed brewery will initially create one job with a minimum average annual wage equal to the living wage index. As the brewery's production increases, a second job will be created. The sample room will create one part-time job.

The intended use of the property is a seven-barrel (217 gallons per batch) microbrewery with a small sample room. Modifications to the building will include the addition of a floor drain and a ventilation system. The brewing equipment is self-contained and will only need to be wired and plumbed into the building's current electrical and plumbing systems. The proposed sample room would operate between the hours of 4 p.m. and 8 p.m., Monday through Saturday. The sampling room will provide snacks only during these hours, no other food service is planned. The sample room seats approximately 40 people. There will be no entertainment, no live music, and no gaming machines.

The special review is being requested to allow the proposed microbrewery can operate a sample room on premise. Section 16-3-213-(2)(b) of the Montana Code Annotated provides:

“A small brewery may, at one location for each brewery license, provide samples of beers that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m.; no more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day.”

Per Article 6-1200 of the Billings Municipal Code, the microbrewery is considered a warehouse classification with the accessory sampling room. The microbrewery will need to provide 10 parking spaces. The current site offers 18 parking spaces. At the time of this application, the remaining three office/warehouse sites are vacant. When the adjacent units are occupied, the tenants may need to develop a shared parking agreement or request a variance from the parking requirements.

Section 27-612.A. Supplemental Commercial Development Standards specifies that a special review is necessary for any commercial establishment that serves alcoholic beverages as a primary or accessory use. Staff finds that the proposed use is compatible with the surrounding land uses.

Section 27-612.A.1. Supplemental Commercial Development Standards specified that a distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield. Staff finds that this criterion is met through this application.

The Planning Department reviewed the application and recommended conditional approval to the Zoning Commission. Staff felt that this use was compatible with the surrounding zoning and uses.

The Zoning Commission conducted a public hearing on August 2, 2005. The applicants' agent, Tim Mohr attended the public hearing. There was no one in opposition to the proposed special review present at the public hearing and the Planning Department did not receive negative comments from other city departments on this proposal.

Chapter 27-1100 Landscaping by definition in Section 27-1102 C (b) was previously met during original building permit.

## **PROCEDURAL HISTORY**

- The application was received on July, 5, 2005.
- The City Zoning Commission voted 5-0 at its hearing on August 2, 2005 for conditional approval of the special review, therefore, forwarding a recommendation to the City Council of conditional approval.
- The City Council conducted a public hearing for consideration of this application on August 22, 2005. The City Council closed the public hearing and will continue discussion on this special review on the September 26, 2005 council meeting.

## **ALTERNATIVES ANALYSIS**

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

4. Complies with all requirements of this chapter.  
*This application complies with the requirements of the zoning.*
5. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.  
*This application is generally consistent with the purposes of Chapter 27 with the recommended conditions of approval.*
6. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.  
*The recommended conditions will ensure increased compatibility with and separation from the adjoining land uses.*

The City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Based on the above criteria, the City Council voted 8-3 to delay action on the application until the September 26, 2005, City Council meeting. The City Council asked Planning Division staff to provide additional information regarding the 600' separation between bars, taverns and lounges and any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield. Additionally, the City Council requested definitions of schools and churches. Staff provides the following information:

#### Section 27-612 Supplemental Commercial Development Standards

Certain commercial uses shall be specifically restricted as follows:

- (a) Bars, Taverns and Lounges. Any person desiring to use any premises or to erect, construct or alter any new or existing building or structure for use as a bar, tavern, lounge or any commercial establishment which serves alcoholic beverages as a primary or accessory use shall first make application for Special Review as regulated in BMCC Sections 27-1503 and 27-1509. No building, structure or premises shall be used for retail alcoholic beverage sales unless:
  1. A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.
    - a. Properties or establishments which are located in the Central Business District zoning district are exempt from subsection 1.
    - b. Properties may be granted a waiver from the 600 foot separation required in subsection 1 if the governing body finds that a physical barrier exists between the proposed use and the use requiring the 600 foot separation. These barriers include, but are not limited to, the following:
      1. An arterial street with no existing or proposed signalized pedestrian crossing;
      2. A building or buildings that entirely obstruct the view between the separated uses; and/or
      3. No direct physical access exists between the separated uses. The person applying for the Special Review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600 foot separation.

Definitions of Church and School:

Church or Other Place of Worship: A building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines and temples.

School, College or University: A public or private institution for higher learning (beyond grade 12) providing instruction as approved by the Montana Department of Education or a national collegiate or university accreditation agency.

School, Elementary, Junior, and Senior High, Including Public, Private and Parochial: Any institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

School, Trade or Vocational-Technical: A building where instruction is given to pupils in arts, crafts, or trades and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

The Planning Department during review of this special review forwarded the following conditions of approval to the Zoning Commission for consideration:

6. The special review approval shall be limited to Lot 10, Block 2 of Claimstake Subdivision at 2701 Enterprise, Suite 1, as shown on the submitted site plan.
7. All limitations on expansion of the alcohol service area shall be in accordance with Section 27-613 of the Billings Montana City Code.
8. Trash enclosures shall be constructed of wood, vinyl, brick, stone or concrete block or other building materials and provide a closing gate on one side. No chain link or wire material is allowed for this enclosure.

\*\*NOTE\*\* Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Department points out that the use and development of the property must be in accordance with the submitted site plan.

## **STAKEHOLDERS**

The City Council conducted a public hearing on August 22, 2005, for the proposed special review. The result of that hearing resulted in an 8-3 vote to continue discussion on the special review pending additional information regarding the 600 foot separation requirement between bars, taverns and lounges and any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.

- Public comment received at the public hearing included concerns by surrounding property tenants as the location of the microbrewery near A.W.A.R.E, a non-profit organization that provides services for adults with developmental disabilities. At this

time a petition was submitted stating opposition to this item. The petition was signed by 35 people. Staff was able to verify 23 names with addresses within the 600' radius. Two of the petitioners were confirmed as property owners. Staff was unable to confirm the other signatures as they were tenants of surrounding businesses.

### **CONSISTENCY WITH ADOPTED PLANS AND POLICIES**

In addition to the above discussion in the Alternatives Analysis section, this application conforms to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- Coordinated economic development efforts that target business recruitment, retention, and expansion.
- Strengthen area economy.
- Create living-wage jobs.

### **RECOMMENDATION**

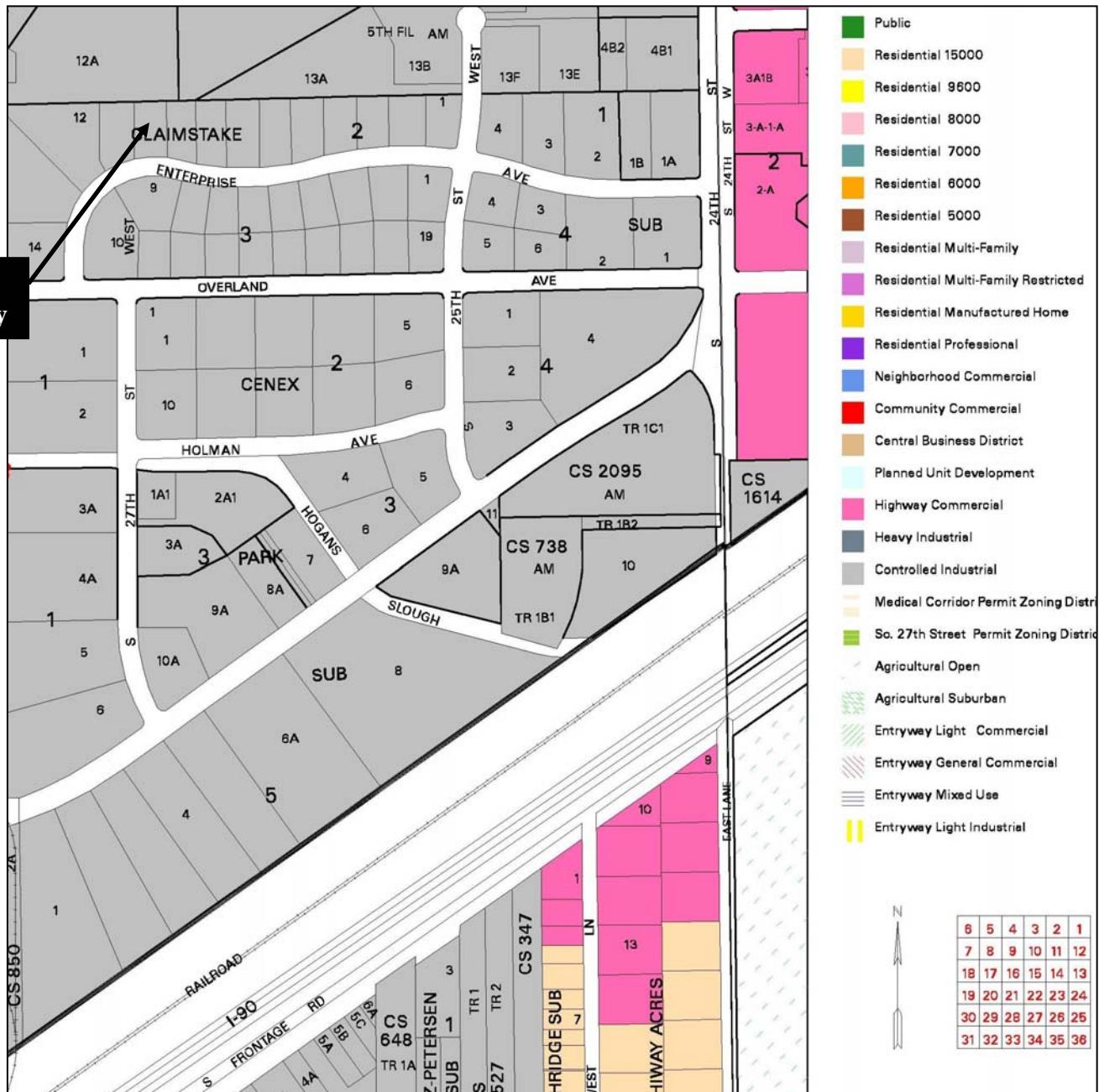
The Zoning Commission forwarded a recommendation of conditional approval for Special Review #790.

### **ATTACHMENTS**

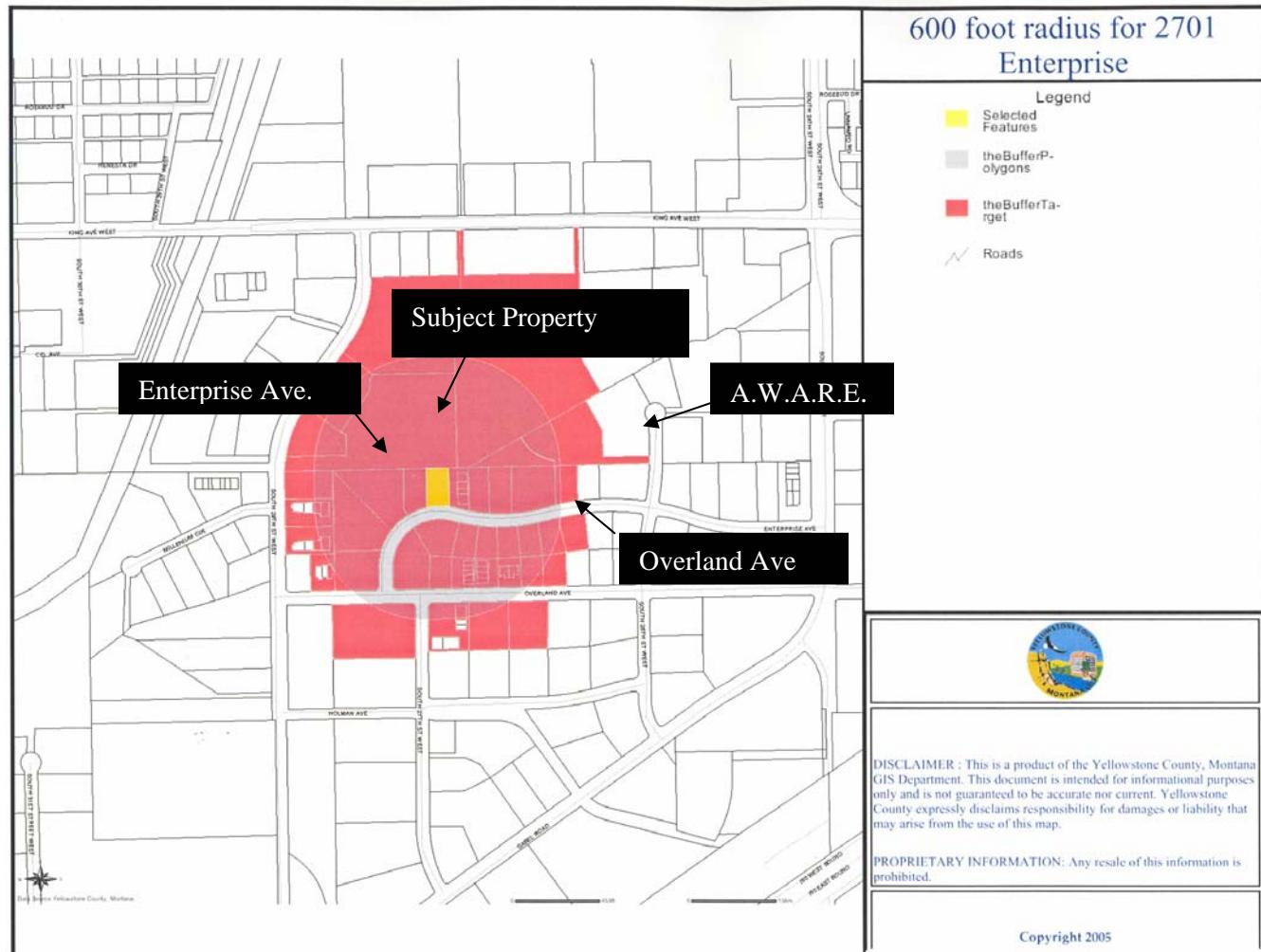
- D. Zoning Map
- E. 600 Foot Radius Map
- F. Site Photographs
- G. Site Plan

**ATTACHMENT A**  
Zoning Map

## Subject Property



**ATTACHMENT B**  
600 Foot Radius Map



http://www.co.yellowstone.mt.us/servlet/com.esri.esrimap.Esrimap?ServiceName=webgis&ClientVersion=4.0&Form=True&Encode=... 8/23/2005

**ATTACHMENT C**  
Site Photographs

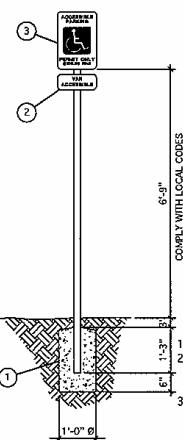
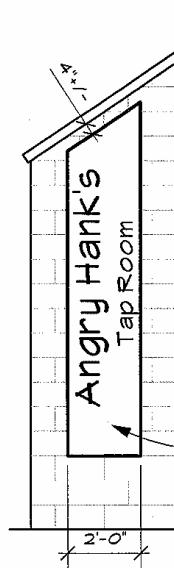


**View looking north towards the**



**ATTACHMENT D:**  
Site Plan

*Tentative Improvements for*  
**ANGRY HANK'S MICROBREWERY**  
2701 Enterprise Avenue  
Billings, Montana 59102



2 SIGN ELEVATION      3 ADA PARKING SIGN  
A1 1/4" = 1'-0"      A1 Scale: 1/4" = 1'-0"

**LEGAL DESCRIPTION**

LOT 10  
BLOCK 2  
TRACT B - CERTIFICATE OF SURVEY NO. 357  
CLAIMSTAKE SUBDIVISION

160'-0"

184'-3.2"

50'-19.28"E

**BUILDING CODE SUMMARY**

CODE - 2003 IBC, ARM/Title 24/Ch. 301, 1997 UFC, 1999 NEC  
1997 UMC, 1997 UPC

Occupancy Classification - S-1, F-2, A-2

Type of Construction - III-B - 8" masonry ext. walls

**Allowable Floor Area**

Table 503 allowable area:

F-2	-	18,000 s.f.
A-2	-	9,500 s.f.
S-1	-	17,500 s.f.

Area Modifications 506 -

F-2	-	4,500 s.f.
A-2	-	2,372 s.f.
S-1	-	4,375 s.f.

Total Allowable Area:

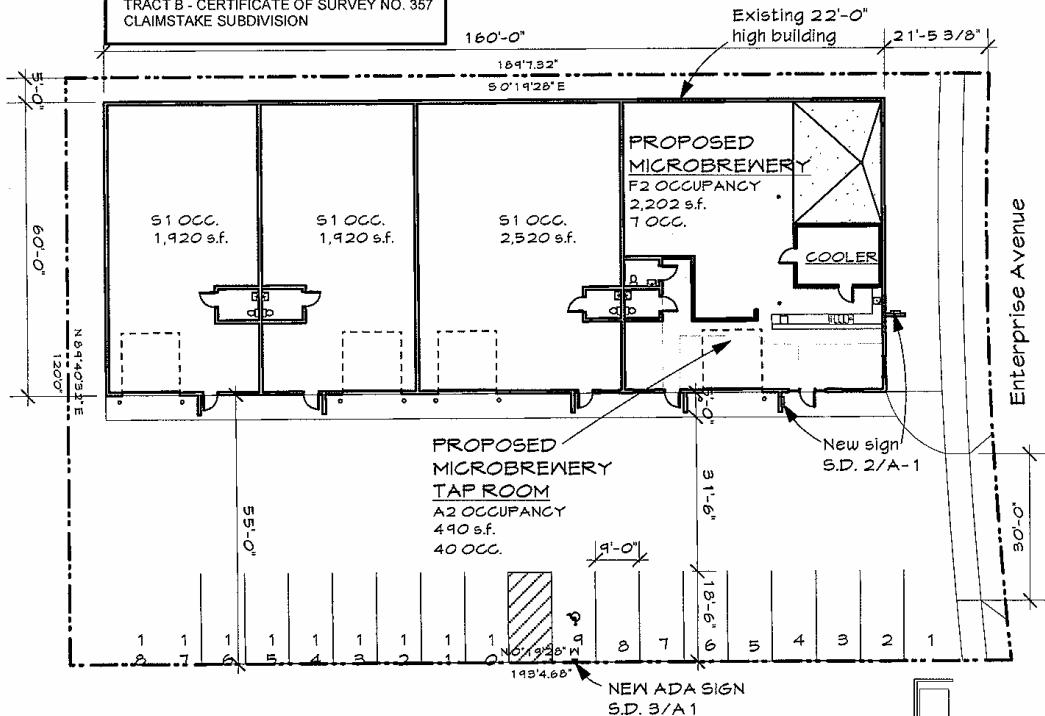
F-2	-	18,000 + 4,500 = 22,500 s.f.
A-2	-	9,500 + 2,375 = 11,875 s.f.
S-1	-	17,500 + 4,375 = 21,875 s.f. xx

Actual Total Area - 9,600 s.f.

302.3.1 - Nonseparated uses allowed

**Parking Requirements**

Microbar - 490 s.f. / 100 =	5 spaces
Microbrewery - 2,200 s.f. /	3 spaces
Warehouse - 6,420 s.f. =	10 spaces
	18 spaces



1 SITE PLAN / CODE REVIEW PLAN  
A1 Scale: 1" = 30 ft

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, September 26, 2005**

---

**TITLE:** Castle Rock Park Spray Ground Facility  
**DEPARTMENT:** Parks, Recreation, and Public Lands Department  
**PRESENTED BY:** Gene Blackwell, Interim Director, PRPL Department

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**PROBLEM/ISSUE STATEMENT:** The City Of Billings budgeted \$218,000 to be used to plan, engineer, design and construct a spray ground for Castle Rock Park. A portion of the funds appropriated for this project will be used to retain the services of a consultant to prepare plans, conduct public review, prepare specifications and bidding documents, call for bids, and award the construction contract, and then to provide project supervision and construction administration services to the completion and final acceptance of the spray ground facility. Requests for Proposals were sent out and 4 firms responded by the August 19<sup>th</sup>, 2005, deadline. On August 24<sup>th</sup> and August 26<sup>th</sup> the Selection Committee comprised of 2 Staff Members, 2 Park Board Members and 1 Council Member appointed by the Mayor met to review and discuss the submitted proposals. Based on discussion and a numerical rating system adopted by the City, the design firm Peaks to Plains Design P.C. of Billings was selected by the committee for recommendation to the City Council to perform the professional services. Peaks to Plains Design, P.C., is teamed with Interstate Engineering Inc. who is their sub-contractor for this project. The contract with the City will be with Peaks to Plains Design P.C. Postponed from the City Council Meeting of September 12 until the September 26<sup>th</sup> Council Meeting for revisions requested by Council on contract items 13, 15, and 17.

**FINANCIAL IMPACT:** Funding for the project is through General Fund appropriation in the FY2006 Capital Improvement Program:

**Location of Work:** Castle Rock Park, Southwest corner of Wicks Lane and Nutter Blvd.

**Funding Sources:** City of Billings CIP General Fund - \$ 218,000.00

**ALTERNATIVES ANALIZED:**

- Award contract to the recommended finalist, or
- Award contract to another finalist, or
- Reject all proposals.

## **RECOMMENDATION**

Staff recommends that Council approve the award of the consultant contract for the Castle Rock Park Spray Ground Facility to Peaks to Plains Design P.C. for the amount of **\$ 32,382.00**.

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

Attachment A: Contract Document

CONTRACT FOR PROFESSIONAL SERVICES FOR PLANNING,  
ENGINEERING, DESIGN, CONTRACT AND BIDDING DOCUMENTS,  
PROJECT SUPERVISION, AND CONTRACT ADMINISTRATION FOR  
PROJECTS AS LISTED

**THIS CONTRACT**, made and entered into September 26, 2005, by and between the following:

**CITY OF BILLINGS**, a Municipal Corporation, Billings Montana, 59103, hereinafter designated the **CITY**;

And, **PEAKS TO PLAINS DESIGN P.C.**, Billings, Montana, hereinafter designated the **CONSULTANT**.

**W I T N E S S E T H:**

**WHEREAS**, the **CITY** has need for a planning, design and engineering consultant and;

**WHEREAS**, the **CITY** has authority to contract for consulting design, planning and engineering services, and;

**WHEREAS**, the **CONSULTANT** represents that he is qualified to perform such services, is in compliance with the Montana Statutes relating to the registration of professional architects and engineers and is willing to furnish such services to the **CITY**;

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

**CONSULTANT RIGHTS AND DUTIES:** The **CONSULTANT'S** duties and responsibilities include the following:

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the **CONSULTANT'S** portion of the project as defined in the scope of services and to prepare and deliver to the **CITY** all plans, specifications, bid documents, exhibits and other material as designated herein.
- B. Subcontracts. The **CONSULTANT** may enter into subcontracts for the purchase of goods and services necessary for the performance of this Contract, provided:

1. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.

Every subcontract under which the **CONSULTANT** delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the **CONSULTANT**.

Every subcontract in an amount exceeding \$1,000 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

- C. To ascertain such information as may have a bearing on the work from neighborhood concerns, utility companies and private organizations and shall be authorized to procure information from other authorities besides the **CITY**, but shall keep the **CITY** advised as to the extent of these contacts and the results thereof.
- D. To prepare and present such information as may be pertinent and necessary, in order for the **CITY** to pass critical judgment on the features of the work. The **CONSULTANT** shall make changes, amendments, or revisions in the detail of the work as may be required by the **CITY**. When alternates are being considered, the **CITY** shall have the right of final selection.
- E. To be in accordance with the standards of sound planning, design, engineering and conform to present **CITY**, State and National standards and policies currently in use.
- F. To conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- G. To perform professional services in connection with the project and to serve as the **CITY'S** representative in those phases of the project to which this agreement applies.
- H. Where federal funds are involved, to make the necessary provisions to comply with all requirements and to assure that the appropriate specifications and documents are secured and placed in the bidding documents as required.
- I. Meet the following timelines for accomplishing the work required in this contract:
  1. Bids awarded to contractors no later than the February 13, 2006, regular meeting of the **Billings City Council**.
  2. Bids opened for the project no later than Tuesday, January 24, 2006.

3. Plans, specifications, and bid documents completed and advertisements of the Call for Bids ready to be published and distributed no later than January 13, 2006.
4. Construction to be substantially completed by May 25, 2006.

J. Submit an estimated progress schedule as to time and costs at the beginning of the contractor work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the **CONSULTANT**. Reports will be submitted in a timely manner to permit prompt resolution of problems.

K. The **CITY** shall have the right of review and examination of the **CONSULTANT'S** services and records pertaining to this project accounting at all times, upon reasonable notice, during regular business hours.

L. Name a Task Director who shall be the liaison between the **CITY** and the **CONSULTANT**. For this project the Task Director designated is **Jolene Rieck, Principal/Landscape Architect.**

**2. CITY RIGHTS AND DUTIES:** The **CITY'S** duties are set forth as follows:

- A. To furnish all labor, materials, equipment, supplies and incidentals necessary to conduct and complete the **CITY'S** portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the **CONSULTANT** and the **CITY**. For this project the Task Director designated is **Mark Jarvis, Park Planner.**
- C. The **CITY** will be responsible for bid advertising, opening and review.

**3. SCOPE OF WORK:** The **CONSULTANT** shall provide design, engineering, planning, specifications, bid proposal, and construction supervision for a "Sprayground" water facility at Castle Rock Park, which shall constitute the entire scope and purpose of this agreement:

**4. OUTLINE OF SERVICES REQUIRED:**

- A. Preliminary Design Services:
  1. Perform the planning and engineering surveys required for design of the project.
  2. Coordinate site and subsurface soil investigation at Castle Rock Park and provide geo-technical engineering as required for design of the project utilizing the services of **Maxim Technologies.**
  3. Prepare preliminary drawings for review by the **CITY**. Schedule, publicize, and

conduct two (2) meetings for input from residents. Each shall take place in conjunction with the Heights Neighborhood Task Force Meetings at the Library in the Castle Rock Middle School to provide for comments to be received regarding this project. The first meeting shall take place when preliminary plans have been developed. The second meeting shall take place prior to the final plans being completed and advertisement for bids taking place.

4. Show how project designs will tie in with adjacent site developments including present and proposed irrigation installations.
5. Prepare engineering studies including drainage calculations for the Sprayground to determine sewer connection, type and size which will be submitted as part of the plan review.

B. Final Design and Bidding Services:

1. From the preliminary drawings reviewed by the **CITY, CONSULTANT** will prepare and furnish final drawings, specifications and other bidding documents in sufficient number for City building and engineering review, bidding and contracts.
2. Stamp and sign all plans and specifications with a seal of the Professional Engineer / Architect in charge.
3. Provide final estimates of design quantities and costs.
4. Schedule and hold a pre-bid conference.
5. Provide a bid tabulation sheet for the bids received by Wednesday noon following the Tuesday bid opening, with the tabulation sheet to show engineer's estimate.
6. Analyze bid proposals and make a recommendation on awarding a contract based on construction bids by Wednesday noon following the Tuesday bid opening.

C. Construction Phase Services:

1. Schedule and hold a pre-construction meeting.
2. Provide personnel, equipment and supplies for construction layout and control.
3. Review the construction operations, prior to the start of work on the project. Ascertain that the Contractor has all needed permits to accomplish work during construction.

4. Coordinate appropriate testing of materials intended for incorporation into the project and require documentation of testing results.
5. Provide general review of construction to check the Contractor's work for compliance with the drawings and specifications. Review of work shall be made as needed while any major item of work is in progress. Major items of work shall be site clearing and excavation, base installation, concrete forming and installation, plumbing and piping installation, water feature installation, safety surfacing installation, and site completions to include irrigation restoration. The Construction Inspector shall provide a minimum of 48 hours notice for **CITY** personnel when specific inspections or construction activities require their presence on the project. Each review shall be documented in permanent reproducible form and kept in consecutive order in a project file. Copies of the reports shall be furnished the **CITY** as requested. **CONSULTANT** will notify the **CITY** of construction problems or deviation from approved plans.
6. Weekly meetings shall be scheduled and conducted between the **CONSULTANT**, the **CONTRACTOR**, and the **CITY** while construction of the project is in progress.
7. Coordinate the services of a qualified materials engineering technician who will observe construction and provide representative tests. Provide direct coordination of laboratory and field quality control testing and geotechnical engineering between the project engineer, field inspector and a project construction materials engineer. Geotechnical and materials engineering shall include interpretation and recommendations for the **CONSULTANT** and **CITY** based upon field observation. The services of Maxium Technologies will be utilized for all materials testing and geotechnical engineering for this contract.
8. Act as the **CITY'S** authorized representative in inspecting and coordinating the work of the contractor within the park for this project. The **CONSULTANT** shall cause necessary tests to be made to ensure compliance with project specifications or City Codes where faulty construction, excavation or backfill work may result in substandard improvements.
9. Review submittals, shop drawings, samples, equipment, portland and asphalt cement mix design, aggregate and other data submitted by the Contractor for compliance with contract documents.
10. Issue notice to the Contractor to suspend work in whole or in part when, in the opinion of the **CONSULTANT**, work is not being, or cannot be performed in accordance with the contract documents.

11. Prepare plan and specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept, and after review by the **CITY** prepare change orders thereto.
12. Prepare and recommend Change Orders when necessary due to conditions encountered during construction. The **CONSULTANT** is not authorized to order additional work without the approval of the **CITY'S** Task Director. Any work resulting in contract overages will be processed by the **CITY** using approved forms.

D. Final Services:

1. Furnish the **CITY** with the following construction documents and record drawings:
  - a. One set of reproducible mylars of the construction drawings.
  - b. One set of electronic documents on CD or DVD format to include:
    1. CAD files in Auto CAD DWG file format. All files must be readable by the **CITY**, any files not readable or corrupted shall be resubmitted. Compressed files are not acceptable. Drawings using separate reference files, X-ref, shall be bound into one file prior to submission.
    2. Word processing files in Microsoft Word .doc format. Files must be readable by the **CITY**.
  - c. The **CONSULTANT** shall record the location of the facility installed, together with a representation of the general site around it. Survey and elevation information shall be referenced to the Montana state plane coordinate system NAD 83, in feet and decimals of a foot and clearly noted on drawings. A permanent bench mark elevation shall be clearly shown on the plans. Record drawings are due within 60 days of contractor's final payment and before final payment to the **CONSULTANT**.
2. Make final inspection with the **CITY** and certify to the **CITY** all construction items were constructed according to plans and specifications and are acceptable to the **CONSULTANT**.
3. Schedule and make an inspection with the **CITY** prior to expiration of the construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to **CITY** and contractor and continue until acceptable.

E. Extra services of the **CONSULTANT** will be paid only with written prior authorization by the **CITY**. They may include:

1. Extra field and laboratory testing of materials and reports.
2. Provide construction review service in excess of the basic review specified in scope of work under construction services.

3. Provide inspection services of major items of work after the expiration of the warranty period after the construction contract completion time.
4. Prepare Change Orders that do require additional design or inspection under the scope of work under construction services.

**5. DESIGN PHASE COMPLETION:**

A. The completion date for the **CONSULTANT'S** work through final design shall be:

1. Preliminary design by November 16, 2005.
2. Final design by January 10, 2006.

B. The established completion dates shall not be extended because of any unwarranted delays attributed to the **CONSULTANT**, but may be extended by the **CITY** in the event of a delay attributed to the **CITY** or because of unavoidable delays due to severe weather, ground conditions, or by any natural catastrophe or governmental action or conditions beyond the control of the **CONSULTANT**.

C. Delays affecting the completion of the work within the time specified for the completion by more than ninety (90) days, not attributable to or caused by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.

D. If the **CONSULTANT** is behind on this Contract due to no fault of the **CITY**, then the **CONSULTANT** hereby acknowledges the right of the **CITY** to withhold future Contracts to the **CONSULTANT** in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

**6. PAYMENT:** The work of the **CONSULTANT**, as outlined in the scope of work, shall be accomplished for the fees as detailed below:

A. The **CITY** shall pay the **CONSULTANT** for basic services performed under this Agreement, a total basic lump sum of: **\$ 32,382.00** with breakdown and progress payments as herein described:

1. For services rendered prior to construction, the **CONSULTANT** shall be paid: **\$ 23,812.00**.
2. Partial Payment shall be paid to the **CONSULTANT** monthly upon receipt of the **CONSULTANT'S** pay estimate, said estimate being proportioned to the work completed by the **CONSULTANT**. Payment shall be made within 30 days of the receipt of the statement.

3. For services rendered during construction, the **CONSULTANT** shall be paid: **\$ 8,570.00**. Partial payment shall be made to the **CONSULTANT** upon receipt of the **CONSULTANT'S** pay estimate, said estimate being proportioned to the amount of work completed by the **CONTRACTOR**.
4. The **CITY** shall deduct five percent (5%) from each monthly pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final plan documents by the **CITY** and determination that the Scope of Work has been satisfactorily completed.
5. Final payment shall be the above stated basic fee less all previous payments.
6. No deductions shall be made from the **CONSULTANT'S** compensation on account of penalty, liquidated damages or other amounts withheld from payments to **CONTRACTOR**.

B. Payments for extra services of the **CONSULTANT** will be paid only with written prior authorization by the **CITY**.

1. Field and laboratory testing and reports shall be paid for at the **CONSULTANT'S** invoiced cost.
2. Resetting lost or destroyed monuments after construction shall be paid for on an hourly basis at the applicable fee in **TABLE A**.
3. Construction inspection in excess of basic services shall be paid for on an hourly basis at the applicable fee in **TABLE A**.
4. Construction inspection after expiration of the construction contract completion time shall be paid for on an hourly basis at the applicable fee in **TABLE A**.
5. Preparation of Change Orders which are not required due to design and engineering deficiencies but which do require additional design or construction review shall be paid for on an hourly basis at the applicable fee in **TABLE A** below:

6. **TABLE A:**  
**K. Hourly Fee Schedule**

<b>Licensed Landscape Architect</b>	<b>\$70.00</b>
<b>Professional Engineer</b>	<b>\$115.00</b>
<b>Landscape Architect in Training</b>	<b>\$50.00</b>
<b>Project Engineer</b>	<b>\$87.00</b>
<b>Architect/Engineer Technician</b>	<b>\$57.00</b>
<b>2-Man Survey Party</b>	<b>\$102.00 + Mileage and</b>

<b>3-Man Survey Party</b>	<b>Materials</b>
	<b>\$137.00 + Mileage and Materials</b>
<b>Inspector</b>	<b>\$57.00</b>
<b>Draftsman (Landscape Architect)</b>	<b>\$50.00</b>
<b>Draftsman (Engineer)</b>	<b>\$57.00</b>
<b>Clerical</b>	<b>\$45.00</b>

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

- C. Costs of **CITY** work that is required for corrections to the **CONSULTANT'S** designs, contract documents, or progress estimate work which requires redoing by **CITY** shall be deducted from any payments due the **CONSULTANT**.
- 7. **EMPLOYMENT:** The **CONSULTANT** warrants that he has not employed or retained any company or persons, other than a bona fide employee, working solely for the **CONSULTANT**, to solicit or secure this Contract, and that he has not paid or agreed to pay any company or person, other than bona fide employees working solely for the **CONSULTANT**, any commission, percentage, brokerage fee, gifts or any other considerations contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the **CITY** shall have the right to annul this Contract without liability, or at its discretion to deduct from the consultant fee, or otherwise recover the full amount of such commission, percentage, brokerage fee, gift or contingent fee.
  - A. The **CONSULTANT** is retained by the **CITY** only for the purposes and to the extent set forth in this Agreement. The nature of the relationship between the **CONSULTANT** and the **CITY** during the period of the services shall be that of an independent contractor, not employee. The **CONSULTANT**, not the **CITY**, shall have the power to control and direct the details, manner or means of services. Specifically, but not by means of limitation, the **CONSULTANT** shall have no obligation to work any particular hours or particular schedule and shall retain the right to designate the means of performing the services covered by this Agreement, and the **CONSULTANT** shall be entitled to employ other workers at such compensation and on such other conditions as **CONSULTANT** may deem proper, provided, however, that any contract so made by the **CONSULTANT** is to be paid by **CONSULTANT** alone, and that employing such workers, **CONSULTANT** is acting individually and not as an agent for the **CITY**.
  - B. The **CITY** shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to **CONSULTANT** or any employee of the **CONSULTANT**.

- C. The **CONSULTANT** shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 23, United States Code, and all regulations promulgated thereunder.
- D. **NO DISCRIMINATION.** In hiring or employment made possible or resulting from this Agreement, there shall be no unlawful discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or subjected to discrimination in receipt or the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or in the presence of any sensory, mental or physical handicap.
- E. The **CONSULTANT** shall comply with all provisions of Equal Employment Opportunity (EEO) and Disadvantaged Business Act (DBA - Minority and Women's Business Enterprises), and the **CITY'S** implementation plan of this act.

**8. DECLARATION OF NO FINANCIAL INTEREST:** The **CONSULTANT** hereby declares that the **CONSULTANT'S** partners, principal shareholders, officers and professional engineers assigned to or otherwise working on the projects or in any way associated with **CONSULTANT** does not own any equitable or legal rights to property within the project, whether public or private, or have any interest either directly or indirectly in the project except for the remuneration provided herein.

**9. SUCCESSORS AND ASSIGNS:** This agreement and all of the covenants hereof shall insure to the benefit of and be binding upon the **CITY** and the **CONSULTANT** respectively and his partners, successors, assigns and legal representatives. Unless otherwise allowed by this Contract or in writing by the Task Director, any assignment by the **CONSULTANT** of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the **CONSULTANT** to assign any part of its interest or delegate duties under this Contract shall give the **CITY** the right immediately to terminate this Contract without any liability for Work performed.

**10. CHANGES IN WORK:** The **CONSULTANT** shall make such revisions in the reports, plans, and specifications which have been completed, approved and accepted by the **CITY** as are necessary to correct the **CONSULTANT'S** errors or omissions when required to do so by the **CITY**, without additional compensation therefor. Any change in the scope of work as stated in this Contract for whatever reason, will be negotiated between the **CITY** and the

**CONSULTANT**, and an amendment to the Contract will be issued with the appropriate change of work and Contract fee noted.

**11. LEGAL RELATIONS:** The **CONSULTANT** shall comply with all Federal, State and local laws and ordinances applicable to the work to be done.

**12. INSURANCE:** The **CONSULTANT** shall secure and furnish to the **CITY** Certificate of Liability Insurance, therein, naming the **CITY** as an additional named insured, to include thirty (30) days notice of cancellation or non-renewal. In case of joint ventures, all entities must be named. The limit of liability for Bodily Injury and Property Damage to be One Million Five Hundred Thousand Dollars (\$1,500,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate, with any insurance company authorized to do business in the State of Montana. The **CONSULTANT** shall also furnish the **CITY** proof of Error and Omission Insurance Coverage of One Million Five Hundred Thousand Dollars (\$1,500,000) per occurrence.

**13. TERMINATION OF CONTRACTOR'S SERVICES:** The Contractor's services under Section 4 may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of the **CITY**, provide that the **CITY** notifies the **CONSULTANT** in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under the Contract. Termination under this Subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds thereof, and the other party fails to cure the default within 30 days after receiving the notice.
- D. In the event this Contract is terminated prior to completion, the originals of all plans shall remain the property of the **CONSULTANT**. All information relating to the project and prepared under the terms of this Contract, including schedules, reports, data, recommendations, exhibits, analyses, plans, and specifications, shall be deemed the property of the **CITY**. Reproducibles of all notes, reports, plans, and specifications shall be made available at the **CITY'S** request.

**14. DUTIES UPON TERMINATION**

- A. If the **CITY** terminates the **CONSULTANT'S** services for convenience, the **CITY** shall pay the **CONSULTANT** for its actual costs reasonably incurred in performing before termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 6. All finished and unfinished documents and materials prepared by the **CONSULTANT** shall become the property of the **CITY**.

- B. If the **CONSULTANT'S** services are terminated for cause, the **CITY** shall pay the **CONSULTANT** the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by the **CITY** because of the **CONSULTANT'S** failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the **CONSULTANT** under this Contract shall become the property of the **CITY** at its option.
- C. If the **CONSULTANT** receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Task Director within 30 days of receiving notice to do so.
- D. The **CONSULTANT** shall not be entitled to any compensation under this Section until the **CONSULTANT** has delivered to the Task Director all documents, records, Work product, materials and equipment owned by the **CITY** and requested by the Task Director.
- E. If the **CONSULTANT'S** services are terminated for whatever reason the **CONSULTANT** shall not claim any compensation under this Contract, other than that allowed under this Section.
- F. If a final audit has not been performed before the **CONSULTANT'S** services are terminated, the **CITY** may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this Section, termination of the **CONSULTANT'S** services under Section 13 of this Part does not affect any other right or obligation of a party under this Contract.

## 15. FORCE MAJEURE :

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
  1. Any interruption, suspension or interference resulting solely from the act of the **CITY** or neglect of the **CITY** not otherwise governed by the terms of this Contract.
  2. Strikes or Work stoppages.

3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than the **CITY**.

**16. ENDORSEMENTS:** The **CONSULTANT** shall furnish professional stamps, statements, or other suitable means to signify responsible endorsement of services, on all drawings and reports furnished by him.

**17. OWNERSHIP, PUBLICATION, REPRODUCTION AND USE OF MATERIALS:**

- A. Except as otherwise provided herein, all data, documents and materials produced by the **CONSULTANT** under this Contract shall be the property of the **CITY**, which shall retain, with the **CONSULTANT**, the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Any reuse without written verification or adaptation by the **CONSULTANT** for the specific purpose intended will be at the **CITY**'s sole risk and without liability or legal exposure to the **CONSULTANT**.
- B. Equipment purchased by the **CONSULTANT** with Contract funds that is necessary for the future operation and maintenance of the facility being constructed shall be the sole property of the **CITY**, and marked and inventoried as such with a copy of the inventory forwarded to the **CITY**.
- C. Should the **CITY** elect to reuse Work products provided under this Contract for other than the original project and/or purpose, the **CITY** will not hold **CONSULTANT** liable for any damages resulting from the **CITY**'S reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original **CONSULTANT**'S or sub-consultant's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

**18. PUBLIC INFORMATION:** The **CONSULTANT** shall not issue any statements, releases or information for public dissemination without prior approval of the **CITY**.

**19. PROPRIETARY RIGHTS:** If patentable discoveries or inventions should result from the services required herein. All intellectual property of **CONSULTANT**, including, but not limited to any computer software (in object code and source code form), tools, systems, equipment or other information used by **CONSULTANT** or its suppliers in the

course of delivering the services hereunder, and any know-how, methodologies or processes used by **CONSULTANT** to provide the services or Project deliverables to **CITY**, including, without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole and exclusive property of **CONSULTANT** or its suppliers.

20. **RECORDS:** The **CONSULTANT** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the Contract term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.
21. **THIRD PARTY BENEFICIARIES.** This Agreement and attachments hereto are not intended to confer any rights to any person or entity not party hereto.
22. **ATTORNEY'S FEES AND COSTS:** That in the event it becomes necessary for either Party to this Contract to retain an attorney to enforce any of the terms or conditions of this Contract or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.
23. **JURISDICTION, APPLICABLE LAW, AND VENUE.** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue of any suit between the parties arising out of this Agreement shall be the Thirteenth Judicial District Court for the State of Montana sitting in Yellowstone County, Montana.
24. **SEVERABILITY.** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the **CITY** and the **CONSULTANT**, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
25. **MEDIATION:** Disputes concerning the **CONSULTANT'S** performance of the services between the **CONSULTANT** and the **CITY** shall first be referred for informal resolution to the City Administrator before commencing any legal action to resolve the same. Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of American Arbitration Association; provided however, in the event the parties are unable to reach agreement to arbitrate under terms reasonable acceptable to both parties, either party may pursue resolution in court proceedings. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.
26. **MODIFICATION AND AMENDMENTS:** This agreement contains the entire Agreement between the parties hereto and no other agreements, oral or otherwise,

regarding the subject matter of this agreement, shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendment to this agreement.

**27. INDEMNIFICATION:** The **CONSULTANT** shall only be liable for professional services stated specifically under the scope of this Agreement. The **CITY** hereby agrees to indemnify and hold the **CONSULTANT** harmless for any claims, damages, or liabilities arising from any act, neglect, default or mismanagement by the **CITY**, its Contractors, and their agents or employees. The **CONSULTANT** hereby agrees to indemnify and hold the City harmless from all claims and liability due to the activities of the **CONSULTANT**, their agents, employees, or both, in performing the work required.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement the day and year first above written.

**CITY:**

**CITY OF BILLINGS, a Montana  
Municipal Corporation**

By: \_\_\_\_\_  
**CHARLES F. TOOLEY, Mayor**

**ATTEST:**

By: \_\_\_\_\_  
**MARITA HEROLD, City Clerk**

**STATE OF MONTANA)**

: ss.

**County of Yellowstone )**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005 before me, a Notary Public for the State of Montana, personally appeared **CHARLES F. TOOLEY** and **MARITA HEROLD**, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

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

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

(NOTARIAL SEAL)

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

Notary Public for the State of Montana

Residing in Billings, Montana

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

**CONSULTANT:**

**PEAKS TO PLAINS DESIGN P.C.**

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

Its: \_\_\_\_\_

STATE OF MONTANA)

: ss.

County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005 before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_, of the **PEAKS TO PLAINS DESIGN P.C.**, and acknowledged to me that they executed the foregoing instrument as the authorized representative of **PEAKS TO PLAINS DESIGN P.C.**

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

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

(NOTARIAL SEAL)

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

Notary Public for the State of Montana

Residing in Billings, Montana

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

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
**CITY ATTORNEY**

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