

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

January 9, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Peggy Gaghen

ROLL CALL

MINUTES

- December 12, 2005,
- December 19, 2005,
- December 30, 2005,
- January 3, 2006

ELECTION OF DEPUTY MAYOR PRO TEMPORE

COURTESIES

PROCLAMATIONS

BOARD & COMMISSION REPORTS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #7 thru #9 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. Amendment to Legal Advertisement Agreement, Billings Times.
[\(Corresponding Staff Memo A\)](#)

B. Application for Substitution of Certificate of Deposits in Lieu of Cash Retainage as security for the performance of a public works contract with COP Construction.

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

C. Compensation Agreement for Private Contract No. 544 – Copper Ridge Subdivision, First Filing, \$488,634.00.

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

D. Compensation and Reimbursement Agreements for Private Contract No. 546 – Tracts 1C-2 and 1D of C/S 1479 (Town Pump), \$15,296.75 from the City and \$10,526.84 from property owners.

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

E. Vehicle Lease Agreement with Laurel Ford for Laurel Police Dept. participation in the High Intensity Drug Traffic Area (HIDTA) Task Force, \$4,200.00, term: 12 months.

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

F. W.O. 04-33: Lake Elmo Road Right-of-Way Acquisition, Professional Services Contract for right-of-way services, Right of Way Acquisition Group, LLC, \$222,550.00.

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

G. Contract with QWEST Communication for wireless enhanced 9-1-1 services and Emergency Preparedness Network Services, \$25,615.85 one-time set up charge and \$3,953.12/month.

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

H. CTEP Project Specific Agreement – Highland School Sidewalks, Federal Air Project #STPE 1099(48), Montana Dept. of Transportation, \$40,000.00 grant.

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

I. Contract with DialPro Northwest to provide an automated phone system for the Municipal Court, \$74,120.00.

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

J. Acceptance and approval of the 2006 High Intensity Drug Trafficking Area (HIDTA) Award #I6PRMP606 from the Office of National Drug Control Policy/Eastern Montana Drug Task Force, \$160,659.00.

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

K. Acceptance of Warranty Deed for right-of-way acquisition along Shiloh Road from Firelake Corp., \$644.49.

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

L. Authorization of grant application submittal to the Montana Board of Crime Control (MBCC) for the Byrnes, Criminal Justice Records Improvement (CJRI) –

RFP #06-10(K) Funds, \$35,000.00 to purchase *Law Enforcement Data Analysis Software*.

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

M. Authorization of grant application submittal to the Montana Board of Crime Control (MBCC) for Stop Violence Against Women Act (VAWA) Funds – RFP #06-9, \$55,000.00.

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

N. Acknowledging receipt of petition to annex #06-01: Lots 5, 6, 26 – 28, 38 and 40, Sunny Cove Fruit Farms, located south of Rimrock Rd. between 58th and 62nd Sts. W, Thomas E. Romine and Paul V. Hoyer, petitioners, and setting a public hearing for 1/23/06.

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

O. Confirmation of Police Officer: Jon Krisjanson.

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

P. Authorization of architectural/engineering services Request for Proposals for Fire Station #7.

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

Q. Declaring surplus equipment and authorizing the Fire Department to dispose of the equipment to surrounding volunteer fire departments.

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

R. Declaring surplus self-contained breathing apparatus (SCBA) equipment and authorizing the Fire Department to dispose of the equipment per the Fire Act grant application.

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

S. Authorization of application for a Certified Local Government (CLG) grant from the Montana State Historic Preservation Office, \$5,500.00.

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

T. Lease for storage space with Peter Yegen Jr. Yellowstone County Museum Foundation, \$1,226.82/year adjusted annually by CPI-U, term: 5 years

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

U. Resolution creating Special Service District #22 for sanitary sewer services only for Lot 1, Block 1, MHC Subdivision and the remainder of Tract 2, C/S 1163.

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

V. Resolution creating Special Service District #23 for sanitary sewer service for Lot 4, Block 1, Wal-Mart Subdivision.

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

W. Second/final reading ordinance expanding the boundaries of Ward I to include recently annexed property described as a 0.906-acre parcel of property located on the east side of Blue Creek Road at the intersection of Santiago Blvd., described as Tract 1C, C/S 566, Tract 1, 2nd Amended (and all adjacent right-of-way of Montana Highway #416 (Blue Creek Road), Jeffrey V. Essmann, petitioner. (Annex #05-10).

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

X. Second/final reading ordinance amending BMCC Sections 2-213, 2-214, and 2-222, updating procedure for amending agenda at the council meeting, moving board and commission reports to the work session and updating public participation language.

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

Y. Second/final reading ordinance amending BMCC Chapter 26: Water and Wastewater Utilities; revising public utilities to public works, revising definition of "special benefit facilities", revising definition of "harmful contribution", revising remedies and penalties under Section 26-610 to allow the City to recover costs associated with discharge violations.

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

Z. Final plat of Lincoln Subdivision.

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

AA. Final plat of Amended Lot 3B, Block 10, Parkland West Subdivision, 6th Filing.

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

BB. Bills and Payroll.

(1) December 9, 2005

[\(Corresponding Staff Memo BB1\)](#)

(2) December 16, 2005

[\(Corresponding Staff Memo BB2\)](#)

(3) November 1, 2005 (Court)

[\(Corresponding Staff Memo BB3\)](#)

(4) December 2, 2005

[\(Corresponding Staff Memo BB4\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND VARIANCE #CC05-02:** a variance from BMCC Section 6-1206: curbs, gutters and sidewalks in all zones, regarding Lot 10, Block 1, Valley View Subdivision, located at 411 S. 24th St. W. Buffalo Wild Wings Bar and Grill Restaurant, applicant. Staff recommends denial. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 2\)](#)
3. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #772:** a zone change from Residential Manufactured Home to Residential 6000 on Lot 6, Block 3, Superior Homes Subdivision, located at 406 Roxy Lane, Ann Bustell, owner. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)
[\(Corresponding Staff Memo 3\)](#)
4. **PUBLIC HEARING AND SPECIAL REVIEW #799:** a special review for the production and storage of hydraulic cement and concrete materials in a Controlled Industrial zone on Lot 2, Block 6, Tierra West Industrial Park Subdivision, 2nd Filing, generally located at the northeast corner of Hesper and South 32nd Street W. Cretex Concrete products West, Inc. (dba Elk River Concrete Products), Steve Wagner, applicant, Engineering, Inc., agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)
[\(Corresponding Staff Memo 4\)](#)
5. **PUBLIC HEARING AND RESOLUTION** pursuant to BMCC Chapter 12: Eminent Domain, declaring public purpose and use, describing the properties to be taken and authorizing City officials to proceed with condemnation of six properties on Grand Avenue. Staff recommends approval. (Delayed from 12/19/05). **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 5\)](#)
6. **PUBLIC HEARING AND RESOLUTION** endorsing the establishment of a methamphetamine treatment program in Yellowstone County, within the city limits of Billings by Alternatives, Inc. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 6\)](#)
7. **FIRST READING ORDINANCE** amending BMCC by repealing Chapter 23, Sections 23-101 through 23-1501, declaring them to be null, void and of no effect, and adding a new Chapter 23 with sections to be numbered 23-101 through 23-1107, providing comprehensive subdivision regulations. Planning Board recommends approval. (PH held 12/19/05. Action delayed from 12/19/05). **(Action:** approval or disapproval of Planning Board recommendation.)
[\(Corresponding Staff Memo 7\)](#)

8. **PRELIMINARY PLAT** of Bellville Subdivision, generally located north of Wicks Lane, west off of Brewington Lane at the terminus of Kyhl Lane. (Reconsidered and delayed from 12/12/05). Staff recommends conditional approval of the plat, approval of the requested variances and adoption of the findings of fact. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 8\)](#)
9. **4TH & BROADWAY REDEVELOPMENT – 2005.** (Opened 11/15/05. Delayed from 11/28/05). A recommendation will be made at meeting. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 9\)](#)
10. **Change Orders #1 and #2: Contract for Classification and Compensation Study**, Associated Employers of Montana (AEM) and Employers Association Inc., \$ Amount to be presented at the meeting.
[\(Corresponding Staff Memo 10\)](#)
11. **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

EXECUTIVE SESSION

ADJOURN

A

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Amended Legal Advertisement Agreement
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: State law and local regulation require the Planning Division to publish legal advertisements of any public hearing in a newspaper of general circulation. The number and costs of legal advertisements has increased significantly over the past year. In an effort to keep the costs within the estimated budget, the Planning Division is proposing to advertise in the Billings Times as opposed to the Billings Gazette. This change will allow the Planning Division to take advantage of the agreement the City negotiated with the Times. The Times is a weekly publication and is currently used by all other City departments for their advertising needs. With minor modifications to the existing agreement, the needs of the Planning Division can be met as well. The Billings Times has reviewed the revised contract and has verbally agreed to these modifications.

ALTERNATIVES ANALYZED: State law requires legal advertisements to be published in a newspaper of general circulation that is published in the County at least once a week (7-1-2121(2) (a), MCA). Every three years, the City of Billings requests proposals from qualifying newspapers and awards a contract based on cost and publication needs. In 2004, this contract was awarded to the Billings Times. The Planning Division chose not to use the Times because of publication deadline conflicts. With some modification to the existing agreement, the Planning Division can overcome this conflict.

FINANCIAL IMPACT: The cost of advertising in the Billings Times is expected to be half to one-third the cost of current practices.

RECOMMENDATION

Staff recommends that Council approve the amendment to the existing Legal Advertisement Agreement with the Billings Times.

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

ATTACHMENT

A. Amended Agreement (amended text shown underlined)

AGREEMENT **AMENDMENT**

THIS IS AN **AMENDED** AGREEMENT between the CITY OF BILLINGS, a municipal corporation, hereinafter referred to as "CITY", and the BILLINGS TIMES, hereinafter referred to as "TIMES" for the publication of legal advertisements for thirty-**six** (36) month period of January 1, 2005 through December 31, 2007.

Publication of legal advertisements for the CITY shall include the following:

- A. PICKUP AND DELIVERY OF ALL LEGAL ADVERTISEMENTS – One account representative assigned to handle the City accounts and work closely with the City Clerk. Account representative will pick up (at the City Clerk's Office) ad copy between 9:00 a.m. and 10:00 a.m. each Wednesday for publication in the Thursday TIMES, or City Clerk to FAX to TIMES ad copy by 10:00 each Wednesday for prior to publication. The Planning Division shall FAX to the TIMES ad copy by 10:00 a.m. each Wednesday for publication in the Thursday TIMES.
- B. AFFIDAVIT OF PUBLICATION – Affidavit will be delivered (not mailed) to the City Clerk the same day as final ad publication, except Saturday and Sunday for which affidavits will be due to the City Clerk by 4:00 p.m., Monday. The Affidavit of Publication will be on pink computer paper or the City's choice of color on commonly available computer paper. Affidavit of Publication will have an exact copy of the ad attached and will be notarized. Affidavits for the Planning Division will be delivered directly to the Planning Division instead of the City Clerk on the same schedule as indicated above.
- C. TEAR SHEETS (copies of legal ad) – These are to be delivered, not mailed, to the City Clerk the morning of the same day as first publication, up to 100 copies included at no cost for ad copies. The tear sheet should not be the page where the publication is printed, but a reproduced and trimmed copy of the actual publication. Tear sheets for the Planning Division are to be delivered directly to the Planning Division.
- D. BILLING FOR LEGAL ADVERTISEMENTS will be on a weekly basis. Each department or division of the City will have an account number. A statement is provided weekly for each ad specifying the department or division. The run dates and a brief description of the ad (for identification purposes) will be listed for each legal ad on the statement. The bill(s) will be mailed to the Finance Department of the City of Billings.
- E. THE CITY OF BILLINGS MAKES NO GUARANTEE as to the amount of legal advertisement that will be done in the thirty-six (36) month period.
- F. THE CITY POLICY FOR THE LEGAL ADVERTISEMENTS will be:
 - (1) CHANGES TO AD: By 11:00 a.m. the day prior to publication.
 - (2) STOPPING ADS: By 11:00 a.m. the day prior to publication.
 - (3) COPY DEADLINE: As outlined in Item A.
- G. THE COST OF LEGAL ADVERTISEMENTS is as stipulated in "Exhibit A", attached hereto, together with copies of sample advertisements.
- H. THE COVENANTS AND AGREEMENTS herein contained shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this agreement amendment on this 9th day of January, 2006.

THE BILLINGS TIMES

BY: _____
Authorized Signature

THE CITY OF BILLINGS

BY: _____
MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

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

B

AGENDA ITEM:



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

TITLE: Approval of Agreement with COP Construction for CD's in lieu of Cash
DEPARTMENT: Administration-Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Public Works received the appropriate application from COP Construction requesting use of Certificates of Deposit in lieu of the required 5% cash retainage (City withholding the retainage from each progress payment) for stage 1 of the Filter Building Project only. Section 18-1-301 of MCA allows this substitution. The City Administrator and Financial Services Manager will be beneficiaries of the CDs which won't be released to COP until satisfactory completion of stage 1 of the Filter Building Project. Schedule A, of the attached documentation, states that the City does not need the contractor's authorization to release these funds to complete the project.

FINANCIAL IMPACT: The City of Billings will lose interest earnings since the retainage will be Certificate of Deposits in COP Construction's name. The retainage for this project will be \$820,000. One year of interest earnings given the City had the total amount for one year, at 3% interest, would be \$24,600 in interest earnings.

RECOMMENDATION

Staff recommends that City Council approve the agreement between COP Construction and the City of Billings for Certificate of Deposits in lieu of cash.

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

ATTACHMENT:

A-Contract with COP construction

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

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Compensation Agreement for Private Contract No. 544--
Copper Ridge Subdivision, First Filing

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: In order to obtain city water and sanitary sewer service for their property, the Developers, Copper Ridge Development, LLC and Golden Acres Partners, LLC are extending water and sewer mains west in Rimrock Road past non-participating properties and across their frontage on Rimrock Rd.. Since City water and sewer service is not desired at the present time by any other property owner with frontage on Rimrock Rd., the Developers are paying the entire cost of the project. At such time that the City budgets the necessary funds into the Capital Improvements Plan (CIP), the Developers desire to be compensated for a portion of their utility construction costs. The Public Works Department (PWD) proposes that such compensation be accomplished through the attached Agreement.

FINANCIAL IMPACT: Based on actual cost data received to date for P-544, the PWD has determined that the cost attributable to the utilities portion of the contract and eligible to be recovered by the Developers is \$488,634.00. The extent and timing of the City's participation in the project costs is determined in conformance with the CIP approved by City Council.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreement. Compensation shall be based on final water and sewer utility construction costs.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

Attachment A--Compensation Agreement (8 pp.)

BACKGROUND

A 20-inch City water main exists in Rimrock Road as far west as the intersection at Molt Road, and a 24-inch City sewer main exists in Rimrock Rd. as far west as 62nd Street West. Since extensions of these local mains in Rimrock Rd. has not been scheduled into the approved City CIP, the Developers are extending them west to and then across their entire frontage in Copper Ridge Subdivision, First Filing.

Under the City Utilities Fees Practice (A.O. 84), the extent and timing of the City's participation in construction of local water and sewer mains (greater than 12 inches in size) is determined in conformance with the approved CIP. Developers desiring unapproved local main extensions are responsible for the cost to construct them, and compensation funds must be budgeted in the CIP.

Developers desiring interior main (12 inches and smaller in size) extensions are responsible for the cost of their fair share portion of improvements that front the development. In the case of the subject project, the City will participate in one-half the utilities costs in the section of Rimrock Rd. fronting the Developers' property since no one on the opposite side of the road is participating. The City will also compensate the Developers for all utilities costs in the section of Rimrock Road where there is no participating property on either side of the road. The PWD has been utilizing a standard Compensation Agreement as the mechanism by which Developers may be paid back as funds are budgeted in the CIP.

Under Item 4 in the attached Compensation Agreement, the City agrees that it will develop a plan under its current operating policies that will recommend that compensation be made for eligible water and wastewater facilities extended at the Developers' expense.

Based on actual cost data received to date for P-544, the PWD has determined that the cost attributable to the utilities portion of the contract and eligible for compensation back to the Developers is \$488,634.00. Actual final project costs will determine the exact compensation amount.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreement. Compensation shall be paid back to the Developers according to the schedule outlined in the approved CIP.

ATTACHMENT

Attachment A--Compensation Agreement (8 pp.)

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20_____
between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the “CITY”,
and _____ of _____
_____, hereinafter referred to as “DEVELOPER”.

W I T N E S S E T H

WHEREAS, the CITY’S Water/Wastewater Extension Policy outlines the procedure and criteria the CITY uses in approving extensions of the public water and wastewater systems; and

WHEREAS, the CITY’S Utilities Fees Practice outlines how the CITY participates in construction of various water and wastewater facilities and applies water and wastewater construction fees and system development fees to developments; and

WHEREAS, no person, developer, customer or applicant shall acquire any vested rights under the terms and provisions of this agreement; and

WHEREAS, DEVELOPER has agreed to extend or replace water and/or wastewater facilities for the purpose of providing service through plans and specifications approved by the City on the _____ day of _____, 20_____. Said plans and specifications generally provide for the construction of water and/or wastewater facilities which are specifically described in Exhibit 1, attached hereto; and

WHEREAS, DEVELOPER is desirous of obtaining compensation for a portion of the water and/or wastewater facilities hereafter described; and

WHEREAS, the CITY is desirous of compensating the DEVELOPER for a portion of such water and/or wastewater facilities.

NOW, THEREFORE, CITY and DEVELOPER, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

1. The water and/or wastewater facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.

2. With respect to DEVELOPER’S entitlement to compensation, the CITY and DEVELOPER agree that the conditions set forth hereinafter, must be met before DEVELOPER is entitled to or will receive any compensation. Said conditions are:

- (a) The extent, timing, and manner of the CITY'S participation in a water and/or wastewater facilities extension or replacement is determined in conformance with the CITY'S Water/Wastewater Extension Policy and the CITY'S Utilities Fees Practice. Extensions or replacements not eligible for compensation according to these CITY policies and practices must be constructed by the DEVELOPER at his expense.
- (b) DEVELOPER shall provide to the CITY sufficient verifiable cost data to determine the appropriate amount of compensation within thirty (30) days of final inspection of the water and/or wastewater facilities and approval and acceptance by the CITY that all construction was completed according to the approved plans and specifications.
- (c) DEVELOPER shall enter into a compensation agreement with the CITY at the time the CITY approves the DEVELOPER'S application for extension of water and/or wastewater facilities or, in the case of a replacement project, prior to submittal of preliminary plans and specifications by the DEVELOPER.
- (d) Upon completion of the extension or replacement of the water and/or wastewater facilities, the DEVELOPER must convey all right, title and interest in the facilities to the CITY.
- (e) DEVELOPER shall, at all times, provide to the CITY a current address for purposes of mailing compensation to DEVELOPER.
- (f) Extension or replacement of water and/or wastewater facilities must be done in compliance with all rules, regulations, resolutions and ordinances of the CITY, including but not limited to standards for design and construction of the facilities.

DEVELOPER agrees that it will not be entitled to any compensation whatsoever until the above conditions have been completely satisfied. DEVELOPER'S violation of any of the conditions set forth herein may, at the option of the CITY, result in denial of any and all compensation to the DEVELOPER.

3. In addition, it is expressly agreed that any compensation is conditioned upon the following:

- (a) Compensation is limited to costs attributable to water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the CITY. In no event will compensation exceed the actual cost to the DEVELOPER of extending or replacing the water and/or wastewater facilities.
- (b) Compensation shall not include any interest charges.

Acceptance of the water and/or wastewater facilities for purposes of compensation as set

forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the CITY and directed to the DEVELOPER at the address set forth in the first paragraph of this agreement.

4. The CITY, by this agreement, is not guaranteeing that full compensation by the CITY to the DEVELOPER will be made. The CITY is only agreeing that it will develop a plan under its Water/Wastewater Extension Policy and Utilities Fees Practice that will recommend that compensation for water and/or wastewater facilities which have been extended or replaced at the DEVELOPER'S expense will be made as set forth herein. Compensation does not apply to additional extensions or replacements of the water and/or wastewater facilities. Compensation shall be based upon the final total project costs.

5. The address for mailing compensation to the DEVELOPER shall be that address specified in the first paragraph of this agreement. Any change in address of the DEVELOPER shall be sent to the Public Works Director of the City of Billings at P.O. Box 1178, Billings, MT 59103. The designation of a new address shall be accompanied by a copy of this agreement.

6. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20____.

DEVELOPER

By _____

CITY OF BILLINGS

By _____
Mayor

ATTEST:

City Clerk

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

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
January 9, 2006

TITLE: Compensation and Reimbursement Agreements for Private Contract
No. 546--Tracts 1C-2 and 1D of C/S No. 1479 (Town Pump)

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: In order to obtain City sanitary sewer service for his property, the Developer, Daniel Kenneally, is extending an interior (8-inch) sanitary sewer main approximately 400 feet along the south side of King Avenue West. Since the City has not budgeted funds to share in the project costs and City sewer service is not desired at the present time by other property owners fronting the proposed main, the Developer is paying the entire cost. At such time that the City budgets funds into the Capital Improvements Plan (CIP) and the other property owners request service off this main, the Developer desires to recover eligible portions of the utility construction costs. The Public Works Department (PWD) proposes that compensation and reimbursement be accomplished under the attached Agreements.

FINANCIAL IMPACT: Tabulated bid cost data indicates a total sewer utility project cost of \$30,593.50; of this amount, PWD has determined that the Developer is eligible to recover half (\$15,296.75) from the City and \$10,526.84 from the two property owners to the east. The extent and timing of the City's participation in the project costs is determined according to the CIP approved by Council. Reimbursement fees paid to the City from individual property owners are accumulated and paid to the Developer annually on each November 1st following acceptance of the constructed utilities. Payments are limited to reimbursement fees paid to the City on or before the seventh anniversary of the date of acceptance.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreements. Reimbursement fees and compensation shall be based on actual final water and sewer utility construction costs. City payment shall be in accordance with the Council-approved CIP.

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

ATTACHMENT

Attachment A--Compensation and Reimbursement Agreements (10 pp.)

BACKGROUND

An 8-inch sewer main exists along King Ave. W. as far as approximately 45 feet west of Tract 2, Studer Acreage Tracts. The Developer is extending approximately 400 feet of sanitary sewer west across the frontage of two non-participating properties in order to obtain service.

Under the City Utilities Fees Practice (A.O. 84), Developers desiring interior main extensions are responsible for their fair share costs of improvements that front the development or are necessary to get service to the development. In the case of the subject project, the City will participate in one-half the interior main costs since the property on the other side of King Ave. W. already has sewer service from another City main. Since the tabulated bid cost data for the sewer utility portion of P-546 is \$30,593.50, the Developer may recover \$15,296.75 from the City. The PWD has been utilizing a Compensation Agreement as the mechanism by which Developers may be paid back by the City as funds are budgeted into the CIP.

Two non-participating properties to the east will likely obtain future service by tapping individual service connections off the new main. Total frontage of all three lots ultimately to be served by this project is 616.66 feet. Since the two non-participating properties have 424.37 feet of combined frontage, their fair share of the remaining \$15,296.75 of project cost amounts to \$10,526.84 in reimbursement fees paid back to the Developer through the City.

The PWD has been utilizing a standard Reimbursement Agreement as the mechanism by which Developers may be paid back over time as additional properties connect directly to utility mains constructed by the original Developer. Under Item 3.B. in the attached Reimbursement Agreement, reimbursement fees paid to the City are to be accumulated and paid-back to the Developer annually on each November 1st following acceptance of the utility installation; in addition, payments are limited to reimbursement fees paid to the City on or before the seventh anniversary of the date of acceptance.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreements. Compensation and reimbursement shall be based on actual water and sewer utility construction costs. Compensation shall be paid in accordance with the Council-approved CIP.

ATTACHMENT

Attachment A--Compensation and Reimbursement Agreements (10 pp.)

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20_____
between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the “CITY”,
and _____ of _____
_____, hereinafter referred to as “DEVELOPER”.

W I T N E S S E T H

WHEREAS, the CITY’S Water/Wastewater Extension Policy outlines the procedure and criteria the CITY uses in approving extensions of the public water and wastewater systems; and

WHEREAS, the CITY’S Utilities Fees Practice outlines how the CITY participates in construction of various water and wastewater facilities and applies water and wastewater construction fees and system development fees to developments; and

WHEREAS, no person, developer, customer or applicant shall acquire any vested rights under the terms and provisions of this agreement; and

WHEREAS, DEVELOPER has agreed to extend or replace water and/or wastewater facilities for the purpose of providing service through plans and specifications approved by the City on the _____ day of _____, 20_____. Said plans and specifications generally provide for the construction of water and/or wastewater facilities which are specifically described in Exhibit 1, attached hereto; and

WHEREAS, DEVELOPER is desirous of obtaining compensation for a portion of the water and/or wastewater facilities hereafter described; and

WHEREAS, the CITY is desirous of compensating the DEVELOPER for a portion of such water and/or wastewater facilities.

NOW, THEREFORE, CITY and DEVELOPER, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

3. The water and/or wastewater facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.

4. With respect to DEVELOPER’S entitlement to compensation, the CITY and DEVELOPER agree that the conditions set forth hereinafter, must be met before DEVELOPER is entitled to or will receive any compensation. Said conditions are:

- (a) The extent, timing, and manner of the CITY'S participation in a water and/or wastewater facilities extension or replacement is determined in conformance with the CITY'S Water/Wastewater Extension Policy and the CITY'S Utilities Fees Practice. Extensions or replacements not eligible for compensation according to these CITY policies and practices must be constructed by the DEVELOPER at his expense.
- (b) DEVELOPER shall provide to the CITY sufficient verifiable cost data to determine the appropriate amount of compensation within thirty (30) days of final inspection of the water and/or wastewater facilities and approval and acceptance by the CITY that all construction was completed according to the approved plans and specifications.
- (c) DEVELOPER shall enter into a compensation agreement with the CITY at the time the CITY approves the DEVELOPER'S application for extension of water and/or wastewater facilities or, in the case of a replacement project, prior to submittal of preliminary plans and specifications by the DEVELOPER.
- (d) Upon completion of the extension or replacement of the water and/or wastewater facilities, the DEVELOPER must convey all right, title and interest in the facilities to the CITY.
- (e) DEVELOPER shall, at all times, provide to the CITY a current address for purposes of mailing compensation to DEVELOPER.
- (f) Extension or replacement of water and/or wastewater facilities must be done in compliance with all rules, regulations, resolutions and ordinances of the CITY, including but not limited to standards for design and construction of the facilities.

DEVELOPER agrees that it will not be entitled to any compensation whatsoever until the above conditions have been completely satisfied. DEVELOPER'S violation of any of the conditions set forth herein may, at the option of the CITY, result in denial of any and all compensation to the DEVELOPER.

4. In addition, it is expressly agreed that any compensation is conditioned upon the following:

- (c) Compensation is limited to costs attributable to water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the CITY. In no event will compensation exceed the actual cost to the DEVELOPER of extending or replacing the water and/or wastewater facilities.
- (d) Compensation shall not include any interest charges.

Acceptance of the water and/or wastewater facilities for purposes of compensation as set

forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the CITY and directed to the DEVELOPER at the address set forth in the first paragraph of this agreement.

4. The CITY, by this agreement, is not guaranteeing that full compensation by the CITY to the DEVELOPER will be made. The CITY is only agreeing that it will develop a plan under its Water/Wastewater Extension Policy and Utilities Fees Practice that will recommend that compensation for water and/or wastewater facilities which have been extended or replaced at the DEVELOPER'S expense will be made as set forth herein. Compensation does not apply to additional extensions or replacements of the water and/or wastewater facilities. Compensation shall be based upon the final total project costs.

5. The address for mailing compensation to the DEVELOPER shall be that address specified in the first paragraph of this agreement. Any change in address of the DEVELOPER shall be sent to the Public Works Director of the City of Billings at P.O. Box 1178, Billings, MT 59103. The designation of a new address shall be accompanied by a copy of this agreement.

6. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20____.

DEVELOPER

By _____

CITY OF BILLINGS

By _____
Mayor

ATTEST:

City Clerk

REIMBURSEMENT AGREEMENT
(Billings, Montana City Code Article 26-500)

THIS AGREEMENT entered into this _____ day of _____, 20_____, between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the "CITY", and _____ of _____, hereinafter referred to as "DEVELOPER".

W I T N E S S E T H

WHEREAS, Article 26-500 Billings, Montana City Code provides a procedure for certain developers to be reimbursed for a portion of the costs constructing special benefit facilities under certain circumstances; and

WHEREAS, no person, developer, customer or applicant shall acquire any vested rights under the terms and provisions of this agreement or Article 26-500 BMCC; and

WHEREAS, DEVELOPER has agreed to extend a special benefit facility for the purpose of providing water and/or wastewater service through plans and specifications approved by the City on the _____ day of _____, 20_____. Said plans and specifications generally provide for the construction of special benefit facilities which are specifically described in Exhibit 1, attached hereto; and

WHEREAS, DEVELOPER is desirous of obtaining reimbursement for a portion of the special benefit facilities hereafter described; and

WHEREAS, the CITY is desirous of reimbursing the DEVELOPER for a portion of such special benefit facilities.

NOW, THEREFORE, CITY and DEVELOPER, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

5. The special benefit facilities which are eligible for reimbursement to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.

6. With respect to DEVELOPER'S entitlement to reimbursement, the CITY and DEVELOPER agree that the conditions specified in Section 26-504 BMCC, and the further conditions set forth hereinafter, must be met before DEVELOPER is entitled to or will receive

any reimbursement. Said conditions are:

- (a) Special benefit facilities, off-site or perimeter, which front and abut property not owned by the DEVELOPER, must be extended by the DEVELOPER at his expense. Costs of special benefit facilities which are financed through special improvement districts shall not be reimbursed.
- (b) The extension of special benefit facilities must be for the purpose of serving property located within the corporate limits of the City. Costs of extension of special benefit facilities to serve property outside the City limits shall not be reimbursed.
- (c) Total project costs for the extension of the special benefit facilities must be at least ten thousand dollars (\$10,000.00).
- (d) DEVELOPER shall provide to the CITY sufficient verifiable cost data to determine the appropriate reimbursement fee to be charged to prospective customers under Section 26-503 BMCC within thirty (30) days of final inspection of the special benefit facilities and approval and acceptance by the CITY that all construction was completed according to the approved plans and specifications.
- (e) DEVELOPER shall enter into a standard reimbursement agreement with the CITY at the time the CITY approves the DEVELOPER'S application for extension of special benefit facilities.
- (f) Upon completion of the extension of the special benefit facilities, the DEVELOPER must convey all right, title and interest in the facilities to the CITY.
- (g) DEVELOPER shall, at all times, provide to the CITY a current address for purposes of mailing reimbursement payments to DEVELOPER.
- (h) Extension of special benefit facilities must be done in compliance with all rules, regulations, resolutions and ordinances of the City, including but not limited to standards for design and construction of the facilities.

DEVELOPER agrees that it will not be entitled to any reimbursement whatsoever until the above conditions have been completely satisfied. DEVELOPER'S violation of any of the conditions set forth herein or in Article 26-500, Billings, Montana City Code may, at the option of the City, result in denial of any and all reimbursement to the DEVELOPER.

5. In addition, it is expressly agreed that any reimbursement payment is conditioned upon the following:

- (e) Reimbursements are payable solely from revenues derived from payment of reimbursement fees as established in Article 26-500 BMCC. Reimbursement

payments are limited to reimbursement fees actually collected for connections with the special benefit facilities described in Exhibit 1, less all administrative costs incurred by the CITY. In no event will reimbursement payments exceed the actual cost to the DEVELOPER of extending the special benefit facilities.

- (f) Reimbursement fees paid to the CITY shall be accumulated and paid to the DEVELOPER annually on each November 1st following acceptance of the special benefit facilities by the CITY beginning on November 1, 20____, and ending on November 1, 20____.
- (g) Reimbursement payments shall not include any interest charges.
- (h) Reimbursement payments to the DEVELOPER shall be limited to reimbursement fees paid to the CITY on or before the seventh anniversary of the date of acceptance by the CITY of the special benefit facilities described in Exhibit 1 attached hereto. Any reimbursement fees paid to the CITY after said anniversary date shall be retained by the CITY and used for construction of additional water and/or wastewater system facilities.

Acceptance of the special benefit facilities for purposes of reimbursement as set forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the city and directed to the DEVELOPER at the address set forth in the first paragraph of this agreement.

4. The CITY agrees that it will require prospective customers owning property located outside a DEVELOPER'S subdivision and desiring to connect a service line or lines to any special benefit facilities which has been extended at the DEVELOPER'S expense to pay a reimbursement fee to the CITY in compliance with Section 26-503 BMCC.

5. The CITY, by this agreement, is not guaranteeing that reimbursement fees in a sufficient amount to fund full reimbursement to the DEVELOPER will be collected within the seven-year period. The CITY is only agreeing that it will develop a plan under Section 26-503 BMCC that will assure that prospective customers owning property located outside a DEVELOPER'S subdivision and desiring to connect a service line or liens to the special benefit facility described in Exhibit 1, which has been extended at the DEVELOPER'S expense, shall pay a fee and said fee shall be distributed as set forth herein. This fee applies only to connections and does not apply to additional extensions of the special benefit facility. The fee to be charged said prospective customers shall be based upon the final total project costs and _____

_____.

(basis for assessment – square foot or lineal footage)

6. The address for mailing the reimbursement payment to the DEVELOPER shall be that address specified in the first paragraph of this agreement. Any change in address of the DEVELOPER shall be sent to the Public Works Director of the City of Billings at P.O. Box 30958, Billings, MT 59111. The designation of a new address shall be accompanied by a copy of this agreement.

7. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20____.

DEVELOPER

By:_____

CITY OF BILLINGS

By:_____
Mayor

ATTEST:

By:_____
City Clerk

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E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Vehicle Lease Agreement with Laurel Ford for Laurel Police Dept. participation in the HIDTA Task Force.

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Interim Chief of Police

PROBLEM/ISSUE STATEMENT: The Laurel Police Department has one officer who is a member of the High Intensity Drug Traffic Area (HIDTA) Task Force. He is in need of a vehicle in order to do his undercover work. The Billings Police Department is the host agency for HIDTA. Laurel Ford has agreed to lease the City of Billings one vehicle for the officer's use, which will be paid for with HIDTA funds. In 2003, the Deputy City Attorney prepared an "Interlocal Agreement between the City of Billings and the City of Laurel" since the City of Laurel wants to participate in the HIDTA Task Force, but cannot afford a car for the officer. This Interlocal Agreement is valid for a period of 5 years, through December 7, 2008. Laurel Police Department will provide the officer and the City of Billings will provide for the vehicle lease. If any damage occurs to the vehicle, the City of Laurel will reimburse the City of Billings for any damages.

FINANCIAL IMPACT: The cost of leasing one vehicle is \$350 per month. For the 12 month period, the cost will be \$4,200 which will be paid for by the 2006 HIDTA award.

RECOMMENDATION

Staff recommends Council approval of the attached 12 month automobile lease agreement with Laurel Ford.

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

ATTACHMENT

A - Lease Agreement with Laurel Ford
B - Interlocal Agreement

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: W.O. 04-33 – Lake Elmo Road Right of Way Acquisition, Contract for Professional Right-of-Way Services

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Road improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five phase plan to complete street improvements of Lake Elmo Road between Main Street and Pemberton Lane. The existing right of way between Hilltop and Wicks is too narrow to allow the needed street improvements. Therefore, it will be necessary to acquire right of way from approximately 78 parcels along this one mile length of street. To that end, Public Works developed a Request for Proposals (RFP) for right of way acquisition. The Engineering Division was not able to agree on a scope and fee with the top-ranked proposing firm, and terminated negotiations when they reached an impasse. Staff then initiated scope and fee negotiations with the next firm, Right of Way Acquisition Group, LLC (ROWAG), and presents this contract for Council approval. A copy of the contract is on file with the City Clerk.

ALTERNATIVES ANALYZED:

- Award the Contract for Professional Services to Right of Way Acquisition Group, LLC (Estimated right-of-way acquisition completion date of January 2007)
- Not award the contract and perform the right-of-way acquisition in-house. (Unknown completion date due to the large number of parcels involved. Costs for title memos and appraisals (\$103,600) would still need to be incurred.)

FINANCIAL IMPACT: The cost of right-of-way acquisition services is \$222,550. The project funding (for design, right-of-way, and construction) is as follows:

<u>CIP Project ENG R014 Lake Elmo Road – Hilltop Road to Wicks Lane</u>			
FY 2005	\$ 50,000	FY 2007	\$ 210,000
FY 2006	\$ 228,375	FY 2008	\$2,264,050
		Total	\$2,752,425

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with the Right of Way Acquisition Group, LLC for \$222,550.

Approved By: City Administrator City Attorney

INTRODUCTION

Lake Elmo Road improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five phase plan to complete street improvements of Lake Elmo Road between Main Street and Pemberton Lane. The street improvements are anticipated to include full depth street reconstruction, curb & gutter, sidewalks, some type of multi-use facility, accessibility ramps, crosswalks, and storm drain improvements. The existing right of way between Hilltop and Wicks is too narrow to allow these necessary street improvements. The typical existing right of way width along this stretch is 60 feet with portions narrower and some portions wider. It will be necessary to acquire right of way from approximately 78 parcels along this one-mile length of street. To that end, Public Works developed a Request for Proposals (RFP) for right of way acquisition, and Staff has developed a proposed contract with the Right of Way Acquisition Group, LLC (ROWAG).

PROCEDURAL HISTORY

Completed Items

- October 28, November 4, and November 11, 2004 – RFP advertisement dates
- November 16, 2004 – Proposals received by the Engineering Division
- December 2004 to August 2005 – Unsuccessful negotiations with Kadrmas, Lee & Jackson for right of way (ROW) acquisition services scope of work and fee
- September 2005 – Initiated negotiations with Right of Way Acquisition Group, LLC for ROW scope of work and fee

Future Items

- January 9, 2006 – Award of Contract for Professional Services for Right of Way Acquisition (**this memo**)
- January 23, 2006 – Award of Contract for Professional Services for Land Surveying services related to right of way acquisition
- Spring of 2006 – Public meeting with property owners affected by right of way acquisition
- January 2007 – Estimated completion of right of way acquisition
- 2007 – Design and construction

BACKGROUND

Lake Elmo Road improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five phase plan to complete street improvements of Lake Elmo Road between Main Street and Pemberton Lane. The five phases and their improvement status are as follows:

Phase

Phase I – Wicks Lane to Angel Drive
Phase II – Main Street to Hansen Lane

Status

Completed in 1999.
Project opened bids in Sept 2005. Bids exceeded the project budget. Re-scoping to re-bid.
Right of way acquisition (**this memo**)
Right of way acquisition (**this memo**)

Phase III – Sioux Lane to Wicks Lane
Phase IV – Hilltop Road to Rice Lane

Phase V – Angel Drive to Pemberton Lane Not scheduled in the 2006-2011 CIP

The scope of work for this right of way acquisition project includes obtaining title memos outlining legal ownership and easement encumbrances of record, developing appraisals for the partial takings (required to be prepared by a licensed general appraiser under state law), preparing right of way agreement and deed documents, and negotiating the acquisitions for approximately 78 different parcels. This scope of work is too extensive for staff to handle in a timely manner, and staff does not have the expertise to do either the title memos or the appraisals. As a consequence, staff decided to seek the help of a qualified consultant for this project.

Staff concurrently advertised two Requests for Proposals (RFP) for right of way acquisition services for Bench Boulevard and Lake Elmo Road. One firm, Kadrmas, Lee & Jackson (KLJ), submitted a proposal for Lake Elmo only, and the Right of Way Acquisition Group, LLC (ROWAG) submitted proposals for both Bench and Lake Elmo. Because both projects entailed acquisition of a large number of parcels (75+ parcels for Lake Elmo and 100+ parcels for Bench), it was felt that each firm had the ability to do one project. Therefore, KLJ was chosen for Lake Elmo and ROWAG was chosen for Bench. Negotiations for scope and fee were initiated for both projects. The Engineering Division was not able to reach agreement on a scope and fee with KLJ and terminated negotiations when they reached an impasse. Bench Boulevard received a federal appropriations earmark in the latest highway bill which greatly expanded the scope of that project, so negotiations for right of way acquisition on Bench were terminated with ROWAG. When the federal earmark is in hand, the Bench Boulevard project will be administered through MDT, and the right of way acquisition will follow the MDT process. Consequently, Staff initiated scope and fee negotiations with ROWAG for Lake Elmo right of way acquisition, and this contract is the product of those negotiations.

Staff is recommending that Council approve the contract that has been prepared. If approved, it is expected that the consultant will start work immediately upon contract signing. It is anticipated that right of way acquisition for this project would be completed by January 2007.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with the Right of Way Acquisition Group, LLC for \$222,550.

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G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: CONTRACT – Wireless Enhanced 9-1-1 Services and Emergency Preparedness Network Service

DEPARTMENT: Fire

PRESENTED BY: Marv Jochems, Fire Chief

PROBLEM/ISSUE STATEMENT: The 9-1-1 Center currently does not receive location and call-back number information from cellular 9-1-1 callers. In order to receive enhanced information from cellular callers, our local exchange carrier (QWEST) must reconfigure incoming and outgoing ports in the selective router and stream individual wireless carrier information into the 9-1-1 Center. Wireless carriers are federally mandated to make enhanced 9-1-1 features available and there is a strong public expectation that local government will be prepared to accept location data from cellular telephones. Additionally, QWEST provides a reverse 9-1-1 system that will allow public safety officials to contact all wire-line phone holders in Yellowstone County and provide emergency information via a recorded message.

In October, 2005, the Joint City-County 9-1-1 Advisory Board approved a motion to enter into a contract with the local exchange carrier for wireless E-9-1-1 services and the Emergency Preparedness Network Service using 9-1-1 Grant funds and to amend the 9-1-1- Plan with the State of Montana to reflect this expenditure.

FINANCIAL IMPACT: Funding from the State of Montana 9-1-1 Grant.

RECOMMENDATION

Staff recommends that Council approve the staff recommendation to enter into a contract with QWEST Communications to provide location and call-back number information from cellular callers and reverse 9-1-1 services for wire-line customers for a one-time set up charge of \$25,615.85 and monthly charges in the amount of \$3,953.12.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: CTEP Project Specific Agreement – Highland School Sidewalks

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The City of Billings submitted a Montana Department of Transportation (MDT) Community Transportation Enhancement Project (CTEP) grant funding application for the Highland School Sidewalks project in 2004. This project will construct sidewalks and associated public improvements along 11th Street West, O’Malley Drive, and Azalea Lane between Poly Drive and Delphinium Drive. The Highland School Sidewalks project was approved through the local selection process and approved by MDT. The Project Specific Agreement represents the formal agreement between the City and MDT for the project’s scope, funding and federal aid compliance. Council must authorize the Mayor to execute a Project Specific Agreement for Highland School Sidewalks to begin project development. The Project Specific Agreement is on file with the City Clerk’s office.

ALTERNATIVES ANALYZED:

- Approve the CTEP Project Specific Agreement.
- Do not approve the CTEP Project Specific Agreement. This would result in the loss of CTEP funding for this project.

FINANCIAL IMPACT: The approved funding breakdown for this project is as follows:

CTEP Grant	\$ 40,000
Storm Drain	\$ 10,000
Property Assessments	\$ 50,000
Gas Tax	\$ 45,000
Total Funds Available	\$145,000

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for Highland School Sidewalks (Federal aid project STPE 1099(48)).

Approved By: City Administrator ____ City Attorney ____

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

SUBJECT: Automated Telephone System Contract Award

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: The City of Billings Municipal Court fields hundreds of customer calls per day. Many calls involve routine questions regarding bond amounts, fine amounts, appearance dates and requests to reschedule. The majority of these inquiries could be handled in an expedited manner by an automated telephone system. Such automation would save citizens time spent on hold or waiting for return calls, and would allow staff members more time to assist callers whose questions are more complex.

ALTERNATIVES ANALYZED: Council may choose to APPROVE the committee's recommendation to award the automated phone system contract to DialPro Northwest, or Council may DECLINE the committee's recommendation and require the committee to advertise another RFP.

FINANCIAL IMPACT: This item was approved by Council in the FY06 budget.

RECOMMENDATION

Staff recommends that Council approve the request to allow the mayor to award a contract in the amount of \$74,120.00 to DialPro Northwest to provide an automated phone system for the City of Billings Municipal Court.

Approved By: City Administrator City Attorney

ATTACHMENTS

A – Legal Advertisement

B – Request for Proposal

C – Cost Matrix for Automated Phone System

INTRODUCTION

Staff recommends that Council approve the request to allow the mayor to award a contract in the amount of \$74,120.00 to DialPro Northwest to provide an automated phone system for the City of Billings Municipal Court.

PROCEDURAL HISTORY

- Request submitted to include funds in the amount of \$77,029.00 in the FY06 budget to purchase an automated phone system for the City of Billings Municipal Court.
- Legal Advertisement published November 17, 2005 in the *Billings Gazette* and the *Billings Times*.
- Legal Advertisement published November 24, 2005 in the *Billings Gazette* and the *Billings Times*.
- Request for Proposal #CV11102005 published on the City of Billings website.
- Request for Proposal #CV11102005 sent directly to three vendors.
- This matter should have been brought to a Council meeting in the month of December with a request to postpone the award while the committee continued negotiations. The committee was not aware that such a request should have been made.
- Contract is currently being reviewed by the City Attorney and the legal department for DialPro Northwest. The final contract will be submitted for the Mayor's signature following approval from each.

BACKGROUND INFORMATION

The City of Billings Municipal Court is the largest of the five municipal courts in the state of Montana. On average, 30,000 cases per year are filed in this court. In each matter filed, a number of parties may become involved or interested in various aspects of the case. As a result, the Court receives an overwhelming number of telephone calls requesting information including, but not limited to, court appearance dates, outcomes, referrals to sentencing agencies, fines, bonds, time payment schedules, incarceration and release dates. A large number of the calls received daily could be effectively answered by an automated telephone system. The proposed system allows the caller to inquire about payment amounts and dates due, account balances and scheduled appearance dates. The system would also enable callers to reschedule an initial appearance if necessary, or to make a payment on a time-pay bond or fine account. A special menu will be available for our citizens serving as jurors. This menu will allow jurors to report whether or not they are available on the date summoned, and to provide a reason for any request for excuse from service. This automated information system will be accessible to callers 24 hours per day, making it more convenient for citizens to receive the information they seek from the court. Further, it is anticipated that the information gathered from the automated system will be interfaced with the court's case management system, which will assist in the conservation of limited staff resources.

SUMMARY

The implementation of an automated telephone information system will enable the court to provide enhanced customer service to the citizens of Billings by providing service in an expedited manner to those who call for information. The system will also provide a measure of relief to the staff assigned to assist these callers.

RECOMMENDATION

Staff recommends that Council approve the request to allow the mayor to award a contract in the amount of \$74,120.00 to DialPro Northwest to provide an automated phone system for the City of Billings Municipal Court.

Request for Proposal

For

City of Billings Court Automation System

Request For Proposal
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Section 1: General Information

City Of Billings

Request For Proposal (RFP) - NUMBER CV11102005

THE ABOVE NUMBER MUST APPEAR ON ALL PROPOSALS AND RELATED CORRESPONDENCE.

THIS IS NOT AN ORDER

RESPOND NO LATER THAN December 5, 2005 5:00PM	RFP INITIATIVE: City of Billings Court Automation System	All suppliers must respond in detail to each element of this RFP in order to be considered for contract award.
Bidder Name:		<p>SEND ALL CORRESPONDENCE TO THE CONTACT BELOW</p> <p>City Of Billings P.O. Box 1178 210 North 27th Street Billings, MT 59103 Christine Varnai Purchasing Agent Email: varnaic@ci.billings.mt.us</p> <p>PHONE: 406-657-8216 FAX: 406-247-8608</p>

Section 2: Objectives

Introduction and Objectives

This RFP is issued by City of Billings for the purpose of obtaining information and pricing regarding a Court Automation System. It is the intent of the City of Billings to review and assess the RFP responses to determine if the response from solicited suppliers can meet the needs of the City of Billings.

Suppliers are expected to provide their best and most competitive bid.

Disclaimer

This RFP does not form or constitute a contractual document. The City of Billings shall not be liable for any loss, expense, damage or claim arising out of the advice given or not given or statements made or omitted to be made in connection with this RFP. The City also will not be responsible for any expenses which may be incurred in the preparation of this RFP.

Section 3: Information for Suppliers

Instructions to Bidders

EXAMINATION OF DOCUMENTS

Before submitting the proposals, the bidder shall:

- (a) Carefully examine the Standards and Specifications as well as all other attached documents;
- (b) Fully inform yourself of the existing conditions and limitations;
- (c) Include with the bid sufficient information to cover all items required in the specifications.

BID COMPLIANCE

It shall be the responsibility of the bidder to see that all bids are submitted in a sealed envelope to the office of the City Clerk at City Hall, 210 North 27th Street Billings, Montana 59101, or PO Box 1178, Billings, Montana 59103 before 5:00 PM on **Monday, December 5, 2005**.

Three copies of the proposals should be mailed to address on page three (3) with the price schedule in a separate sealed envelope.

Section 3: Information for Suppliers (cont.)

BID BOND

Each bid must be accompanied by security/bid bond made payable to the City of Billings. The security shall be 10% of the cost of the minimum proposed service for one year in one of the following forms:

- a) a bid bond from a surety company authorized to do business in the State of Montana; or
- b) lawful money of the United States or
- c) a cashier's check, certified check, bank money order, certificate of deposit, or money market certificate, bank draft drawn or issued by any banking corporation incorporated under the laws of the State of Montana or by a national banking association located in Montana.

The City will have the right to retain the Security of bidders until either (1) a contract has been executed, or (2) all bids have been rejected.

The successful bidder may be required to provide a performance bond made in favor of the City of Billings in an amount equal to twenty five percent (25%) of the cost of the minimum proposed service for one year prior to the execution of the contract.

BID PROPOSAL MODIFICATIONS

Proposals shall be made on the forms provided herein; they shall not contain any recapitulation of the work to be done. Modifications, additions or changes to the terms and conditions of this invitation to bid may be cause for rejection of the bid. Bids submitted on other forms may be rejected. No oral, telephone, or telegraphic bids or modifications will be considered

CERTIFICATION OF ALTERATION OR ERASURE

A bid shall be rejected should it contain any material alteration or erasure, unless, before the bid is submitted each such alteration or erasure has been initialed in INK by the authorized agent signing the bid.

SIGNATURE

All bids shall be typewritten or prepared in ink and must be signed in longhand by the bidder or bidder's agent or designee, with his/her usual signature. A bid submitted by a partnership must be signed with the partnership name to be followed by the signature and designation of the partner signing. Bids by corporations must be signed with the legal name of the corporation, followed by the name and signature of an authorized agent or officer of the corporation. Bids submitted by a proprietorship must be signed by the owner-and the name of each person signing shall be typed or printed legibly below the signature.

Section 3: Information for Suppliers (cont.)

WITHDRAWAL OF BIDS

Bidders may withdraw their bid either personally or by written request at any time prior to the time set for bid opening. No bid may be withdrawn or modified after the time set for opening, unless and until the award of the contract is delayed for a period exceeding thirty (30) days.

CERTIFICATION

The bidder certifies that the bid has been arrived at by the bidder independently and has been submitted without any collusion designed to limit independent bidding or competition. The bidder further certifies that the materials, products, services and/or goods offered herein meet all requirements of the stated specifications and are equal in quality, value and performance with highest quality, nationally advertised brand and/or trade names.

Questions

Questions regarding the Request for Bid Proposal contents may be sent to the Purchasing Agent via email no later than 4 business days prior to due date for bids. The City Of Billings will make every effort to provide a written response within 2 business days. Whenever responses to inquiries would constitute a modification or addition to the original RFB, the reply will be made in the form of an addendum to the Request for Bid Proposal, a copy of which will be forwarded to all Suppliers.

Supplier must submit their questions using the "Master Q & A" form found in Attachment D.

- Supplier's name, requester, and appropriate contact information.
- Clearly state the question and Request for Bid section.
- Specific reference to the applicable Request for Bid section(s).

RFP Submission

Upon the submission of the RFP response, the supplier acknowledges that all information is accurate and complete. Section 4: RFP Evaluation and Selection Processes In addition, please send three (3) hard copies via mail to the point of contact listed in Section I.

Section 4: RFP Evaluation and Selection Processes (cont.)

RFP Process Timeline	Dates
• RFP/legal ad done	11/15
• Advertise 11/17 & 11/24	
• Bids due	12/5
• Evaluate and choose 12/9	12/6 -
• Preliminary Council memo due 12/22	
• Finalized Council memo and contract due 12/29	
• Council meeting	1/9

Initial Evaluation

Proposals received will undergo an initial review to determine:

- Compliance with instructions stated in the RFP
- Compliance with proposal submittal date

Section 5: Scope of Work

Summary

The City of Billings is seeking an application to assist the Municipal Court in handling hundreds of incoming calls received on a daily basis. Currently, all incoming calls are handled by staff. It is anticipated that many callers could use a self-service phone solution to answer their case-related questions or respond to Municipal Court summons for jury duty.

I Commercial Requirements

- ❖ Length of Supply Contract- One year with option for renewal of two additional years
- ❖ Effective Date of Pricing-Upon signing of contract

II Technology, Service, Reporting Requirements

- ❖ Service Areas for Municipal Court:
 - Arraignment Rescheduling
 - Individuals cited into Municipal Court are assigned an arraignment date. Requests to reschedule are frequent. The Municipal Court is seeking an application that will allow customers to call into the system, enter their ticket number and be given an option to verify and/or request to change their arraignment date. The application will need to interface

Phase II Evaluation

The evaluation of supplier's proposals may include, but is not limited to, the following criteria:

- Price
- Experience of Supplier with goods/services required by the City of Billings
- Capacity to assume new business
- Perceived ability to meet the City of Billings requirements
- Total Cost Competitiveness
- Availability (timetable) for providing goods and/or services
- Breadth of services available
- Company's financial stability
- Ongoing support
- Reporting capability
- Quality Control Process
- Process Improvements
- Training
- Compliance with the City of Billings Terms and Conditions

City of Billings reserves the right to evaluate the perceived advantages and disadvantages of the proposed solutions and to choose the solution that best fits their needs. The selected solution may or may not be the one with the lowest price.

from Justice Systems (Full Court) application.

- Payment Inquiry
 - Municipal Court receives a large number of calls from customers requesting information about fines or bond amounts. The Court is seeking an application that will allow customers to call into the system, enter their ticket or docket number and be presented with a variety of options including bond amounts, payment by credit card, current balance and minimum payment inquiry, or reschedule payment due dates. The application will need to interface with an Oracle database from Justice Systems (Full Court) application.
- Jury Duty Confirmation
 - Municipal Court summons approximately 400 jurors per month. The Court is seeking an application that will allow jurors to call into the system and enter their unique juror number to be presented with several options. The primary purpose of this solution is to determine juror eligibility for the date requested. Jurors would indicate whether or not they are available for the date summoned. If unavailable or requesting excuse, the system would collect data regarding the reason the excuse is requested, i.e. medical issue/illness, work-related, out of town, or other. All responses would be separated and categorized to promote ease in responding. If the scheduled proceeding is canceled or rescheduled, the system will give the juror the most up to date information. Additionally, the Court seeks a system with “call-out” capability to place customized reminder calls to prospective jurors and notify them that the trial is on schedule, or to advise that the trial has been canceled or rescheduled. The application will need to interface with an Oracle database from Justice Systems (Full Court) application.

Section 5: Scope of Work (cont.)

- ❖ Technology-City of Billings system
- The City of Billings utilizes a Nortel Option 61 C PBX, an Avaya Octel 200 Voice Mail System and a Windows Octel Access Server. The data network utilizes Microsoft Windows 2000 and Active Directory. The city utilizes Microsoft Internet Information Server for its web server. Municipal Court utilizes a Court Management system developed and provided by Justice Systems (Full Court) which uses an Oracle database.
- The City has two alternatives to consider for a Court Automation System solution. One alternative is to leverage the current Octel Messaging platform and design an application that will utilize the current Octel

system(s). The current configuration of the Octel is: 1 Octel 200 Serenade Release 4.1.0-2 with 10 ports and 4 fax ports, 1 Octel Access Server running on Windows NT but planned to be upgraded to Windows 2000. The second alternative is to install a new "stand-alone" system that will interface with the existing Nortel PBX, Octel Voice Mail and Municipal Court "Full Court" system.

- ❖ Technology-Application Development
 - The application design environment must be open
 - Multiple vendors' technologies must be able to be combined to create integrated solutions
 - Applications code developed for one application can be re-used for a different, related application
 - Customers must be able to design their own applications
- ❖ Technology-User Interaction
 - User message and profile information must be made available to applications
 - Users must be able to access multiple software applications from their mailboxes or from other applications
- ❖ Technology-Software Development
 - Custom applications can be designed by trained third-party developers
- ❖ Technology-Security of System
 - Password restriction must be supported
 - The software applications must be able to be restricted to users only
 - The software application source code must be protected
- ❖ Technology-Product Capabilities
 - Usage-based licensing must be available
 - If necessary, the application server can be located remotely from the message server
 - The server and applications can be administered remotely
 - Application prompts must be able to be backed up
 - The application environment must support remote access to diagnose problems and modify applications
 - The application server must allow application modification or update without taking the system out of service
 - The application server must recover from a partial or total system interruption without System Administrator intervention

Section 5: Scope of Work (cont.)

- ❖ Technology- Non-Octel “Stand-alone” Application/System
 - The solution must be modular, enabling growth and enhancement to be supported without replacement of major system elements.
 - The solution must be scalable, in order to support ease of system expansion as our needs to support additional system telephone ports arise
 - The solution must be flexible- in order to support our rapidly changing needs
 - The solution must be resilient- in order to ensure reliable service to our customers
- ❖ Technology-System Capabilities
 - Callers must have the ability to zero out at any time and be returned to the main telephone system where they can be connected to a Municipal Court staff-member or voice mail.
- ❖ Implementation-Please provide implementation plan
- ❖ Reporting Requirements-Monthly Usage Reports
- ❖ Services areas can be added on an as needed basis

III Quality, Performance, and Satisfaction

- ❖ It is imperative that customers have the option to press zero from any application during business hours to be connected to an operator or to leave a message.
- ❖ Customer Satisfaction Survey- As needed
- ❖ Customer service-System Maintenance as requested
- ❖ Provide one central toll free number to call for emergency purposes

ATTACHMENT A

VALIDATION QUESTIONS FOR SUPPLIER

GENERAL INFORMATION

1) Company Name

Address:

Contact Name:

Contact Phone:

Contact Email:

2) Company Website/URL:

3) How many facilities/locations do you have in the U.S? Please list

4) How many years has your company been doing business under this name?

5) Total Full-Time Employees

6) Do you have Small Business Administration Status? If yes, can you provide documentation?

7) Total Sales for 2002, 2003, 2004 (Optional: Please attach audited financial statements)

8) What are your standard payment terms?

9) References-Please provide the City of Billings with three company references

- i. New Company (started doing business with them in the past 12 months)
- ii. Retained Company (have been doing business with them for 3 + years)
- iii. Former Company (contract terminated in the past 2 years)

Please attach a word document with all contact information for your references.

10) Can you provide a statement and meet the City of Billings minimum insurance requirements of \$750,000 per claim and \$1,500,000 per occurrence, and the City being named as an additional insured.

FUNCTIONALITY

- 1) Describe the connectivity between the Octel message server and the application server
- 2) What host connectivity does the application server support?
- 3) Describe the available applications that link customers' telecommunications and data networks.
- 4) The application design environment must be open. Describe.

- 5) Multiple vendors' technologies must be able to be combined to create integrated solutions. Describe.
- 6) Applications code developed for one application can be re-used for a different, related application. Describe.
- 7) Customers must be able to design their own applications. Describe
- 8) Describe the components required to install, run, and manage software applications in the customer's environment.
- 9) User message and profile information must be made available to applications
- 10) Users must be able to access multiple software applications from their mailboxes or from other applications.
- 11) Where are the spoken application prompts stored?
- 12) Describe the hardware required to provide software applications.
- 13) Describe the required software.
- 14) Describe the utilities available to control and monitor the running of applications
- 15) Can other applications run on the applications server.
- 16) Describe the application development environment.

ATTACHMENT A

VALIDATION QUESTIONS FOR SUPPLIER (cont.)

- 17) Describe the application development tools.
- 18) Describe the application development utilities.
- 19) Can custom applications be designed by trained third-party developers? Please explain.
- 20) What qualifications must the custom applications developers possess?
- 21) Describe the different levels of security provided to protect data and telecommunications networks from unauthorized access during applications access.
- 22) Does your company provide Password restriction? Please explain
- 23) List the languages supported by a single application
- 24) How many applications sessions can be running concurrently?
- 25) How does the system support recording of application prompts or phrases?
- 26) Provide a brief overview of your Self-service solution.
- 27) Please describe how your system architecture offers an open systems design approach.
- 28) Please provide an architectural overview of your system.
- 29) Please describe the Software Architecture and Application Environment of your system.
- 30) Indicate system availability.
- 31) A single application processor failure must not impact the system's ability to answer calls. Please describe your support of this capability.
- 32) What product features, if any, would facilitate a reliable tape backup? Would this be a hot backup? What complications exist with achieving a high level of backup reliability?
- 33) Can we provide our own backup application software?
- 34) Does your solution offer ease of installation and serviceability? Please describe the serviceability of your system.
- 35) How will our investment be protected if we should select your system solution?

- 36) Provide the key specifications for your system.
- 37) Describe your system's Telephony Network Interfaces.
- 38) What tools are available for your system?
- 39) Describe your system's announcement capabilities.
- 40) Please describe how your stand-alone system will interface with the Nortel, Octel and Municipal Court systems.
- 41) Please describe any additional hardware or software upgrades to the Nortel, Octel or Municipal Court systems that may be required as a result of the interface between the stand-alone system and existing systems or the impact of this new application or system. Please provide costs associated with any hardware or software upgrades.
- 42) A certificate of insurance must be provided prior to signing the contract, commencing on the day contract begins. Are you willing to comply with these requirements?
- 43) You must instruct your insurance broker/carrier to notify the City of Billings should your coverage change. Are you willing to do this?

ATTACHMENT A

VALIDATION QUESTIONS FOR SUPPLIER (cont.)

QUALITY AND SERVICE

- 1) The solution we employ must be scalable; in order to support ease of system expansion as our needs to support additional system telephone ports arise. Please describe the scalability of your system.
- 2) The solution we employ must be flexible- in order to support our rapidly changing needs. Please describe the flexibility of your system.
- 3) The solution we employ must be resilient- in order to ensure reliable service to our customers. Please describe the Fault Resiliency of your system
- 4) Do you have a quality assurance program? If yes, please attach a copy
- 5) Are your employees required to take a mandatory drug test?

LEGAL ISSUES

- 1) Are there any current lawsuits against your company? If yes, please provide details of the action.
- 2) In the last 5 years, has your company been involved in any litigation? If yes, please provide details of the litigation.

REPORTING

- 1) Can your company provide monthly usage reports?
- 2) If yes to the previous question, please attach samples of all reports that are currently available.

ATTACHMENT B

STANDARD TERMS AND CONDITIONS

This contract includes the following Standard Terms and Conditions and includes, but is not limited to, the Invitation to Bid, Call for Sealed Bids, Specifications, Form of Agreement, Instruction to Bidders, and Form of Proposal.

The contractor will not be liable for any delay in furnishing or failure to furnish service due to fire, flood, strike, lockout, dispute with workmen, war, act of God, or any cause beyond reasonable control.

In case of default by the successful bidder or failure to deliver the goods or services within the time specified, the City Purchasing Authority, after written notice, may procure them from other sources and hold contractor responsible for excess costs occasioned thereby.

The specifications attached to the instructions to bidders establish a standard of quality desired by the City of Billings. Any bidder may submit quotations on any article-which substantially complies with these specifications as to quality, workmanship and service. The City of Billings reserves the right to make its selections of materials or services purchased, based on its best judgment as to which articles substantially comply with the requirements of the specifications.

No alteration in any of the terms, conditions, delivery, quality, or specifications will be effective without prior written consent of the City of Billings.

No exception to delivery or service dates shall be allowed unless prior written approval is first obtained from the City of Billings.

All payments to the contractor shall be remitted by mail. The City shall not honor drafts, nor accept goods on a sight draft basis. Furthermore, the provisions or monies due under this contract shall not be assignable unless prior written approval is first obtained from the City of Billings.

All goods, materials or services purchased herein are subject to approval by the City of Billings. Any rejections of services, goods or materials, whether held by the City or returned, will be at the contractor's risk and expense.

The contractor agrees to assume all expense, protect, and hold harmless the City, its officers, agents and employees against all claims and expense including, but not limited to, suits or proceedings for patent, trademark, copyright, or franchise infringement arising from the purchase, installation or use of the goods, materials or services purchased herein. The contractor further agrees to assume all expenses and damages arising from such claims, suits or proceedings.

Contractor agrees that the waiver, acceptance, or failure by the City to enforce any provisions, terms, or conditions of this contract shall not operate or be construed as a waiver of prior or subsequent breaches or the right of the City to thereafter enforce such provisions.

The contractor warrants all articles supplied under this contract to conform to specifications herein. The contractor will deliver a warranty stating that all articles supplied under the contract are fit and sufficient for the purpose manufactured, merchantable, and free from defects.

In the event the City is entitled to a prompt payment or cash discount, the period of computation shall commence on the date of delivery, or receipt of correctly completed invoices, whichever is later. If an adjustment in payment is necessary, the discount period shall commence on the date final approval for payment is authorized.

ATTACHMENT B

STANDARD TERMS AND CONDITIONS (cont.)

The contractor agrees not to be discriminate against any client, employee or applicant for employment or for services, because of race, creed, color, national origin, sex or age with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoffs and termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this shall be barred forthwith from receiving awards of any purchase order for the City unless a satisfactory showing is made that discriminatory practices have terminated and that a reoccurrence of such acts are unlikely.

The City reserves the right to cancel and terminate this contract forthwith upon giving 30 days written notice to the contractor. (This provision does not apply to the purchase of materials and equipment. A purchase order for materials and equipment is a binding contract.)

Contractor agrees that in the event suit is instituted by the City- for any default on the part of the contractor, he shall pay to the City all costs and expenses expended or incurred by the City in connection therewith, and reasonable attorney's fees.

Where applicable, possible or required, bidder is required to submit descriptive literature, sample material, design sketches and detailed shop drawings. Failure to submit required items may result in rejection of the bid or termination of contract.

The successful bidder may not make any advertising or sale use of the fact that contract items are being used by purchaser and other approved agencies, under penalty of contract termination.

This contract shall be governed by and construed in accordance with the laws of the State of Montana.

The contractor may not assign or subcontract the agreement, or the right to receive reasonable performance of any act called for by the contract, shall be deemed waived by a waiver by City of a breach thereof as to any particular transaction or occurrence.

Regardless of FOB point, contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein and such loss, injury, or destruction shall not release contractor from any obligation hereunder.

ATTACHMENT C

PRICE MATRIX

Price for Octel System

<u>Application-Service Area</u>	<u>Price</u>
Arraignment Rescheduling	
Payment Inquiry	
Jury Duty Confirmation	

<u>Maintenance</u>	<u>Price</u>
1 st Year	
2 nd Year to Life of Contract	

Price for Non-Octel System

<u>Application-Service Area</u>	<u>Price</u>
Arraignment Rescheduling	
Payment Inquiry	
Jury Duty Confirmation	

<u>Maintenance</u>	<u>Price</u>
1 st Year	
2 nd Year to Life of Contract	

ATTACHMENT D

INVITATION TO BID FORM

RETURN TO:

Purchasing, Christine Varnai
City of Billings
210 North 27th Street
Billings, Montana 59101
Or
P. O. Box 1178
Billings, Montana 59103

Please bid prices at which you will agree to furnish required services. To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

BID ITEM: CITY OF BILLINGS COURT AUTOMATION SYSTEM

Enter full Company Name and Address

Bid Room Opening Data:

Day: Tuesday

Date: December 5, 2005

Time: 2:00 PM

CONDITIONS AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

We further agree to furnish the services specified at the prices stated herein, to be delivered to the location and on that date set forth herein.

— Signature

— Title

—

Date

ATTACHMENT E

MASTER Q & A FORM



"Master
Q&A_RFP.doc"

ATTACHMENT F
SUPPLIER CONTACT INFORMATION

A. Company Contacts

Primary Contact Person (Name):	
Title/Function:	
Address	
Business Hours Phone:	
Fax:	
Internet E-mail Address:	
Name of Person Responding to Bid Request:	
Title/Function:	
Address:	
Phone:	
Fax:	
Internet E-mail Address:	

B. General Company and Financial Information

Company Name:	
Headquarters Address:	
City, State, ZIP	
Headquarters Phone:	
Headquarters FAX:	
Company Owned By:	
Percent % Ownership:	
Years In Business	
Name of CIO	
Name of CEO/President:	

Have you ever been on the Food & Drug Administration Debarment List or the Health and Human Services Office of Inspector General Exclusion List?

YES NO

If yes, have you been re-instated?

NO

YES

Are you currently on the Food & Drug Administration Debarment List or the Health and Human Services Office of Inspector General Exclusion List?"

YES NO

Section 1: General Information

City Of Billings

Request For Proposal (RFP) - NUMBER CV11102005

THE ABOVE NUMBER MUST APPEAR ON ALL PROPOSALS AND RELATED CORRESPONDENCE.

THIS IS NOT AN ORDER

RESPOND NO LATER THAN December 5, 2005 5:00PM	RFP INITIATIVE: City of Billings Court Automation System	All suppliers must respond in detail to each element of this RFP in order to be considered for contract award.
Bidder Name: DIALPRO NORTHWEST, INC. 111 Main St., #102 Edmonds, WA 98020 Debra Davenport (425) 329-1620	SEND ALL CORRESPONDENCE TO THE CONTACT BELOW City Of Billings P.O. Box 1178 210 North 27th Street Billings, MT 59103 Christine Varnai Purchasing Agent Email: varnaic@ci.billings.mt.us PHONE: 406-657-8216 FAX: 406-247-8608	

ATTACHMENT C
PRICE MATRIX

Price for Octel System

Application-Service Area	Price
Arraignment Rescheduling	\$16,250.00
Payment Inquiry	\$18,850.00
Jury Duty Confirmation	\$14,950.00
6 additional ports	\$10,500.00
OctelDesigner Licenses (up to 6 depending on number of applications)	\$3,900.00 for Each 6 Licenses
OctelAccess Server Implementation & Programming	\$2,650.00
Warranty Coverage from day 91 to 365	\$7,020.00

Need to include the following costs:

Octel Upgrade (Already at Current Release Level - No Charge)

LAN card (Already in System - No Charge)

OctelAccess server (Customer already has existing - pending upgrade - see Question #41)

OD Licenses to cover the application requirements (See cost included above)

OctelAccess Server Implementation & Programming (See cost included above)

Maintenance After 1 Year Warranty Period	Price for Second Year*
Business Hour Support (8:30am x 5:30pm PST; Excl. Holidays)	\$9,350.00
Comprehensive Support (24 x 7)	\$12,480.00

***Each Additional Year - Add 3.5% to Previous Year's Amount**

Price for Non-Octel System

This quotation is valid for 90 days.

Payment Schedule (all payments are due upon receipt of invoice)

50% upon receipt of order

40% upon system/application cutover

10% at expiration of 30-day test period (Acceptance Date)

Post Warranty Application Support:

100% in advance of the term

OCTEL SOLUTION

Arraignment Rescheduling

Callers to this application are initially prompted to touch-tone enter their ticket number. The application queries the Full Court/Justice Systems Oracle database to verify the ticket number. Once verified, the application speaks back pertinent information concerning the arraignment including the current date scheduled. The application then prompts the caller if they want to reschedule their date. We provide a prompt that explains that only Tuesdays and Thursdays are reserved for arraignments and court opens at 8:30am.

The application then prompts the caller to enter a new arraignment date within the next 2 weeks. All valid arraignment dates are maintained in a MS Access2000 database on the OctelAccess server. These dates are administered by Billings. If a valid date is entered, the application confirms the reschedule and speaks the new date back to the caller. An update query is made to the database moving this caller's ticket to the new date. In addition, if there is a field that can be set once they have rescheduled, the application can tell the caller they cannot reschedule a second time if that field is already flagged. The application can offer assistance at that point.

If the caller enters a date later than two weeks out or a non-valid date not found in the database, the application alerts the caller and allows up to 2 additional attempts. If they still cannot enter a valid date, the application can either end the call or transfer them to assistance.

Payment Inquiry

In this application, the caller is prompted to enter a ticket or docket number. The application queries the database to determine the pertinent data concerning the case. The application can then speak back the amount of the fine and due date of payment.

If the docket were set up for Fine Paying Agreement, the application would provide the last payment amount and date of payment as well as the remaining lump sum payment, the next minimum payment and the due date of the next payment.

The application would then prompt them if they wanted to make a payment. If the caller chooses to make a payment, the application can transfer the caller to assistance or offer to use the automated credit card payment service. For the credit card payment, the application must first prompt if they will be paying the minimum or a greater amount. If they choose a greater amount, we prompt them to enter the dollar amount. The application confirms the amount is greater than the minimum payment but equal or less than the remaining lump sum payment. Once the amount is determined, the caller is prompted to enter credit card number and expiration date. The application can do some gross verification of the credit card number to at least confirm it follows the correct numbering scheme. The application then records this information to a text, data file. It is up to Billings to process this batch file with US Bank.

Jury Duty Confirmation

Callers must call into the Billings Municipal Court in order to confirm their attendance for jury duty or to provide an excuse for not making jury duty. The first prompt requires the user enter their unique juror number provided on their mailed jury duty request form. The application will speak the number entered back to the caller for confirmation. Once confirmed, the caller is prompted to enter 1 if they will be attending jury duty or 2 if they cannot make it. If they press 2, they are given four options; Out of town, Medical issue, Work issue, or other. The application can also prompt for their call back number.

The application then prompts the caller to leave a voice message. After the caller records their message, the application downloads the message if there is one, and emails it to an SMTP email address. The email would include the juror number, call back phone number, reason for absence and the attached message if recorded.

Jury Duty Outcall

The Jury Duty Outcall application queries the Oracle database from Justice Systems (Full Court) for outcalls to make. The query provided by the customer would return a list of calls to make including the telephone number, juror number, the date and status of the trial, and a reschedule

date if required. The actual Outcall function dials the phone number provided and begins repeating a "hit any key" message. If a key is heard by the application, the application starts speaking a message to the called party including the information from the record back from the Oracle query. The called party is then offered the option to repeat or hang up.

Database: Data will be moving from the AS400 to Full Court Justice Systems database. This is an Oracle database. The customer is responsible for providing the Oracle queries necessary for data access.

Language: Application will be delivered in English only.

Lead-Time: The lead-time on this application is 8 weeks from the time we have formal authorization, remote access to the OctelAccess Server and access to any data necessary for the application.

Project Responsibilities

The table below summarizes the parties responsible for each aspect of the project. Each referenced exhibit contains detailed information regarding the applicable responsibilities.

Task	Reference	Primary Responsibility	Support Party
Message Server Preparation	Exh. – 110/111 - Octel	City of Billings	Dialpro Northwest (DPNWI)
OA Server Requirements	Exh. – 128 – Win2K	City of Billings	
IIS Configuration	Exh. – 118	City of Billings	DPNWI/Mutare
Remote Control	Exh. – 112	City of Billings	DPNWI/Mutare
OAS Installation	Exh. – 113	DPNWI/Mutare	City of Billings
SMTP Information	Exh. – 129	City of Billings	DPNWI/Mutare
Database Requirements	Exh. - 115	City of Billings	DPNWI/Mutare
Record Prompts	Exh. – 114	City of Billings	DPNWI/Mutare
Project Plan / Timeline	Project.xls	DPNWI/Mutare	

Feasibility: The price on this quote is based on assumptions about how the application interacts with other systems in the Billings Municipal Court enterprise. For example, it may make an assumption about how to access database servers, hosts, or interact with various components of the telecommunications hardware. After purchase of the application, Mutare Software will explore these assumptions in detail with Billings Municipal Court staff and other vendors. We will document each interaction for approval before coding begins.

If during this process, it becomes necessary to broaden the scope of the project or components, not part of the original proposal, the proposal will be revised. If the revised proposal is not acceptable, you may cancel the project.

TERMS & CONDITIONS

1.0 License and Ownership. Pursuant to the terms and conditions specified in this Agreement, Mutare hereby grants to Customer, and Customer hereby accepts from Mutare, a nontransferable, nonexclusive right and license to use the Application(s) for its own benefit. Unless specified otherwise in an applicable order, the Applications, including any patents, copyrights, trade secrets, procedures, techniques, data and other intellectual property rights and technology therein, shall be owned by Mutare, and nothing herein shall be deemed to transfer any ownership interest therein to Customer or to any of Customer's end users. Without the prior written consent of Mutare, Customer shall refrain from copying, reverse engineering, disassembling, decompiling, translating, or modifying the Applications, or granting any other person or entity the right to do so.

1.1 Other Licenses. Unless specified provided otherwise in the applicable order, Customer shall be solely responsible for procuring all rights and licenses for any systems the Application will connect to, including, without limitation, any proprietary hardware and software systems that may be required to utilize the applications.

2.0 Installation and Acceptance. Mutare will install and test the Applications on the Application Server. Mutare shall notify Customer when Mutare's installation and preliminary testing has been completed and that the Applications are conforming to the written specifications. A thirty-day test acceptance period shall commence on the date of the Customer's signature on the written notice. Customer's acceptance of the Applications shall occur automatically at the end of the thirty-day test period, unless, within that period Customer notifies Mutare in writing of a non-conformity

between any application and its written specifications. Mutare will replace or repair the non-conforming Application and notify Customer of the replacement or repair. Following replacement or repair and notification, the Application shall be deemed to be accepted on the later of five (5) days after the date of notification of such correction or the expiration of the thirty-day test acceptance period (the "Acceptance Date").

3.0 Warranty. Subject to the terms and conditions of this Agreement, Mutare warrants to Customer that the Applications shall substantially conform to their written specifications for a period of ninety (90) days after the Acceptance Date (the "Warranty Period"). During the Warranty Period, Mutare shall provide minor corrections, changes, and troubleshooting to Customer as needed.

3.1 Customer Rights and Responsibilities. Mutare will provide warranty service and support to Customer by remote control of the Application Server using Symantec pcANYWHERE (or equivalent) software. Customer and/or its end user are responsible for confirming and ensuring that this access is available when making a service request. Mutare shall make corrective action commitments only if and when access to the Server is available. Customer and/or its end user shall notify Mutare in writing of any changes in the information systems environment that may impact the Server. The end user is responsible for normal backup procedures of the Application Server pursuant to normal and customary server backup protocol. Excluded from Mutare's warranty are defects discovered in any Application that has been modified, altered, or enhanced without Mutare's prior consent.

3.2 Post-Warranty Support. Mutare agrees to offer post-warranty support

through a Customer Service Agreement (“CSA”). Details of the service provided and related cost are stated separately in this Agreement.

3.3 DISCLAIMER. THE WARRANTIES STATED IN THIS SECTION 3 ARE CUSTOMER'S SOLE AND EXCLUSIVE WARRANTIES PERTAINING TO THE APPLICATIONS, AND MUTARE HEREBY DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.4 EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL MUTARE BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE.

3.5 LIMITATION OF LIABILITY. IN THE EVENT THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION 3, MUTARE IS FOUND LIABLE FOR DAMAGES BASED ON ANY DEFECT OR NONCONFORMITY IN THE APPLICATION, MUTARE'S TOTAL LIABILITY FOR EACH DEFECTIVE APPLICATION SHALL NOT EXCEED THE PRICE OF SUCH DEFECTIVE APPLICATION AS SPECIFIED IN THE SPECIFIC ORDER THAT GIVES RISE TO SUCH LIABILITY.

4.0 Term and Termination. This Agreement shall become effective on the

Effective Date and shall remain in full force and effect until terminated in accordance with the provisions hereof.. Customer may terminate this Agreement at will, at any time, with or without cause, by written notice given to the other party at least sixty (60) days prior to the effective date of such termination.

4.1 Consequences and Survival. Upon termination of this Agreement, Customer shall immediately discontinue all further use of the Applications. Upon termination of this Agreement, the fees associated with any work to date performed by Mutare (including pro-rated amounts for work performed but not invoiced through the date of termination, as well as all outstanding invoices for work already invoiced shall automatically be accelerated and all such invoices shall become due and payable. Notwithstanding any termination of this Agreement, the provisions of Sections 1.2, 3, 4 and 5 shall remain in full force and effect.

5.0 General Terms. This Agreement may not be modified or amended except by an instrument in writing signed by duly authorized officers of both of the parties hereto. Unless otherwise specifically provided, all notices required or permitted by this Agreement shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the address designated by each party. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

5.1 Severability. In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms. WITHOUT

LIMITING THE FOREGOING, IT IS
EXPRESSLY UNDERSTOOD AND
AGREED THAT EVERY PROVISION OF
THIS AGREEMENT THAT PROVIDES
FOR A LIMITATION OF LIABILITY,
DISCLAIMER OF WARRANTIES, OR
EXCLUSION OF DAMAGES IS
INTENDED BY THE PARTIES TO BE
SEVERABLE AND INDEPENDENT OF
ANY OTHER PROVISION AND TO BE
ENFORCED AS SUCH.

5.2 Entire Agreement. This Agreement constitutes the entire understanding and contract between the parties and supersedes any and all prior and contemporaneous, oral or written representations, communications, understandings, and agreements between the parties with respect to the subject matter hereof. The parties acknowledge and agree that neither of the parties is entering into this Agreement on the basis of any representations or promises not expressly contained herein.

POST WARRANTY SUPPORT

Customer Support Agreement (CSA)

Post warranty support for the Application may be purchased through an annual agreement from Dialpro Northwest. Post warranty support plans provide remote telephone support only. Customer is required to provide the necessary tools to enable remote access capabilities and is a requirement for purchasing post warranty support.

Under any CSA plan, the customer calls Dialpro Northwest and opens a trouble ticket for any problem relating to the application. If the problem appears to be outside the application environment, Dialpro Northwest will assist the customer in finding the most appropriate path to resolve the problem.

Payment for CSA plans is due prior to the start of the support period.

8 x 5 Comprehensive CSA Business Hour Support.

8:30 am-5:30 pm PST, Monday - Friday. An initial response to the customer will be provided within two coverage hours from the time the problem is reported. Corrective action will begin that same day.

Emergency service is available for an additional charge. Requests for any type of service may be left 24 hours, 7 days a week.

24 x 7 Comprehensive CSA 24 x 7 Support.

An initial response to the customer will be provided within two hours from the time the problem is reported. Corrective action will begin that same day. Corrective action receives priority treatment until resolved. Non-emergency calls will be prioritized during business hours. In the event the Customer's security restrictions prevent Dialpro Northwest's technicians from accessing the OA server from outside Dialpro Northwest's offices, corrective action may be delayed until the start of the next business day.

CSA Support (both 8 x 5 and 24 x 7)

includes:

Troubleshooting. Isolate which component is causing the reported failure. Remote investigation of the reported error or change and subsequent corrective action.

Minor Application Changes. Scheduled minor changes to an application such as adding a new field, changing a hard coded parameter, moving a field on the host screen or reading back a new field will be provided to applications under CSA at no additional charge. Minor changes are those that Mutare estimates can be completed within two hours. In the event a change is not considered minor, a quote will be provided in advance of any work.

Packaged Application Enhancements. Some of Mutare's "packaged" applications are updated and enhanced on a regular basis. Enhancements to these applications are available to CSA customers at no additional charge.

Upgrades. Any upgrades to the Application Server might require a corresponding upgrade to the application software. This includes changes to the application that might be made necessary or advantageous if the Application Server is upgraded.

Application Problems. Any reported program errors will be corrected.

Disk Failure. This includes reloading the application should the Application Server drive crash and customer has no back up. Backup copies of software applications are maintained by Dialpro Northwest for

all customers on CSA. The customer is still responsible for backing up any and all other files (i.e. system prompts, database files, data, WAV or TIF files) used by the application.

Procedure for Support Calls. Customer will call

(206) 624-9727 and press 1. Dialpro Northwest will diagnose and correct the problem. If the problem appears to be outside the application environment, Dialpro Northwest will assist the customer in finding the most appropriate path to resolve the problem.

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Acceptance and Approval of the 2006 High Intensity Drug Trafficking Area (HIDTA) Award #I6PRMP606 in the amount of \$160,659

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Interim Chief of Police

PROBLEM/ISSUE STATEMENT: Montana has been designated as a High Intensity Drug Traffic Area (HIDTA), and the Office of National Drug Control Policy (ONDCP) has awarded the Eastern Montana Drug Task Force \$160,659 for the calendar year 2006. This is the fifth year the City of Billings is the recipient agency of this award. The 2006 HIDTA Award will be used to pay for 1 Administrative Assistant position for the HIDTA task force, task force overtime, investigative travel, an automobile lease agreement with Laurel Ford, cell phones, copier maintenance agreement, investigative/office supplies, equipment and informant costs. HIDTA does pay for all costs associated with the Task Force, except for the Task Force Officers' salary and benefits. When the award documents are received, staff asks that the Mayor be authorized to sign.

FINANCIAL IMPACT: The \$160,659 award will require no city match. A budget adjustment will be required in Fund 255 after the approval of this agenda item.

RECOMMENDATION

Staff recommends that Council approve and accept the 2006 HIDTA award from the Executive Office of the President, Office of National Drug Control Policy in the amount of \$160,659 and authorize the Mayor to sign the necessary documents, when they are received.

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

INTRODUCTION

Since 1999, Senator Max Baucus tried to have Montana designated as a High Intensity Drug Trafficking Area (HIDTA) in order to receive federal resources to battle the methamphetamine epidemic in Montana communities. Senator Baucus succeeded in his cause and Montana was designated as a HIDTA in 2002. This memo is to ask Council for acceptance and approval of the 2006 Award in the amount of \$160,659.

BACKGROUND

For several years, Senator Baucus tried, and in 2002 finally succeeded, in designating Montana as a High Intensity Drug Trafficking Area because of the amount of methamphetamine in the State. This designation provides federal money to help address the problem of use and abuse of methamphetamine-related crimes. Since Montana has been given the HIDTA designation, Eastern Montana Drug Task Force at the Rocky Mountain High Intensity Drug Trafficking Area was created in 2002. This task force consists of personnel from the following agencies: Alcohol, Tobacco and Firearms; Border Patrol; Billings Police Department; Drug Enforcement Administration; FBI; Laurel Police Dept.; Probation and Parole; State of Montana Division of Criminal Investigations; and the Yellowstone County Sheriff's Office. The Task Force is managed by a Sergeant from the Billings Police Department and is currently housed in the U. S. Marshal's Building across from Yellowstone County Courthouse. Tonight, Council is being asked to approve and accept the 2006 HIDTA Award.

RECOMMENDATION

Staff recommends Council approve and accept the 2006 HIDTA Award from the Executive Office of the President, Office of National Drug Control Policy in the amount of \$160,659 and authorize the Mayor to sign the necessary documents when they are received.

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K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: Acceptance of Warranty Deed for Right-of-Way Acquisition along Shiloh Road for Firelake Corporation

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: On September 13, 2004, the City Council accepted a warranty deed for a street dedication that was being created by the past owner of Lot 2 of Blue Meadow Acreage Tracts located at 2724 Shiloh Road. Property ownership changed before finalizing the amended plat; therefore, it is necessary to accept a new right-of-way agreement and warranty deed from Firelake Corporation, the new owner of Lot 2 of Blue Meadow Acreage Tracts. An amended plat showing the private property boundary line relocation and street dedication has been completed. With the acquisition of this property, the City can secure the right-of-way necessary for the improvements that were constructed along Shiloh Road from Poly Drive to, and including, Rimrock Road.

ALTERNATIVES ANALYZED: The City Council has previously accepted the warranty deed.

FINANCIAL IMPACT: The City will pay the owner \$644.49 for the property. This fee is based on an appraised value of \$2.20 per square foot for a total of 292.95 square feet. Funding for the property acquisition costs will come from the Shiloh Road project budget. (City of Billings SID 1371)

RECOMMENDATION

Staff recommends that the City Council accept the warranty deed and approve the right-of-way agreement with Firelake Corporation.

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

- A. Warranty Deed
- B. Right-of-Way Agreement

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

L

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: Grant Application Submittal- Byrnes, Criminal Justice Records Improvement (CJRI)- RFP #06-10 (K)

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Interim Chief of Police

PROBLEM/ISSUE STATEMENT: An RFP from the Montana Board of Crime Control (MBCC) has been received and the Police Department would like to pursue this funding opportunity to purchase *Law Enforcement Data Analysis Software* in the amount of \$35,000. This software will allow the analysis of our Dispatch and Records data bases in order to generate crime statistics, predict crime trends, map incident locations, generate reports for local, state, and federal agencies, and provide the public with general information on criminal activity in our community.

FINANCIAL IMPACT: The total cost of the software is \$35,000, of which The City of Billings will contribute a hard cash match of 25%, or \$8,750.00. This 25% required match will come from the Drug Forfeiture Fund and will be budgeted in the 06/07 budget.

RECOMMENDATION

Staff recommends Council's approval in pursuing this grant application and when notified of its acceptance, the City Staff be authorized to finalize the grant.

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

INTRODUCTION

The Police Department is continually providing statistical data both internally and externally for a variety of reasons. Creation of this information currently requires extensive Police and ITD man hours in order to manually manipulate the data into a useable form. This type of information is becoming the expected norm in every community in the nation. Mapping of the information is extremely labor intensive. The requested software will streamline the process of turning raw data into useable information. The software also supports the Council's goal of being e-government in that it allows citizens to access general data sets on criminal activity. The software is GIS based and will serve as a tool to achieve the goal of mapping crimes.

BACKGROUND

The New World System public safety software the City currently uses does have a component that allows manipulation of the data in order to produce analysis reports and mapping of criminal activity in the community. Implementation of this type of software would improve our ability to analyze data and better predict potential problem areas.

RECOMMENDATION

Staff recommends Council's approval in pursuing this grant application and when notified of its acceptance, the City Staff be authorized to finalize the grant.

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M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: Application Submittal and Finalization of Grant-
Stop Violence Against Women Act (VAWA) Funds- RFP #06-9

DEPARTMENT: Police Department

PRESENTED BY: Rich St John, Interim Chief of Police

PROBLEM/ISSUE STATEMENT: An RFP from the Montana Board of Crime Control was posted on December 20, 2005. We would like to pursue this continuation subgrant for Domestic Violence training. Included in this grant proposal is a request to fund a "Domestic Violence Investigator" pilot program. The estimated (based on last year's numbers) amount for both components of this grant total \$55,000.00. The grant application is due on or before February 6, 2006. It is requested that City staff be authorized to submit the grant application and to finalize the grant, if approved.

FINANCIAL IMPACT: This grant requires a 25% match of hard and/or soft cash. The City of Billings will contribute \$14,300.00, which includes a hard match of \$1,300.00 and a soft match of \$13,000.00. The soft match will come from office space, telephone, training facilities, and staff time. The hard match will be included in the 06/07 Police Department Training budget. If this grant would not be available, individual costs would be incurred out of the department overtime budget.

RECOMMENDATION

Staff recommends Council's approval in pursuing this grant application and when notified of its acceptance, the City Staff be authorized to finalize the grant.

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

INTRODUCTION

Through the cooperative efforts of the Police Department and the City Attorney's office, a significant need for more intensive investigation has been identified in domestic violence cases. Once again, we would like to apply for the Domestic Violence grant; however, the scope of the grant will change from focusing solely on training, to include funds to pay for follow-up investigation of domestic violence cases being prosecuted through the City Attorney's Office.

We have developed a pilot project that will allow the city prosecutors to have Billings Police Department Officers available specifically for domestic violence follow-up investigation and case management that has previously been unavailable due to manpower restrictions.

This request is not for an extra position on the police force. Instead, grant money would be available to pay officers to work as domestic violence follow-up investigators in the form of extra duty assignments (during their off-time). These investigators will be selected from a pool of volunteer officers who have previously received domestic violence training offered through prior "Stop Violence Against Women Act" grants funded by the Montana Board of Crime Control.

BACKGROUND

For the past four years the Billings Police Department's Training Division has applied for the "Violence Against Women Act (VAWA) grant through the Board of Crime Control. Each year we have received grant funds to provide domestic violence training for our officers.

Last year the funds requested for domestic violence training were granted, however funding for the "Domestic Violence Investigator" pilot project was not available during the last funding cycle.

This year we would like to continue to apply for funds for the training seminar as we do each year. In addition, we would request permission to once again include the new pilot project in this grant proposal.

RECOMMENDATION

Staff recommends Council's approval in pursuing this grant application and when notified of its acceptance, the City Staff be authorized to finalize the grant.

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N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: Annexation petition AN #06-01: Acknowledge receipt of petition and set a public hearing date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, Planning Division Manager

PROBLEM/ISSUE STATEMENT: Thomas E. Romine and Paul V. Hoyer submitted a petition to annex land to the City of Billings under 7-2-4600, MCA. The 63.133-acre property consist of Lots 5, 6, 26, 27, 28, 38, 40 of Sunny Cove Fruit Farms located south of Rimrock Road between 58th and 62nd Streets West. The property is currently used for agricultural purposes. The property owners have indicated that they intend to subdivide and develop the property for single-family and duplex residences and are requesting annexation in order to obtain city water and sewer services. The City Council's policy is to consider annexations at two separate Council meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date. At the second meeting the Council conducts the hearing and decides if it will annex the property. Staff will provide information on compliance with the Annexation Policy and responses from City Departments at the public hearing.

This property lies outside the Urban Planning Area and will require Council action to expand the Area, which is a prerequisite to annexation. A concurrent application for the Urban Area Expansion was submitted at the same time as the annexation petition.

ALTERNATIVES ANALYZED: Section 7-2-4600, MCA allows owners of more than 50% of the property to petition the City for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date.

FINANCIAL IMPACT: A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for January 23, 2006, to consider annexing this property.

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

ATTACHMENTS

- A. Property data
- B. Annexation petition
- C. Map

ATTACHMENT A
PROPERTY DATA

Annexation AN #06-01 Property Data

Type of annexation: Petitioned - MCA 7-2-4600

Petitioner: Thomas E. Romine and Paul V. Hoyer

Purpose of annexation: Obtain City services

Property included: Lots 5, 6, 26, 27, 28, 38, and 40

Location: South of Rimrock Road between 58th and 62nd Streets West.

Total area: 63.133 acres

Current zoning: Agricultural-Open Space and Residential 15,000 (R-15000)

Current land use: Agriculture

Future land use: Single family and duplex residential

**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**

NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.
The map must show:
 - a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
11/28/05	Thomas E. Romine	Thomas E. Romine	1128 N. 32 Blgs 59101
11/28/05	Paul V. Hoyer	Paul V. Hoyer	6124 Sam Snead Tr Blgs 59106

(continued on separate page)

(Should be completed prior to obtaining signatures of resident freeholder electors)

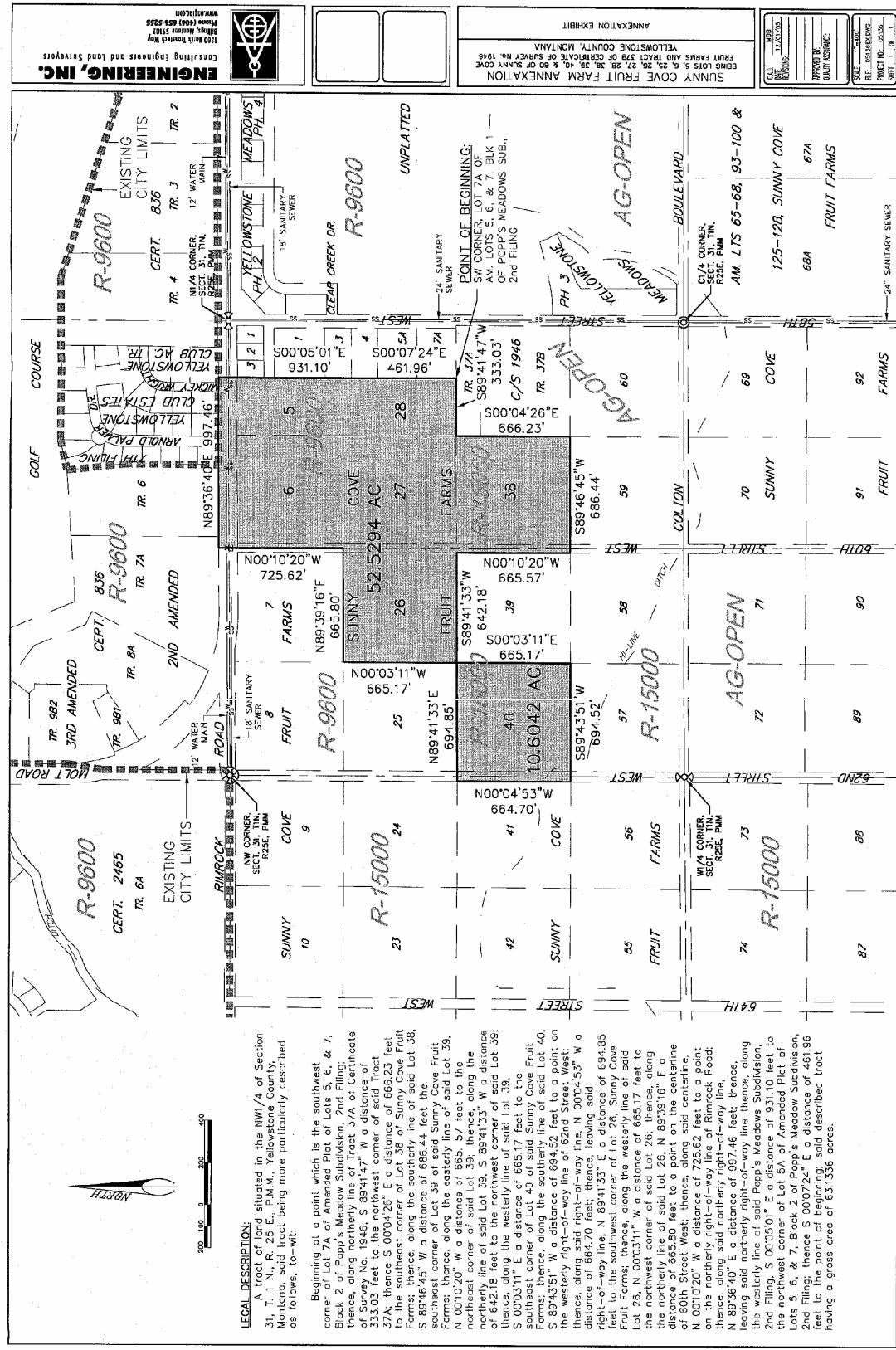
DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY OF BILLINGS

Legal Description	Tax Code	Address of General Location	Use of Property	Legal Property Owners	Address	Phone
Lot 5, Sunny Cove Fruit Farms	D04651	Southeast corner of 60th Street West and Rimrock Road Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 6, Sunny Cove Fruit Farms	D04652	Southeast corner of 60th Street West and Rimrock Road Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 26, Sunny Cove Fruit Farms	D04656	Southwest Corner of 60th Street West and Rimrock Road Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 27, Sunny Cove Fruit Farms	D04657	Southeast Corner of 60th Street West and Rimrock Road Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 28, Sunny Cove Fruit Farms	D04658	Southeast Corner of 60th Street West and Rimrock Road Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 40, Sunny Cove Fruit Farms	D04663	Northwest Corner of 62nd Street West and Colton Boulevard Intersection	Agricultural	Thomas E. Romine	1128 N. 32nd Street Billings, MT 59101	406/256-3405
Lot 38, Sunny Cove Fruit Farms	D04661	Northeast Corner of 60th Street West and Colton Boulevard Intersection	Agricultural	Paul V. Hoyer	6124 Sam Snead Trail Billings, MT 59106	406/656-3266

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted: 12-1-05
Fee Paid: \$200.00

Received By: TD/Council Board
Petition Number: Ad 05-11



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O

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Confirmation of Probationary Police Officer Jon Kristjanson
DEPARTMENT: Police Department
PRESENTED BY: Rich St. John, Interim Chief of Police

PROBLEM/ISSUE STATEMENT: On January 3, 2005, Officer Jon Kristjanson was hired by the Billings Police Department as a probationary Police Officer. According to MCA 7-32-4113, his probationary period is for one year from date of hire. At this time Officer Kristjanson has completed his one year probation, and according to state statute, his name is to be submitted to City Council within 30 days for confirmation. All of the supervisor comments concerning Officer Kristjanson's performance are positive and indicate that he is doing a good job, and recommend confirmation.

RECOMMENDATION

City staff recommends Officer Jon Kristjanson be confirmed as a Billings Police Officer.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday January 9, 2006

TITLE: Authorizing A/E RFP for Station 7
DEPARTMENT: Billings Fire Department
PRESENTED BY: Marvin L. Jochems, Fire Chief
Christina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: The Public Safety Levy, passed in 2004, provides that a west end fire station be built and staffed by 2011. During the FY 2006 budget deliberations the City Council approved a plan to accelerate the station construction, staffing and equipment so the station may be occupied in 2008. The land has been purchased. The next step is to publish a Request for Proposals(RFP) to solicit Architecture/Engineering (A/E) services.

ALTERNATIVES ANALYZED:

- Authorize the RFP
- Do Not Authorize the RFP
- Defer the RFP until a later date

FINANCIAL IMPACT: Estimated cost of A/E services is \$100,000.00. The \$100,000.00 for A/E services was approved in FY 06 Budget.

RECOMMENDATION

Staff recommends that Council authorize the RFP for A/E Services for Station 7.

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

INTRODUCTION

In 2004 the City of Billings approved a Public Safety Levy. The levy provided for the construction of a 7th fire station and the hiring of 15 additional fire fighters by 2011. During the FY 2006 budget process, the Council instructed staff to accelerate the station, staffing and equipment so the station could be constructed by 2008. Since then, there have been some challenges to the language on the ballot. The city asked for an AG's letter of opinion on the ballot language. The AG responded in favor of the language and the process. The RFP has been budgeted for in FY 06. The authorization of the RFP will provide staff with guidance from the Council on how to proceed with implementation of the levy.

BACKGROUND

- November 2004 Public Safety Levy passed
- February 2005 purchased land for station 7 (\$200,000.00)
- August 2005 hired 6 firefighters
- Staff recommends proceeding with safety levy plan to keep faith with the voters
- We cannot wait much longer to design station if we are going to build and occupy in 2008

ALTERNATIVES ANALYSIS

- Authorizing the RFP will direct staff to move forward with the accelerated timeline for construction of Station 7. Construction to begin in January 2007 with completion in late 2007 or early 2008.
- Do not authorized RFP will direct staff not to further implement the safety levy
- Deferring the RFP will direct staff to defer further implementation of safety levy. Substantially deferring the RFP will change the accelerated timeline for construction of station 7.

RECOMMENDATION

Staff recommends Council authorize the RFP for A/E Services for Station 7.

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Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday January 9, 2006

TITLE: Disposal of Surplus Equipment

DEPARTMENT: Fire Department

PRESENTED BY: Marvin L. Jochems, Fire Chief

PROBLEM/ISSUE STATEMENT: From time to time, as new equipment is purchased, the Fire Department accumulates an inventory of used equipment. In some cases this equipment still has some useful life. The Fire Department is recommending we give, 3 helmet mounted thermal imagers and 20 1 3/4" hose nozzles, to our surrounding volunteer fire departments. Volunteer Fire Departments operate on very austere budgets and welcome any and all help. We will work with Jim Kraft, the County Fire Warden, to distribute this equipment in a fair and equitable manner.

ALTERNATIVES ANALYZED: None

FINANCIAL IMPACT: The cost of selling this equipment would most likely exceed the fair market value.

RECOMMENDATION

Staff recommends that Council approve the disposal of the surplus equipment to surrounding volunteer fire departments.

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

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R

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday January 9, 2006

TITLE: Disposal of Surplus Self-Contained Breathing Apparatus. (SCBA'S)

DEPARTMENT: Fire Department

PRESENTED BY: Marvin L. Jochems, Fire Chief

PROBLEM/ISSUE STATEMENT: Recently the Fire Department was awarded a Fire Act Grant to replace our entire inventory of SCBA's. Although our current inventory of SCBA's is older, there remains some useful life. As part of our grant application the Fire Department committed to making these SCBA's available to other government agencies in our area, free of charge. The resale value is not needed to purchase the new equipment. If other than government agencies are interested in the SCBA's and all of our local government agencies needs are satisfied a few may be sold at a fair market value.

ALTERNATIVES ANALYZED: None

FINANCIAL IMPACT: None

RECOMMENDATION

Staff recommends that Council approve the disposal of the surplus SCBA's per the Fire Act Grant application.

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

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S

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: Certified Local Government Program
DEPARTMENT: Planning and Community Services
PRESENTED BY: Ramona Mattix and Brenda Beckett

PROBLEM/ISSUE STATEMENT: The State of Montana Historic Preservation Office has designated the City of Billings as a Certified Local Government (CLG) for historic preservation activities. As a CLG the City is eligible to receive state funding to coordinate historic preservation efforts in our area. Applications for FY2006-07 funding from the State are due on January 27, 2006. The City of Billings has been utilizing Certified Local Government funding for activities in support of the efforts of the Yellowstone Historic Preservation Board since 1997. A description of these activities is provided in Attachment A, which is the current fiscal year work plan. The Yellowstone Historic Preservation Board provides quarterly reports to the State Historic Preservation Office as required as a CLG (see Attachment B). Meeting minutes reporting on activities are available at the Community Development Division office.

ALTERNATIVES ANALYZED: Alternatives include: agreeing to participate in the State CLG program and accepting CLG grant funding to coordinate historic preservation activities; changing the Zoning Code; or exiting from CLG designation. Articles 27-500 through 519 in the City Zoning Code require City governance for historic preservation activities and names the Yellowstone Historic Preservation Board as the vehicle for compliance with Certified Local Government Requirements.

FINANCIAL IMPACT: City Council approval would allow the City of Billings to apply for \$5,500 in State of Montana Certified Local Government funding. These funds will be matched through resources available through the Community Development Block Grant program.

RECOMMENDATION

Staff recommends that the City Council authorize the submission of an application for a \$5,500 Certified Local Government grant from the Montana State Historic Preservation Office.

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

ATTACHMENT

- A. Yellowstone Historic Preservation Board Work Plan
- B. Quarterly Report for 7/05 through 9/05

Yellowstone Historic Preservation Board
FY06-07 Work Plan

Goals & Objectives

- I. Promote the preservation of historic buildings, sites or neighborhoods.
- II. Increase community awareness on the benefits of historic preservation activities.
- III. Promote increased awareness of preservation activities and the work of the YHPB by the four governing bodies represented on the Board
- IV. Comply with the duties and responsibilities of historic preservation organizations under the State Certified Local Government program and the requirements of the inter-local agreement.

EXISTING PROJECTS

1. Complete National Register Designation of 2600 Block of Montana Avenue.

Time Frame: Summer & Fall 2005
Who: Committee & HPO/WHC
Status: Review to be conducted January 21, 2006 at the State Historic Preservation Review Board.

2. Complete consideration on the expansion of the historic district to include additional properties on Montana and Minnesota Avenue.

Time Frame: Fall/Winter 2005-06
Who: HPO/WHC
Status: Letter regarding owner support and initiative sent November 2005.

3. Adopt standards for new construction in historic district.

Time Frame: Spring 2006
Who: Committee & HPO/WHC
Status: Investigate course of action to be taken by the board by January 2006 meeting.

4. Complete PowerPoint / web site presentation on historic properties in rural Yellowstone County.

Time Frame: Spring 2006
Who: WHC

Status: Rural Presentation is in progress.

5. Update Walking Tour booklet to include adding eight additional historic properties in the Montana Avenue corridor.

Time Frame: Winter 2005

Who: WHC/Publicity Committee

Status: In progress.

NEW PROJECTS

1. Establish new award for work to preserve historic sites or buildings to compliment existing award for historic preservation work by an individual (Eugene Carroll Award).

Time Frame: Fall 2005

Who: Committee/WHC

Status: Completed – The Yellowstone Historic Preservation Best Practices Achievement Award has been developed and passed consideration in the December 2005 meeting. The first annual award will be presented at the Roundtable in March 2006.

2. Host Historic Preservation Roundtable on Tuesday, March 21st at Billings Depot and present historic preservation awards.

Time Frame: Winter 2006

Who: Board/HPO/WHC

Status: The event will be held in an historic downtown building, the Masonic Temple, in the Broadway III Seminar Room.

3. Complete PowerPoint Presentations before Laurel City Council, Billings City Council and Yellowstone County Commissioners.

Time Frame: Winter 2006

Who: Chair, WHC & Historic Preservation Officer (HPO)

Status: Emails have been sent to the Laurel City Council, Tina Volek (City of Billings City Council), and the Yellowstone County Commissioner's office to ask for space on their January or February Agenda.

4. Celebrate National Historic Preservation Month - May of 2006. Board committee will decide on program, speaker, and other events

Time Frame: Spring 2006

Who: Committee & WHC
Status: In progress.

5 Review nomination of Swords Park to the National Register of Historic Places

Time Frame: Spring 2006
Who: HPO/WHC
Status: The board will review this goal in Spring 2006.

6. Explore partnership with MSU-Bozeman Architecture Program to research & identify historic sites and buildings in rural Yellowstone County.

Time Frame: Spring 2006
Who: WHC

7. Coordinate with the local school districts to promote increased awareness of local historic preservation work; Participate in Celebration of 100th Anniversary of McKinley School.

Time Frame: Fall 2005
Who: WHC
Status: Completed with the McKinley School.

ONGOING PROJECTS

1. Review building permits as needed.

Time Frame: Ongoing as needed
Who: Committee & HPO

2. Assure existing YHPB products are disseminated in community (Laurel Walking Tour, Billings Walking Tour, South Side Presentation, & Rural Yellowstone County Presentation).

Time Frame: Ongoing
Who: HPO/WHC

3. Complete monthly web site updates on activities and programs.

Time Frame: Ongoing
Who: WHC

4. Continue to improve local library and electronic database on historic properties.

Time Frame: Ongoing
Who: HPO & WHC

5. Promote additional nominations to the National Register. Assure resources are available for property owners, such as literature and technical assistance. Look at possible nomination of school sites in conjunction with local school districts.

Time Frame: Ongoing
Who: WHC/HPO

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

T

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Five-Year Lease for Storage Space with Peter Yegen Jr. Yellowstone County Museum Foundation

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Peter Yegen Jr. Yellowstone County Museum Foundation has been leasing space in the basement of the IP-9 building located in the Airport's Business Park. This storage space totals approximately 379 square feet and is used to house the museum's artifacts and displays that are not in use at the museum. The museum also stores items in the basement of the museum, but its collection of items now exceeds the space available in its basement area. The Lease renewal of this City property as museum storage is a good use of this space, since some of the museum's items should not be stored in a cold storage environment.

FINANCIAL IMPACT: This five-year Lease will generate \$1,226.82 in the first year, and lease rentals in subsequent years will be adjusted annually using the Consumer Price Index for all Urban Consumers (CPI-U).

RECOMMENDATION

Staff recommends that Council approve a five-year Lease for storage space with the Peter Yegen Jr. Yellowstone County Museum Foundation.

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

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

U

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Resolution For Creation of Special Service District No. 22

DEPARTMENT: Public Works Department, Distribution & Collection Division

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: This Special Service District is for sanitary sewer services only for Lot 1, Block 1, MHC Subdivision and the Remainder of Tract 2, Certificate of Survey 1163.

The district, as allowed under BMCC Section 13-900, provides for maintenance of the common portion of the sanitary sewer service line by the city in the event that the owners fail to provide maintenance.

FINANCIAL IMPACT: The initial assessment of \$100.00 (\$50.00 per lot per service) has been paid.

BACKGROUND

Originally the water and sanitary sewer services for these properties were shared since they were located on one lot and under one ownership. The property has subsequently been re-subdivided into two separate lots. The water services to the lots will be split separately utilizing existing water services from South 24th Street West. However, to receive a separate sanitary sewer service, South 24th Street West would require a street cut. As such, the two lots need to share the existing sewer service in order to minimize street cuts and keep the integrity of the street.

RECOMMENDATION

Staff recommends that Council approve the creation of Special Service District No. 22 for Lot 1, Block 1, MHC Subdivision and the Remainder of Tract 2, Certificate of Survey 1163.

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

ATTACHMENTS:

Attachment A – Resolution No. 06-

RESOLUTION NO. 06-_____

A RESOLUTION CREATING SPECIAL SERVICE DISTRICT NO. 22 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF PROVIDING FUNDS TO A REVOLVING FUND TO COVER CITY COSTS INCURRED IN WORK PERFORMED ON PRIVATE SANITARY SEWER SERVICE LINES, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE GENERAL CHARACTER OF THE WORK TO BE PERFORMED, ESTABLISHING THE INITIAL ASSESSMENT AND PROVIDING FOR PERIODIC FUTURE ASSESSMENTS.

WHEREAS, the owners of 100% of the property to be included in the district have agreed and consented in writing to the creation of said district; and

WHEREAS, City Ordinance No. 4442 provides that, when 100% of the owners within a proposed Special Service District consent to the creation of said District, the City Council may forthwith adopt a resolution creating said District without further notice or procedure;

WHEREAS, the City Council finds it to be necessary and in the public interest to create said District and that 100% of the owners in said proposed district have consented to the creation;

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

1. That the City Council of the City of Billings, Montana, does hereby create a Special Service District, to be known and designated as Special Service District No. 22; hereinafter called the "District", for the purpose of providing a source of funds for any necessary service or maintenance by the City of common sanitary sewer lines serving properties located within said District.

2. That the properties to be included within the District are described as follows:

Lot 1, Block 1, MHC Subdivision
Remainder of Tract 2, Certificate of Survey 1163

3. That the initial assessment for said District is the sum of One Hundred Dollars (\$100.00) which has been paid by the owners and deposited in the Special Service District Revolving Fund.

4. That periodic assessments shall be made in the future in amounts determined by the City to be necessary to maintain sufficient funds in said Revolving Fund. Said assessments shall be made and apportioned in accordance with Ordinance No. 4442.

PASSED by the City Council and APPROVED this _____ day of _____, 2006.

THE CITY OF BILLINGS:

By: _____

Ron Tussing MAYOR

ATTEST:

BY: _____

Marita Herold, CMC

CITY CLERK

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

V

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Resolution For Creation of Special Service District No. 23

DEPARTMENT: Public Works Department, Distribution & Collection Division

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: This Special Service District is for sanitary sewer service only for Lot 4, Block 1, Wal-Mart Subdivision.

The district, as allowed under BMCC Section 13-900, provides for maintenance of the common portion of the sanitary sewer service line by the city in the event that the owners fail to provide maintenance.

FINANCIAL IMPACT: The initial assessment of \$100.00 (\$50.00 per lot per service) has been paid.

BACKGROUND

This property is located within the Billings Heights Water District so this special service district is for sanitary sewer only. The property is presently being served with one water service and one sanitary sewer service to the Wal-Mart store on Main Street. A fueling station is proposed to be located on the same lot and would normally require a separate water and sanitary sewer service. However, to receive a separate sanitary sewer service, Wicks Lane would require a street cut at a depth of approximately twenty feet. As such, the two buildings need to share the existing sewer service in order to minimize street cuts and keep the integrity of the street.

RECOMMENDATION

Staff recommends that Council approve the creation of Special Service District No. 23 for Lot 4, Block 1, Wal-Mart Subdivision.

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

ATTACHMENTS:

Attachment A – Resolution No. 06-

RESOLUTION NO. 06-_____

A RESOLUTION CREATING SPECIAL SERVICE DISTRICT NO. 23 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF PROVIDING FUNDS TO A REVOLVING FUND TO COVER CITY COSTS INCURRED IN WORK PERFORMED ON PRIVATE SANITARY SEWER SERVICE LINES, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE GENERAL CHARACTER OF THE WORK TO BE PERFORMED, ESTABLISHING THE INITIAL ASSESSMENT AND PROVIDING FOR PERIODIC FUTURE ASSESSMENTS.

WHEREAS, the owners of 100% of the property to be included in the district have agreed and consented in writing to the creation of said district; and

WHEREAS, City Ordinance No. 4442 provides that, when 100% of the owners within a proposed Special Service District consent to the creation of said District, the City Council may forthwith adopt a resolution creating said District without further notice or procedure;

WHEREAS, the City Council finds it to be necessary and in the public interest to create said District and that 100% of the owners in said proposed district have consented to the creation;

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

5. That the City Council of the City of Billings, Montana, does hereby create a Special Service District, to be known and designated as Special Service District No. 23; hereinafter called the "District", for the purpose of providing a source of funds for any necessary service or maintenance by the City of common sanitary sewer lines serving properties located within said District.

6. That the properties to be included within the District are described as follows:

Lot 4, Block 1, Wal-Mart Subdivision

7. That the initial assessment for said District is the sum of One Hundred Dollars (\$100.00) which has been paid by the owners and deposited in the Special Service District Revolving Fund.

8. That periodic assessments shall be made in the future in amounts determined by the City to be necessary to maintain sufficient funds in said Revolving Fund. Said assessments shall be made and apportioned in accordance with Ordinance No. 4442.

PASSED by the City Council and APPROVED this _____ day of _____, 2006.

THE CITY OF BILLINGS:

By: _____

Ron Tussing MAYOR

ATTEST:

BY: _____

Marita Herold, CMC

CITY CLERK

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

W

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

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

PROBLEM/ISSUE STATEMENT: On December 12, 2005, the City Council adopted Resolution No. 05-18374 annexing 1.709 acres, including a .906-acre parcel located east of Blue Creek Road and a portion of Blue Creek Road right-of-way. (Annexation #05-10). The petition for annexation was submitted by Jeffrey Essmann, sole owner of property. After annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward I was held on December 19, 2005. A second reading of the ordinance is the final step in the procedure to expand the ward boundaries.

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

RECOMMENDATION

Staff recommends that the City Council approve the second reading of this ordinance that adds property to City Ward I.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

A: Ward Ordinance and Exhibit A

ORDINANCE NO. 06-_____

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

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

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

A tract of land situated in the SE1/4 of Section 20, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as: Tract 1C of Amended Tract One of the Second Amendment to Certificate of Survey No 566 Recorded July 9, 1975, Under Document No. 992687, Records of Yellowstone County, Montana; including all adjacent right-of-way of Montana Highway No. 416 / Blue Creek Road. Containing 1.709 +/- gross and 0.906 net acres.

(# 05-10) 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 19th day of December, 2005.

PASSED by the City Council on the second reading this 9th day of January, 2006.

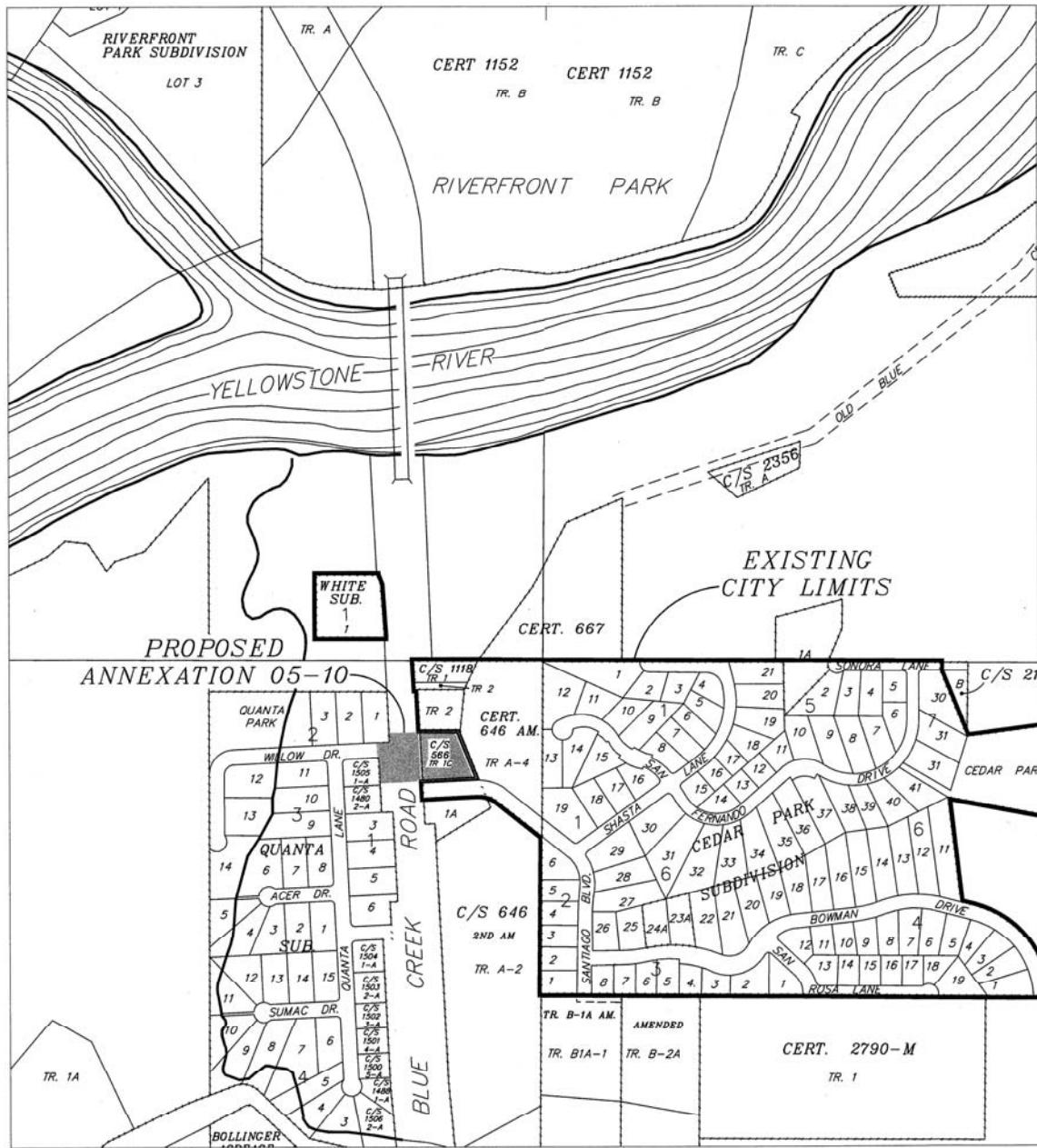
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CITY CLERK

EXHIBIT "A"



(Back to Consent Agenda)

X

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Second Reading of Ordinance Amending Council Meeting Procedures
DEPARTMENT: Administration
PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: At its December 19, 2005, meeting, the City Council held a public hearing and adopted this ordinance on first reading. The Council approved two amendments to the main motion that revised Section 2-214 and 2-222; 1) to not change the agenda order and 2) allowing motions and votes at work sessions under limited conditions. The Council will consider this revised ordinance on second reading.

ALTERNATIVES ANALYZED:

- Adopt the proposed ordinance
- Amend and adopt the proposed ordinance
- Do nothing

FINANCIAL IMPACT: None

RECOMMENDATION

Staff recommends that Council approve the revised ordinance on second reading.

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

ATTACHMENTS

A: Ordinance

INTRODUCTION

At its December 19, 2005, meeting, the City Council held a public hearing and adopted this ordinance on first reading. The Council approved two amendments to the main motion that revised Section 2-214 and 2-222; 1) to not change the agenda order and 2) allowing motions and votes at work sessions under limited conditions. The Council will consider this revised ordinance on second reading.

BACKGROUND

The Ordinance will amend three sections of the City Code and allow the City Council to become more involved in setting the regular meeting agenda, conform meeting procedures to state law and make work sessions more meaningful.

Section 2-213 is amended in accordance with open meeting laws and advice from the Attorney General that is contained in a draft opinion regarding open meeting procedures. The change specifies that at regular business meetings, the City Council may add items to its published agenda that are ministerial or not of significant interest to the public. Adequate notice of a public body's anticipated action is essential for meaningful public input. This change helps to ensure meaningful input by restricting the Council's ability to add substantive items to its published agenda.

Section 2-214 is amended to move Board and Commission Reports to the work session agenda. The first reading ordinance also changed the order of the consent agenda to follow the regular agenda. The Council adopted an amendment to the ordinance that restores the present order so that the consent agenda precedes the regular agenda items.

Section 2-222 sets the work session meeting procedures. The changes require the City Administrator to prepare an agenda, that minutes be recorded, that there be an opportunity for public comments and adds Board and Commission reports as a recurring agenda item. The Council adopted an amendment to the first reading ordinance that allows motions and votes to be taken at work sessions that are limited to directing staff on items that will receive final Council consideration at a future regular meeting. That provision has been added to the ordinance.

The Council also agreed to conduct agenda setting meetings at 5:30 p.m. on the second and fourth Tuesdays of each month. This agenda meeting does not require a code change, so the ordinance does not include this provision. The City Clerk will advertise the agenda meetings because they are open to the public. There will not be a published agenda and the Council may not make motions or take votes.

RECOMMENDATION

Staff recommends that Council approve the revised ordinance on second reading.

ATTACHMENTS

A: Ordinance

ATTACHMENT A

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 2-213, 2-214, AND 2-222; UPDATING PROCEDURE FOR AMENDING AGENDA AT THE COUNCIL MEETING, MOVING BOARD AND COMMISSION REPORTS TO THE WORK SESSION, AND UPDATING PUBLIC PARTICIPATION LANGUAGE.

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

Section 1. That Section 2-213 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 2-213. Proposed agenda.

(a) The city administrator shall prepare a draft regular meeting agenda and shall provide the same to the mayor and city councilmembers in accordance with an agreed process designed to provide them with sufficient time and opportunity to review the draft agenda and request changes therein prior to its finalization.

(b) The city administrator shall prepare the final agenda of business to be considered at the regular meeting with recommendations and proposed ordinances and resolutions attached and shall transmit copies of the same to the mayor and councilmembers on or before close of business on the Monday preceding the regular meeting at which the matters are to be considered. Agenda items may only be removed from the agenda by the consent of a three-fourths majority of the councilmembers present.

(c) Only matters that appear on the agenda shall be considered by the council at its regular meeting; ~~m~~Matters that are ministerial or deemed not of significant interest to the public may be added by consent of a three-fourths majority of all councilmembers present.

Section 2. That Section 2-214 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 2-214. Order of business for regular meetings.

At all regular meetings of the city council the order of business shall be as follows:

- (1) Call to Order;
- (2) Pledge of Allegiance;
- (3) Invocation;
- (4) Roll call;
- (5) Correcting, if necessary, and approving minutes of the last meeting or meetings;
- (6) Courtesies;
- (7) Proclamations;
- (8) ~~Board, commission, and~~ Council reports;
- (9) Administrator reports;
- (10) Public comment on "non-public hearing" items on the published agenda. This section of the agenda is used for public comment on any item on the agenda that is not listed for an individual public hearing. Speakers are requested to indicate their desire to speak and which item or items on which they

wish to offer comment by filling in their name, address and agenda item number or subject on a prepared "sign in" sheet. The length of time a speaker may speak is limited and is set by the mayor or presiding officer of the meeting.

(11) Consent agenda. This section of the agenda is used for items of a routine or non-controversial nature that do not statutorily require a public hearing, yet still require action by the city council. The collective list of items on the consent agenda is considered by the city council in one motion. Individual consent agenda items may be separated by request of a councilmember for individual consideration by the city council and subsequently voted upon individually.

(12) Regular agenda. This section of the agenda constitutes an individually numbered listing of business items either:

a. Requiring a public hearing prior to council action,

b. Giving a special informational presentation, or

c. Any item that may be either controversial in nature or requires separate time by the council to fully discuss the matter prior to rendering a final and binding decision.

(13) Public comment on "non-agenda" items. This section of the agenda is used for public comment on any matter or subject that is not included on the published agenda for that meeting. Speakers are requested to indicate their desire to speak and what item or topic on which they wish to offer comment by filling in their name, address and subject on a prepared "sign in" sheet. The length of time a speaker may speak is limited and is set by the mayor or presiding officer of the meeting. The city council does not take any formal action on these items, but may direct the city administrator to assign staff for follow up on an item.

(14) Council initiatives. This section of the agenda is reserved for individual councilmember requests for future legislative or staff action. These shall be limited to giving direction to staff to assist in formulating policies, work plans, etc. for future consideration of the city council. An initiative moves forward by majority vote of the city council.

(15) Adjourn.

The order of business may be altered for any meeting by a majority vote of the councilmembers present. The order of business for any special meeting shall be specified in the notice calling for the special meeting.

Section 3. That Section 2-222 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 2-222. Rules of procedure for work sessions.

The proceedings of the city council while meeting in work sessions shall be governed by the following rules:

(1) The meeting shall be convened and adjourned by the mayor.

(2) ~~No motions will be entertained nor votes taken.~~ The city administrator or designee shall prepare an agenda for each meeting. Minutes shall be taken and distributed in accordance with Sections 2-215 and 2-216.

(3) Motions will be entertained and votes taken only for purposes of giving city staff direction on matters that will be presented for final action at a future city council meeting.

(3) (4) The mayor shall be responsible for recognizing those who would like to speak and generally enforcing a productive decorum.

(5) Reports from boards and commissions will be heard.

(4) (6) Presentations on agenda items will be provided by city staff.

(7) A public comment period shall be provided at each meeting. The presiding officer may set time limits for the comments.

(5) ~~No public comment or testimony will be taken.~~

(6) ~~No parties to decisions scheduled to come before the city council for a vote will be recognized or otherwise provided an opportunity to engage the city council in discussion.~~

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

Section 5. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

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

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2006.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

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

Y

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Second Reading & Adoption Ordinance Revision – Water/Wastewater Utilities
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Due to the Public Utilities/Works organizational changes and need for revisions in other areas of the utilities operations, staff is asking the Council to amend various sections of Chapter 26 of the Billings Montana City Code. The revisions will 1) change all references to Public Utilities to Public Works or city; 2) revise various definitions; 3) add provisions establishing the procedures for compensation agreements between the city and developers covering developer-funded utility construction; and 4) amend the pretreatment portion of the code to allow the City to recoup costs related to problem discharges to the sanitary sewer system. The compensation agreement program allows for the city to reimburse developers where developers construct facilities that are normally constructed by the city. The revisions to the pretreatment program allow the city to recover costs of investigating and responding to problem discharges to the sanitary sewer system.

The Council held a public hearing on December 19 and approved the subject ordinance on first reading.

ALTERNATIVES ANALYZED: The alternatives for consideration are:

- Adopt the ordinance.
- Do not adopt the ordinance – Not adopting the changes will cause confusion by referring to the now non-existent Public Utilities Department/Director. In addition, staff will not be able to recoup costs associated with problem discharges to the sanitary sewer system and the compensation agreement program will not be “officially” established.

FINANCIAL IMPACT: There are no financial impacts associated with approval of the changes. Not approving the changes will result in the City being unable to recover the costs of investigation and cleanup of problem discharges to the sanitary sewer system.

RECOMMENDATION

Staff recommends that Council adopt the ordinance on second reading amending sections of Chapter 26 of the Billings Montana City Code.

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

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Z

AGENDA ITEM:



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

TITLE: Final Plat of Lincoln Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Lincoln Subdivision is being presented to the City Council for approval. On August 8, 2005, the City Council conditionally approved the two (2) lot preliminary minor plat for residential uses. The 3.4 acre subject property is located on the east side of Lincoln Lane, adjacent to the north of Liberty Lane. The owner and subdivider is Hanser Construction Company and EEC, Inc. is the company's representative. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

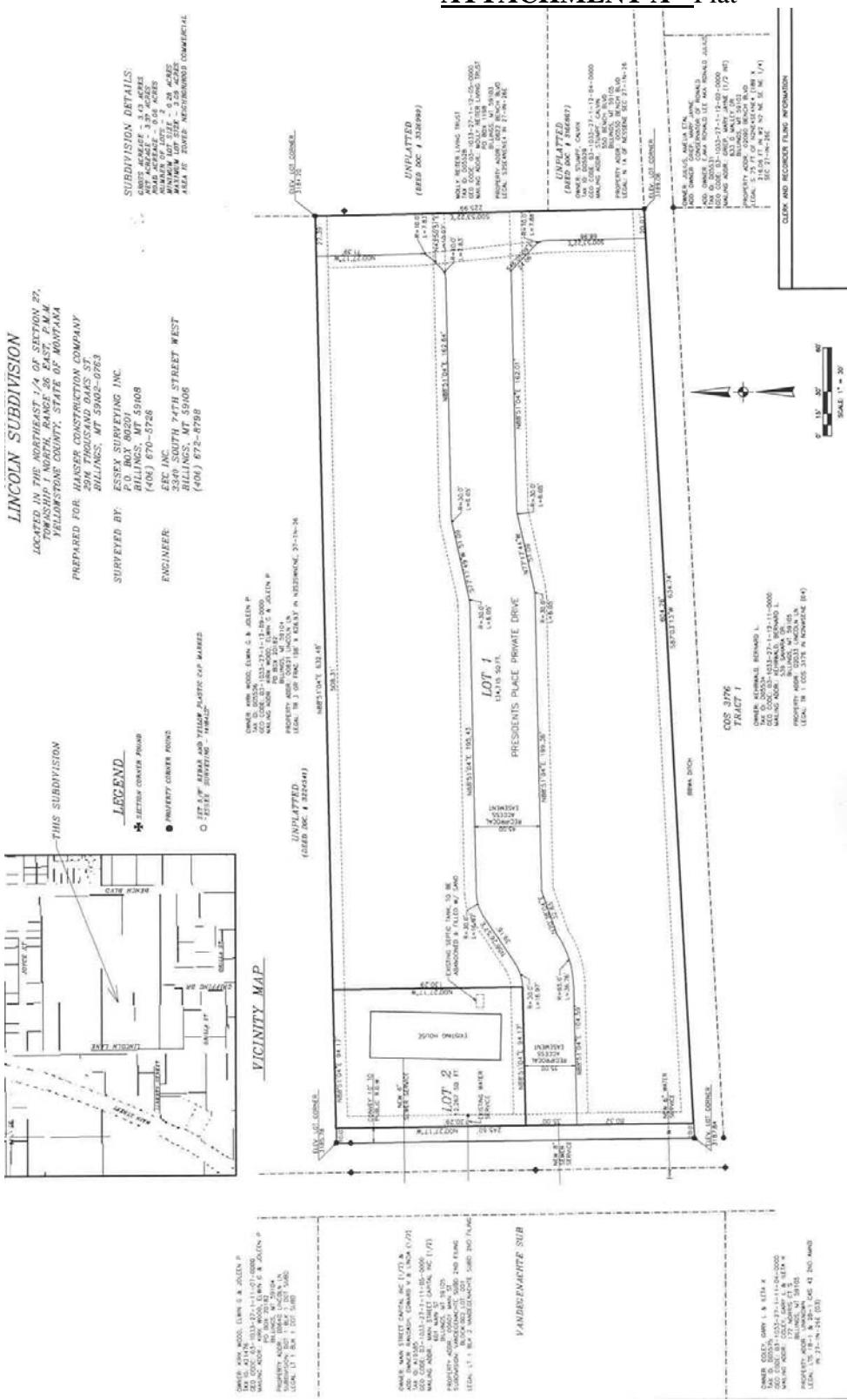
Staff recommends that the City Council approve the final plat of Lincoln Subdivision.

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

ATTACHMENT

A: Final Plat

ATTACHMENT A - Plat



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

AA

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Final Plat of Amended Lot 3B, Block 10, Parkland West Subdivision, 6th Filing
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Amended Lot 3B, Block 10, Parkland West Subdivision, 6th Filing is being presented to the City Council for approval. On August 8, 2005, the City Council conditionally approved the three (3) lot preliminary minor plat containing a total of 2.77 acres. The subject property is located south of Central Avenue at the northeast intersection of South 32nd Street West and is proposed for commercial uses (a professional office building and commercial retail structure). The owner is Avanta Federal Credit Union and the representing agent is Engineering, Inc. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lot 3B, Block 10, Parkland West Subdivision, 6th Filing.

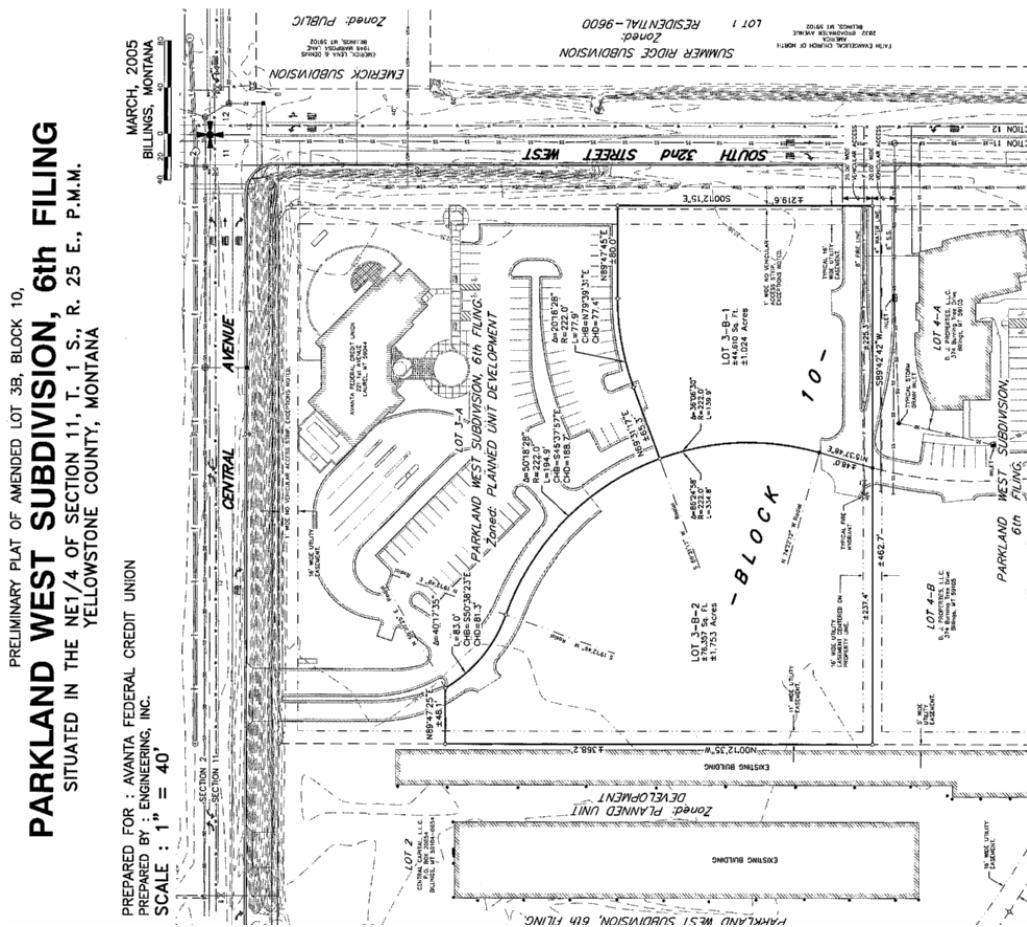
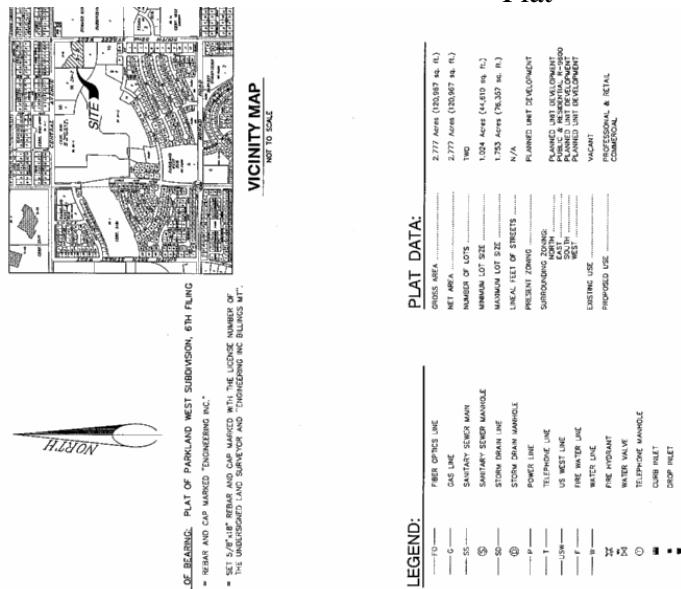
Approved By: **City Administrator** **City Attorney**

ATTACHMENT

A: Final Plat

ATTACHMENT A

Plat



(Back to Consent Agenda)

BB1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$867,069.49 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 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

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

BB2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$590,376.71 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 9, 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

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

BB3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$698,588.54 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 16, 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

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

BB4



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$143,992.86 have been audited and are presented for your approval for payment. A complete listing of the claims dated November 1, 2005 to November 30, 2005 is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims

Approved By: City Administrator City Attorney

ATTACHMENTS

A – Check register 11/01/2005 – 11/30/2005

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Site Development Ordinance Variance #CC05-02
DEPARTMENT: Public Works
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Buffalo Wild Wings Bar and Grill Restaurant, located at 411 South 24th Street West, is seeking a variance to not construct sidewalk and a subsequent retaining wall along the east side of their property. A site plan showing the overall construction limits of the project is shown in Attachment A. Currently, there is a sloped concrete path as shown in Pictures 1 and 2 of Attachment B. The City Ordinance, Section 6-1206 states that concrete sidewalks shall be constructed at all access locations.

ALTERNATIVES ANALYZED:

1. Approve the variance allowing the existing sloped concrete path to remain.
2. Do not approve the variance allowing the existing sloped concrete path to remain, therefore, requiring Buffalo Wild Wing to install sidewalk in accordance with City code.

FINANCIAL IMPACT: There is no immediate financial impact to the City of Billings, however, if the sidewalk is not constructed by Buffalo Wild Wings, the City of Billings may be required to construct the sidewalk within the future.

RECOMMENDATION

Staff recommends that Council deny the variance allowing the existing sloped concrete path to remain.

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

ATTACHMENTS

- A. Site Plan – (one page)
- B. Picture(s) – (two pages)

INTRODUCTION

Buffalo Wild Wings Bar and Grill Restaurant, located at Lot 10, Block 1, Valley View Subdivision, being generally located at the southeast corner of South 24th Street West and Monad Road is seeking a variance from City Ordinance 6-1206, which reads as follows:

In all zoning districts portland cement concrete sidewalks, portland cement concrete driveways at all access locations and portland cement concrete integral curb and gutter shall be constructed in conformance with section 6-1203(u) and with current city standards.

BACKGROUND

Currently there is a sloped concrete path along the east side of Buffalo Wild Wings as shown in Pictures 1 and 2 of Attachment B. In accordance with the City Ordinance, which requires new businesses or change-in-use businesses to follow the Site Development Code, the engineering department is requesting Buffalo Wild Wings to construct new sidewalk along their east property line. Due to the grade difference between the proposed sidewalk and existing parking lot, a retaining wall would also need to be constructed in concurrence with the sidewalk, increasing the cost to construct the sidewalk.

Buffalo Wild Wings is requesting the variance for the following reasons:

- The FOX 4 building, located directly south of their restaurant, has the same sloped concrete path, as shown in Picture 3 of Attachment B, and installation of a new sidewalk would be ineffective because this new sidewalk would lead to an inaccessible area.
- Buffalo Wild Wings also contests that an accessible route for pedestrians can be achieved by using the existing sidewalk on the east side of 23rd Street West.
- Construction of the sidewalk and retaining wall would be costly.

ALTERNATIVES ANALYSIS

1. Approve the variance allowing the existing sloped concrete path to remain. This alternative would benefit Buffalo Wild Wings. Construction of the sidewalk and retaining wall will be expensive and possibly timely. Construction of a new sidewalk will lead pedestrians to a dead end at the FOX 4 building forcing pedestrians onto the street. If Buffalo Wild Wings does not construct the sidewalk now, the City of Billings may be required to build the new sidewalk sometime in the future.
2. Do not approve the variance allowing the existing sloped concrete path to remain, therefore, requiring Buffalo Wild Wing to install sidewalk in accordance with City code. This alternative would benefit the City of Billings. Recent American with Disability Act (ADA) standards may require the City of Billings to reconstruct the sidewalk to ADA standards. If Buffalo Wild Wings brings the sidewalk to ADA compliance, the City of Billings could then use that money to fix other areas that do not yet meet ADA requirements.

RECOMMENDATION

Staff recommends that Council deny the variance allowing the existing sloped concrete path to remain.

ATTACHMENTS

- A. Site Plan – (one page)
- B. Picture(s) – (two pages)

ATTACHMENT B



Picture 1 – Current Buffalo Wild Wings Site (Looking South)



Picture 2 –Future Buffalo Wild Wings Site (Looking South)

ATTACHMENT B



Picture 3 – Fox 4 Building Adjacent to Buffalo Wild Wings (Looking South)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Zone Change #772 Public Hearing and 1st Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone a 37,461 square foot (0.86 acre) property from Residential Manufactured Home (RMH) to Residential 6000 (R-6000). The property is legally described as Lot 6, Block 3, Superior Homes Subdivision, is addressed as 406 Roxy Lane and is generally located east off of Lake Elmo Drive midway between Sharron Lane (north) and Kathy Lane (south). The owner and representative is Ann Bustell. The Zoning Commission conducted a public hearing on December 6, 2005, and voted unanimously to recommend approval to the City Council.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

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

FINANCIAL IMPACT: The proposed zone change could potentially increase the City's tax base, upon development of the property.

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #772 and adopt the determinations of the 12 criteria, as discussed within this report.

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

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Public Comment
- D: Ordinance

INTRODUCTION

The applicant is requesting to rezone a 37,461 square foot (0.86 acre) property from Residential Manufactured Home (RMH) to Residential 6000 (R-6000). The property is legally described as Lot 6, Block 3, Superior Homes Subdivision, is addressed as 406 Roxy Lane and is generally located east off of Lake Elmo Drive midway between Sharron Lane (north) and Kathy Lane (south).

PROCEDURAL HISTORY

- On October 31, 2005, the Planning Department received an application for a zone change on the subject property.
- The Zoning Commission conducted a public hearing for this item on December 6, 2005, and recommended approval to the City Council by a unanimous vote.
- The City Council will conduct a public hearing and first reading on January 9, 2006, and take action on the zone change application.
- If the zone change ordinance is approved on the first reading, the City Council will consider it for second reading on January 23, 2006.

BACKGROUND

The applicant, Ann Bustell, is requesting to rezone a 37,461 square foot (0.86 acre) property from Residential Manufactured Home to Residential 6000. The property is generally located on Roxy Lane east off of Lake Elmo Drive midway between Sharron Lane (north) and Kathy Lane (south) and is addressed as 406 Roxy Lane. The Zoning Commission finds that the proposed rezone would maintain the character of the surrounding land uses, which is a mixture of duplexes, single-family residences, multi-family residential uses and manufactured homes.

As stated within the submitted application the zone change is being proposed in order to strengthen the character of the neighborhood instead of constructing manufactured homes, as the current zoning would permit up to six (6) manufactured homes to be placed on the property. Within the R-6000 zoning district, up to five (5) duplexes (10 units total) could be constructed on the property, which is alike in character to the multi-family residential uses to the north and the duplexes to the west.

ALTERNATIVES ANALYSIS

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

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

The proposed zone change is generally consistent with the following goals of the Growth Policy:

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

The proposed zoning would provide for more housing choices within this portion of the city.

b. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).**

The subject property is within an urbanized portion of the City and is bordered on the south by single-family residences, on the north by multi-family residential units, on the west by developing duplexes, and on the east by manufactured homes.

c. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).**

The proposed zoning will address urban sprawl by providing for greater density within an infill development.

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

The proposed zoning will not increase the traffic generated from this site significantly. Any traffic impacts will be addressed during the subdivision process and/or site development.

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

Roxy Lane is a local residential gravel street bordering the property on the north, accessed via Lake Elmo Drive, a collector status street to the west. While improvements to Roxy Lane are not necessary at this time, they may be required upon subdivision, site development, or as additional properties develop along this street.

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

The proposed zoning will allow single-family residences, duplexes and multi-family residential units. The Unified Zoning Regulations contain minimum setbacks and lot coverage requirements, as well as height restrictions all zoning districts.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

The proposed zoning, as well as all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures and a minimum lot sizes required for duplexes. The R-6000 zoning district permits a maximum lot coverage of 40% and requires 7,000 square feet to construct a duplex. As calculated, five (5) duplexes could be constructed on the subject property. While the R-6000 zoning district does permit up to 10-plexes on a property, a Special Review would be required for any attached residential units above a duplex.

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

The subject property is bordered on the north by multi family residential uses and on the west by duplexes, both located in the R-6000 zoning district. The proposed zoning will not create any more of a concentration of population than the adjacent residential zoning districts.

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

Transportation: The new zoning will not affect the adjacent streets or traffic patterns. Any proposed roads or improvements will be reviewed upon site development.

Water and Sewerage: The County Water District of Billings Heights will provide water to the property; City sewer will be provided through existing lines within Lake Elmo Drive.

Schools and Parks: According to the Yellowstone County tax records, children from this development would attend Bench Elementary, Castlerock Middle School and Skyview High School. There are two (2) parks within the vicinity of this property including Lake Elmo State Park to the north and Meadowlark Park to the west.

Fire and Police: The subject property is currently served by the City of Billings fire and police departments. Provisions for adequate service will be reviewed and ensured at the time of subdivision or site plan review.

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

The surrounding land uses are a mixture of multi-family residential units, duplexes, manufactured homes, and single-family residential units. The applicant's proposal for duplexes is alike in character to these land uses.

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

The subject property is suitable for the requested zoning district.

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

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

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

The proposed zoning will permit for more dense development, as well as provide an infill project within an already urbanized portion of the City.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the 2003 Growth Policy Plan is discussed in the Alternatives Analysis section of this report.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on August 2, 2005, and forwarded a positive recommendation to the City Council by a 5-0 vote. There was written public comment received by the Planning Division on November 29, 2005, from one (1) surrounding property owner (Attachment C).

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #772 and adopt the determinations of the 12 criteria, as discussed within this report.

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Public Comment
- D: Ordinance

ATTACHMENT A
Site Photographs



Figure 1: View northeast across the subject property toward single-family residences.



Figure 2: View east along Roxy Lane toward the adjacent manufactured homes.



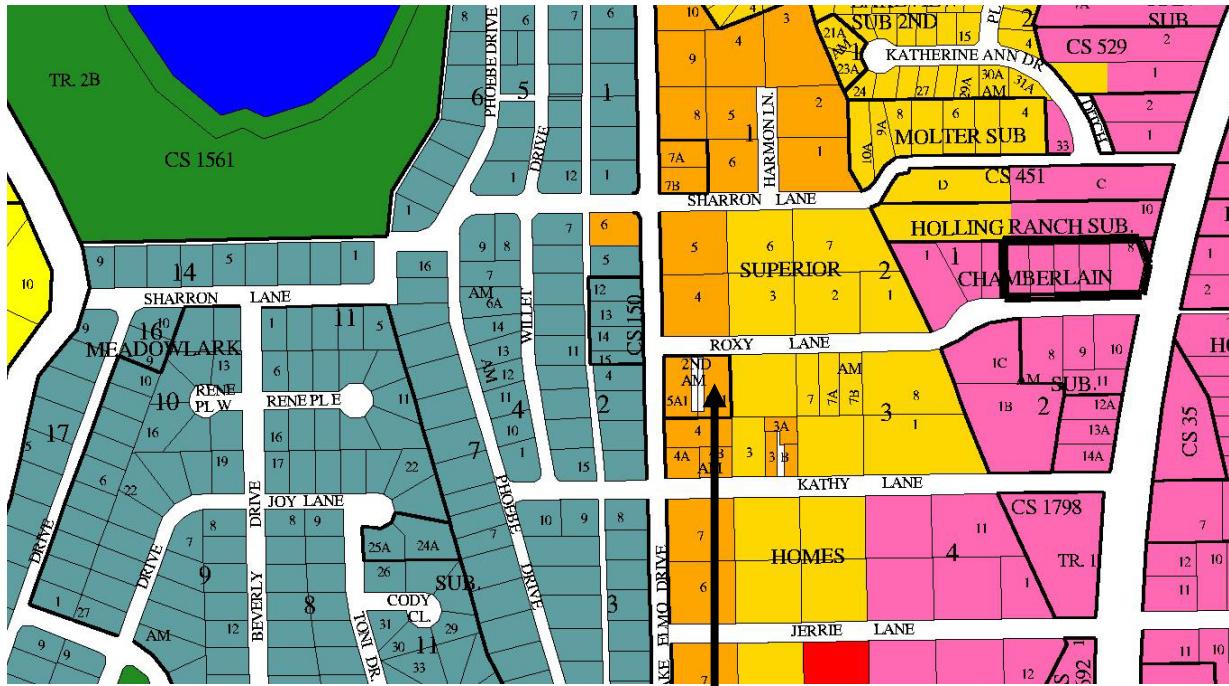
Figure 3: View west along Roxy Lane toward the intersection of Lake Elmo Drive and Roxy Lane. The multi-family units photographed are located to the north of the subject property.



Figure 4: View west toward an existing duplex on the adjacent property.

ATTACHMENT B

Surrounding Zoning



Subject Property

ATTACHMENT C

Public Comment

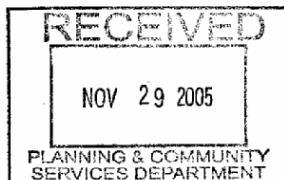


Planning & Community Services Department

"Serving Billings, Broadview and Yellowstone County"
510 North Broadway, 4th Floor, Billings, Montana 59101
Phone: (406) 657-8246 Fax: (406) 657-8327



November 18, 2005



CITY Zone Change # 772
Project Number: 05-00001041

Dear Property Owner:

This letter is to inform you of the following request recently submitted to the City/County Planning Department:

City Zone Change #772 – 406 Roxy Lane – A zone change from Residential Manufactured Home to Residential-6,000 on Lot 6, Block 3 of Superior Homes Subdivision. The subject property is located east off of Lake Elmo Drive on Roxy Lane. Ann Bustell is the owner.

The **PUBLIC HEARING** on this application will be conducted by the Zoning Commission at 4:30 p.m., on Tuesday, December 6, 2005, in the Council Chambers of City Hall, 210 N. 27th Street, Billings, Montana. At this hearing, the City Zoning Commission will make a recommendation to the City Council to approve or deny the request. The City Council may, by majority vote, accept or reject the Zoning Commission's recommendation.

You may receive additional information on this matter by contacting the City/County Planning Division between 8:00 a.m. and 5:00 p.m. at the 4th Floor of the Parmly Library, 510 North Broadway, or telephone 657-8246.

Sincerely,

The Staff of the City/County Planning Department

You people do anything you want.
We have protested before & all you done
was what you wanted by doing a
"Variance," Variance there, any thing
you want. Talk about communism
P.S. I'm referring to a flex on Kathy Ln.
too close to property, - multidrilling & so on!!

Peggy D. Clark
John J. Clark

ATTACHMENT D
ORDINANCE NO. 05-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR
Lot 6, Block 3, Superior Homes Subdivision, containing
approximately 37,461 square feet (0.86 acres). **THE SUBJECT
PROPERTY IS LOCATED AT 406 ROXY LANE.**

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

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

2. **DESCRIPTION.** A tract of land known as Lot 6, Block 3, Superior Homes Subdivision, containing approximately 37,461 square feet (0.86 acres) and is presently zoned Residential Manufactured Home and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential Manufactured Home** to **Residential 6000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 6000** zones as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading January 9, 2006.

PASSED, ADOPTED AND APPROVED on second reading January 23, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

SUBJECT: City Special Review #799 – Cretex Concrete Products West, Inc.
DEPARTMENT: Planning and Community Services through Ramona Mattix, AICP, Planning Director
PRESENTED BY: Cynthia Wilson, Planner I

REQUEST: A special request has been made to allow the applicant, Cretex Concrete Products West, Inc. (dba Elk River Concrete Products), to perform outside production and storage of hydraulic concrete products in a Controlled Industrial zoning district, as required Article 27-306 of the Unified Code Regulations. This special review request will provide additional working space to Cretex Conctete Products West, Inc., allowing the company to expand its business operation. The subject property is legally described as Lot 2, Block 6 of the Tierra Yellowstone Industrial Park Subdivision, 2nd Filing, and is generally located adjacent to the north of Hesper Road between South 30th Street West and South 32nd Street West. The Zoning Commission conducted a public hearing on December 6, 2005, and is forwarding a recommendation of conditional approval to the City Council by a 4-1 vote.

ALTERNATIVES ANALYZED:

1. Approval;
2. Conditional approval; or
3. Denial.

FINANCIAL IMPACT: The special review, if approved, would increase the City's tax base.

RECOMMENDATION

The Zoning Commission is recommending that the City Council conditionally approve Special Review #799.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A: Zoning Map
- B: Site Plan
- C: Site Photographs
- D: Submissions from Opponents

INTRODUCTION

A special request has been made to allow the applicant, Cretex Concrete Products West, Inc. (dba Elk River Concrete Products), to perform outside production and storage of hydraulic concrete products in a Controlled Industrial zoning district, as required Article 27-306 of the Unified Code Regulations. This special review request will provide additional working space to Cretex Concrete Products West, Inc., allowing the company to expand their business operation. The subject property is legally described as Lot 2, Block 6 of the Tierra Yellowstone Industrial Park Subdivision, 2nd Filing, and is generally located adjacent to the north of Hesper Road between South 30th Street West and South 32nd Street West.

The subject of Special Review #799, Lot 2, Block 6 of the Tierra Yellowstone Industrial Park Subdivision, 2nd Filing, is located within the southwestern region of Billings. This area is predominantly zoned as Controlled Industrial and is one of the largest industrially-zoned areas within Yellowstone County. The subject property contains the existing concrete business (Cretex) on the southwest corner of the site (current Lot 2) and a tree nursery on the eastern portion of the property (current Lot 3); current Lot 1, the northern portion of current Lot 2, and current Lots 4-5 are vacant. The subject property is bordered on the west by a powder coating business, on the south by vacant land and a vacant warehouse structure and on the east and north by vacant and developing land. Although this area is pre-designated as being suitable for light and heavy industrial uses, the production and storage of "hydraulic cement, structural clay products; concrete, gypsum, and plaster products," is regulated through the special review process (Article 27-3000, Sections 32-324, 325 and 327). Additionally, this subdivision, which caters to a variety of light industrial amenities, is guided by a June 9, 1981 *Declaration of Protective Covenants for Tierra Yellowstone Industrial Park Subdivision*, that sets screening of materials stored outside, removal of garbage and waste weekly, and landscaping requirements for property owners and users, in addition to any new construction of dwellings and improvements.

The Tierra Yellowstone Industrial Park Subdivision was created as a planned commercial and industrial complex, within a Controlled Industrial zoning district. The applicant, Cretex Concrete Products West, Inc., is requesting a special review to allow outside production and storage of hydraulic concrete products on Lot 2, Block 6 of the Tierra Yellowstone Industrial Park Subdivision, 2nd Filing. This special review would aggregate 11 lots within the previously filed, first and amended filings of Tierra Yellowstone Industrial Park. The resulting aggregation would consist of Lots 1-7 and 11-12 of Block 2A and Lots 10-11 of Block 1A into a proposed Lot 2. Previous actions taken by the City Zoning Commission and the City Council include conditional approval of a special review in 1990, to allow a precast concrete product plant in a Controlled Industrial zoning district; and, two conditionally approved special reviews requested in March and October of 1992, to allow outside manufacturing and outside storage of precast concrete products and related uses. This special review request, upon approval, would allow additional area for Cretex Concrete Products West, Inc., to expand their operation.

Planning staff considered the application and recommended conditional approval. The proposed property use is consistent with regional land uses and neighborhood zoning characteristics (Yellowstone County and City of Billings 2003 Growth Policy Plan, Land Use Element Goal 1). The proposed property use contains the existing concrete facility and its operations, would utilize onsite vacant land, and existing public facilities, rather than developing their expansion on nearby otherwise vacant land in adjacent city neighborhoods and county town sites (Land Use Goal 2). In addition Special Review #799 will not be different in land use, as the existing facility and land use is currently used for the same purposes. Hours of operation will be the same. Onsite land use will be the same (Article 2700-1500).

APPLICABLE ZONING HISTORY

Special Review #398 – A special review in a Controlled Industrial zone was conditionally approved February 26, 1990, to allow a precast concrete product plant on Lots 1 thru 4, and Lots 11 and 12, Block 2A, of the Tierra Yellowstone Industrial Park Subdivision generally located at the northeast corner of Hesper Road and South 32nd Street. The condition of approval was that all applicable requirements of the Subdivision Improvements Agreement be met before any permits were issued.

Special Review #461 – A special review in a Controlled Industrial zone was conditionally approved March 13, 1992, to allow outside manufacturing and outside storage of precast concrete products and related uses on Lots 5 and 6, Block 2A, of the Tierra Yellowstone Industrial Park Subdivision generally located at 3101 Hesper Road. The condition of approval was that the use and development of the property be limited to outside storage and manufacturing of precast concrete products only.

Special Review #470 – A special review in a Controlled Industrial zone was conditionally approved October 19, 1992, to allow outside manufacturing and outside storage of precast concrete products and related uses on Lots 7 and 8, Block 2A, of the Tierra Yellowstone Industrial Park Subdivision generally located at the southwest corner of South 30th Street West and Conrad Road. The condition of approval was that the applicant sign a *waiver of protest* to ensure future participation in street improvements along South 30th Street West and Conrad Road, adjacent to the subject property.

Street Vacation - Conrad Road, previously located through the center of the subject property, was vacated at the September 12, 2005, City Council meeting.

PROCEDURAL HISTORY

- The request for a Special Review was received on November 7, 2005.
- On December 6, 2005, the City Zoning Commission conducted a public hearing on the Special Review and voted 4-1 to conditionally approve the request.
- The City Council will conduct a public hearing for consideration of this application on January 9, 2006.

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 chapter.

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 and the Growth Policy.

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 recommended conditions of approval will ensure increased compatibility with and separation from the adjoining land uses.

CONDITIONS OF APPROVAL

The applicant shall comply with the following conditions of approval:

1. Screen materials stored outside. All materials, parts, equipment and similar items shall be placed and stored outside in a neat and orderly fashion and screened from public view and neighboring property with fences or landscape screening built in conformity with set back requirements.
2. Remove garage and waste weekly. Garage and waste removal shall be accomplished at least once a week, or more often, if necessary, to maintain the premises and keep clean and free of refuse.

3. Provide landscaping, mowing of weeds, and keep the new expansion area of Lot 2, Block 6 of the Tierra Yellowstone Industrial Park Subdivision, 2nd Filing, clean and free of refuse.

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

One individual, the Agent, spoke in support of the Special Review, and four spoke in opposition. Agent Marshall Phil provided testimony and answered questions from the Zoning Commission. No departmental comments were received regarding this application.

One concern was that there would be dust from the additional storage onsite. Another stated that this area was a high-end campus park, designed for quality factories, and business headquarters, maybe a fiber optic high tech data center, but not for “dusty concrete.” The opponent stated that Cretex detracted from property values, and provided a letter to this end (see Attachment D). The opponent “has purchased land around and is circling inward...the purchases will provide jobs and value for taxation.” This opponent stated the area’s long-term goal was to redevelop. The next opponent stated he was not opposed to the business, just the location and that would assist “in moving the lumber company out also.” The fourth opponent is interested in developing a daycare center for the high-end campus park that would be developed and provided a site plan of such (see Attachment D).

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 Yellowstone County-City of Billings Growth Policy, specifically:

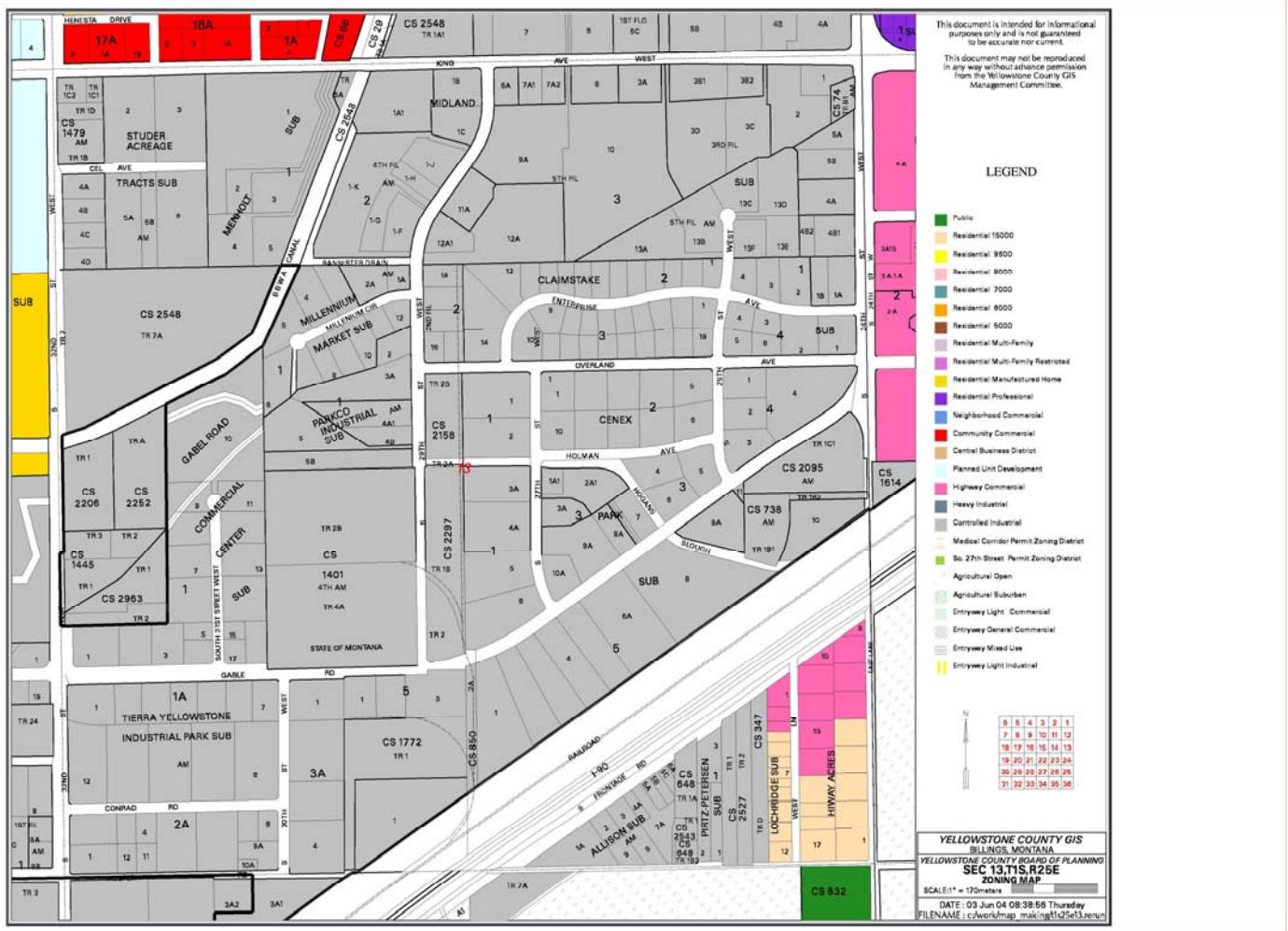
- The proposal provides development within an existing commercial corridor.
- The proposal provides contiguous development focused in and around an existing population center.

ATTACHMENTS

Attachment A:	City Zoning Commission Special Review Action
Attachment B:	Site Plan
Attachment C:	Site Photographs
Attachment D:	Submissions from Opponents

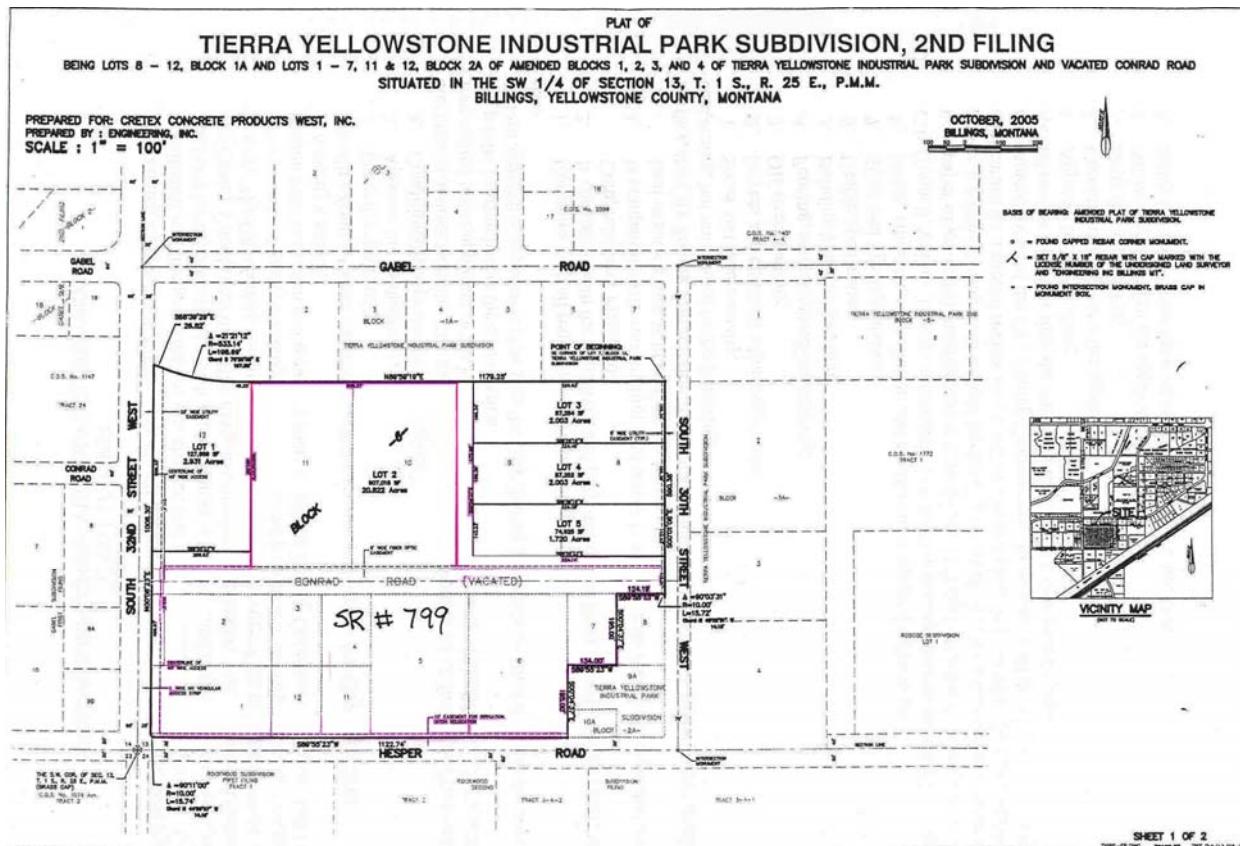
CITY SPECIAL REVIEW #799
LOT 2, BLOCK 6
TIERRA YELLOWSTONE INDUSTRIAL PARK SUBDIVISION, 2ND FILING

ATTACHMENT A
ZONING MAP



CITY SPECIAL REVIEW #799
TIERRA YELLOWSTONE INDUSTRIAL PARK SUBDIVISION, 2ND FILING

ATTACHMENT B
SITE PLAN



**CITY SPECIAL REVIEW #799
LOT 2, BLOCK 6
TIERRA YELLOWSTONE INDUSTRIAL PARK SUBDIVISION, 2ND FILING**

**ATTACHMENT C
SITE PHOTOGRAPHS**



Photo 1. Facing east, looking at existing Cretex Concrete Products West, Inc., western access.



Photo 2. Facing north along South 32nd Street West, which borders the subject property on the west. Bosco Powder Coating is shown on the west.



Photo 3. Facing south, looking at the additional area Concrete Products West, Inc. intends to utilize upon Special Review #799 approval.



Photo 4. Facing west, looking at Bosco Powder.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: W.O. 00-15 Public Hearing on Condemnation of Property on Grand Avenue and Resolution Authorizing Condemnation

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8th Street West to 12th Street West to purchase the necessary right-of-way to construct the Grand Avenue widening project for the last two years. Appraisals of the necessary right-of-way were completed by The Appraisal Group with offers being made to each affected property owner. Each property owner refused the offer due to the depreciated value of the signs within the right-of-way. Our office went to City Council at a work session and requested the ability to offer full value of the signs. Once this was done, all but five property owners agreed to the new offer. We have come to an impasse with these five property owners representing six different properties.

ALTERNATIVES ANALYZED:

1. Hold the Public Hearing and approve the resolution authorizing condemnation of the six properties on Grand Avenue from 8th Street West to 12th Street West.
2. Hold the Public Hearing and do not approve the resolution authorizing condemnation of the six properties on Grand Avenue from 8th Street West to 12th Street West.

FINANCIAL IMPACT: Final value will be set through the condemnation process.

RECOMMENDATION

Staff recommends that Council hold a public hearing regarding condemnation of six properties on Grand Avenue from 8th Street West to 12th Street West and approve or disapprove the resolution authorizing condemnation.

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

ATTACHMENT

A. Resolution Authorizing Condemnation of Property on Grand Avenue

INTRODUCTION

Work Order 00-15 was designed to widen Grand Avenue from 8th Street West to 12th Street West. The City Engineer's Office has negotiated for the necessary right-of-way for two years. The right-of-way was identified on the design plans and must be acquired prior to construction.

PROCEDURAL HISTORY

If the resolution authorizing condemnation on Grand Avenue is approved, city staff will proceed with condemnation. The City Engineer's Office will proceed with resurfacing of Grand Avenue in the Spring of 2006 to allow time for the condemnation.

BACKGROUND

Appraisals for all the necessary right-of-way were obtained and negotiations were started with the property owners. In a Council Work Session it was approved to offer land value plus full value for any signs within the requested right-of-way. Unfortunately, right-of-way negotiations have reached an impasse with the following five property owners.

1. Randy Reger and Jeff Keil own the Dairy Queen property at 12th Street West and Grand. Randy Reger also owns the vacant lot at 12th Street West and Grand.
2. Merle Johns owns the property at 1144 Grand.
3. Ben Brown owns the property at 1142 Grand.
4. Philip Keith owns the property at 1112 Grand.

Each property owner was made an offer based on the appraisals. The Dairy Queen property was made an offer for the whole property due to the fact that the necessary right-of-way would eliminate 100% of the parking for the building.

ALTERNATIVES ANALYSIS

Hold the Public Hearing and approve resolution authorizing condemnation of property on Grand Avenue from 8th Street West to 12th Street West. Under this option, City Staff would proceed with the condemnation process.

Hold the Public Hearing and do not approve resolution authorizing condemnation of property on Grand Avenue from 8th Street West to 12th Street West. Under this option, the city would proceed with a project with the right-of-way that has been acquired.

RECOMMENDATION

Staff recommends that Council hold a public hearing regarding condemnation of six properties on Grand Avenue from 8th Street West to 12th Street West and approve or disapprove the resolution authorizing condemnation.

ATTACHMENT

A. Resolution Authorizing Condemnation of Property on Grand Avenue

RESOLUTION NO. 05- _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,
MONTANA, PURSUANT TO BILLINGS CITY CODE CHAPTER 12,
EMINENT DOMAIN, DECLARING PUBLIC PURPOSE AND USE,
DESCRIBING THE PROPERTIES TO BE TAKEN AND AUTHORIZING
CITY OFFICIALS TO PROCEED.**

WHEREAS, the City of Billings finds it necessary to acquire certain real property to allow it to utilize such property for purposes of traffic lane widening improvements on Grand Avenue between 8th Street West and 12th Street West in the City of Billings; and

WHEREAS, the real property to be acquired, and the temporary construction easements necessary, to complete these improvements is described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the City officials have attempted to purchase said real property at a mutually agreeable purchase price but have been unable to obtain the consent of all of the owners to sell said real property; and

WHEREAS, pursuant to Chapter 12, Section 12-102 of the Billings City Code, it is necessary to pass a Resolution initiating eminent domain procedures; and

WHEREAS, said use is a public use and will benefit the general public and will be used for public purposes; and

WHEREAS, it is necessary to condemn said real property by exercise of the right of eminent domain to make land available for said completion of traffic lane widening improvements on Grand Avenue between 8th Street West and 12th Street West in Billings; and

WHEREAS, it is necessary to condemn the right of way in said private real property in fee simple and for a temporary construction easement as described in Exhibit "A" for the purpose of traffic lane widening improvements on Grand Avenue between 8th Street West and 12th Street West in the City of Billings; and

WHEREAS, the City officials should be authorized to proceed with the condemnation proceedings as provided by law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Billings, Montana, as follows:

1. **PUBLIC USE:** The City hereby declares that the above-described interests in real property shall be condemned at its fair market value under the City's eminent domain powers to enable the City to acquire said property, and necessary construction easements, for the purposes of traffic lane widening improvements on Grand Avenue between 8th Street West and 12th Street West in the City of Billings;

2. **PUBLIC PURPOSE AND NECESSITY:** It is hereby declared that said real property is being acquired for a public purpose, for public use and is necessary to the project.

3. **DESCRIPTION OF PROPERTY, EXTENT OF INTEREST:** The right of way in fee simple, a perpetual easement and temporary construction easement described in Exhibit "A" shall be taken for public purpose.

4. **AUTHORIZATION TO PROCEED:** That the appropriate City officials are hereby directed and authorized to proceed with condemnation of said real property as provided by law.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, at a regular session thereof held on the 9th day of January, 2006.

ATTEST:

RON TUSSING, Mayor

MARITA HEROLD
City Clerk

APPROVED AS TO FORM:

BRENT BROOKS
City Attorney

EXHIBIT “A”

LEGAL DESCRIPTION OF GRAND AVENUE PROPERTY ACQUISITION

1. A tract of land located in the Northerly 100 feet of Lot 11, Block 4, Sunset Subdivision, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

Beginning at the northwest corner of Lot 11; thence N89°46'05"E along the north line of said lot, 58.44 feet; thence S0°22'55"E along the east line of said lot, 19.09 feet; thence S89°02'27"W, 39.75 feet; thence S46°22'56"W, 25.67 feet to the west line of said lot; thence N0°22'55"W along the west line of said lot, 37.22 feet to the Point of Beginning, containing 1,300 square feet, more or less, plus a temporary construction easement extending 10 feet to the south along the southern boundary of the tract for use for construction purposes during the construction period for the improvements being made.

2. A tract of land located in Lot 12, Block 4, Sunset Subdivision, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

Beginning at the northwest corner of Lot 12; thence N89°46'05"E along the north line of said lot, 59.99 feet; thence S0°22'55"E along the east line of said lot, 18.33 feet; thence S89°02'27"W, 59.99 feet to the west line of said lot; thence N0°22'55"W along the west line of said lot, 19.09 feet to the Point of Beginning, containing 1,120 square feet, more or less, plus a temporary construction easement extending 10 feet to the south along the southern boundary of the tract for use for construction purposes during the construction period for the improvements being made.

3. A tract of land located in Lots 13 and 14, Block 4, Sunset Subdivision, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

Beginning at the northwest corner of Lot 13; thence N89°46'05"E along the north line of Lots 13 and 14 a distance of 119.98 feet; thence S0°22'55"E along the east line of Lot 14 a distance of 16.80 feet; thence S89°02'27"W, 119.99 feet to the west line of Lot 13; thence N0°22'55"W along the west line of said lot, 18.33 feet to the Point of Beginning, containing 2,110 square feet, more or less, plus a temporary construction easement extending 10 feet to the south along the southern boundary of the tract for use for construction purposes during the construction period for the improvements being made.

4. A tract of land identified as Lot 3, of the Sunset Subdivision Fifth Filing, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

5. A tract of land located in Lots 18 and 19, Block 4, Sunset Subdivision, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

Beginning at the northwest corner of Lot 18; thence N89°46'54"E along the north line of Lots 18 and 19 a distance of 114.49 feet; thence S0°22'55"E along the east line of Lot 19

a distance of 14.66 feet; thence S89°33'59"W, 144.49 feet to the west line of Lot 18; thence N0°22'55"W along the west line of said lot, 15.09 feet to the Point of Beginning, containing 1,705 square feet, more or less, plus a temporary construction easement extending 10 feet to the south along the southern boundary of the tract for use for construction purposes during the construction period for the improvements being made.

6. A tract of land located in Lot 20, Block 4, Sunset Subdivision, situated in Government Lot 2, Section 5, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana.

Beginning at the northwest corner of Lot 20; thence N89°39'31"E along the north line of said lot, 79.96 feet; thence S0°22'55"E along the east line of said lot, 36.80 feet; thence N42°46'33"W, 30.12 feet; thence S89°33'59"W, 59.65 feet to the west line of said lot; thence N0°22'55"W along the west line of said lot, 14.66 feet to the Point of Beginning, containing 1,395 square feet, more or less, plus a temporary construction easement extending 10 feet to the south along the southern boundary of the tract for use for construction purposes during the construction period for the improvements being made.

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 12, 2005**

TITLE: Public Hearing & Resolution -- Alternatives, Inc., Methamphetamine Program

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: At the Dec. 12, 2005, City Council Meeting, Alternatives, Inc., Administrator David Armstrong asked the Council to adopt a resolution of support for a 40-60 bed methamphetamine treatment program for women to be housed at the former Howard Johnson Express Inn, 1001 S. 27th St. The resolution is required to qualify to respond to a Montana Department of Corrections Residential Methamphetamine Treatment Programs request for proposals due Jan. 10. Then-Councilmember McDermott asked that a public hearing be held when the resolution is considered. Incoming Councilmember Ronquillo asked Mr. Armstrong to meet with the Southside Task Force, which subsequently voted to oppose the facility. Mr. Armstrong asked that the matter be scheduled for Council consideration on Jan. 9, 2006.

ALTERNATIVES ANALYZED:

- Hold the public hearing and adopt the resolution.
- Hold the public hearing and reject the resolution.

FINANCIAL IMPACT: Purchase of the Howard Johnson Express Inn by Alternatives, Inc., will remove it from the tax rolls, since Alternatives, Inc., is a not-for-profit corporation. However, Mr. Armstrong said at the Dec. 12 meeting that the approval or disapproval of the methamphetamine program will not affect the purchase of the property, which will house a 65-bed women's community corrections center and a 30-40 bed assessment center for women. The facility is expected to bring 40 more jobs than the hotel, at a budget of \$3.5 million.

RECOMMENDATION

Because the facility will proceed whether or not the methamphetamine program proceeds, the program will result in more jobs in the area and there is a growing methamphetamine problem in the state, staff recommends approval of the resolution.

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

ATTACHMENTS:

A – Resolution

ATTACHMENT A

RESOLUTION 06- _____

**A RESOLUTION OF THE CITY OF BILLINGS ENDORSING
ESTABLISHMENT OF A METHAMPHETAMINE TREATMENT PROGRAM
WITHIN THE CITY LIMITS**

WHEREAS, the Montana Department of Corrections has released a request for proposals (RFP) for a privately developed and managed Methamphetamine Treatment Program; and

WHEREAS, the selection of a site for this private facility will involve a competitive process requiring a non-profit correctional services provider to show support by the local community for the program to be established by providing a resolution of endorsement; and

WHEREAS, Alternatives, Inc., a non-profit agency headquartered in Billings, Montana, proposes to respond to the Methamphetamine Treatment Program RFP with a proposal for a 40-60-bed women's treatment program for women offenders.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the City Council endorses the application of Alternatives, Inc., for a 40-60-bed women's methamphetamine treatment center.

APPROVED AND PASSED by the City Council of the City of Billings, Montana, this 9th Day of January, 2006.

CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

ATTEST:

By: _____
Marita Herold, CMC/AAE
City Clerk

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, January 9, 2006

TITLE: First Reading of Ordinance for the Amended City Subdivision Regulations (Article 23, BMCC)

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The City Council held a public hearing on the Amended City Subdivision Regulations (Article 23, BMCC) on December 19, 2005. A couple of questions were raised at that meeting, and Council delayed action on the ordinance until this meeting to allow those questions to be answered.

FINANCIAL IMPACT: There are no foreseen financial impacts to the City for adopting the Amended City Subdivision Regulations.

RECOMMENDATION

Planning Board recommends that Council adopt the City Subdivision Regulations, as Amended.

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

ATTACHMENTS

- A: Definition comparisons on manufactured homes
- B: Comparison of required street right-of-way and surface widths

INTRODUCTION

The 2005 Legislature approved Senate Bill 116 in April, enacting a number of changes to the Subdivision and Platting Act (Title 76-3, Montana Code Annotated) and requiring adoption of updated local subdivision regulations by October, 2006. In response to this mandate and in order to implement some of the goals of the 2003 Growth Policy, Planning staff, in collaboration with other City staff and community members, is presenting a new draft set of City Subdivision Regulations for adoption.

PROCEDURAL HISTORY

- April, 2005: State Legislature approved Senate Bill 116 requiring updates to local subdivision regulations.
- March, 2004 – May, 2005: Planning staff drafted revised City Subdivision Regulations.
- April, 2005 – June, 2005: Planning staff and other City staff reviewed draft regulations.
- June 21, 2005 – August 16, 2005: Technical Review Committee made up of key staff and development community representatives reviewed draft regulations in a series of weekly meetings.
- November 7, 2005: City Council Work Session.
- November 22, 2005: Planning Board held a Public Hearing on the new regulations.
- December 19, 2005: City Council held a Public Hearing.
- January 9, 2006: City Council to act on the 1st Reading of Ordinance.
- January 23, 2006: City Council to act on the 2nd Reading of Ordinance.

BACKGROUND

The City's Subdivision Regulations (Article 23, BMCC) have been revised and were presented to the City Council on December 19, 2005 for their consideration for adoption. At that meeting, Councilmember Brown mentioned that he felt there was an inconsistency in the way "manufactured home" is defined in the proposed regulations with the definitions found in State and Federal laws. Staff was directed to compare those definitions and present any inconsistencies to the Council for the next meeting. The comparison can be found in Attachment A. Also at that meeting, Councilmember Jones requested a comparison of the current right-of-way and street width requirements with what is proposed. This comparison can be found in Attachment B.

A copy of the entire 132-page ordinance can be acquired from the City Clerk's office, or found on the City Planning Website at: <http://www.ci.billings.mt.us/Government/planning/index.php>

STAKEHOLDERS

The amended regulations were presented to the Homebuilders' Association by Planning Director, Ramona Mattix. Those in attendance were supportive of the amendments, but also suggested adding a provision that requires the preparation of a geotechnical report during the subdivision stage, rather than when applying for building permits. They felt this would be a much more cost effective solution and staff is recommending this requirement for all preliminary plats.

There were no public comments at the Planning Board's Public Hearing held on November 22, 2005, or at the City Council's public hearing on December 19, 2005.

RECOMMENDATION

Planning Board recommends that Council adopt the City Subdivision Regulations, as Amended.

ATTACHMENTS

- A: Definition comparisons on manufactured homes
- B: Comparison of required street right-of-way and surface widths

Attachment A

Below are the definitions for manufactured homes, mobile homes, modular homes and Recreational Camping Vehicle as proposed in the revised Subdivision Regulations:

MANUFACTURED HOME: A detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, "trailer homes," "house trailers," and "mobile homes" whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include "modular" or "factory-built buildings" that are fabricated at a factory in accordance with the International Residential/Building Code applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.

MOBILE HOME OR TRAILER: See MANUFACTURED HOME.

MODULAR HOME: A dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

RECREATIONAL CAMPING VEHICLE: A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

Definitions from Montana Code Annotated (MCA) and Federal HUD Code are as follows:

MCA 15-1-101(l)(i):

"Manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and federal Manufactured Home Construction and Safety Standards.

MCA 15-1-101(l)(ii):

A manufactured home does not include a mobile home, as defined in subsection (l)(m), or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

MCA 15-1-101(m):

"mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principle residence [also known as a travel trailers or RVs](emphasis added).

Federal HUD Code:

All manufactured homes are constructed in accordance with the Federal Manufactured Home Construction and Safety Standards, in effect since June 15, 1976. This building code, administered by the U.S. Department of Housing and Urban Development (HUD) and known as the HUD Code, regulates home design and construction, strength and durability, fire resistance, and energy efficiency. In the early 1990's this building code was revised to enhance energy efficiency and ventilation standards and to improve the wind resistance of manufactured homes in areas prone to hurricane-force winds. The Manufactured Housing Improvement Act of 2000 establishes a more timely and systematic approach to code updates and enhancements.

Discussion:

The main difference between the proposed Subdivision Regulations definitions and the State and Federal definitions is that the proposed City Subdivision Regulations combines "manufactured homes" and "mobile homes" into one definition. MCA and HUD separate them out based on age (trailers built pre-June 15, 1976 are called mobile homes). However, the MCA definition for mobile homes includes travel trailers and recreational vehicles. The proposed Subdivision Regulations defines Recreational Camping Vehicles separately.

While the proposed Subdivision Regulations do vary from the definitions in MCA and HUD, it is important to remember that the definitions must reflect the way the terms are used in the context of the regulatory document. In the case of the City Subdivision Regulations, the term "Manufactured Home" means manufactured homes built after June 15, 1976, and mobile home built before that date. The two types of homes are regulated the same with regard to the creation of subdivisions for rent or lease. However, subdivisions created for recreational vehicles are treated slightly differently in the subdivision regulations, therefore recreational camping vehicles are defined separately.

For these reasons, staff recommends leaving the definitions as they are proposed so that they represent the distinctions necessary for the regulations.

Attachment B

Proposed Street Width Requirements

Table 23-406.B.1. Required Dedications and Street Improvements for Subdivisions within the City Limits

Street Type	Right-of-Way	B-B Curb Width	Lane Width	Parking Width	Turn lane width	Median Width	Boulevard Width	Sidewalk Width
Principal Arterial	130'	64'-86'*	11'-12''**	---	14'	---	10'	5'/10' ***
Minor Arterial	100'	42'-66' *	12'	---	---	14'	10'	5'
Collector	74'	53'-39'	11'	8'	14'	---	5'	5'
Commercial Local Access	70'	44'-45'	13.5'	8'	14'	---	5'	5'
Residential Local Access	56'	34' min.	n/s	n/s	---	---	5'	5'
Cul-de-Sac 100-600 feet	56'	34' min.	n/s	n/s	---	---	5'	5'
Cul-de-Sac <100 feet	40'	29' min.	n/s	n/s	---	---	---	---

* A traffic study is required to determine final width.

** Interior lane(s) is 11' and the outside lane is 12'.

*** Sidewalk is 5' on one side and 10' on the other side.

n/s No specific width is specified.

Existing Street Width Requirements

Street Type	Right-of-Way	B-B Curb Width	Lane Width	Parking Width	Turn lane width	Median Width	Boulevard Width	Sidewalk Width
Principal Arterial:								
6-lane + median	120	92	12	---	---	16	n/a	n/a
Minor Arterial								
2-lane + parking	100	52	14	10	---	---	n/a	n/a
4-lane no parking	100	52	12	---	---	---	n/a	n/a
4-lane + left lane	100	64	12	---	12	---	n/a	n/a
4-lane + median	100	68	12	---	---	16	n/a	n/a

Collector								
2-lane + parking	80	49	14	10	---	---	n/a	n/a
4-lane no parking	80	49	12	---	---	---	n/a	n/a
Local Access								
Commercial	70	49	12	10	---	---	n/a	n/a
Residential Local Access	60	37	10	8	---	---	n/a	n/a
Cul-de-Sac 100-600 feet	60	37	10	8	---	---	n/a	n/a
Cul-de-Sac <100 feet	40'	29'	11	---	---	---	n/a	n/a

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Preliminary Plat of Bellville Subdivision Reconsideration
DEPARTMENT: Planning and Community Services, Ramona Mattix, AICP, Planning Director
PRESENTED BY: Wyeth Friday, Planner II

PROBLEM/ISSUE STATEMENT: On November 28, 2005, the Billings City Council denied the preliminary major plat for Bellville Subdivision. The subdivision contains 22 lots on approximately 7.19 acres of land. The subject property is located north of Wicks Lane, west off of Brewington Lane at the terminus of Kyhl Lane. The subject property is zoned Residential 7000 (R-7000) and is proposed for duplexes. The owners are Steve and Sok Sun Kerns and the representing agent is EEC, Inc.

After the November 28 meeting when the Council acted to deny the subdivision, Mr. Kerns approached Councilman Larry Brewster and requested that Councilman Brewster bring the preliminary plat application back up for consideration by the Council at its next meeting on December 12. Councilman Brewster agreed to bring the application back for reconsideration. The City Council voted on Monday, December 12, 2005, to bring this application back for approval or disapproval at the regularly scheduled City Council meeting on January 9, 2005. This time frame would allow the subdivider sufficient time to conduct a neighborhood meeting and address the neighborhood's concerns. A neighborhood meeting is scheduled for January 5. At the December 12 Council Meeting, the Council also required the applicant to submit a in writing a request to extend the deadline for the approval to the January 9th Council Meeting. This letter was received by the Planning Department on December 13 and is included as Attachment D to this report.

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

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

RECOMMENDATION

Staff is recommending the Billings City Council conditionally approve the Bellville Subdivision preliminary plat, adopt the findings of fact, and approve of the requested variances.

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

ATTACHMENTS

- A. Preliminary Plat
- B. Site Photographs
- C. January 5, 2006 Neighborhood Meeting Letter
- D. Subdivision Review Period Extension Request Letter
- E. Findings of Fact
- F. Mayor's Approval Letter

INTRODUCTION

On September 1, 2005, the Planning Department received a preliminary plat application for Bellville Subdivision. The subject property would contain 22 lots on approximately 7.19 acres of land. The property is zoned R-7000 and is proposed for duplex development. The subject property is bordered on the north by agricultural land, on the south and west by single-family residences, and on the east by single-family residences and duplexes.

On November 8, 2005, a public hearing was conducted by the Planning Board. Discussion at this hearing focused on access to the proposed subdivision, which is via Kyhl Lane from Brewington Drive, accessed from Wicks Lane to the south. Brewington Drive is currently a deteriorating street with potholes and stormwater drainage issues. At its intersection with Kyhl Lane, Brewington Drive is a gravel surface that retains water after storm events and must be manually pumped by the City to drain the water. The Board had concerns with increased traffic on a street where substantial improvements are necessary. They requested that the subdivider pave Kyhl Lane from the subdivision east to Hawthorne Lane, which is a collector status street bordering Brewington Subdivision. The subdivider's representative stated that this would be cost prohibitive, as there is a grade differential and ditch at the intersection of Kyhl Lane and Hawthorne Lane. He also stated that the neighbors expressed concerns regarding continuing Kyhl Lane to the east.

There was further Board discussion that a Special Improvement District (SID) could be potentially be created in the future for Brewington Drive and the expansion of Kyhl Lane and that the subdivider could bond for the improvements until all lot owners along these streets could participate in the cost. There are no immediate plans to improve or extend these streets, therefore it cannot be determined when a Special Improvement District (SID) might be created or whether the creation might be protested by the surrounding lot owners. While the subdivider is not responsible for offsite improvements unless determined necessary based upon data received by a Traffic Accessibility Study (TAS), a subdivider can be required to provide their proportionate share for improvements necessary for infrastructure as a result of the subdivision. In this case, several Board members determined that the subdivider should improve Kyhl Lane east to its intersection with Hawthorne Lane to relieve traffic congestion on Brewington Drive and to mitigate the impacts on public health and safety.

Based on the discussion, the Planning Board was unable to reach a consensus on the required improvements for this subdivision and the motion to conditionally approve the subdivision was a 5-5 tie vote. As such, the Planning Board is forwarding no recommendation. The conditions of approval and Findings of Fact contained within this report are based on the staff recommendation of conditional approval forwarded to the Planning Board for the November 8, 2005, public hearing.

The City Council at its meeting on November 28 voted to deny the preliminary major plat of the Bellville Subdivision. The Council cited neighborhood concerns and confusion over the application for its denial. After the November 28 meeting when the Council acted to deny the subdivision, Mr. Kerns approached Councilman Larry Brewster and requested that Councilman

Brewster bring the preliminary plat application back up for consideration by the Council at its next meeting on December 12. Councilman Brewster agreed to bring the application back for reconsideration. The City Council voted on Monday, December 12, 2005, to bring this application back for approval or disapproval at the regularly scheduled City Council meeting on January 9, 2005. This time frame would allow the subdivider sufficient time to conduct a neighborhood meeting and address the neighborhood's concerns. A neighborhood meeting is scheduled for January 5. At the December 12 Council Meeting, the Council also required the applicant to submit a in writing a request to extend the deadline for the approval to the January 9th Council Meeting. This letter was received by the Planning Department on December 13 and is included as Attachment D to this report.

PROCEDURAL HISTORY

- A concept meeting was conducted with the subdivider and their representative on May 26, 2005.
- The preliminary plat application was submitted to the Planning Division on September 1, 2005.
- A departmental review meeting was conducted with the subdivider and their representative on September 22, 2005.
- The preliminary plat was resubmitted with revisions based on the departmental review meeting on October 3, 2005.
- On October 6, 2005, the subdivider submitted a letter requesting that the plat review be delayed to the October 25, 2005, meeting. The Planning Board acknowledged this delay at the October 13, 2005, meeting.
- The Planning Board reviewed the plat on October 25, 2005.
- The Planning Board conducted a public hearing on November 8, 2005, and forwarded no recommendation to the City Council.
- The City Council voted to deny the preliminary plat on November 28, 2005.
- The City Council at its meeting on December 12 voted to bring the preliminary plat back for approval or disapproval at its meeting on January 9, 2006.

BACKGROUND

General location:

North of Wicks Lane, west off of Brewington Lane at the terminus of Kyhl Lane

Legal Description:

Tract A of Certificate of Survey 485, SE^{1/4} SW^{1/4}, Section 14, Township 1N, Range 26E

Subdivider:

Steve and Sok Sun Kerns

Owner:

Same

Engineer and Surveyor:

EEC, Inc.

Existing Zoning:

R-7000

Existing land use:	Single-Family Residence
Proposed land use:	Duplexes
Gross area:	7.14 acres
Net area:	5.20 acres
Proposed number of lots:	22
Lot size:	Max: 9,754 square feet Min.: 9,600 square feet
Parkland requirements:	Subdivider is proposing to provide a cash-in-lieu of parkland dedication.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

In order to mitigate the effects on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and protect public health, safety, the planning staff recommends the following conditions of approval (76-3-608 (3), MCA):

1. To minimize effects on local services, the 30-foot wide portion of Kyhl Lane located along the northern border of proposed Lot 1, Block 3 shall be vacated by the City Council prior to final plat approval. *(Recommended by the City Engineering Department and City-County Planning)*
2. To ensure the provision of easements for the location and installation of utilities, the subdivider shall provide easements on the plat in accordance with the plat reviews received from Northwestern Energy and the Montana-Dakota Utilities Company. *(Recommended by Northwestern Energy and the Montana-Dakota Utilities Company)*
3. To minimize effects on local services, the location of the centralized mailbox delivery shall be reviewed and approved by the post office prior to final plat approval. *(Recommended by the United States Postal Service)*

4. To minimize effects on local services, the subdivider shall provide a cash-in-lieu for the required parkland dedication. *(Recommended by the Parks and Recreation Department)*
5. In order to minimize effects on public health and safety, the 90-degree corner for the proposed emergency access along the southwest portion of the site shall be revised to 40-degrees on the outside of the curve and 20-degrees on the inside to provide an adequate turning radius for emergency vehicles. *(Recommended by the Fire Department)*
6. To minimize effects on local services, an easement document to permit the emergency access and sidewalk across the southern portion of Brewington Park shall be reviewed and approved by the Parks and Recreation Department. The easement shall be depicted on the final plat and the corresponding easement document shall be recorded with the final plat. *(Recommended by the Parks and Recreation Department and City-County Planning)*
7. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
8. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance to permit 56-feet of right-of-way for Hesperia Street, Claremore Lane, and Savona Street, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets. Engineering staff is supportive of this variance, as there is sufficient room on each side of the paved portion of the street (approximately 11-feet on each side) to accommodate the proposed 5-foot wide boulevard walks, street lights and fire hydrants. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance to permit 50-feet of right-of-way along the eastern frontage of Lot 1, Block 1, where Section 23-601(k), BMCC requires 60-feet of right-of-way. This variance is to permit Hesperia Street to narrow to 50-feet in width from the adjacent 56-foot width for 145 feet along the eastern border of the lot. The subdivider is requesting this variance, as the existing structure is located approximately 14 feet from the proposed property line and is required to be setback 20-feet from the front property line. By narrowing the right-of-way at this location and providing an easement on the lot for the proposed boulevard sidewalks, an additional 6-feet can be added to the front setback bringing it into compliance with the Unified Zoning Regulations. Planning staff, as well as the Engineering Department, find that the proposed variance is acceptable, as the pavement width of 34-feet for the streets will be maintained and boulevard sidewalks will be provided within the 5-foot easement along the eastern border of the lot. The proposed variance

will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

STAKEHOLDERS

The Planning Board conducted a public hearing on this item on November 8, 2005. There were two (2) neighboring property owners at the meeting who were concerned with increased traffic on Brewington Lane that would result from the subdivision and whether a Traffic Accessibility Study (TAS) was submitted for the development. The subdivider's representative was present and clarified that a TAS was not required as part of this subdivision application, as there are less than 50 lots. As part of this subdivision, the developer will be paving Kyhl Lane along the northern boundary of the subject property to its intersection with Brewington Drive and installing curb, gutter, and sidewalk on the portion adjacent to the subdivision. These improvements will aid in stormwater drainage at this location.

As discussed within this report, the Planning Board was unable to reach a consensus on the required improvements for this subdivision and the motion to conditionally approve the subdivision was a 5-5 tie vote. As such, the Planning Board is forwarding no recommendation. The conditions of approval and Findings of Fact contained within this report are based on the staff recommendation of conditional approval forwarded to the Planning Board for the November 8, 2005, public hearing.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

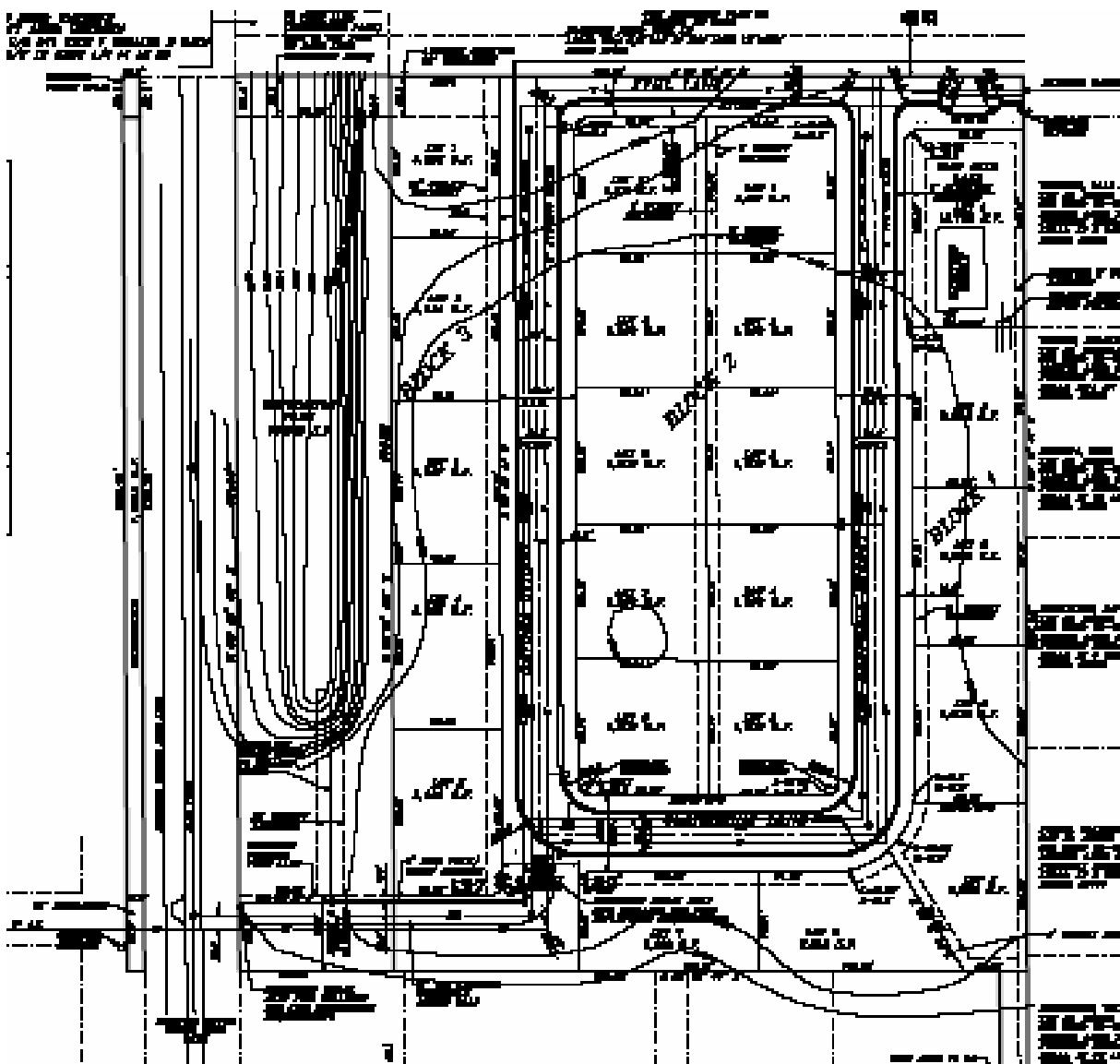
Staff is recommending the Billings City Council conditionally approve the Bellville Subdivision preliminary plat, adopt the findings of fact, and approve of the requested variances.

ATTACHMENTS

- A. Preliminary Plat
- B. Site Photographs
- C. January 5, 2006 Neighborhood Meeting Letter
- D. Subdivision Review Period Extension Request Letter
- E. Findings of Fact
- F. Mayor's Approval Letter

ATTACHMENT A

Preliminary Plat of Bellville Subdivision



ATTACHMENT B
Site Photographs



Figure 1: View along the terminus of Kyhl Lane east toward the single-family residences within Brewington Subdivision.



Figure 2: View southwest across the subject property. The existing outbuilding is located on proposed Lot 1, Block 2 and will be removed upon development.



Figure 3: View south across the property toward adjacent single-family residences within Brewington Subdivision.



Figure 4: View across the southern boundary of the property east toward Brewington Subdivision.



Figure 5: View east from the existing multi-use trail across the subject property. The pictured access from Lynch Lane will serve as a portion of the emergency vehicle access.



Figure 6: View north along Brewington Park. The Holling Drain where Kyhl Lane would intersect is pictured.

ATTACHMENT C

Planning & Community Services Department

"Serving Billings, Broadview and Yellowstone County"



**510 North Broadway, 4th Floor, Parmly Library
Billings, Montana 59101
Phone: (406) 657-8246 Fax: (406) 657-8327**



**NOTICE OF NEIGHBORHOOD MEETING
BP05-842 - BELLVILLE SUB-SBMJ**

December 15, 2005

Dear Property Owner:

This notice is to inform you that there will be a **NEIGHBORHOOD MEETING** regarding a proposed major subdivision in your neighborhood to be named Bellville Subdivision. **The meeting will be conducted on Thursday, January 5, 2006, at 6:30 p.m. in the large conference room located on the 4th Floor of the Parmly Billings Library, 510 N. Broadway.**

The Billings City Council voted on Monday, December 12, 2005, to bring this item back for approval or disapproval at the regularly scheduled City Council meeting on January 9, 2005. This time frame would allow the subdivider sufficient time to conduct a neighborhood meeting and address the neighborhood's concerns.

You may obtain additional information by contacting Aura Lindstrand at 247-8663, or at the City-County Planning Department located on the 4th Floor of the Parmly Billings Library.

ATTACHMENT D

December 13, 2005

To: Billings City Council

I am requesting an extension of the 60-day review period for the Bellville Subdivision to allow Council to reconsider its action on this major subdivision application on January 04, 2006.

Sincerely,



Steve Kerns
Owner & Applicant

ATTACHMENT E

Findings of Fact

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

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

1. Effect on agriculture and agricultural water user facilities

The land to be subdivided has historically been utilized for pasture land. The subject property contains an existing residence located on the northeast corner of the property. There are no water user facilities apparent onsite.

2. Effect on local services

- a. **Utilities** – Water to the subject property will be extended from the existing 6-inch diameter main lines within Kyhl Lane to the north and Lynch Lane to the west. The subject property is located within the County Water District of Billings Heights and will be subject to their review and approval during the time of construction. As proposed, the Heights Water District finds that the proposed extensions are acceptable. An 8-inch sanitary sewer main will be connected to the existing sewer main located under the multi-use trail to the west of the subject property. As stated within the Subdivision Improvements Agreement (SIA), the sewer lines will maintain a maximum depth to allow for future development of properties to the north of this subdivision.
- b. **Stormwater** – As specified in the submitted SIA, stormwater discharge will be provided through a combination of surface drainage, curb and gutters and storm drain piping to Holling Drain located to the west of this subdivision within Brewington Park. Stormwater inlets will be installed at the street intersections within the subdivision and at the intersection of Kyhl Lane and Brewington Drive. Laterals within the subdivision will connect these inlets to a stormwater main to be installed at the southwest corner of the property and discharged into the Holling Drain. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to the proposed subdivision will be via an internal looped road system off of Kyhl Lane via Brewington Drive to the east. The internal streets, Hespera Street, Claremore Lane, and Savona Street, will be 56-feet wide with a 34-

foot back of curb to back of curb paved surface. Though the proposed pavement widths satisfy the standards necessary for emergency vehicle access and traffic circulation, the subdivider has requested a variance to permit 56-feet of right-of-way where 60-feet is required. Engineering staff is supportive of this variance, as there is sufficient room on each side of the paved portion of the street (approximately 11-feet on each side) to accommodate the proposed 5-foot wide boulevard walks, street lights and fire hydrants. Kyhl Lane along the northern boundary of the property will be paved to a 30-foot half-width and boulevard walks will be constructed along the portion of the subdivision bordering the street on the south.

There is a small 30-foot by 80-foot section of Kyhl Lane dedicated right-of-way located along the northern portion of proposed Lot 1, Block 3. As required by Condition #1, this portion of the street shall be vacated by the City Council prior to final plat approval. During the concept meeting there was discussion regarding the possibility of constructing Kyhl Lane across the northern portion of the site to connect with the existing western portion of Kyhl Lane. However, the Holling Drain within Brewington Park at this location is very deep and wide and is not conducive to construction.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR). In their review AMR stated that there are no necessary changes required for staffing at this time, however, as the City expands additional staff will be required.

The Billings Fire Department reviewed this application and requested that the subdivider provide a secondary access to the subdivision from Lynch Drive to the west. As such, the subdivider is proposing a 55-foot wide emergency vehicle access along the southwest corner of the site from Claremore Lane. The travel way will be 20-feet in width, with 15-feet constructed to an all weather gravel standard that can adequately support a 40-ton vehicle. The additional 5-feet will be a concrete path capable of supporting a 40-ton vehicle located on the outer edge of the road to connect with the existing multi-use trail located adjacent to the west of Brewington Park. As specified within the SIA, a cross-sectional design of this emergency vehicular access shall be provided for review and approval by the Fire and Engineering Departments prior to construction. As proposed, the emergency access is depicted as a 90-degree angle from Savona Street where it connects with the property to the west. In order to provide an adequate turning radius for emergency vehicles, Condition #5 requires that the 90-degree angle on the proposed access road be revised to a 40-degree angle on the outside of the road and 20-degree angle on the inside.

The emergency vehicle road and path will continue across the park to connect with the existing bike path and gravel access point from Lynch Drive. As required by Condition #6, an easement document to construct the path and emergency vehicle

access across Brewington Park shall be reviewed and approved by the Parks and Recreation Department and recorded with the final plat. As stated within the SIA, breakaway pipe bollards and a sign stating “EMERGENCY ACCESS ONLY” will be provided at each end of the emergency access road to prevent vehicular traffic. The proposed concrete path will remain unobstructed for pedestrian and bicycle traffic.

- f. **Schools** – The subdivision is located within School District #2. No comments have been received from School District #2.
- g. **Parks and Recreation** – As part of this major plat, the subdivider is required to provide 0.57 acres (24,829 square feet) of dedicated parkland. The subdivider is proposing to provide cash-in-lieu for the parkland dedication.
- h. **Mail Delivery** - As depicted on the plat, the subdivider has provided a centralized mail delivery location with a pullout as requested in the United States Postal Service preliminary review of this application. Condition #3 requires the proposed location for the centralized mailbox be reviewed and approved by the postal service prior to final plat approval.

3. Effect on the natural environment

The Soil Survey of Yellowstone County indicates that the soils in this area consist of predominately clay soils overlying gravels, which will provide a sufficient base for construction. As indicated in the SIA, a geotechnical study will be submitted for review and approval by the Engineering Department prior to the submission of the final plat. Furthermore, a standard condition has been added to the SIA regarding the soil conditions within the area and that a geotechnical report may be required prior to construction on the lots.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the General Conditions the Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is located near prime deer and antelope habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner.

5. Effect on the public health and safety

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

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

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-304 (c)(3), BMCC)

1. Yellowstone County-City of Billings 2003 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

- b. Goal: More housing and business choices within each neighborhood (Land Use Element Goal, Page 6).**

The proposed subdivision would provide for more housing choices within this portion of the city.

- d. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, Page 6).**

The subject property is within an urbanized portion of the City and is surrounded by residential uses alike in character to the proposed duplex development.

- e. Goal: Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, Page 6).**

The subject property is an infill development within the City.

- f. Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (Transportation Goal, Page 10).**

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

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

The subdivider is proposing a sidewalk connection to the existing trail located adjacent to the west of the subject property.

2. The 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. There is a multi-use trail located adjacent to Brewington Park to the west of the subdivision. As part of this plat, the subdivider is proposing a 5-foot wide sidewalk along the emergency vehicle access along the southwest portion of the site to connect to the existing trail. The proposed sidewalk will continue across Brewington Park along with the emergency vehicle access.

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

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

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

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

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

The subject property is located within the Residential 7000 (R-7000) zoning district and shall comply with the standards set forth in Section 27-308, BMCC. The proposed density of the plat complies with the minimum lot size for duplexes, which is 9,600 square feet for the R-7000 zoning district.

H. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (23-304 9 (c) (7), BMCC)

As required by Condition #2, the applicant shall provide utility easements, where indicated on the plat review submitted by the Montana-Dakota Utilities Company and Northwestern Energy.

I. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-304 9 (c) (8), BMCC)

Legal and physical access to the proposed subdivision will be provided through a looped road system from Kyhl Lane via Brewington Drive.

CONCLUSIONS OF FINDING OF FACT

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

Approved by the Billings City Council, January 9, 2006.

Ron Tussing, Mayor

ATTACHMENT F
Mayor's Approval Letter

January 9, 2006

Steve and Sok Sun Kerns
1052 Kyhl Lane
Billings, Montana 59105

Dear Applicant:

On January 9, 2006, the Billings City Council conditionally approved the preliminary plat of Bellville Subdivision, subject to the following eight (8) conditions of approval:

1. To minimize effects on local services, the 30-foot wide portion of Kyhl Lane located along the northern border of proposed Lot 1, Block 3 shall be vacated by the City Council prior to final plat approval. *(Recommended by the City Engineering Department and City-County Planning)*
2. To ensure the provision of easements for the location and installation of utilities, the subdivider shall provide easements on the plat in accordance with the plat reviews received from Northwestern Energy and the Montana-Dakota Utilities Company. *(Recommended by Northwestern Energy and the Montana-Dakota Utilities Company)*
3. To minimize effects on local services, the location of the centralized mailbox delivery shall be reviewed and approved by the post office prior to final plat approval. *(Recommended by the United States Postal Service)*
4. To minimize effects on local services, the subdivider shall provide a cash-in-lieu for the required parkland dedication. *(Recommended by the Parks and Recreation Department)*
5. In order to minimize effects on public health and safety, the 90-degree corner for the proposed emergency access along the southwest portion of the site shall be revised to 40-degrees on the outside of the curve and 20-degrees on the inside to provide an adequate turning radius for emergency vehicles. *(Recommended by the Fire Department)*
6. To minimize effects on local services, an easement document to permit the emergency access and sidewalk across the southern portion of Brewington Park shall be reviewed and approved by the Parks and Recreation Department. The easement shall be depicted on the final plat and the corresponding easement document shall be recorded with the final plat. *(Recommended by the Parks and Recreation Department and City-County Planning)*

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

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

- A variance to permit 56-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets.
- A variance to permit 50-feet of right-of-way, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets.

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

Sincerely,

Ron Tussing, Mayor

Pc: Quentin Eggart, EEC, Inc.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: 4th and Broadway Developer Recommendation

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: On November 29 the City Council appointed a three member committee to review development proposals for City owned property at 4th and Broadway. Al Swanson, Charlie Hamwey and Bruce McCandless interviewed both development companies that submitted proposals and met three additional times to review the proposals and form recommendations. The Council will consider those recommendations and determine what additional action is needed.

ALTERNATIVES ANALYZED: There are several alternatives:

- Reject all development proposals and bids
- Approve the Stockman Bank property purchase bid and reject the development proposals
- Approve a development proposal that includes Stockman Bank
- Approve a development proposal that excludes Stockman Bank

FINANCIAL IMPACT: The financial impacts depend on which development proposal the Council selects. Each proposal calls for the City to create a tax increment district and commit those funds and parking reserve funds to the development. Both developers propose to use some of the funds for Library improvements. Stockman Bank offered to purchase the southern six (6) lots for \$900,000 and plans a multi-million dollar construction project.

RECOMMENDATION

A recommendation will be made at the meeting.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, January 9, 2006

TITLE: Change Orders #1 and #2 with Associated Employers of Montana and Employers Association Inc. for Classification and Compensation Study Contract

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: On September 26, 2005, the City Council approved a contract with Associated Employers of Montana (AEM) and Employers Association, Inc. (EAI) to prepare a classification and compensation plan for the City. The approved contract was for \$31,700. The two changes orders are for unanticipated additional time spent interviewing employees to obtain the desired job description accuracy and for modifying the Fox-Lawson job descriptions and performance evaluation forms so that they more closely resemble the current system descriptions and forms.

FINANCIAL IMPACT: The Human Resources budget will probably have to be amended to accommodate the original contract amount and the change orders. Staff disclosed that a budget amendment might be needed when it presented the original contract to Council in September.

RECOMMENDATION

Staff recommends that Council approve Change Orders #1 and #2 to the contract with AEM and EAI for the classification and compensation. The final change order amount will be presented at the Council meeting.

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

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