

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

June 12, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Larry Brewster

ROLL CALL

MINUTES – May 22, 2006.

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, and #12 through #14 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

CONSENT AGENDA:

1. A. **Bid Awards:**

(1) **Wastewater Treatment Plant Electrical Transformers.** (Opened 5/9/06). Recommend rejecting all bids.

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

(2) **Airfield Concrete Ramp Joint Repair.** (Opened 5/23/06). Recommend rejecting sole bid received as non-responsive.

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

(3) **Supply Carpet Tile for the Terminal Concourse for Billings Logan International Airport.** (Opened 5/23/06). Recommend Commercial Marketing Associates, \$76,230.00.

[\(Corresponding Staff Memo A3\)](#)

(4) Restriping Airfield Markings (Runways and Taxiways) for Three (3) Years. (Opened 5/23/06). Recommend United Rentals, \$103,166.60.

[\(Corresponding Staff Memo A4\)](#)

(5) Water Treatment Plant Electrical Distribution Modifications. (Opened 5/23/06). Recommend Ace Electric, \$255,100.00.

[\(Corresponding Staff Memo A5\)](#)

(6) W.O. 05-04: Terrace Estates Subdivision, 3rd Filing, Drainage Improvements. (Opened 5/23/06). Recommend Donnes, Inc., \$47,800.00.

[\(Corresponding Staff Memo A6\)](#)

(7) W.O. 04-18: Expansion and Repairs of Park II. (Opened 5/23/06). Recommend delaying award to 6/26/06.

[\(Corresponding Staff Memo A7\)](#)

(8) Purchase of Eighteen (18) Passenger Shelters for Billings METropolitan Transit. (Opened 5/23/06). Recommend Brasco International, Inc., \$60,822.00.

[\(Corresponding Staff Memo A8\)](#)

(9) Mileage Tire Leasing Program. (Opened 5/23/06). Recommend Bridgestone/Firestone, term: 5 years.

[\(Corresponding Staff Memo A9\)](#)

(10) 2006 Billings Water Service Replacement Project. (Opened 6/06/06). Recommend delaying to 6/26/06.

[\(Corresponding Staff Memo A10\)](#)

B. Amendment #12, Professional Services Contract, W.O. 05-14: Walter Pump Station, Morrison-Maierle, Inc., \$199,708.00. (Delayed from 5/22/06).

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

C. Professional Services Contract for architectural and engineering services for Fire Station #7, CTA Architects and Engineers, \$106,510.00 and not to exceed an additional \$10,619.00 for potential reimbursable fees.

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

D. Contract for Billings Adult Misdemeanor Drug Court services, Community Solutions, Inc., term: date of execution to 4/30/07.

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

E. Agreement with Billings Housing Authority to fund one Police Officer, \$36,151.00, term: 7/1/06 to 12/31/06.

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

F. Vehicle Lease Agreement with Underriner Motors for City/County Special Investigations Unit (CCSIU), 6 vehicles for \$25,200.00, term: 7/1/06 to 6/30/07.

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

G. FY 2006/2007 Landfill Use Agreements:

- (1) Bighorn County – 1 year
- (2) Town of Bridger – 1 year
- (3) Carbon County – 1 year

- (4) Town of Columbus – 1 year
- (5) Town of Fromberg – 1 year
- (6) Town of Hysham – 1 year
- (7) Town of Joliet – 1 year
- (8) City of Laurel – 1 year
- (9) Musselshell County – 1 year
- (10) City of Red Lodge – 1 year
- (11) Stillwater County – 1 year
- (12) Treasure County – 1 year
- (13) Yellowstone County – 3 years

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

H. Memorandums of Understanding for SROs:

- (1) MOU between city of Billings and Billings Public Schools for three (3) High School Resource Officers (SROs), \$60,000.00, term: 7/1/06 to 6/30/07.

[\(Corresponding Staff Memo H1\)](#)

- (2) MOU between city of Billings and Billings Public Schools for two (2) Middle School Resource Officers (SROs), \$50,000.00, term: 7/1/06 to 6/30/07.

[\(Corresponding Staff Memo H2\)](#)

I. CTEP Project Specific Agreements:

- (1) Bannister Drain Trail, \$384,328.00

[\(Corresponding Staff Memo I1\)](#)

- (2) Big Ditch Trail II, \$170,500.00

[\(Corresponding Staff Memo I2\)](#)

- (3) Milton Lane School Route, \$525,000.00

[\(Corresponding Staff Memo I3\)](#)

J. Revolving Fund Loan to Yellowstone Community Cooperative; increase from \$140,000.00 to \$167,000.00.

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

K. Street Closures:

- (1) Yellowstone Art Museum *Arts and Crafts Summerfair*: north lane of 6th Ave N from 19th St. to 22nd St., July 7-9, 2006.

[\(Corresponding Staff Memo K1\)](#)

- (2) Downtown Billings Association *Movie Nights*: 2nd Ave N. from N. 29th to N. 28th (traffic diverted left only onto N. 29th) on June 24, July 22, August 26 and Sept. 23, 2006.

[\(Corresponding Staff Memo K2\)](#)

- (3) Billings Area Chamber of Commerce *Harley Owners' Group (H.O.G) Parade*, July 1, 2006, route: from Al Bedoo Temple/Shrine Auditorium to Metra Park. [\(Corresponding Staff Memo K3\)](#)

- (4) Billings Area Chamber of Commerce *Harley Owners' Group (H.O.G) Rally*, July 1, 2006, downtown area – under Skypoint.

[\(Corresponding Staff Memo K4\)](#)

L. Cancellation of outstanding checks and warrants, \$9,730.38 and bad debts, \$13,139.39.

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

M. Acknowledging receipt of petition to annex #06-06: C/S 1011, Tr. B Amended, located east of 34th St. W and north of Grand Ave., Rocky Mountain Community Church, petitioner, and setting a public hearing for 6/26/06.

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

N. Acknowledging receipt of petition to annex #06-08: two portions of C/S 1834, Second Amended, located north of Rimrock Road at 50th St. W, Aviara, Inc., petitioner, and setting a public hearing for 6/26/06.

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

O. Acknowledging receipt of petition to vacate a portion of Kyhl Lane across the north portion of Brewington Park and through a portion of C/S 485, Tract A, Steve Kerns, petitioner, and setting a public hearing for 6/26/06.

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

P. Resolution assessing residential/commercial collection, disposal and landfill fees for FY2007.

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

Q. Resolution increasing the amount of the Inter-Fund Loan from the General Fund to the Property/Liability Insurance Fund, \$133,500.00 increase, with repayment in August 2006.

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

R. Resolution to close Special Improvement/Sidewalk Bond Debt Funds to the SID Revolving Fund, \$43,681.97.

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

S. Resolution creating the Electronic Signs Ad Hoc Committee.

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

T. SECOND/FINAL READING ORDINANCE FOR ZONE CHANGE #776: A zone change request from Public to Planned Development on a 60.27 acre parcel of land described as: the NE4NW4NW4, S2NW4NW4 & LOT 3-4 LESS C/S 3223 in Section 20, Township 1S, Range 26 East (a/k/a the proposed Josephine Crossing Subdivision). McCall Development, Engineering, Inc., agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria.

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

U. SECOND/FINAL READING ORDINANCE FOR ZONE CHANGE #777: A zone change request from R-6,000 to Residential Multi-Family on a .92 acre parcel described as: Lots 1-10, Block 1 of Green Acres Subdivision and Lot 1, Block 14 of

Suncrest Acres Subdivision 3rd Filing. Azalea Co., owner, Matt Brosovich, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria.

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

V. Preliminary plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1, generally located at 531 and 561 Pemberton Lane; conditional approval of the plat and adoption of the findings of fact.

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

W. Final plat of Gunn Subdivision.

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

X. Final plat of Amended Lot 15, and the east half of Lot 16, Block 3, Rolle Sub.

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

Y. Bills and payroll.

(1) May 12, 2006

[\(Corresponding Staff Memo Y1\)](#)

(2) May 19, 2006

[\(Corresponding Staff Memo Y2\)](#)

(3) May 26, 2006

[\(Corresponding Staff Memo Y3\)](#)

(4) April 1 – 30, 2006 (Municipal Court)

[\(Corresponding Staff Memo Y4\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION approving and adopting budget amendments for FY 2005/2006. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

3. PUBLIC HEARING AND RESOLUTION approving and adopting the budget for FY2007. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

4. PUBLIC HEARING AND RESOLUTIONS setting annual assessments for FY2007 for:

(A) Park Maintenance Districts

(B) Light Maintenance Districts

(C) Property Safety Water Supply (i.e. Fire Hydrant maintenance)

- (D) Street Maintenance
- (E) Storm Sewers

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

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

5. PUBLIC HEARING AND RESOLUTION setting the annual Arterial Construction Fee Assessment Rates for FY2007. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

6. PUBLIC HEARING AND RESOLUTION setting the annual All-Purpose Mill Levy and Mill Levies for Library Operating, Transit Operating, and Public Safety Funds for FY2007. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

7. PUBLIC HEARING AND VARIANCE #CC05-03: a variance from the site development ordinance, Section 6-1208(h)(3) re: driveway width and Section 6-1203(j)(2) re: curb cuts. Staff recommends delaying to 6/26/06. **(Action:** approval or disapproval of Staff recommendation.)

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

8. PUBLIC HEARING AND VARIANCE #CC06-03: a variance from the site development ordinance, Section 6-1208(i)(11) re: curb cut regulations. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

9. PUBLIC HEARING AND RESOLUTION amending Res. 01-17659: a resolution setting fees and rates for City-owned parking garages and meters. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

10. PUBLIC HEARING AND FIRST READING ORDINANCE re: fair ballot language. Staff recommends taking no further action at this time. **(Action:** approval or disapproval of Staff recommendation.)

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

11. PUBLIC HEARING AND RESOLUTION on the appeal of the assessment of the arterial construction fee, James A. (Ziggy) Ziegler, applicant. Staff recommends approval of a resolution denying the request. **(Action:** approval or disapproval of Staff recommendation.)

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

12. **RESOLUTION** authorizing condemnation of six properties on Grand Avenue. (Delayed from 5/08/06). Staff recommends approval of the resolution authorizing condemnation of five (5) properties on Grand Ave. from 8th St. W to 12th St. W. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 12\)](#)
13. **VARIANCE #CC06-01:** a variance from the Site Development Ordinance Sections 6-1203(u) re: concrete driveways and curb and gutter on Lot 1, Block 1, Bitterroot Subdivision. Susan J. Zurbuchen, owner. (PH held on 5/22/06 and closed. Action delayed from 5/22/06). Staff recommends denial of the variance and requiring the owner to sign the Waiver of Right to Protest creation of an SID before issuance of a building permit. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 13\)](#)
14. **RESOLUTION** relating to \$851,000.00 Pooled Special Improvement District Bonds, Series 2006 (SIDs 1368, 1370, and 1373); awarding the sale thereof and approving certain matters with respect thereto. Staff recommendation to be made at meeting. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 14\)](#)
15. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

Council Initiatives

ADJOURN

A1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Bid Award - Wastewater Plant Electrical Transformers
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: As part of an annual program, the Public Works Department routinely upgrades/replaces electrical components in the water and wastewater systems. These components typically have included switchgear and controls, transformers and electrical cables. The subject bid award is for the purchase of three electrical transformers to replace existing transformers at the wastewater treatment plant that have been in service since the 1970's.

Staff anticipated that the new transformers could be installed with little, if any, modification to existing facilities. After the bids were reviewed, it became apparent that the size of the new transformers precluded this and that extensive modification to the existing electrical facilities would be necessary. The bid specifications required that the bidders include in the bid price the cost of any modifications needed to accommodate their equipment. Given the extent and estimated cost of the modifications, it's clear the bidders did not anticipate these modifications and did not include them in their bids. In addition, the bids included several exceptions to the transformer specifications. Accordingly, staff believes it is prudent to reject the bids, review the specifications in light of the exceptions, and restructure the project to include all necessary work.

FINANCIAL IMPACT: Bids were publicly advertised and opened on May 9, 2006, as follows:

<u>Bidder</u>	<u>Schedule 1</u>	<u>Schedule 2</u>
Graybar Electric Co.	\$36,905	\$80,706
Wesco Distributing	\$44,974	\$102,856
Control Technology	\$47,128.33	\$102,961.67

RECOMMENDATION

Staff recommends that Council reject all bids received for the Wastewater Treatment Plant Electrical Transformers, Schedules 1 and 2.

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

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

A2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Rejection of the Bid for the Airfield Concrete Ramp Joint Repair
DEPARTMENT: Aviation and Transit
PRESENTED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: In the past 13 years, the Airport has constructed or replaced approximately 12.5 acres of concrete ramp that contains 11 miles of expansion joints. The Airfield Concrete Ramp Joint Repair project is included in the City's Capital Improvement program. The existing expansion joints have deteriorated due to age and damage from our snow removal operations. If the concrete joints are not maintained, moisture is able to reach the base material and cause the concrete to crack and heave when the moisture expands as it freezes during the winter months. The damaged concrete is expensive to replace and makes the area unsafe for aircraft operations. This project will remove, clean, and repair approximately 23,000 lineal feet of concrete expansion joints.

This project was advertised in the *Billings Times*, at the Billings Building Exchange, on the City's Web site and contractors were contacted by phone. In spite of these efforts, only one bid was received for this project, however, that bid did not contain a bid bond and was deemed unresponsive and the bid amount was not read. Staff will re-advertise and open bids on June 13, 2006.

FINANCIAL IMPACT:

There will be no financial impact at this time.

RECOMMENDATION

Staff recommends that the City Council reject the sole bid received for the Airfield Concrete Ramp Joint Repair as non-responsive.

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

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

A3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

TITLE: Approval of the Award of the Concourse Carpet Tiles Supply Contract
DEPARTMENT: Aviation and Transit
PRESENTED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: This project will supply the carpeting for the Airport Terminal concourses, and is included in the City's Capital Improvement program. In order to receive the lowest material pricing from the Government Services Agency (GSA) and local contractors, the installation costs for the carpet will be bid under a separate contract. This project will replace the existing carpet tiles on the concourses that have become stained due to the heavy foot traffic. Under a separate contract, at a later date, the existing carpet tiles will be sent to the manufacturer to be cleaned and reprinted. The refurbished carpet tiles will be returned to the Airport to be reused in other areas, subsequently reducing future carpeting costs. We received the following bids on this project:

<u>SUPPLIER</u>	<u>BID AMOUNT</u>
Commercial Marketing Associates	\$76,230.00
Northwest Floors	\$88,342.00
Estimate	\$75,000.00

FINANCIAL IMPACT:

The total cost of this project is \$76,230.00. The source of the funds for this project is in the Department's Capital fund.

RECOMMENDATION

Staff recommends the City Council award the Concourse Carpet Tiles Supply Contract to the lowest bidder Commercial Marketing Associates, for the amount of \$76,230.00.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Approval of the Award of the Three-Year Restriping Airfield Markings Contract

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Each year approximately 150,000 square feet of the Airport's runway and taxiway markings must be restriped to meet Federal Aviation Administration (FAA) visibility guidelines. These markings include runway and taxiway centerlines and edge stripes, as well as other guidance markings. The existing contract for this annual work is set to expire in August. This annual work is a budgeted maintenance item. Staff has elected to enter into a three-year service contract to take advantage of cost savings associated with the longer-term agreement. We received the following bids for this maintenance work:

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
United Rentals	\$103,166.60
Arrow Striping	\$115,945.00
Hi-Lite Markings	\$131,900.00

FINANCIAL IMPACT:

The total three year cost for this maintenance work is \$103,166.60. The source of the funds for this annual maintenance work is in the Department's Operating and Maintenance budget.

RECOMMENDATION

Staff recommends the City Council award the Three-Year Restriping Airfield Markings Contract to the lowest bidder, United Rentals, for the contract amount of \$103,166.60.

Approved By: City Administrator _____ City Attorney _____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

TITLE: Bid Award – Water Plant Electrical Distribution Modifications
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: As part of an annual program, the Public Works Department routinely upgrades/replaces electrical components in the water and wastewater systems. These components typically have included switchgear and controls, transformers and electrical cables. The subject bid award is for the upgrading and/or replacement of electrical cabling, control components and switchgear at the water treatment plant. The proposed project will upgrade and replace facilities that have been in service for 30 plus years.

FINANCIAL IMPACT: Bids were publicly advertised and opened on May 23, 2006, as follows:

<u>Bidder</u>	<u>Bid Price</u>
Ace Electric	\$ 255,100
Yellowstone Electric	\$ 345,337

There is sufficient money in the FY06 water capital fund to cover the bid award.

RECOMMENDATION

Staff recommends that Council award the bid for the Water Treatment Plant Electrical Distribution Modifications to Ace Electric in the amount of \$255,100.

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

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

A6

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Work Order 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated for W.O. 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements on May 23, 2006. This project will construct an overflow channel at 1154 Calico Avenue. During major storm events this area sees extreme flooding and erosion.

ALTERNATIVES ANALYZED:

1. Award Work Order 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements, to Donnes, Inc in the amount of \$47,800; or
2. Not award Work Order 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements.

FINANCIAL IMPACT: Funding for W.O. 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements, will be provided from Storm Drain funds that were reallocated from W.O. 03-19, East End Industrial Area, which was cancelled. Additional funds needed will come from Storm Drain funds. We received two bids for this project as follows:

	<u>Total</u>
Engineer's Estimate	\$ 27,614.00
Donnes, Inc.	\$ 47,800.00
A.M.E., Inc.	\$ 53,082.00

Project Budget

CIP Budgeted Amount	\$57,410.00
Previous Encumbrances/Expenditures	\$13,100.00
Amount this request	\$47,800.00
Additional Storm Drain Funds	\$3490.00
Remaining	\$0.00

RECOMMENDATION

Staff recommends that Council approve the construction contract for W.O. 05-04, Terrace Estates Subdivision 3rd Filing, Drainage Improvements with Donnes, Inc. in the amount of \$47,800.00.

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

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

A7

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

TITLE: Delay Park II Expansion Contract

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The City opened a single bid for the Park II expansion project on May 23. The staff is analyzing the bid as well as researching whether there are options available to the City other than awarding a contract. The bid analysis and research will not be completed before this meeting. State law requires the City Council to consider the bid at the first meeting following the bid opening, but it also allows the Council to delay action on the award until a later date. The request for bids allows the City 45 days from the bid opening date to award the contract.

ALTERNATIVES ANALYZED: The alternatives are:

- Award a contract at the bid price
- Reject the bid
 - Cancel the project
 - Direct staff to pursue another option
- Delay awarding a contract

FINANCIAL IMPACT: The City has sufficient funds in the Parking Fund reserves and by issuing debt to construct the parking structure at the bid price. The project was identified in the approved FY 06 and FY 07 Capital Improvement Plans. The bid price is \$6,597,218.08, which includes the Park II horizontal expansion with 238 parking spaces and remodeling/restoration work on the Park I and Park II structures.

RECOMMENDATION

Staff recommends that Council table this item and delay awarding a contract for the Park II expansion project until June 26, 2006.

Approved By: City Administrator City Attorney [\(Back to Consent Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2005

TITLE: Bid Award for Purchase of MET Transit Passenger Shelters
DEPARTMENT: Aviation and Transit
PRESENTED BY: J. Bruce Putnam, A.A.E., Director of Aviation/Transit

PROBLEM/ISSUE STATEMENT: MET Transit's existing bus passenger shelters are approximately 20 years old and many have damaged frames, broken glass, cracked roofs, and do not meet all ADA requirements. Subsequently, the shelters are in need of replacement. The planned replacement program allows the MET to replace eighteen bus shelters with functional, aesthetically pleasing, powdered coated, colored shelters that will exceed ADA requirements, and allow for more efficient, easier maintenance, as well as reduced vandalism. Bids were solicited by placing ads in the local paper, and mailing bid packets to three vendors. The following bid responses were opened May 23, 2006:

<u>Vendor</u>	<u>Bid</u>
Brasco International, Inc.	\$60,822.00
Tolar Shelters	\$67,680.00
Duo-Gard Industries, Inc.	\$73,932.00
LNI Custom Manufacturing, Inc.	\$74,545.08
Lacor Streetscape	\$99,994.00

Staff has reviewed the bids, and recommends the award of the shelter contract to low bidder, Brasco International, Inc. at the bid amount of \$60,822.

ALTERNATIVES ANALYZED: Council has three alternatives: to accept the low bid received from Brasco International, Inc. for the replacement of the eighteen passenger shelters; to reject the bid and direct staff to continue to maintain and repair the old passenger shelters; or remove all shelters city-wide.

FINANCIAL IMPACT: The passenger shelter replacement has been approved through the CIP process and \$85,000 was budgeted in FY 2006 for this project. The cost to replace the eighteen passenger shelters was bid at \$60,822.

RECOMMENDATION

Staff recommends that Council approve the low bid submitted from Brasco International, Inc., for the purchase of 18 new passenger shelters and authorize the Mayor to execute the Agreement.

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

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

A9

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

TITLE: Bid Award for MET Transit Bus Tire Mileage Lease Program

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: For the past thirteen years MET Transit has participated in multiyear Tire Mileage Lease Contracts for the leasing of the tires on its transit bus fleet. Due to the unique size and heavy-duty sidewall construction of the intra-city transit radial tires, this type of tire can only be leased and is not available for purchase.

The current lease will expire June 30, 2006. Bids were solicited by placing ads in the local paper and in a national transit publication. Historically, MET has received bids from the only two manufacturers (Bridgestone/Firestone and Goodyear) that provide radial transit tires. However, for this bid the MET only received a response from Bridgestone/Firestone and it is as follows:

<u>FY 07</u>	<u>FY 08</u>	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>
\$.003107 (per tire mile)	\$.003107	\$.003107	\$.003107	\$.003107

A formula is used to convert the per tire mile rates into projected expenditures for the lease. The formula consists of a projection of 650,000 bus miles per year x 6 tires per bus for a total of 3,900,000 tire miles for all buses. By applying the Bridgestone bid rate of \$.003107, an annual expenditure of approximately \$12,118 is calculated for each of the next five years. Typically, the rates increase in the out years, however, Bridgestone has guaranteed a fix rate over the five-year lease term. Staff has reviewed the bid and finds it acceptable, and recommends the award of the bid to the sole bidder.

ALTERNATIVES ANALYZED: Council has two options, to accept the bid received from Bridgestone/Firestone for the Five Year Tire Lease Program, or to reject the bid and direct staff to re-advertise.

FINANCIAL IMPACT: Funding for the Five-Year Tire Mileage Lease Program has been included in the FY 07 operating budget. Expenditures for each of the next five years are projected at \$12,118 annually.

RECOMMENDATION

Staff recommends that Council approve the Five Year Tire Mileage Lease Contract with Bridgestone/Firestone and authorize the Mayor to execute the Agreement.

Approved By: City Administrator City Attorney

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

A10

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

TITLE: Bid Award – 2006 Water Service Replacement Project
DEPARTMENT: Public Works Department
PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The City oversees a water service repair program. Each metered water service is assessed a monthly charge, currently \$1.00/month, which funds this program. The proposed bid award is for work to repair and replace leaking water services in an area of the Heights. This area has experienced a high failure rate of plastic services.

FINANCIAL IMPACT: Bids were publicly advertised and were opened on June 6, 2006. There is sufficient money in the FY06 Water Service Repair Program to cover the bid award.

RECOMMENDATION

Staff recommends that Council delay the bid award until the June 26, 2006 meeting to allow staff additional time for analysis of the bids received.

Approved By: City Administrator _____ City Attorney _____

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

B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: W.O. 05-14—Walter Pump Station, Professional Services Contract with Morrison Maierle, Inc.—Amendment No. 12

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The City of Billings and Morrison-Maierle, Inc. (Consultant) agreed to a Master Contract on February 24, 1997. This original contract for Professional Services covers numerous Water/Wastewater Capital Improvement Projects, including improvements to the Walter Pump Station (W.O. 05-14). The City is recommending an amendment to the Master Contract to cover the Professional Services fees for W.O. 05-14.

The changes in Amendment No. 12 include providing Professional Engineering Services for preliminary and final design of improvements to the Walter Pump Station. Tasks include, but are not limited to, project administration and coordination, performing site surveys (including land surveying), civil and process design, architectural and structural design, electrical design, mechanical design, and final design. Amendment No. 12 does NOT provide construction administration services. A copy of Amendment No. 12 is on file in the City Clerk's office. Action on Amendment No. 12 was delayed at the May 22 Council meeting.

The Consultant(s) for these types of projects are selected on a basis of qualifications criteria. A notice of Request For Proposal is published or sent to various firms that do work similar to what is needed for a specific project. All firms that submit proposals are evaluated and/or interviewed by a selection committee. After a firm is selected, a fee is negotiated for their services. If a reasonable fee cannot be agreed upon with the selected firm, negotiations then start with the second highest ranked firm. This continues until a contract is agreed upon or the City decides to cancel or modify the project.

After a fee is agreed to, a contract is drafted and executed by both parties. Most professional services contracts include a table showing the fees charged by various positions within the firm. These fees are typically those recommended for additional services above and beyond the original scope of work in the contract. Additional services must be approved by a contract amendment, which is also negotiated to a reasonable cost.

The budget for the design work on the Walter Pump Station is \$300,000. Based on staff's experience, Morrison & Maierle's proposed cost of \$199,708 is reasonable for the scope of services being requested.

FINANCIAL IMPACT: The project is being funded by Water Revenue Funds. The associated CIP (FY 2006: PUD-102), providing a \$300,000 contribution to design services, has been approved by the Mayor and City Council. Amendment No. 12 represents an increase in the amount of the contract by \$199,708.00. There are funds available to cover the increase.

Funding Sources: Water Revenue Funds—CIP #PUD-102 (FY 2006)

Approved Dollar Amount:	\$ 300,000.00
Spent (and obligated) to date:	\$ 0.00
Amount being requested:	\$ (199,708.00)
Remaining Funding:	\$ 100,292.00

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment No. 12 to the Professional Services Contract with Morrison-Maierle, Inc., in the amount of \$199,708.00.

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

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

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Professional Services Contract for Architects and Engineers Services for Station 7

DEPARTMENT: Billings Fire Department

PRESENTED BY: Marvin L. Jochems, Fire Chief

PROBLEM/ISSUE STATEMENT:

The City of Billings sent out a Request for Proposal for A&E Services for the design and construction of Station 7. A committee which included Councilman Vince Ruegamer, reviewed two proposals and is recommending CTA Architects Engineers.

ALTERNATIVES ANALYZED:

1. Approve the professional services contract for Station 7 with CTA in the amount of \$106,049
2. Do not approve the professional services contract for Station 7 with CTA.

FINANCIAL IMPACT: The total estimated costs of the project are \$1,499,778 which includes A&E contract for \$106,049. The contract also includes a \$120,510 construction contingency cost. If the construction estimates are high and the \$120,510 is not needed, the percentage based A&E fee will be reduced accordingly. If the construction estimates are low the A&E fee will be renegotiated accordingly. Also included in the contract and not part of the fee is \$10,619 of potential reimbursable fees. Funds to pay these costs are from an inter departmental loan from Solid Waste. The loan will be repaid with Public Safety Levy Funds within 5 years.

RECOMMENDATION

Staff recommends that Council approve the professional services contract for Station 7 with CTA Architects and Engineers in the amount of \$106,510 and an additional \$10,619 of potential reimbursable fees.

Approved By: _____ **City Administrator** _____ **City Attorney** _____
[\(Back to Consent Agenda\)](#)

D



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

SUBJECT: Contract for Billings Adult Misdemeanor Drug Court Supervision Services

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: The Billings Adult Misdemeanor Drug Court (BAMDC) must establish a contract with a local agency to provide supervision/probation, urinalysis and breath testing. Such services are used to monitor court participants for compliance with sentencing orders issued by the court. Monitoring and compliance services are currently provided to BAMDC participants by Community Solutions, Inc.

FINANCIAL IMPACT: NO FINANCIAL IMPACT. The City of Billings accepted a three-year grant in the amount of \$449,686 from Bureau of Justice Assistance in October of 2004. Funds in the amount of \$47,320 are included in the grant to purchase supplies used for urinalysis and breath testing. Funds in the amount of \$2500 are included in the grant to be used for laboratory confirmation of tests. Supervision fees in the amount of \$15.00 per week are paid directly to the provider by the participant. Up to 50 participants will pay \$60.00 per month each month for the duration of the contract. Total amount estimated to be paid to provider by BAMDC participants is \$33,000 during the contract period.

RECOMMENDATION

Staff recommends that Council approve the request to allow Mayor Tussing to sign a contract with Community Solutions, Inc to provide services to BAMDC through April of 2007.

Approved By: City Administrator _____ City Attorney _____

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

E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Agreement with Billings Housing Authority to Fund One Officer
From July 1, 2006 through December 31, 2006

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: Since 1991, the Billings Housing Authority has funded one police officer under an agreement with the City of Billings. The funding consists of salary, benefits, and maximum of four (4) hours of overtime per month. Due to the loss of a grant, the Housing Authority is now funding this position from their office budget for a six month period. In the fall, they will let us know if their operating subsidy is enough to continue budgeting for this officer from January 1, 2007, through June 30, 2007. Staff is recommending City Council approve this agreement for the funding of the officer through from July 1, 2006, through December 31, 2006.

FINANCIAL IMPACT: There is no financial impact to the City since the Billings Housing Authority funds the officer for salary and benefits to a maximum amount of \$36,151 for the 6 month period of July 1 through December 31, 2006. This amount is budgeted in the current budget. If Housing Authority is unable to fund the officer position after December 31, 2006, the position will be absorbed through attrition.

RECOMMENDATION

Staff recommends Council approve the agreement with Billings Housing Authority to fund one Police Officer for the period of July 1, 2006, through December 31, 2006.

Approved By: City Administrator City Attorney

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

F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

SUBJECT: Vehicle Lease Agreement with Underriner Motors for City County Special Investigations Unit (CCSIU)

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: For many years the Billings Police Department has had officers operating in an undercover capacity. The work entails the use of unmarked cars that are unique from standard detective vehicles. Because undercover officers and their equipment are routinely exposed to the criminal element, it is necessary to rotate equipment. Rotating cars is an essential aspect of undercover operations. The reason for frequent rotation of cars is to ensure the safety of the undercover officer and to prevent the operation from being compromised.

Major car dealers in the City have been contacted for bids on these vehicles. Underriner Motors is the only dealer interested in leasing vehicles to the City for special operations purposes.

FINANCIAL IMPACT: The cost of leasing 6 vehicles will be \$25,200 (\$350 per vehicle per month) and the dollars have been budgeted in the drug forfeiture fund.

RECOMMENDATION

Staff recommends Council approval of the attached agreement between Underriner Motors and the City of Billings to lease six (6) vehicles for the City contingent of the City County Special Investigations Unit (CCSIU) from July 1, 2006, to June 30, 2007, in the amount of \$25,200.

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

ATTACHMENT

A - Lease Agreement with Underriner Motors – 5 pages

AUTOMOBILE LEASE AGREEMENT

This AGREEMENT made June 12, 2006 by and between **UNDERRINGER MOTORS** with its principal place of business at 523 North 29th Street, Billings, Montana (the LESSOR), and **THE BILLINGS MONTANA POLICE DEPARTMENT**, P. O. Box 1554, Billings, MT 59103 (the LESSEE), for the lease of six (6) vehicles.

The terms of this agreement is for a period of 12 months from July 1, 2006 to June 30, 2007, subject to the terms and conditions set forth below:

1) RENTAL: The LESSEE shall pay to the LESSOR a monthly rental of THREE HUNDRED FIFTY DOLLARS (\$350.00) per vehicle (6 vehicles) for a total of TWENTY FIVE THOUSAND TWO HUNDRED DOLLARS (\$25,200.00), paid on an annual basis.

2) MAINTENANCE: The LESSEE will bear all expense of maintaining the leased vehicle in good operating condition. The LESSEE shall provide and pay for all gasoline, oil, maintenance, washing, tire and battery replacements, and all necessary repairs other than those covered by the standard manufacturer's limited warranty, where applicable. LESSEE also agrees to pay the deductible in connection with any collision losses.

3) LICENSING: The LESSEE agrees to pay at its own cost and expense, State License Fees imposed against said vehicle(s). Each lease vehicle shall bear a license plate, and title shall be registered in the name of the LESSOR.

4) INSURANCE:

A) The LESSEE agrees to furnish and keep in force and effect an acceptable public liability and property damage insurance policy covering all leased vehicles(s), naming therein or by endorsement thereto, the LESSOR as an additional insured. The minimum limits of liability coverage shall be in the amount of \$500,000 combined single limit for all person(s) killed or injured in any one accident, for property damage or loss of use of property of third persons as a result of any one accident. Prior to delivery of possession of said vehicle(s) hereunder, the LESSEE agrees to furnish the LESSOR with a valid certificate of an acceptable insurance company, licensed in Montana, certifying that such insurance is in force and agreeing that the same shall not be cancelled except upon ten days' prior written notice to the LESSOR.

B) LESSEE agrees that it will, and will cause its agents and employees and their families, to cooperate fully with LESSOR and all insurance carriers required by this lease in the investigation, prosecution, and defense of all claims arising from all hazards insured hereunder.

5) EXCESS MILEAGE: LESSEE agrees to pay for excess mileage at the rate of \$.10 per mile in excess of 15,000 miles per year. The payment for excess mileage shall be due at the end of the term of the lease.

6) **PERMISSION TO MOVE:** LESSEE agrees to notify and gain written permission from LESSOR should LESSEE decide to move the leased property as described above from the address stated above to another state on a permanent basis or for an extended period of time (longer than six (6) months).

7) **NOTICE:** LESSEE agrees to inform the LESSOR immediately regarding any accident, collision or other damage to the said vehicle(s). All other notices required to be given under the terms of this lease shall be in writing and shall be sent by United State Registered Mail or Certified Mail addressed to the party to be notified at its address as above stated.

8) **SECURITY AGREEMENT:** LESSOR shall have the right to finance any vehicle(s) now or hereafter covered by this lease by arranging for a Security Agreement thereon or by assigning LESSOR's interest under this lease or both, and LESSEE agrees that such Security Agreement placed by LESSOR shall be superior to this lease.

9) **REASONABLE CARE:** LESSEE agrees to use reasonable care in the operation of said vehicle(s) and, in good faith, to require reasonable care from users authorized by LESSEE hereunder, including the obligation to maintain the vehicle(s). In any event, LESSEE shall be held personally liable to LESSOR pursuant to the terms of this lease, regardless of permissive use by third parties.

10) **REPLACEMENT VEHICLES:** At any time during the initial or any renewal term of the within lease, the LESSOR may replace the above-described vehicle(s) with a vehicle of the same make and year, such replacement vehicle being in equal or better operating condition; in such event, all the terms and conditions of the within lease shall apply to any and all such replacement vehicle(s) for the term of this agreement or any renewal thereof.

11) **AGENTS:** LESSEE agrees to permit said vehicle(s) to be used only by LESSEE, (its) (his) agents or employees or the members of the immediate family thereof, and by no others. No operator or driver of said vehicle(s), including LESSEE shall have authority to act on behalf of the LESSOR under any circumstances.

12) **NON-LIABILITY:** LESSOR shall not be liable for any loss from the interruption of, or damage to the LESSEE'S business, and shall not be liable to any of the authorized uses hereunder, in connection with any operating failure of said vehicle(s) (or substitute vehicles provided to LESSEE during repair of the leased vehicle(s) or its replacement), or in connection with any delay in making repairs thereon or furnishing replacement(s) therefor.

13) **INDEMNITY:** LESSOR assumes no liability for any acts or omissions of the LESSEE or the LESSEE'S agents. The LESSEE hereby released and agrees to indemnify the LESSOR and hold the LESSOR harmless from any and all claims against the LESSOR of any kind or nature whatsoever, arising out of or resulting from the use and/or operation of the leased vehicles by the LESSEE, including any expenses and attorneys' fees which the LESSOR may incur in defending any such claims, except such claims or portions thereof as are covered by applicable insurance as otherwise herein provided.

14) **OWNERSHIP:** It is expressly understood and agreed that this Agreement is a contract for leasing only, and that the LESSEE acquires no ownership, title, or property right or interest in, of, or to the said motor vehicle(s) and equipment, but acquires only the right to use the vehicle(s) in accordance with the provision of this lease. Any accessories installed on said vehicle(s) by the LESSEE may be removed upon expiration of this lease. If such removal shall, in the opinion of the LESSOR, cause damage to said vehicle(s), the LESSEE agrees to pay the Lessor for such damage.

15) **RETURN:** Upon the termination of this lease, the leased vehicle(s), at the expense of the LESSEE, shall be returned to the place of business of the LESSOR in as good condition as when received, ordinary wear and tear excepted. This return provision shall apply to all substitute vehicles which may be the subject of this contract.

16) **EARLY TERMINATION:** Early termination of this Lease may result in an early termination charge to LESSEE.

17) **ASSIGNMENT, PLEDGE, LIENS, AND ENCUMBRANCES:** This lease may not be assigned, except by the LESSOR as provided herein. The LESSEE shall not have the right to pledge or otherwise encumber this lease or any interest therein nor shall the LESSEE have the right to encumber or otherwise suffer any lien to be placed against the leased vehicle(s), or abandon or conceal the leased vehicle(s). The LESSEE shall not sublet the leased vehicle(s) or any replacement vehicle(s) without the written consent of the LESSOR.

18) **WAIVER:** The failure of either party in any one or more instances to insist upon the performance of any of the terms, covenants or conditions of this lease, or to exercise any right or privilege in this lease conferred, or the waiver of any breach of any of the terms, covenants, or conditions of this lease, shall not be construed as thereafter waiving any such terms, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect, as if no such forbearance or waiver had occurred.

19) **DEFAULT:** If the LESSEE shall default in the payment in any of the installments of rent as herein provided, or breach any of the terms, conditions or provisions herein contained, or, during the term of this lease, shall file a voluntary petition in bankruptcy, shall make an assignment for the benefit of creditors or shall be adjudicated bankrupt; if a receiver shall be appointed for LESSEE'S business; or if LESSOR deems itself insecure, LESSOR may at its election terminate this Agreement without notice to LESSEE and shall thereupon be entitled to the immediate possession of any and all vehicles in LESSEE'S possession hereunder. In the event this Agreement shall be so terminated, LESSEE shall not be released from any liability to LESSOR for LESSEE'S failure to make any of the payments required by this Agreement or for LESSEE'S failure or inability to perform the conditions of this Agreement, and LESSEE hereby waives all claims for injury suffered through or loss caused by such repossession.

Upon default, the balance of the installments of rent, to the end of this lease or any existing extension of it, shall, without notice or demand by the LESSEE, at once become due and payable; and in addition thereto, the LESSEE hereby authorizes and empowers the LESSOR to enter its premises or any other place where the leased vehicle(s) may be found, forcibly if

necessary, to take possession and carry away and remove such vehicle(s), with or without legal process and thereby terminate the LESSEE'S right to retention and use of such vehicle(s). In the event any legal proceedings shall be instituted by LESSOR against LESSEE to recover any sums due or to become due hereunder and/or for the repossession of the vehicle(s) leased hereunder, LESSEE shall pay to LESSOR reasonable attorneys' fees and costs of repossession.

20) **BINDING EFFECT:** This lease shall be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives, and assigns.

21) **ENTIRE AGREEMENT:** This lease together with the Vehicle Lease Disclosure Statement represents the entire Agreement between the parties. All prior negotiations have been merged into this lease, and there are no understandings, representations, or agreements, oral nor written, express or implied, other than those set forth herein. This lease shall not be modified or amended except by an agreement in writing signed by the parties.

22) **CONSTRUCTION:** This lease shall in all respects be governed by and construed in accordance with the laws of the State of Montana.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed the day and year first above written.

LESSEE:

CITY OF BILLINGS

BY _____
RON TUSSING, MAYOR

LESSOR:

UNDERRINER MOTORS

BY _____
BILL UNDERRINER
ITS: OWNER

ATTEST BY:

MARITA HEROLD, CITY CLERK

APPROVED AS TO FORM:

BRENT BROOKS, CITY ATTORNEY

146. AUTOMOBILE LEASE AGREEMENT/UNDERRINGER MOTORS

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

G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: 2006/2007 FISCAL YEAR LANDFILL USE AGREEMENTS
DEPARTMENT: Public Works Department
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Billings Regional Landfill has historically accepted wastes from adjoining counties and the cities and towns within those counties. The landfill master plan takes into account the acceptance of waste from these areas. Approximately 90% of the waste received at the landfill is from the City of Billings, Yellowstone County, and the City of Laurel, with the remaining 10% from the other entities. This is accomplished via 1-year or 3-year agreements with those entities. The current agreements expire June 30, 2006. The renewal of these agreements is recommended to continue the current practice.

ALTERNATIVES ANALYZED:

- 1) Renew 1-year or 3-year agreements with each entity.
- 2) Do not renew agreements with each entity.

FINANCIAL IMPACT: These agreements specify a rate of \$11.50 per ton of waste. This is the same rate charged in the 2005/2006 Fiscal Year Landfill Use Agreements with each entity. We project these agreements will generate \$960,000 in revenue in fiscal year 2007.

RECOMMENDATION

Staff recommends that the City Council approve, and the Mayor sign, the three-year agreement with Yellowstone County and new one-year Landfill Use Agreements with:

Bighorn County	Town of Fromberg	Musselshell County
Town of Bridger	Town of Hysham	City of Red Lodge
Carbon County	Town of Joliet	Stillwater County
Town of Columbus	City of Laurel	Treasure County

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

INTRODUCTION

The Billings Regional Landfill has historically accepted wastes from adjoining counties and the cities and towns within those counties. This is accomplished via 1-year or 3-year agreements with those entities.

BACKGROUND

The City of Billings currently provides landfill services to each of the entities listed. The City provides this service based upon 1-year or 3-year agreements. These agreements allow us to accurately reflect the actual cost of providing service to each entity. The agreement to be signed with Yellowstone County this year is for the years 2006 through 2009. This agreement establishes the annual payment to the City by amendment in years two and three. All other agreements are for a one year period.

Since each of these other governmental agencies works on a July 1 fiscal year, as we do, staff tries to obtain approval of these agreements before the adoption of both the City of Billings' budget and their budgets. The current rate of \$11.50 per ton is maintained in these agreements.

Previous City Councils have felt that offering landfill services to other communities is worthwhile because the citizens of Billings benefit from spreading the fixed overhead cost of the landfill operation over a larger base. The Landfill Master Plan contemplates providing this service and still shows a landfill life to the year 2049. We provide this "good neighbor" service to surrounding communities and counties that border Yellowstone County but do not have their own landfills. Approximately 90% of the waste received at the landfill is from the City of Billings, Yellowstone County, and the City of Laurel, with the remaining 10% from the other entities.

STAKEHOLDERS

We have held at least bi-annual ***Landfill User Summits*** since 1994. We extend invitations to representatives from each entity currently using the Billings Regional Landfill. The meetings are used to share statistical information, update participants on current programs and discuss future plans.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The Landfill Master Plan reflects providing this service and shows landfill life to 2049.

RECOMMENDATION

Staff recommends that the City Council approve, and the Mayor sign, the 3-year agreement with Yellowstone County and new one-year Landfill Use Agreements with:

Bighorn County
Town of Bridger

Town of Fromberg
Town of Hysham

Musselshell County
City of Red Lodge

Carbon County
Town of Columbus

Town of Joliet
City of Laurel

Stillwater County
Treasure County

ATTACHMENTS

- A – Example of "Standard" Landfill Use Agreement
- B – Yellowstone County Agreement

A G R E E M E N T

THIS AGREEMENT made and entered into this ____ day of _____, 20 _____, by and between «ORGANIZATIO» and the CITY OF BILLINGS, MONTANA, a municipal corporation, herein called the CITY,

WITNESSETH:

WHEREAS, «TheOrganization» is desirous of using the landfill facilities of the CITY for the disposal of solid waste generated within «TheOrganization».

WHEREAS, the CITY is willing to allow «TheOrganization» use of its landfill facilities during normal published operating times which currently are seven (7) days a week between the hours of 8:00 A.M. and 5:30 P.M. during the period of March through November and six (6) days a week between the hours of 8:00 A.M. and 5:30 P.M. Monday through Saturday during the period of December through February.

NOW, THEREFORE, in consideration of the mutual covenants and agreements between the parties hereto, it is mutually agreed as follows:

1. That the CITY will permit the disposal of solid waste, except industrial wastes, collected by «TheOrganization» at the landfill facility operated by the CITY at such times as said landfill shall be open for disposal of solid waste pursuant to all rules, regulations, and limitation of Billings Municipal Code, Chapter 21.

2. That «TheOrganization» agrees to pay the CITY for the use of said landfill facilities at the rate of \$11.50 per ton as weighed on the landfill scale. Should the scale be inoperable, the rate will be \$1.45 per cubic yard of non-compacted solid waste and \$3.75 per cubic yard of compacted solid waste as determined by the load capacity of the vehicle used to haul said solid waste regardless of the actual size of the load.

3. The Billings City Council has adopted a policy for separate Landfill charges for the disposal of special waste, dead animals, non-processed tires, and asbestos. Said charges will apply in addition to, or in lieu of, the amount specified in paragraph two above, but it is further understood that the CITY will not hold «TheOrganization» liable for these additional charges but will bill said charges direct to the individual company or entity physically depositing said special waste, dead animals, non processed tires and asbestos at the landfill.

4. Only solid waste generated within the political jurisdiction of «TheOrganization» can be disposed of in the City of Billings landfill.

5. No liquid waste or hazardous waste as defined by the E.P.A. and the State of Montana Solid Waste Bureau will be accepted. By law, any hazardous waste is the responsibility of all parties involved from the time it is generated until its final disposal.

6. It is further understood and agreed that this agreement shall be effective for Twelve (12) Months from and after the 1st day of July 2006, unless terminated by the CITY. The CITY may terminate this agreement at any time, with or without cause, upon thirty (30) days written notice to «TheOrganization».

7. «TheOrganization» waives any and all claims and recourse against the CITY OF BILLINGS, including the right to contribution for loss or damage to persons or property, arising from, growing out of, or in any way connected with or incidental to performance of this agreement.

Further, «TheOrganization» shall indemnify, hold harmless and defend the CITY OF BILLINGS against any and all claims, demands, causes of action, damages, costs, expenses, liability, or judgments against the CITY OF BILLINGS which may arise as a result of the CITY OF BILLINGS entering into this agreement.

Indemnity under this agreement shall commence on the date of execution hereof and shall continue for the entire term this agreement is in effect and for any applicable period of limitations thereafter. The CITY OF BILLINGS agrees to notify «TheOrganization» in writing, within ten (10) days of any claim made against the CITY OF BILLINGS on the obligations indemnified against.

8. It is further understood and agreed that «TheOrganization» may terminate this agreement at any time upon payment in full of any monies owing under this agreement and upon written notice Ninety (90) days in advance to the CITY.

DATED THIS ____ day of _____, 20___.

«ORGANIZATIO»

CITY OF BILLINGS

RON TUSSING, MAYOR

TINA VOLEK, INTERIM CITY
ADMINISTRATOR

MARITA HEROLD, CITY CLERK

APPROVED AS TO FORM:

Billings City Attorney

AGREEMENT

The YELLOWSTONE COUNTY SOLID WASTE DISPOSAL DISTRICT (the District) and THE CITY OF BILLINGS, MONTANA, a municipal corporation (the City) agree as follows:

1. The City agrees to allow the District and all of its residents to use its Class Two Landfill Facility (Facility) for disposal of solid waste generated within the area of the District during all of the normal operating times of the Facility.
2. Use of the Facility by the District shall be pursuant to all rules, regulations and limitations of Billings Municipal Code Chapter 21, and to all federal and state laws and regulations.
3. The effective date of this Agreement shall be from July 1, 2006 through June 30, 2009.
4. For the period from July 1, 2006 through June 30, 2007, the District agrees to pay the City the sum of three hundred fifty-three thousand dollars (\$353,000) for the District's use of the Facility. One-half of this amount shall be paid by December 15, 2006, and the other half shall be paid by June 15, 2007.
5. For the remaining two years of this Agreement, the District and the City shall agree to an annual payment which shall be handled by an amendment to this agreement, with the amendment being approved by the Chairman of the Yellowstone County Solid Waste Disposal District and the City Council of the City of Billings. In the event the District and the City cannot agree to an annual payment before the conclusion of the previous fiscal year, this Agreement shall thereafter be null and void. In each year one-half of the annual payment shall be due on December 15 of that year, and the second half shall be due on June 15 of the following year.
6. It is agreed that the City collects a separate landfill charge for the disposal of construction and demolition refuse, dead animals, non-processed tires, and asbestos. The City will continue to collect such charges in addition to the amounts paid under the terms of this Agreement, but will not hold the District liable for these additional charges, instead directly charging the individual company or person physically depositing said refuse at the Facility.
7. Either party may terminate this Agreement at any time with or without cause, upon six months written notice to the other party. In the event of such termination, a pro rata payment shall be paid or refunded, depending upon the termination date.
8. Each party shall indemnify, hold harmless and defend the other party against any and all claims, demands, causes of action, damages, costs, expenses, liability, or judgments against the party that may arise as a result of the other party's negligence.

Dated this _____ day of _____, 2006

YELLOWSTONE COUNTY
SOLID WASTE DISPOSAL DISTRICT

By: _____
Chairman

CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

By: _____
Marita Herold, City Clerk

Approved As To Form:

By: _____
City Attorney

AMENDMENT NO. 1

YELLOWSTONE COUNTY LANDFILL USE AGREEMENT

THE Agreement dated _____ between THE CITY OF BILLINGS (City) and YELLOWSTONE COUNTY SOLID WASTE DISPOSAL DISTRICT (District) shall be amended as follows:

For July 1, 2007 to June 30, 2008, the total annual payment shall be \$ _____.

Both parties hereby agree upon this Amendment. All other provisions of the original Agreement remain in full force and effect and shall be undisturbed by this Amendment.

DATED THIS _____ day of _____ 2007.

**YELLOWSTONE COUNTY
SOLID WASTE DISPOSAL DISTRICT** **CITY OF BILLINGS**

By: _____
Chairman _____
By: _____
Ron Tussing, Mayor

Attest: _____
City Clerk

Approved As To Form:

By: _____
City Attorney

AMENDMENT NO. 2

YELLOWSTONE COUNTY LANDFILL USE AGREEMENT

THE Agreement dated _____ between THE CITY OF BILLINGS (City) and YELLOWSTONE COUNTY SOLID WASTE DISPOSAL DISTRICT (District) shall be amended as follows:

For July 1, 2008 to June 30, 2009, the total annual payment shall be \$ _____.

Both parties hereby agree upon this Amendment. All other provisions of the original Agreement remain in full force and effect and shall be undisturbed by this Amendment.

DATED THIS _____ day of _____ 2006.

**YELLOWSTONE COUNTY
SOLID WASTE DISPOSAL DISTRICT** **CITY OF BILLINGS**

By: _____
Chairman

By: _____
Ron Tussing, Mayor

Attest: _____
City Clerk

Approved As To Form:

By: _____
City Attorney

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

H1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

SUBJECT: Memorandum of Understanding for 3 High School Resource Officers
DEPARTMENT: Police Department
PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: Pursuant to City Council approval, the Billings Police Department and the Billings Public Schools have developed a School Resource Officer (SRO) program which places one officer in each of the three public high schools. The attached Memorandum of Understanding (MOU) makes provisions for program objectives and guidelines, officer selection processes, financial consideration and effective date and provisions for termination of the agreement. The MOU is for a period of one year, from July 1, 2006 to June 30, 2007, and was approved by the School Board at its May 15, 2006, meeting. The School Resource Officer Program is a collaborative effort by certified law enforcement officers, educators, students, parents, and the community to offer a liaison program in the schools in an effort to reduce crime, drug abuse, violence, and provide a safe school environment. City Council is being asked to approve this MOU and authorize the Mayor to sign.

FINANCIAL IMPACT The total cost of the 3 officers in the SRO positions is \$180,687.80. The Billings Public Schools will provide a \$60,000 payment to the City of Billings to defray some of the salary and benefit costs. At one time, the City had a grant to help fund these positions, but the grant has ended and the officers are now funded by the public safety fund. The officers do report back to the Police Department during the summer months and help the department accomplish various tasks during those months.

RECOMMENDATION

Staff recommends that City Council approve the attached Memorandum of Understanding between the City of Billings and the Billings Public Schools effective July 1, 2006 to June 30, 2007.

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

ATTACHMENT

A - Memorandum of Understanding –School Resource Officers for High Schools – 7 pages

**MEMORANDUM OF UNDERSTANDING
SCHOOL RESOURCE OFFICER PROGRAM
AT BILLINGS WEST, SENIOR AND SKYVIEW HIGH SCHOOLS**

**CITY OF BILLINGS POLICE DEPARTMENT
BILLINGS PUBLIC SCHOOLS**

We do hereby agree that it is mutually beneficial to all parties for Billings Police Officers to be assigned as School Resource Officers to schools within the City of Billings. It is understood by all parties that officers are employees of the City of Billings Police Department.

The purpose of this document is to facilitate a clear understanding of roles, duties, and responsibilities. This Memorandum of Understanding (MOU) is being set forth on this _____ day of _____, 2006 with full recognition that the agreement and document must be a living document to allow for program evolution and provide for some City of Billings and Billings School District variances, needs, and future changes. It is recognized that the School Resource Officer Program has enjoyed an eleven (11) year history within the City of Billings, since a limited pilot project at Billings West High School was implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. This MOU is being set forth to provide universal clarification of expectations, to minimize confusion, and to provide for consistency between officers, schools, principals, and directors.

The Billings Police Department recognizes and supports the need for safe schools and a safe learning environment for our youth. In furtherance of that goal, the Billings Police Department School Resource Officers shall work in partnership with school officials toward this end. The schools will provide a private office, office furnishings, telephone, and a computer to the SRO for his/her use in the school. The Police Department will provide any required police equipment, including radios and motorized and non-motorized vehicles to the SROs.

MISSION STATEMENT - BILLINGS POLICE DEPARTMENT

The Billings Police Department is committed to improving the quality of life through a customer service, problem solving partnership with the community.

MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM

Through education and enforcement and by cooperative efforts with the school staff, the students, the parents, the courts, the surrounding neighborhood, and the community's social service organizations, the SRO program strives to assist the schools with providing a safe school and neighborhood environment, and strives to hold juveniles responsible for their actions and prevent individual problems from developing into patterns of delinquency.

**BILLINGS POLICE DEPARTMENT
SCHOOL RESOURCE OFFICER PROGRAM
PROGRAM OBJECTIVES**

1. Friendly contact between the Police Department and the City's youth.
2. Assistance and information sharing concerning problems and issues affecting the schools and students.
3. Education of children regarding the role of laws, courts, and Police in society.
4. Protection and education of children involving molestation, involvement with older law violators, and other harmful influences.
5. Investigation of cases involving juveniles and use of effective alternatives to court whenever possible.
6. Prevention of crime or delinquent behavior by juveniles within the School Resource Officers' areas of assignment.
7. Effective problem solving and liaison with neighborhoods surrounding the high schools, which are affected negatively by the conduct of students.

It should be recognized that School Resource Officers:

- ◆ are encouraged to be a part of Student Council /Groups and School Staff when requested, and to work as a team with other school officials for the betterment of students and the school and neighborhood environment as a whole;
- ◆ are encouraged to work extra curricular activities as requested by the school administrator. It is recognized by all parties that these assignments provide further opportunities for crime prevention and crime detection. Any work by the SRO in this capacity will be approved by the assigned Police Department Supervisor and will be consistent with the FLSA and Police Union Contract. The SRO will not be used as a replacement officer for off-duty/special duty assignments. It will not relieve the School District of the need to provide adequate security at special events. All after hours work shall be approved by the SRO supervisor in advance;
- ◆ are expected to keep the school principal or his designee informed about law enforcement action which occurs on school property and/or which may involve a student. This, of course, will not occur if the information is inappropriate for release according to the Montana Criminal Justice Information Act of 1979;

- ◆ are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department. As such, their primary responsibilities are to investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, to recover stolen property and bring perpetrators to justice;
- ◆ are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant;
- ◆ are expected to attend all training, meetings and appointments assigned by the Police Department. It is recognized that some of these will conflict with officer availability at the school during normal school hours. These conflicts will be minimized as much as possible but the potential exists that such requirements will take precedence over school presence. The officer shall strive to keep the school principal or his representative informed about his/her absences and/or activities as appropriate on a need to know basis;
- ◆ are governed and covered by the current Collective Labor Agreement between City of Billings and the Montana Public Employees Association-Billings Police Unit;
- ◆ are considered by the City of Billings as “non-exempt” employees covered by the Fair Labor Standards Act and subject to it and the Police Union Contract for compensation and pay; Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SRO's may also be required to work regular police duty assignments, at other times when school is not in session, when so directed by the Police Operations Commander;
- ◆ are not security guards provided to the school district by the Billings Police Department. They should not be viewed by school officials as a replacement for security, although it is recognized that police presence has a crime prevention impact. If security is needed, the school district is encouraged to employ its own or to contract with a private security provider;
- ◆ are police officers and not school teachers, school administrators, nor school counselors. The officers will assist teachers with classroom presentations on relative topics when requested and able. They will also work with families, individual students and other school staff members with counseling and guidance efforts when requested and appropriate. We, the undersigned, encourage team work, partnerships, cooperation and coordination between the officers, their supervisors and the school administrators and their staff, as well as with the surrounding neighborhood;
- ◆ should not be relied upon or scheduled to serve as bus stop monitors, hallway monitors, nor lunch room monitors. Although, time permitting, SROs should assist school officials who are regularly assigned in these capacities since they provide excellent opportunities to achieve program objectives, including professional and friendly contact with youth, positive relationships and crime prevention.

- ◆ SROs, School Administration for the respective middle and/or high schools and the assigned Police Supervisor will meet at the beginning of each school year to determine the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly, in an effort to determine the effectiveness of the SRO program. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.
- ◆ are not intended to substitute for or relieve the building administrators of their primary responsibility for maintenance of discipline and good order in the school.

SELECTION AND FINANCIAL CONSIDERATION

Three (3) officers will be selected by means of a joint selection committee, comprised of three (3) representatives from the Billings School District who will be appointed by the Superintendent of Schools and three (3) representatives from the Billings Police Department who will be appointed by the Billings Chief of Police. The Selection Committee will make recommendations to the Chief of Police. While he will duly consider the Committee's recommendations, selection of each School Resource Officer is within the sole discretion of the Chief of Police. One officer will be assigned to each of the three Billings Public High Schools.

In return for services provided by the three officers, the Billings School District will pay to the City of Billings the sum of Sixty Thousand Dollars (\$60,000) by July 30, 2006

PROGRAM ASSESSMENT

The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly between the Billings Police Department and Billings Public Schools. The following areas, at a minimum, will be used to evaluate the program:

- ◆ Success of established goals and objectives.
- ◆ An internal survey of high school administration, faculty and student council members, primarily concerning perceptions of safety and security.
- ◆ Traditional police-citizen contacts (citations, arrests, FIRs, etc.).
- ◆ Non-traditional police-citizen contacts (meetings attended, problem areas addressed, student or family interviews, etc.).
- ◆ Surrounding neighborhood feedback and reaction to police efforts to address issues concerning the schools and students.
- ◆ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

Each officer's effectiveness in the program will be evaluated at the end of each school term. The Principal will provide input into the evaluation. This may include a recommendation to the

Chief that the officer not be assigned to that school the following year. The Chief will seriously consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer is within the sole discretion of the Police Chief.

EFFECTIVE DATE

This Memorandum of Understanding is effective July 1, 2006, and shall remain in effect through June 30, 2007, unless renewed by agreement of both parties or terminated as provided herein.

TERMINATION OF AGREEMENT

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by School District #2, then the full balance of the Sixty Thousand Dollars (\$60,000) will be retained by the City of Billings in order to maintain the high school SRO program. If the agreement is terminated by the City of Billings, then the pro-rated balance of the Sixty Thousand Dollars (\$60,000) will be refunded to School District #2. The pro-rated balance will be based on the total number of school days for the 2006/2007 school year and the number of school days remaining after the date of termination of the agreement.

NOTICES

All requests, notices, payments, demands, authorizations, directions, consents or waivers or other documents required or permitted under this Agreement shall be in writing and shall be delivered in person to, or deposited postage prepaid in the registered or certified mails of the United States, addressed to the City of Billings at:

Chief of Police, Billings Police Department, City of Billings,
P. O. Box 1554, Billings, MT 59103

or to School District #2 at:

Superintendent, School District #2, Lincoln Center, 415 North 30th Street
Billings, MT 59101

MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED

No modification of this Agreement shall be valid or binding unless the modification is in writing, duly dated and signed by both parties.

Executed this _____ day of _____, 2006.

SCHOOL DISTRICT #2

Attest:

Leo Hudetz
Clerk

By:

ROD SVEE
Superintendent

CITY OF BILLINGS

Attest:

City Clerk

By:

Mayor

Approved as to form:

City Attorney

061.MOU with School District High Schools

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

H2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

SUBJECT: Memorandum of Understanding for 2 Middle School Resource Officers

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: Pursuant to City Council approval, the Billings Police Department and the Billings Public Schools have developed a School Resource Officer (SRO) program which places two officers in the middle schools. The attached Memorandum of Understanding (MOU) makes provisions for program objectives and guidelines, officer selection processes, financial consideration and effective date and provisions for termination of the agreement. The MOU is for a period of one year, from July 1, 2006, to June 30, 2007 and has been approved by the School Board at its May 15, 2006 meeting. The School Resource Officer Program is a collaborative effort by certified law enforcement officers, educators, students, parents, and the community to officer a liaison program in the schools in an effort to reduce crime, drug abuse, violence, and provide a safe school environment. City Council is being asked to approve this MOU and authorize the Mayor to sign.

FINANCIAL IMPACT: The total cost of the 2 officers in the SRO positions is \$121,524.10. The Billings Public Schools will provide a \$50,000 payment to the City of Billings to defray some of the salary and benefit costs of the 2 officers. At one time, the City had a grant to help fund these positions, but the grant has ended and the officers are now funded by the public safety fund. The officers do report back to the Police Department during the summer months and help the department accomplish various tasks during those months.

RECOMMENDATION

Staff recommends that City Council approve the attached Memorandum of Understanding between the City of Billings and the Billings Public Schools effective July 1, 2006 to June 30, 2007.

Approved By: City Administrator City Attorney

ATTACHMENT

A - Memorandum of Understanding – School Resource Officers for Middle Schools - 7 pages

**MEMORANDUM OF UNDERSTANDING
SCHOOL RESOURCE OFFICER PROGRAM
AT BILLINGS MIDDLE SCHOOLS**

**CITY OF BILLINGS POLICE DEPARTMENT
BILLINGS PUBLIC SCHOOLS**

We do hereby agree that it is mutually beneficial to all parties for Billings Police Officers to be assigned as School Resource Officers to schools within the City of Billings. It is understood by all parties that officers are employees of the City of Billings Police Department.

The purpose of this document is to facilitate a clear understanding of roles, duties, and responsibilities. This Memorandum of Understanding (MOU) is being set forth on this _____ day of _____, 2006 with full recognition that the agreement and document must be a living document to allow for program evolution and provide for some City of Billings and Billings School District variances, needs, and future changes. It is recognized that the School Resource Officer Program has enjoyed an eleven (11) year history within the City of Billings, since a limited pilot project at Billings West High School was implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. This MOU is being set forth to provide universal clarification of expectations, to minimize confusion, and to provide for consistency between officers, schools, principals, and directors.

The Billings Police Department recognizes and supports the need for safe schools and a safe learning environment for our youth. In furtherance of that goal, the Billings Police Department School Resource Officers shall work in partnership with school officials toward this end. The schools will provide a private office, office furnishings, telephone, and a computer to the SRO for his/her use in the school. The Police Department will provide any required police equipment, including radios and motorized and non-motorized vehicles to the SROs.

MISSION STATEMENT - BILLINGS POLICE DEPARTMENT

The Billings Police Department is committed to improving the quality of life through a customer service, problem solving partnership with the community.

MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM

Through education and enforcement and by cooperative efforts with the school staff, the students, the parents, the courts, the surrounding neighborhood, and the community's social service organizations, the SRO program strives to assist the schools with providing a safe school and neighborhood environment, and strives to hold juveniles responsible for their actions and prevent individual problems from developing into patterns of delinquency.

**BILLINGS POLICE DEPARTMENT
SCHOOL RESOURCE OFFICER PROGRAM
PROGRAM OBJECTIVES**

1. Friendly contact between the Police Department and the City's youth.
2. Assistance and information sharing concerning problems and issues affecting the schools and students.
3. Education of children regarding the role of laws, courts, and Police in society.
4. Protection and education of children involving molestation, involvement with older law violators, and other harmful influences.
5. Investigation of cases involving juveniles and use of effective alternatives to court whenever possible.
6. Prevention of crime or delinquent behavior by juveniles within the School Resource Officers' areas of assignment.
7. Effective problem solving and liaison with neighborhoods surrounding the **middle schools**, which are affected negatively by the conduct of students.

It should be recognized that School Resource Officers:

- ◆ are encouraged to be a part of Student Council /Groups and School Staff when requested, and to work as a team with other school officials for the betterment of students and the school and neighborhood environment as a whole;
- ◆ are encouraged to work extra curricular activities as requested by the school administrator. It is recognized by all parties that these assignments provide further opportunities for crime prevention and crime detection. Any work by the SRO in this capacity will be approved by the assigned Police Department Supervisor and will be consistent with the FLSA and Police Union Contract. The SRO will not be used as a replacement officer for off-duty/special duty assignments. It will not relieve the School District of the need to provide adequate security at special events. All after hours work shall be approved by the SRO supervisor in advance;
- ◆ are expected to keep the school principal or his designee informed about law enforcement action which occurs on school property and/or which may involve a student. This, of course, will not occur if the information is inappropriate for release according to the Montana Criminal Justice Information Act of 1979;

- ◆ are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department. As such, their primary responsibilities are to investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, to recover stolen property and bring perpetrators to justice;
- ◆ are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant;
- ◆ are expected to attend all training, meetings and appointments assigned by the Police Department. It is recognized that some of these will conflict with officer availability at the school during normal school hours. These conflicts will be minimized as much as possible but the potential exists that such requirements will take precedence over school presence. The officer shall strive to keep the school principal or his representative informed about his/her absences and/or activities as appropriate on a need to know basis;
- ◆ are governed and covered by the current Collective Labor Agreement between City of Billings and the Montana Public Employees Association-Billings Police Unit;
- ◆ are considered by the City of Billings as “non-exempt” employees covered by the Fair Labor Standards Act and subject to it and the Police Union Contract for compensation and pay; Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SRO's may also be required to work regular police duty assignments, at other times when school is not in session, when so directed by the Police Operations Commander;
- ◆ are not security guards provided to the school district by the Billings Police Department. They should not be viewed by school officials as a replacement for security, although it is recognized that police presence has a crime prevention impact. If security is needed, the school district is encouraged to employ its own or to contract with a private security provider;
- ◆ are police officers and not school teachers, school administrators, nor school counselors. The officers will assist teachers with classroom presentations on relative topics when requested and able. They will also work with families, individual students and other school staff members with counseling and guidance efforts when requested and appropriate. We, the undersigned, encourage team work, partnerships, cooperation and coordination between the officers, their supervisors and the school administrators and their staff, as well as with the surrounding neighborhood;
- ◆ should not be relied upon or scheduled to serve as bus stop monitors, hallway monitors, nor lunch room monitors. Although, time permitting, SROs should assist school officials who are regularly assigned in these capacities since they provide excellent opportunities to achieve program objectives, including professional and friendly contact with youth, positive relationships and crime prevention.

- ◆ SROs, School Administration for the respective middle and/or high schools and the assigned Police Supervisor will meet at the beginning of each school year to determine the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly, in an effort to determine the effectiveness of the SRO program. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.
- ◆ are not intended to substitute for or relieve the building administrators of their primary responsibility for maintenance of discipline and good order in the school.

SELECTION AND FINANCIAL CONSIDERATION

Two (2) officers will be selected by means of a joint selection committee, comprised of three (3) representatives from the Billings School District who will be appointed by the Superintendent of Schools and three (3) representatives from the Billings Police Department who will be appointed by the Billings Chief of Police. The Selection Committee will make recommendations to the Chief of Police. While he will duly consider the Committee's recommendations, selection of each School Resource Officer is within the sole discretion of the Chief of Police. Two officers will be assigned to the four Billings Public Middle Schools.

In return for services provided by the two officers, the Billings School District will pay to the City of Billings the sum of Fifty Thousand Dollars (\$50,000) by July 30, 2006

PROGRAM ASSESSMENT

The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly between the Billings Police Department and Billings Public Schools. The following areas, at a minimum, will be used to evaluate the program:

- ◆ Success of established goals and objectives.
- ◆ An internal survey of high school administration, faculty and student council members, primarily concerning perceptions of safety and security.
- ◆ Traditional police-citizen contacts (citations, arrests, FIRs, etc.).
- ◆ Non-traditional police-citizen contacts (meetings attended, problem areas addressed, student or family interviews, etc.).
- ◆ Surrounding neighborhood feedback and reaction to police efforts to address issues concerning the schools and students.
- ◆ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

Each officer's effectiveness in the program will be evaluated at the end of each school term. The Principal will provide input into the evaluation. This may include a recommendation to the Chief that the officer not be assigned to that school the following year. The Chief will seriously

consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer is within the sole discretion of the Police Chief.

EFFECTIVE DATE

This Memorandum of Understanding is effective July 1, 2006, and shall remain in effect through June 30, 2007 unless renewed by agreement of both parties or terminated as provided herein.

TERMINATION OF AGREEMENT

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by School District #2, then the full balance of the Fifty Thousand Dollars (\$50,000) will be retained by the City of Billings in order to maintain the middle school SRO program. If the agreement is terminated by the City of Billings, then the pro-rated balance of the Fifty Thousand Dollars (\$50,000) will be refunded to School District #2. The pro-rated balance will be based on the total number of school days for the 2006/2007 school year and the number of school days remaining after the date of termination of the agreement.

NOTICES

All requests, notices, payments, demands, authorizations, directions, consents or waivers or other documents required or permitted under this Agreement shall be in writing and shall be delivered in person to, or deposited postage prepaid in the registered or certified mails of the United States, addressed to the City of Billings at:

Chief of Police, Billings Police Department, City of Billings,
P. O. Box 1554, Billings, MT 59103

or to School District #2 at:

Superintendent, School District #2, Lincoln Center, 415 North 30th Street
Billings, MT 59101

MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED

No modification of this Agreement shall be valid or binding unless the modification is in writing, duly dated and signed by both parties.

Executed this ____ day of _____, 2006.

SCHOOL DISTRICT #2

Attest:

LEO HUDETZ
Clerk

By: _____
ROD SVEE
Superintendent

CITY OF BILLINGS

Attest:

City Clerk

By: _____
Mayor

Approved as to form:

City Attorney

061A.MOU with School District middle schools

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: CTEP Project Specific Agreement – Bannister Drain Trail

DEPARTMENT: Planning and Community Development

PRESENTED BY: Candi Beaudry, AICP, Interim 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 Bannister Drain project in November, 2006. The Bannister Trail project will construct approximately one half mile of concrete pathway, signage and landscaping. The trail begins at King Avenue, near the BBWA Canal and continues south along the east side of the canal before turning eastward to connect to the Midland Trail located behind PetSmart and Home Depot stores. This trail project was approved through a 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 the Bannister Trail to begin project development.

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 funding breakdown for this project is as follows:

CTEP Grant	\$312,406
Local Match	\$48,422
<u>Additional Contribution</u>	<u>\$20,951</u>
Total Funds Available	\$384,328

Local match funding of \$23,423.12 will be provided from the 1999 GO Bond and \$25,000 from BikeNet contributions. The Council accepted the donation from BikeNet on May 22, 2006. Additional funding for the project is provided by a Recreation Trails Grant.

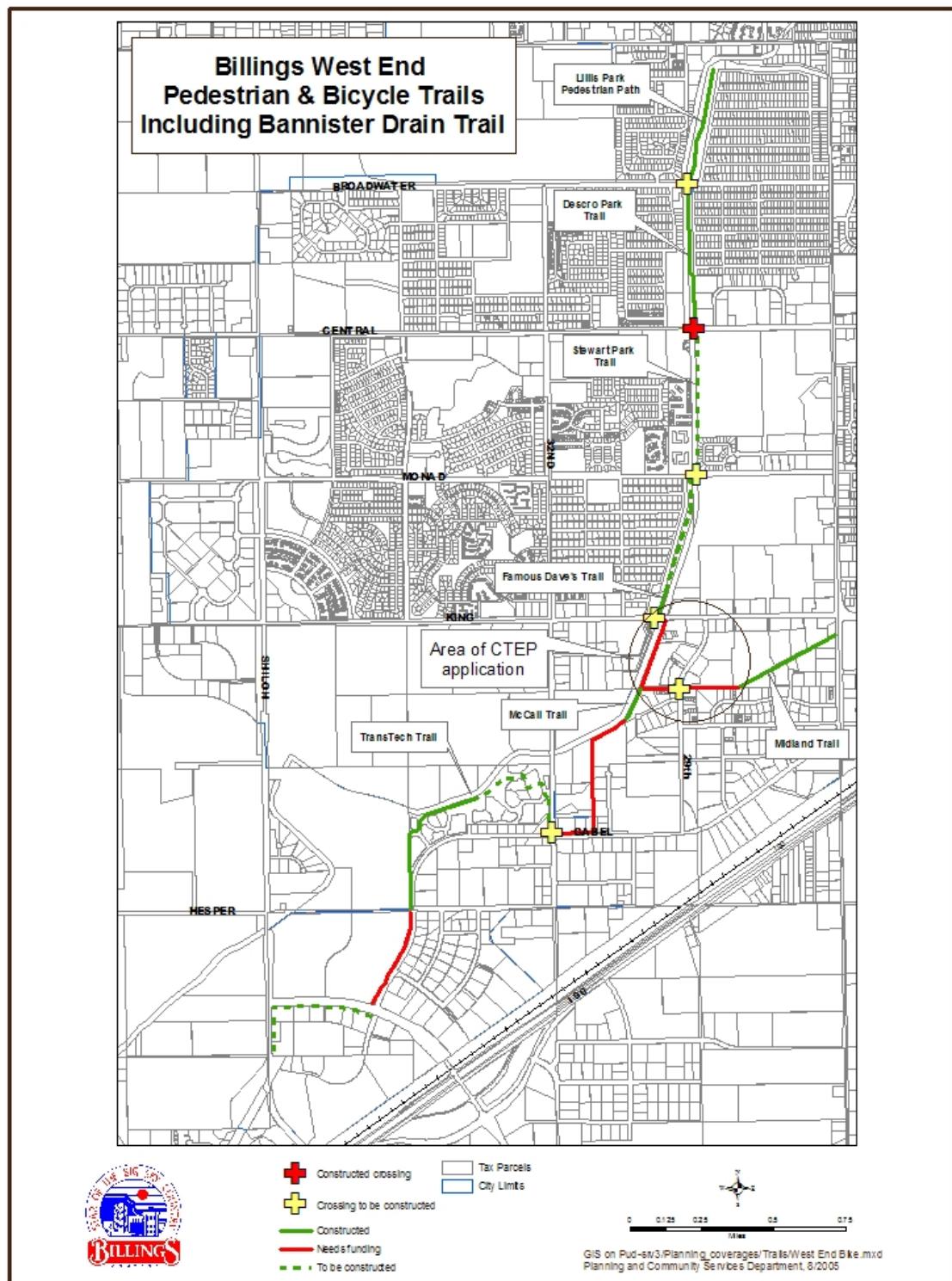
RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for the Bannister Trail.

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

ATTACHMENTS

- A. Map
- B. Project Specific Agreement



PROJECT SPECIFIC AGREEMENT - GENERAL

THIS AGREEMENT is made and entered into, by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, STPE 1099(55), titled Bannister Drain Trail-Billings (hereinafter the "project"); and,

WHEREAS, the State and the City recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's development and construction totals \$384,328; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal aid funds; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal aid funds will be financed by the City; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

1. The City will develop a CTEP project described as: the design and construction of a shared use path slightly over one half mile in length. Project includes landscaping and signage.
2. The project crosses the state-maintained system and the location is described as follows: the path begins with a mid-block crossing of King Avenue (U-1010) at the BBWA Canal and continues south along the east side of the canal for about one quarter mile, the path then turns eastward to connect to the Midland Trail (north of Enterprize Avenue).
3. The purpose of this project is to: provide a safe and convenient bicycle and pedestrian facility.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account is as follows:

Federal-Aid Program Account (maximum FHWA match rate) Total by account

[9102] Preliminary Engineering (86.58%) (including environmental documentation)	\$ 38,433
[9202] Right-of-Way/Easement Acquisition (86.58%)	\$ -0-
[9302] Incidental Construction (64.93%) (utility relocation involvement)	\$ -0-
[9402] Construction Engineering (86.58%) (including contract administration and inspections)	\$ 46,119
[9502] Construction (86.58%)	\$ 299,776
Total	\$ 384,328

	Project	CTEP Funds	Local Match	ADD. Contribution
City of Billings	\$ 384,328	\$ 312,406	\$ 48,422	\$ 23,500
TOTAL	\$ 384,328	\$ 312,406	\$ 48,422	\$ 23,500

5. The general method of development includes: the City will engage a project engineer for preliminary engineering, contract bid document preparation and construction engineering. Construction will be by competitive bid. The State will perform a final inspection to ensure substantial compliance with project plans, specifications and estimates
6. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Guidelines.
9. The City will allow inspection of all work and project related records by the personnel or agents of the State and FHWA.
10. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use.
11. The City will retain project related records and documents for a period of three years after the closing of the project.

12. The City will be responsible for \$71,922 and Federal participation will be \$312,406 of the estimated total project cost of \$384,328. The City will be responsible for 100% of the costs, exceeding the proposed \$384,328, required to complete the project.
13. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Engineering Coordinator for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
14. This agreement shall become effective upon execution by the State and City. It may be modified only by written mutual agreement of both the City and the State.
15. The City will service, maintain, and pay the cost of operating the project described in this agreement.
16. During the performance of this Agreement, the City, for itself, its assignees and successors in interest, agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: The City will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

- (a) Withholding payments to the Party under the Agreement until the City complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

(1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) The City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City."

All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

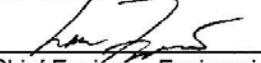
Each Agreement the Department signs with a City (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate

IN WITNESS WHEREOF, the Director of Transportation's authorized representative has signed on behalf of the State of Montana and the Mayor of the City of Billings, has signed and affixed hereto the seal of the City.

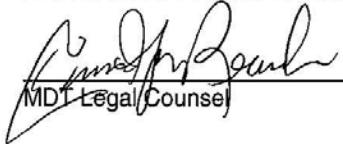
STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

Jim Lynch
Director of Transportation

BY 
Chief Engineer, Engineering Division

May 16, 2006

APPROVED FOR LEGAL CONTENT


MDT Legal Counsel

CITY OF BILLINGS

ATTEST-Clerk

Mayor

By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2006, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: CTEP Project Specific Agreement – Big Ditch Trail II

DEPARTMENT: Planning and Community Development

PRESENTED BY: Candi Beaudry, AICP, Interim 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 Big Ditch Trail II project in November, 2006. The Big Ditch Trail II project is a continuation of the Big Ditch Trail, a CTEP project to be constructed in 2006. The trail begins Larchwood Lane and generally follows the Big Ditch to the west where it terminates at 46th Street West. The project includes construction of a concrete path, signage and landscaping. This trail project was approved through a 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 the Big Ditch Trail II to begin project development.

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 funding breakdown for this project is as follows:

CTEP Grant	\$147,620
<u>Local Match</u>	\$22,880
Total Funds Available	\$170,500

Local match funding of \$22,880 will be provided from a variety of sources including a PPL Montana Community Fund Grant for \$10,000, a Bikes Belong Coalition grant for \$5,000 and the 1999 GO Bond for the remaining \$7,880.

RECOMMENDATION

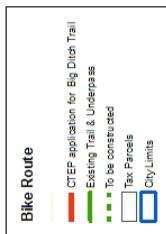
Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for the Big Ditch Trail II.

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

ATTACHMENTS

- C. Map
- D. Project Specific Agreement

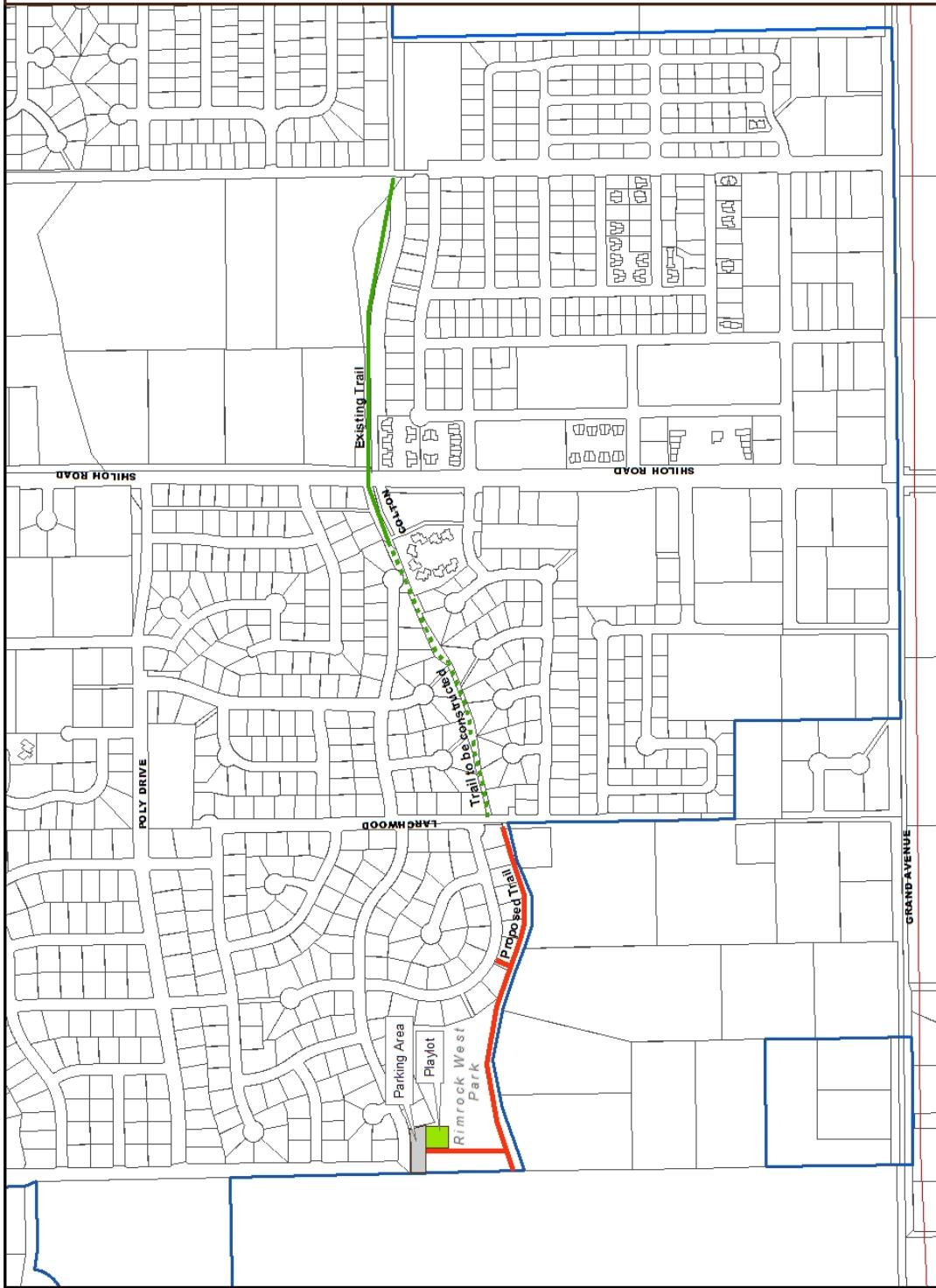
Big Ditch Trail Phase 2



0 112 225 450 675 900
Feet



GS on Boulded Platium Coverage, Big Ditch Trail and
Planning and Community Services Department 0.2053



PROJECT SPECIFIC AGREEMENT - GENERAL

THIS AGREEMENT is made and entered into, by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, STPE 1099(54), titled BIG DITCH TRAIL II-BILLINGS (hereinafter the "project"); and,

WHEREAS, the State and the City recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's development and construction totals \$170,500; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal aid funds; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal aid funds will be financed by the City; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

1. The City will develop a CTEP project described as: the design and construction of a 10-foot wide shared use path approximately one-half mile in length. Project includes signage and landscaping.
2. The project is off of the state-maintained system and the location is described as follows: the path will be located between Larchwood Lane and 46th Street West generally following the north side of the Big Ditch. The path includes two spurs to the north connecting with Ridgewood Lane South and the parking lot of Rimrock West Park.
3. The purpose of this project is to provide a safe and convenient bicycle and pedestrian facility.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account (maximum FHWA match rate) Total by account

[9102] Preliminary Engineering (86.58%) (including environmental documentation)	\$ 15,345
[9202] Right-of-Way/Easement Acquisition (86.58%)	\$ -0-
[9302] Incidental Construction (64.93%) (utility relocation involvement)	\$ -0-
[9402] Construction Engineering (86.58%) (including contract administration and inspections)	\$ 15,345
[9502] Construction (86.58%)	\$ 139,810
Total	\$ 170,500

	Project	CTEP Funds	Local Match	ADD. Contribution
City of Billings	\$ 170,500	\$ 147,620	\$ 22,880	\$ -0-
TOTAL	\$ 170,500	\$ 147,620	\$ 22,880	\$ -0-

5. The general method of development includes: the City will engage a project engineer for preliminary engineering, contract bid document preparation and construction engineering. Construction will be by competitive bid. The State will perform a final inspection to ensure substantial compliance with project plans, specifications and estimates
6. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Guidelines.
9. The City will allow inspection of all work and project related records by the personnel or agents of the State and FHWA.
10. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use.
11. The City will retain project related records and documents for a period of three years after the closing of the project.

12. The City will be responsible for \$22,880 and Federal participation will be \$147,620 of the estimated total project cost of \$170,500. The City will be responsible for 100% of the costs, exceeding the proposed \$170,500, required to complete the project.
13. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Engineering Coordinator for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
14. This agreement shall become effective upon execution by the State and City. It may be modified only by written mutual agreement of both the City and the State.
15. The City will service, maintain, and pay the cost of operating the project described in this agreement.
16. During the performance of this Agreement, the City, for itself, its assignees and successors in interest, agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: The City will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

(a) Withholding payments to the Party under the Agreement until the City complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

(1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) The City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City."

All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

Each Agreement the Department signs with a City (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate

IN WITNESS WHEREOF, the Director of Transportation's authorized representative has signed on behalf of the State of Montana and the Mayor of the City of Billings, has signed and affixed hereto the seal of the City.

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

Jim Lynch
Director of Transportation

BY 
Chief Engineer, Engineering Division

May 16, 2006

APPROVED FOR LEGAL CONTENT


MDT Legal Counsel

CITY OF BILLINGS

ATTEST-Clerk

Mayor

By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2006, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: CTEP Project Specific Agreement – Milton Lane School Route
DEPARTMENT: Planning and Community Development
PRESENTED BY: Candi Beaudry, AICP, Interim 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 Milton Lane School Route project in November, 2006. The Milton Lane School Route project will construct approximately 7,200 square feet of sidewalks, 3,000 square feet of drive approaches, 7 accessibility ramps, and curb and gutter. The sidewalk project is located along Milton and Rex Lanes between Lake Elmo Road and Main Street. This project was approved through a 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 the Milton Lane School Route project to begin project development.

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 funding breakdown for this project is as follows:

CTEP Grant	\$125,000
Local Match	\$19,375
Additional Contribution	\$380,625
Total Funds Available	\$525,000

Local match funding of \$19,375 will be provided from a combination of Gas Tax/Corner Lot funds and property assessments. The Additional Contribution of \$380,625 will be provided from a combination of Gas Tax/Corner Lot/Curb & gutter funds, storm drain funds, CDBG funds, and property assessments.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for the Milton Lane School Route.

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

ATTACHMENTS

- E. Map
- F. Project Specific Agreement

Area of permanent curbs

North

various
(5' to 7')

37'

5'

existing curb line to be replaced as necessary

Cross-section (not to scale)

LAKKE		SUB		JOSÉPHINE		SUB		1		2		3	
34-1		15		13		12		10		9		8	
34-5		14		11		7		6		5		4	

C/S		TOLK		LANE		HAMMERS SUB	
AM.		2		Z			

1A	1B	2	3	4	5
REX	SUB	9	Bench	CEP.T.	408
		8	Elementary	C	AMEND.
		7	School	TR.	TR. D
		6			
		5			
		4			
		3			
		2			
		1			
1ST	FILING	5			
1	2	4			
		3			

MILTON	LANE	7
APPLEBY	STEVENS	6
AN SUBMISSION	UB.	11-A
1	C/S 446	
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74 of 209

PROJECT SPECIFIC AGREEMENT - GENERAL

THIS AGREEMENT is made and entered into, by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, STPE 1099(53), titled Milton Lane School Rte-Blgs (hereinafter the "project"); and,

WHEREAS, the State and the City recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's development and construction totals \$525,000; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal aid funds; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal aid funds will be financed by the City; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

1. The City will develop a CTEP project described as: the design and construction of about 7,200 square feet of sidewalks, 3000 square feet of drive approaches, 7 accessibility ramps, and curb and gutter.
2. The project is off of the state-maintained system and the location is described as follows: the path will be located along Milton and Rex Lanes between Lake Elmo Road and Main Street in Billings, Montana.
3. The purpose of this project is to: provide a safe and convenient bicycle and pedestrian facility.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account is as follows:

Federal-Aid Program Account (maximum FHWA match rate) Total by account

[9102] Preliminary Engineering (86.58%) (including environmental documentation)	\$ 35,000
[9202] Right-of-Way/Easement Acquisition (86.58%)	\$ -0-
[9302] Incidental Construction (64.93%) (utility relocation involvement)	\$ -0-
[9402] Construction Engineering (86.58%) (including contract administration and inspections)	\$ 40,000
[9502] Construction (86.58%)	\$ 450,000
Total	\$ 525,000

	Project	CTEP Funds	Local Match	ADD. Contribution
City of Billings	\$ 525,000	\$ 125,000	\$ 19,375	\$ 380,625
TOTAL	\$ 525,000	\$ 125,000	\$ 19,375	\$ 380,625

5. The general method of development includes: the City will engage a project engineer for preliminary engineering, contract bid document preparation and construction engineering. Construction will be by competitive bid. The State will perform a final inspection to ensure substantial compliance with project plans, specifications and estimates
6. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Guidelines.
9. The City will allow inspection of all work and project related records by the personnel or agents of the State and FHWA.
10. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use.
11. The City will retain project related records and documents for a period of three years after the closing of the project.

12. The City will be responsible for \$400,000 and Federal participation will be \$125,000 of the estimated total project cost of \$525,000. The City will be responsible for 100% of the costs, exceeding the proposed \$525,000, required to complete the project.
13. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Engineering Coordinator for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
14. This agreement shall become effective upon execution by the State and City. It may be modified only by written mutual agreement of both the City and the State.
15. The City will service, maintain, and pay the cost of operating the project described in this agreement.
16. During the performance of this Agreement, the City, for itself, its assignees and successors in interest, agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The City will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

- (a) Withholding payments to the Party under the Agreement until the City complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

(1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) The City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City."

All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

Each Agreement the Department signs with a City (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate

IN WITNESS WHEREOF, the Director of Transportation's authorized representative has signed on behalf of the State of Montana and the Mayor of the City of Billings, has signed and affixed hereto the seal of the City.

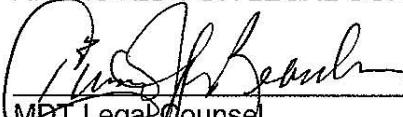
STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

Jim Lynch
Director of Transportation

BY 
Chief Engineer, Engineering Division

May 16, 2006

APPROVED FOR LEGAL CONTENT


MDT Legal Counsel

CITY OF BILLINGS

ATTEST-Clerk

Mayor

By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2006, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Revolving Loan Fund Recommendations for Yellowstone Community Cooperative

DEPARTMENT: Administration

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The Downtown Revolving Loan Committee met on May 15, 2006 and approved increasing the Yellowstone Community Cooperative (dba as the Good Earth Market) loan from \$140,000 to \$167,000, which is less than 20% of actual project costs.

FINANCIAL IMPACT: Subsequent to approval of these items, the loan fund will have a balance available of approximately \$1,000,000.

RECOMMENDATION

The Downtown Revolving Loan Committee recommends that council approve increasing the loan to Yellowstone Community Cooperative from \$140,000 to \$167,000.

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

ATTACHMENT

A-Loan Descriptions

Attachment A

Revolving Loan Fund Loan

Monday, June 12, 2006

The Yellowstone Community Cooperative loan terms are as follows:

Loan	Not to exceed the lesser of \$167,000.00 or 20% of project costs.
Interest Rate	4.75% Adjusted annually.
Term	Amortized over seven years.
Payments	Minimum Payments calculated at a rate of five percent over a seven year term. The first payment will be due sixty days after disbursement of funds.
Personal guarantees	Personal guarantee(s) in the amount of \$83,500.00.
Collateral	Assignment of lease, which will be junior and subordinate to US Bank.
Security	The City will file form UCC1 on the entity's furnishings, equipment and inventory, which will be junior and subordinate to US Bank's filing.
Disbursement	The City will disburse funds after it receives documentation supporting the actual project costs.

This loan is to finance a portion of the following project costs:

\$512,800	Leasehold improvements to the new location at 31 st Street and 2 nd Avenue North and
324,000	Equipment and inventory.

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

K1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Yellowstone Art Museum Arts and Crafts Summerfair Street Closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Gene Blackwell, Interim Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT:

The Yellowstone Art Museum requests temporary street closure of the north lane of 6th Avenue from 19th Street to 22nd Street from 10:00 am on Friday, July 7, until 8:00 pm on Sunday, July 9, 2006, for its annual Arts and Crafts Summerfair. Map is attached.

Recommended conditions of approval include that the Yellowstone Art Museum:

1. Contact all businesses and make them aware of the event 60 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Obtain proper permit from the Police Department for alcohol consumption
5. Obtain a Park Use permit from the Recreation Division for the use of North Park
6. Provide and install adequate traffic barricades and signs directing motorists around closure
7. **The closure of the north lane of 6th Avenue is to be used for exhibitor parking for loading and unloading only. Double parking will not be allowed in the closed lane**
8. Make provisions for emergency access in park
9. Provide a certificate of insurance naming the City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for the Yellowstone Art Museum.

RECOMMENDATION

Staff recommends that Council approval the temporary closure of the north lane of 6th Avenue from 19th Street to 22nd Street from 10:00 am on Friday, July 7, until 8:00 pm on Sunday, July 9, 2006, for the annual Arts and Crafts Summerfair.

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

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

K2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Downtown Billings Association (DBA) Movie Nights street closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Gene Blackwell, Interim Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The DBA requests the closure of 2nd Ave. from N. 29th to N. 28th (traffic diverted left only onto N. 29th) on June 24, July 22, August 26, and September 23, 2006, from 7:00 pm to 11:00 pm for downtown movie nights.

Recommended conditions of approval include DBA:

1. Contact all businesses and make them aware of the event 60 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide certificate of insurance naming City of Billings as additional insured
5. Have no alcohol consumption in the public right of way
6. Provide and install adequate traffic barricades and signs directing motorists around closure

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures named above on June 24, July 22, August 26, and September 23, 2006 for downtown movie nights.

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

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

K3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Harley Owner's Group (H.O.G.) Parade Temporary Street Closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Gene Blackwell, Interim Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The Harley Owner's Group requests temporary street closure for a H.O.G. Parade on Saturday, July 1, 2006 from 7:00 am to 9:30 am.

Recommended conditions of approval include the Harley Owner's Group:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event as soon as possible
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide and install adequate traffic barricades directing motorists around closure
6. Coordinate with the Police and Traffic Engineering Departments to ensure proper traffic control and police assistance
7. Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit. Police, traffic control and litter removal are to be paid for by the Harley Owner's Group.

RECOMMENDATION

Staff recommends that Council approve closure of the event route described above on Saturday, July 1, 2006, for the H.O.G. parade.

Approved By: City Administrator City Attorney [\(Back to Consent Agenda\)](#)

K4

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Harley Owner's Group (H.O.G.) Rally Temporary Street Closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Gene Blackwell, Interim Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The Harley Owner's Group requests temporary street closure for a H.O.G. Rally on Saturday, July 1, 2006 from 10:00 am to 11:00 pm.

Recommended conditions of approval include the Harley Owner's Group:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event as soon as possible
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide and install adequate traffic barricades directing motorists around closure
6. Coordinate with the Police and Traffic Engineering Departments to ensure proper traffic control and police assistance
7. Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit. Police, traffic control and litter removal are to be paid for by the Harley Owner's Group.

RECOMMENDATION

Staff recommends that Council approve closure of the event route described above on Saturday, July 1, 2006, for the H.O.G. Rally.

Approved By: **City Administrator** **City Attorney**
[\(Back to Consent Agenda\)](#)



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, JUNE 12, 2006

SUBJECT: Cancellation of Checks and Warrants

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Finance has done a review of the outstanding warrants and checks. Under state law 7-6-4303, City Council has the authority to cancel municipal warrants and checks that have remained outstanding or unpaid for a period of one year or longer.

Also, a review of uncollectible accounts receivables for the Parks and Recreation Department has been performed. It is city policy to turn delinquent accounts receivable over to a collection agency and write off the portion that is deemed to be uncollectible.

FINANCIAL IMPACT: The \$51,600.32 will be reverted back to affected funds. Employees were notified and given the opportunity to pay the stop payment fee and have the check reissued. Employees are still responding so checks re-issued will not be cancelled.

The \$11,139.38 of PRPL bad debts will be eliminated.

RECOMMENDATION

Staff recommends that Council authorize the cancellation of said warrants and checks and receivable balances.

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

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

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Annexation petition #06-06: Acknowledge Receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: The property owner, Rocky Mountain Community Church, submitted a petition to annex land to the City of Billings under 7-2-4600 MCA. The 4.26-acre subject property is located at the northeast corner of the intersection of Grand Avenue and Zimmerman Road (34th Street West). The property is currently vacant. The property owner is requesting annexation in order to obtain city water and sewer services to develop the property for commercial purposes. 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.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4600 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 June 26, 2006, to consider annexing this property.

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

ATTACHMENT A

Annexation #06-06 Property Data

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

Petitioner: Rocky Mountain Community Church

Purpose of annexation: Obtain City services

Property included: Certificate of Survey 1011, Tract B
Amended

Location: East of 34th Street West, north of Grand Avenue

Total area: 4.260 acres

Current zoning: Agricultural-Open Space

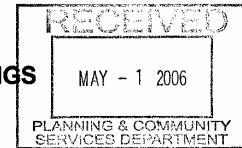
Current land use: vacant

Future land use: commercial

ATTACHMENT B
Annexation Petition #06-06

06-363

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
5/01/06	Rocky Mountain Community Church		1246 Cook Avenue Billings, MT 59102

(continued on separate page)

P:99123_Annex_Pet

(05/01/06) dml Revised 6/99

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

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

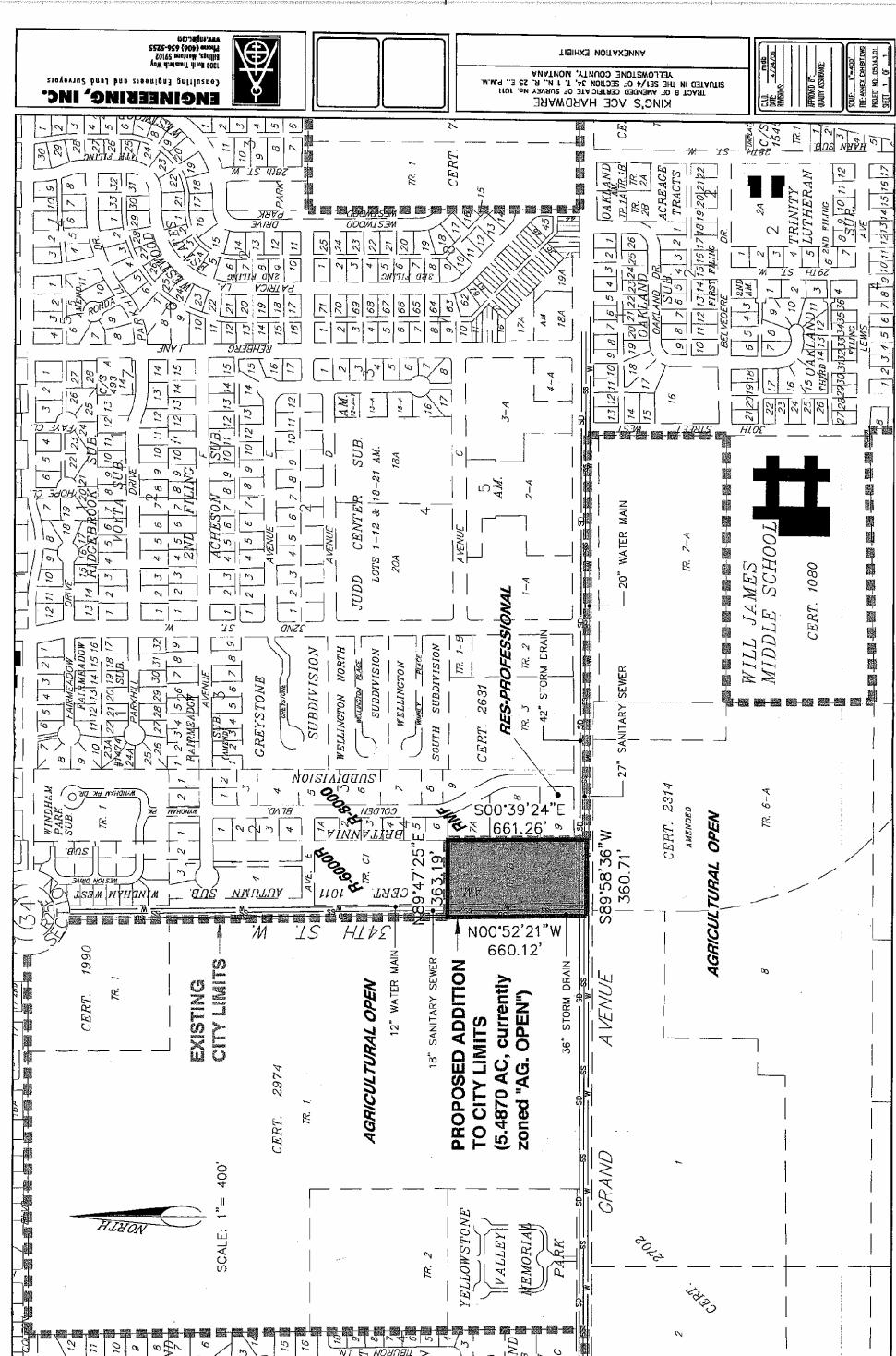
31 DEZ

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted: 5-3-06

Received By: C. J. Boundary Petition Number: A-06-06

ATTACHMENT C
Annexation Map – Annexation #06-06



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

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Annexation petition #06-08: Acknowledge Receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: The property owner, Aviara, Inc., submitted a petition to annex land to the City of Billings under 7-2-4600 MCA. Two separate properties, totaling 2.329 acres, are located north of Rimrock Road, near 50th Street West. The properties are currently vacant. The property owner is requesting annexation in order to obtain city water and sewer services to develop the property for residential purposes. 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.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4600 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 June 26, 2006, to consider annexing this property.

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

ATTACHMENTS

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

ATTACHMENT A

Annexation #06-08 Property Data

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

Petitioner: Aviara, Inc.

Purpose of annexation: Obtain City services

Property included: Two portions of Certificate of Survey 1834, Second Amended

Location: North of Rimrock Road at 50th Street West.

Total area: 2.329 acres

Current zoning: Residential 9600

Current land use: vacant

Future land use: residential

ATTACHMENT B
Annexation Petition #06-08

**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
4/6/06	Dennis Buscher	<u>Dennis Buscher</u>	<u>3671 Spallenger</u>

(continued on separate page)

Revised 6/99

DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY

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

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

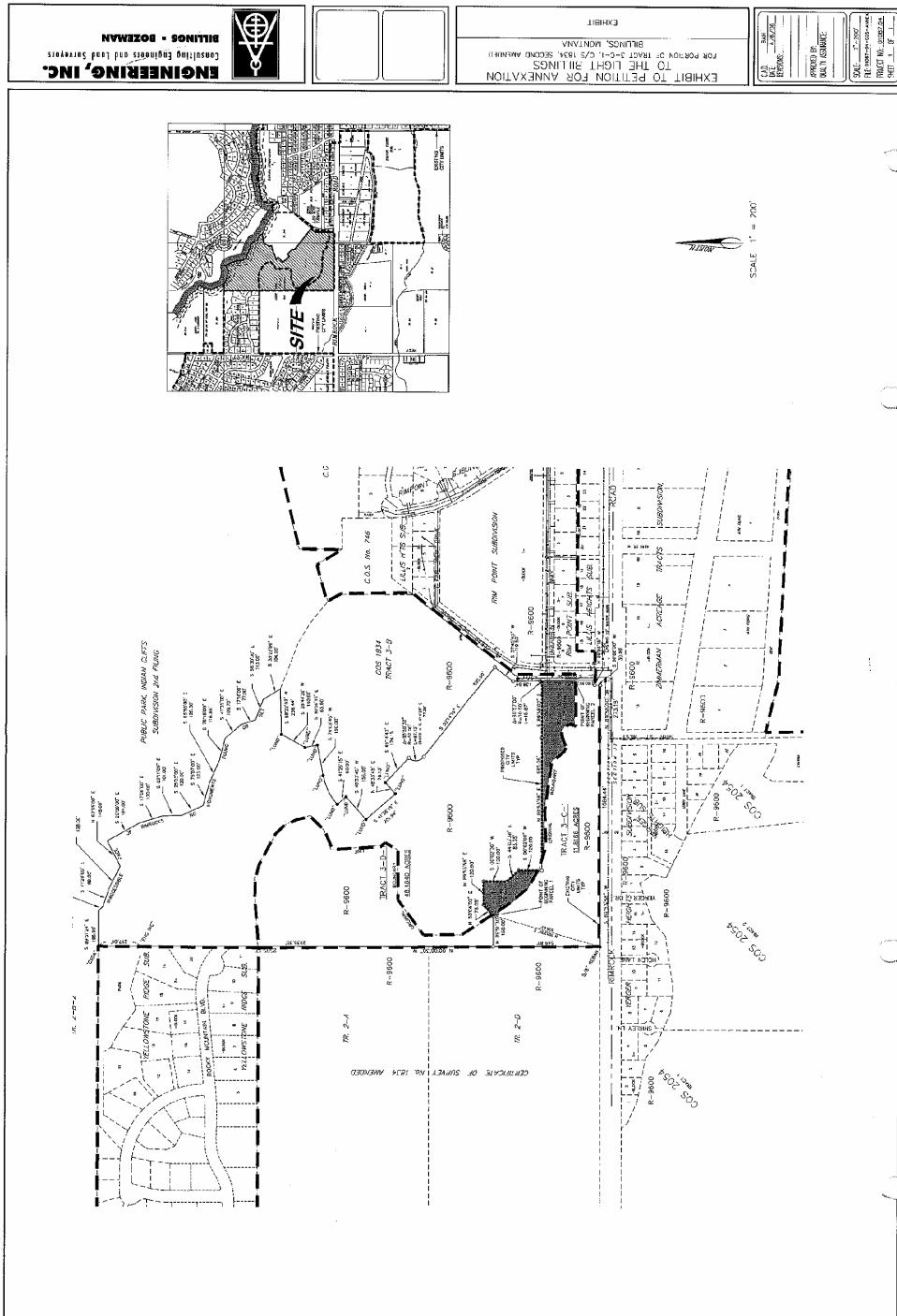
Received By:

Date Submitted:

Fee Paid:

Revised 6/99

ATTACHMENT C
Annexation Map – Annexation #06-08



(Back to Consent Agenda)



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Acknowledge Receipt of Petition to Vacate a Portion of Kyhl Lane Right-of-Way and Set a Public Hearing Date

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The preliminary plat for Belville Subdivision was approved at the January 9, 2006, City Council meeting. Originally Kyhl Lane was platted to extend from Bench Boulevard to Hawthorne Lane. With the creation of Belville Subdivision, a portion of Kyhl Lane will no longer be needed. The developer, Steve Kerns, has submitted a petition to vacate a portion of Kyhl Lane right-of-way, as indicated on attached Exhibit A. The right-of-way to be vacated is approximately 193.67 feet long by 30 feet wide and is located on the north 30 feet of Brewington Park and the north 30 feet of Lot 1, Block 3, Bellville Subdivision.

ALTERNATIVES ANALYZED:

- Acknowledge receipt of petition to vacate a portion of Kyhl Lane right-of-way and set a public hearing date of June 26, 2006.
- Do not acknowledge receipt of petition to vacate a portion of Kyhl Lane right-of-way.

FINANCIAL IMPACT:

The portion of street being vacated is 5,810 square feet, of which 3,408 square feet will be added to Brewington Park and the remaining area will be added to Lot 1, Block 3, Belville Subdivision. City staff recommends the right-of-way be vacated at no cost because the above-mentioned portion of Kyhl Lane was to be vacated as a condition of the preliminary plat approved at the January 9, 2006, council meeting, and because that portion of Kyhl Lane will not be utilized as a street in the future.

RECOMMENDATION

Staff recommends that Council acknowledge receipt of the petition to vacate the above-referenced portion of Kyhl Lane and set a public hearing date for June 26, 2006.

Approved By: City Administrator City Attorney [\(Back to Consent Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Resolution Assessing Residential/Commercial Collection, Disposal, and Landfill Fees

DEPARTMENT: Public Works Department / Solid Waste Division

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

PROBLEM/ISSUE STATEMENT: Section 21-229 of the Billings Montana City Code requires that the City Council adopt the annual Solid Waste collection and disposal charges by resolution. The attached resolution will set the landfill fee and collection rates for FY07.

FINANCIAL IMPACT: The proposed rates remain the same as in FY06.

RECOMMENDATION

Staff recommends that the City Council approve the FY07 Resolution Levying and Assessing Residential/Commercial Collection, Disposal, and Landfill Fees.

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

INTRODUCTION

The Billings Montana City Code requires that the City Council adopt the annual Solid Waste collection and disposal charges by resolution.

BACKGROUND

These charges define a self-supporting residential and commercial level based upon the EMCON rate study of 1996. The City of Billings continues to represent a bargain across the state and region in terms of fees/rates as illustrated in the Rate Comparison chart attached.

Landfill use fees are set each year for services that are not covered by other agreements or assessments. These fees are charged to those landfill customers that reside outside of the City of Billings.

STAKEHOLDERS

The Billings Regional Landfill serves counties that border Yellowstone County that do not have their own landfill operations. Landfill fees are charged to the surrounding agencies that haul solid waste into the landfill through contract agreements. These landfill use agreements follow the charges adopted by this resolution.

We have held Landfill User Summits at least bi-annually since 1994. We extend invitations to representatives from each entity currently using the Billings Regional Landfill. The meetings are used to share statistical information, update participants on current programs, and discuss future plans.

RECOMMENDATION

Staff recommends that Council approve the FY07 Resolution Levying and Assessing Residential/Commercial Collection, Disposal, and Landfill Fees.

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

Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Resolution to Increase the Amount of the Inter-Fund Loan from General Fund to the Property/Liability Insurance Fund

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: On February 13, 2006, Council approved a \$300,000 loan from the General Fund to the Property/Liability Insurance Fund. Insurance Fund cash reserves were depleted to such a low level that there was insufficient cash to meet payroll and claims expenses. Because of costs incurred by MMIA to defend the City in several large lawsuits, the Property/Liability Insurance Fund's FY 2006 liability insurance premium exceeded budget by approximately \$300,000, and late FY 2005 claims costs were greater than expected when budgeting cash carryover into FY 2006. Since that time, the fund paid a \$133,500 claim related to the Cloverleaf Subdivision litigation, leaving the fund short of cash once more. Staff recommends that Council authorize a \$133,500 increase to the short-term inter-fund loan from the General Fund to the Property/Liability Insurance Fund.

ALTERNATIVES ANALYZED: Finance previously considered the following alternatives:

- (1) Borrow cash from the general fund in FY 2006 and repay it in FY 2007 with increased charges built into each user fund's FY 2007 budget.
- (2) Charge user funds additional amounts in FY 2006, which would have required budget amendments and possible cash flow problems for numerous funds.

The first approach is preferable because it minimizes effort and it also allows each fund additional time to plan for increased charges. This is the alternative department heads determined to be the best solution.

FINANCIAL IMPACT: If the Property/Liability Insurance Fund continues to operate without additional cash, the resulting deficit cash balance would be a violation of state statutes. The General Fund has sufficient cash reserves to make a short-term loan.

Budget amendments have been presented to Council to authorize the additional expenses in the Property/Liability Insurance Fund and for the loans between the two funds.

RECOMMENDATION

Staff recommends that Council authorize a \$133,500 increase to the short term loan from the General Fund to the Property/Liability Insurance, which will be repaid in August 2006.

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

ATTACHMENT

A – Resolution Relating to an Inter-Fund Loan and Approving the Terms and Conditions of the Loan

ATTACHMENT A

RESOLUTION NO. 06-

**RESOLUTION RELATING TO AN INTER-FUND LOAN AND
APPROVING THE TERMS AND CONDITIONS OF THE LOAN**

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

Section 1. Authorization.

1.01. This Council has approved a budget amendment for the Property/Liability Insurance Fund in the amount of \$133,500 to pay a claim related to the Cloverleaf Subdivision litigation. In order to pay increased costs, the Council determined that it was necessary and desirable and in the best interests of the City to finance such costs through an increase to the inter-fund loan from the General Fund to the Property/Liability Insurance Fund.

Section 2. Terms.

2.01. The Property/Liability Insurance Fund will make a lump-sum payment to the General Fund in FY 07. Interest will be the City’s annual rate of return for the previous year ending June 30 plus one-half of one percent applied to the unpaid principal amount.

Passed by the City Council of the City of Billings, Montana, this 12th day of June, 2006.

RON TUSSING, Mayor

Attest: _____
MARITA HEROLD, City Clerk

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

R



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, JUNE 12, 2006

SUBJECT: Resolution to Close Special Improvement/Sidewalk Bond Debt Funds to the SID Revolving Fund

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: State law requires closing SID/Sidewalk debt service funds once the debt has been satisfied. Any excess/deficit cash balances upon completion of the Bond obligations are transferred to the SID Revolving Fund. Funds 811, 820 and 858 will be closed.

FINANCIAL IMPACT: The revolving fund will receive cash of \$43,681.97 for some Special Improvement Districts and Sidewalk Improvements in Funds 811, 820 and 858. Cash was loaned to Special Improvement Districts in fund 820 to pay bond principal and interest. The loans in the amount of \$77,633.91, due to district delinquencies are uncollectible and will be written off in the SID revolving fund. The properties will show delinquent assessments at the County. The City may recover some of these delinquencies if a property changes ownership or is sold at tax sale.

RECOMMENDATION

Staff Recommends Council Approve the Resolution closing Special Improvement/Sidewalk Bond Debt Funds to SID Revolving Fund.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A- Resolution to Close the Special Improvement District Debt Funds & Sidewalk Special Assessment Debt Funds to the Special Improvement District Revolving Fund
- B- Location of SID's & Sidewalks

ATTACHMENT A

RESOLUTION _____

**A RESOLUTION TO CLOSE THE SPECIAL IMPROVEMENT DISTRICT DEBT FUNDS
AND SIDEWALK SPECIAL ASSESSMENT DEBT FUNDS TO THE SPECIAL
IMPROVEMENT DISTRICT REVOLVING FUND PURSUANT TO M.C.A. 7-12-4222.**

WHEREAS, the Special Improvement District Bond Debt Obligation and the Sidewalk Special Assessment Debt Obligation has been paid in full and excess/deficit balances remain, and

WHEREAS, state law requires that Special Improvement/Sidewalk Debt Funds be closed to the SID Revolving Fund and the City Council has the authority to close these funds after all debt has been satisfied.

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

That the Special Improvement/Sidewalk Funds be closed to the SID Revolving Fund effective June 12, 2006:

PASSED AND APPROVED by the City Council, this 12th day of June 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC CITY CLERK

ATTACHMENT B

SID 811 – Pooled Series

SID 255	North 24 th St.	SID Light Dist From 9 th Ave. N. to the BBWA canal.
SID 259	Nw. Business Dist	SID Light Dist for the NW Central Business District.

SID 820 - Non-Pooled Series

SID 1258	Hansen Lane	Main St. to Lake Elmo Rd at Hansen Lane.
SID 1300	Kings Green Sub.	Sanitary Sewer Trunk line.
SID 1310	N. 15 th & 3 rd Ave. N.	Street Improvements & Water Main Replacement.
SID 1312	Wyoming Ave.	Street & Storm Drain at 14 th Street W. & Wyoming.

SID 858 - 1991 A Pooled Sidewalk Series

SID 9202	Sidewalk Work	600 Block of Terry Ave. & Central Ave.
SID 9203	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9297	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9305	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9395	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk

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

S

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 12, 2006

TITLE: Resolution—Electronic Signs Ad Hoc Committee

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: After a presentation in January by executives of businesses with animated signs, the City Council decided to create an Electronic Signs Ad-Hoc Committee to help clarify the language of City Code **Sec. 27-708. Prohibited Signs and Sign Structures.** regarding “reader board” signs that are animated or intensely lighted.

City Councilmembers Brewster and Ronquillo have put together a list of committee members at the request of the City Council. The proposed members are:

City Council: Larry Brewster and Jim Ronquillo;

Representatives of companies using signs: Malcom Goodrich, Lisa Gilbertson and Gordon Tryan;

Sign Company Representatives: Pat Endres, Dennis Harriman and Ron Bachman;

Community Representatives: Paul Cox and Joette Larson;

Planner: Nicole Cromwell; and

Code Enforcement Officer: Nancy McCullough.

ALTERNATIVES ANALYZED:

- Approve the resolution creating the committee and authorizing the Mayor to appoint the individuals nominated for it (recommended);
- Delay action on the resolution; or
- Reject the resolution.

FINANCIAL IMPACT: None anticipated.

RECOMMENDATION

Staff recommends that Council approve the resolution creating the Electronic Signs Ad-Hoc Committee and authorizing the Mayor to appoint the members recommended.

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

ATTACHMENTS

A: Resolution

Attachment A

RESOLUTION 06-_____

**A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,
CREATING AN ELECTRONIC SIGNS AD-HOC COMMITTEE AND
AUTHORIZING THE MAYOR TO MAKE APPOINTMENTS THERETO.**

WHEREAS, the portion of the Billings City Code related to animated or intensely lights signs, Sec. 27-708. Prohibited signs and sign structures. was adopted in 1989; and

WHEREAS, Sec. 27-708 is out-of-date and lacks sufficient criteria to ensure compliance with the City Code of new, full-color display electronic message centers, creating difficulty in enforcement; and

WHEREAS, representatives of businesses that use such signs, of the companies that create them and of citizens concerned about the economic investment already made in such signs, and their efficacy, which needs to be balanced with the signs' impact on the appearance of the city and the effect they have on safe travel of the City's streets.

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

1. Ad-Hoc Committee Creation: There is hereby created an Electronic Signs Ad-Hoc Committee to review parts of Billings City Code Sec. 27-708. Prohibited signs and sign structures. and make recommendations to the City Council in regard to City Code regulations for full-color display electronic message centers;

2. Membership: The Committee shall consist of the following volunteers, to be appointed by the Mayor, and serve without compensation:

- a. Two representatives of the City Council, Jim Ronquillo and Larry Brewster;
- b. Three representatives of companies using signs: Malcom Goodrich, Lisa Gilbertson and Gordon Tryan;
- c. Three representatives of sign companies: Pat Endres, Dennis Harriman and Ron Bachman;
- d. Two community representatives: Paul Cox and Joette Larson;

- e. A Planning and Community Services Department representative: Nicole Cromwell; and
- f. A Code Enforcement Officer: Nancy McCullough.

3. Duration: The Electronic Signs Ad-Hoc Committee will serve until it presents recommendations to the City Council or for one year, whichever is less.

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

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE, City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Zone Change #776, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change application from Public to Planned Development. The property is located east of Mullowney Lane and will be known as Josephine Crossing. There will be two major sections of the development one primarily for residential uses and one for mixed residential and commercial uses. The owner is McCall Development, Inc. and the representing agent is Engineering, Inc. The Zoning Commission conducted a public hearing on May 2, 2006, and voted unanimously to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on May 22, 2006.

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 on a 5-0 vote recommends that the City Council approve Zone Change #776 on 2nd reading and adopt the determinations of the 12 criteria.

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

ATTACHMENTS:

A: Ordinance

**ATTACHMENT A
ORDINANCE NO. 06-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR NENWNW1/4, S1/2NWNW4 & LOT 3-4 LESS COS
3223 in Section 20, Township 1S, Range 26 East, containing
approximately 60.27 acres

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 the NENWNW1/4, S1/2NWNW4 & LOT 3-4 LESS COS 3223 in Section 20, Township 1S, Range 26 East, containing approximately 60.27 acres and is presently zoned Public 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 9600** to **Planned Development #8** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Planned Development #8** 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 May 22, 2006.

PASSED, ADOPTED AND APPROVED on second reading June 12, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

ZC#776

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

U

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Zone Change #777, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from R-6,000 to Residential Multi-family on Lots 1-10, Block 1 of Green Acres Subdivision and Lot 1, Block 14 of Suncrest Acres Subdivision 3rd Filing. The property is located in the 800 block of Avenue E. The applicant is Azalea Company and Matt Brosovich is the agent. The Zoning Commission conducted a public hearing on May 2, 2006, and voted unanimously to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on May 22, 2006.

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 on a 5-0 vote recommends that the City Council approve Zone Change #777 on 2nd reading and adopt the determinations of the 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

A: Ordinance

ATTACHMENT A
ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lots 1-10, Block 1 of Green Acres Subdivision and Lot
1, Block 14 of Suncrest Acres Subdivision 3rd Filing,
containing approximately .92 acres

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 Lots 1-10, Block 1 of Green Acres Subdivision and Lot 1, Block 14 of Suncrest Acres Subdivision 3rd Filing, containing approximately .92 acres and is presently zoned Residential-6,000 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-6,000** to **Residential Multi-family** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential Multi-family** 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 May 22, 2006.

PASSED, ADOPTED AND APPROVED on second reading June 12, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

ZC#777

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

V

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Preliminary Plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The preliminary minor plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1, is being presented to the City Council for approval. The proposed subdivision would amend the access locations for two (2) existing lots found on the north side of Pemberton Lane, just west of its intersection with Main Street. The vacant lots are 3.1 acres in size and are zoned Community Commercial. The owner is Heritage Designer Home, c/o Cal Kunkel and the agent is Engineering, Inc. The City Council must act on the preliminary minor plat within 35 working days of its submittal.

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

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

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

RECOMMENDATION

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

Approved by: City Administrator City Attorney

INTRODUCTION

The proposed Bergquist Subdivision, Amended Lots 2 & 3, Block 1, is a minor preliminary plat that would amend the access locations for two (2) existing lots found on the north side of Pemberton Lane, just west of its intersection with Main Street. The vacant lots are 3.1 acres in size and are zoned Community Commercial. The lots were originally created in 1999 as part of the Bergquist Subdivision. The lots will not change in any way, except instead of having one shared driveway approach, they will have individual approaches. The lots will likely be used for multi-family development.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on May 1, 2006.
- The City Council will consider the preliminary plat application at its meeting on June 12, 2006.

BACKGROUND

General location:	531 & 561 Pemberton Lane
Legal Description:	Lots 2 & 3, Bergquist Subdivision
Subdivider/Owner:	Heritage Designer Home c/o Cal Kunkel
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Community Commercial
Surrounding zoning:	Residential Manufactured Home, Community Commercial, R-9600
Existing land use:	vacant
Proposed land use:	Multi-family housing
Gross area:	3.1 acres
Lots:	2
Max.	1.57 acres
Min.	1.53 acres
Dedications:	None – previously met

ALTERNATIVES ANALYSIS

One of the purposes of the subdivision review process is to identify potentially negative impacts of a subdivision on adjacent properties. When negative impacts are identified, it is the subdivider's responsibility to mitigate those impacts. Various City departments, utility companies and other agencies have reviewed this application and provided input on potential impacts and mitigation. The Findings of Fact, which are presented as Attachment D, discuss the potential negative impacts that have been identified by reviewers. Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

RECOMMENDED CONDITIONS

1. In order to mitigate impacts on local services, access to the lots shall be restricted to the two forty-foot (40') approaches proposed on the preliminary plat. A one-foot (1') no-access strip shall be shown along the remainder of the Pemberton Lane frontage. *(Recommended by the Engineering Division):*
2. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES

No variances requested.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

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

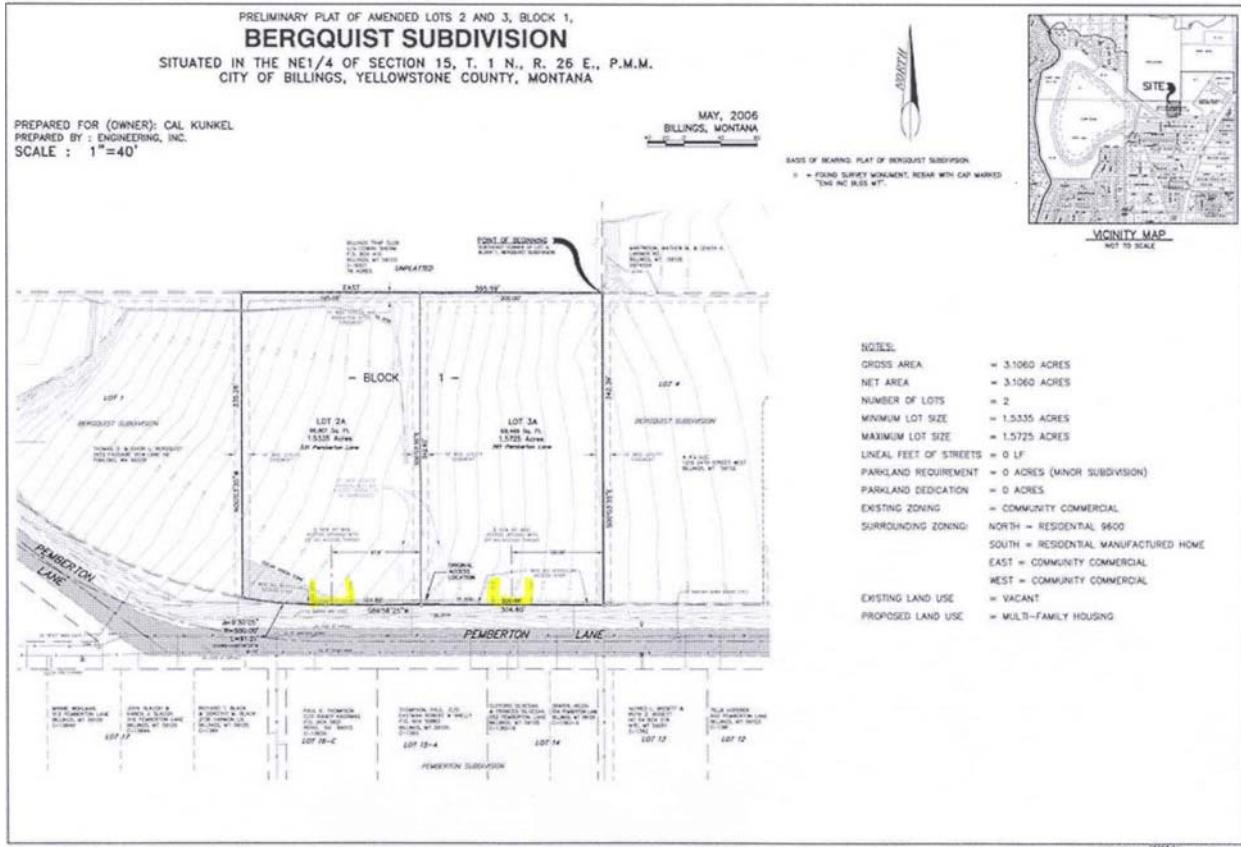
ATTACHMENTS

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

ATTACHMENT A

Preliminary plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1

(Yellow highlights are proposed new access locations)



ATTACHMENT B
Mayor's approval letter
Bergquist Subdivision, Amended Lots 2 & 3, Block 1

June 13, 2006

Heritage Designer Home
Cal Kunkel
P.O. Box 3494
Billings, MT 59103

Dear Property Owner:

On June 12, 2006, the Billings City Council approved the preliminary plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1, subject to the following conditions of approval:

1. In order to mitigate impacts on local services, access to the lots shall be restricted to the two forty-foot (40') approaches proposed on the preliminary plat. A one-foot (1') no-access strip shall be shown along the remainder of the Pemberton Lane frontage.
2. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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

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

Sincerely,

Ron Tussing, Mayor

pc: Engineering, Inc.

ATTACHMENT C
Findings of Fact
Bergquist Subdivision, Amended Lots 2 & 3, Block 1

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

1. Effect on agriculture and agricultural water users' facilities

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

2. Effect on local services

- a. Utilities – Both lots will be served by Height Water District and the City of Billings' sanitary sewer service. Both services are found within Pemberton Lane, and can be extended by private extension as the lots develop. Electric and gas services can also be provided to both lots in this subdivision. There are adequate utility easements provided for both lots.
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for the additional waste.
- c. Streets – Both lots front Pemberton Lane along their southern borders. Pemberton Lane is classified as a Collector street and a 40' half-width right-of-way was dedicated with the original platting of these lots. The purpose of this amended plat is to establish two access approaches, one for each lot. The original subdivision had platted one shared approach for the lots. City Engineering has reviewed the proposal for individual approaches and finds it acceptable. They have requested that a one-foot no-access strip be shown clearly on the final plat along the Pemberton Lane frontage, except in the area of the two new approaches. This is recommended as a condition of approval (Condition #1).
- d. Emergency services – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is Fire Station #6, located at Wicks and St. Andrews. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. Schools – The proposed subdivision is located within School District #2. It is unknown what impact this subdivision will have on the schools at this time.
- f. Parks and Recreation – There is no parkland dedication requirement, as this is a minor plat.

g. MET Transit – The subject property is serviced by MET transit as it is located on a Pemberton Lane which is a MET route.

3. Effect on the natural environment

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

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

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

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

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

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

1. Growth Policy

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

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns.
- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.
- c. Contiguous development focused in and around existing population centers separated by open space.
- d. A safe and efficient transportation system characterized by convenient connections and steady traffic flow.

2. Urban Area Transportation Plan

Pemberton Lane is identified on the functional classification map as a collector street. No improvements are necessary for Pemberton Lane as a result of this subdivision.

3. Heritage Trail Plan

The Heritage Trail Plan identifies Pemberton Lane as a primary on-street bikeway. In the future this street may be improved and striped with a bike lane.

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

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

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

The subject property is served by Heights Water district water, and the City of Billings' sewer, storm drain and solid waste services. All services are approved and regulated by state and federal authorities.

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

The subject property is located within the Community Commercial zoning district. At this time the lots meet the requirements for this zoning district. The development of both lots will be reviewed at the time of building permit submittal to insure its compliance with zoning.

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

Utility easements have been provided on the plat in conformance with the requirements of the affected utility companies.

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

Legal and physical access will be provided by two approaches off of Pemberton Lane.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Bergquist Subdivision, Amended Lots 2 & 3, Block 1 does not create any adverse impacts that warrant denial of the subdivision.

- There should be small effects on local services because this is an in-fill project and the subdivider will be responsible for most of the capital facilities that are needed to serve the property.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and doesn't conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations and satisfies sanitary, easement and zoning requirements. Legal and physical access is provided to the parcel.

Approved by the Billings City Council on June 12, 2006

Ron Tussing, Mayor

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

W

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Final Plat of Gunn Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Gunn Subdivision is being presented to the City Council for approval. On July 12, 2004, the City Council conditionally approved the thirty three (33) lot preliminary major plat for the existing property. The net lot area of the subject property is 5.09 acres in size, and the lots range in size between 6,122 and 8,523 square feet in size. The owner is William Mankin and the agent is Engineering, Inc. The property is generally located on both sides of Lux Avenue, between Calhoun Lane and Orchard Lane, on the City's Southwest side. 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 may further develop, resulting in additional tax revenues for the City.

RECOMMENDATION

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

Approved By: City Administrator City Attorney

ATTACHMENT

A: Final Plat



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Final Plat of Amended Lot 15, and the East Half Lot 16, Block 3, Rolle Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Amended Lot 15, and the east half of Lot 16, Block 3, Rolle Subdivision is being presented to Council for approval. On February 13, 2006, the City Council conditionally approved the three (3) lot preliminary minor plat for a 1-acre property located south of Alkali Creek Road between the intersections of Travois Trail and Indian Trail. Michael and Stacy Haskell are the owners and Engineering, Inc. is the representing agent. 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 Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lot 15, and the east half of Lot 16, Block 3, Rolle Subdivision

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

ATTACHMENT

A: Plat

ATTACHMENT A

Plat

PRELIMINARY PLAT OF AMENDED LOT 15 AND EAST HALF LOT 16, BLOCK 3

ROLLE SUBDIVISION

SITUATED IN THE SOUTHWEST 1/4 OF SECTION 28, T. 1 N., R. 26 E., P.M.M.

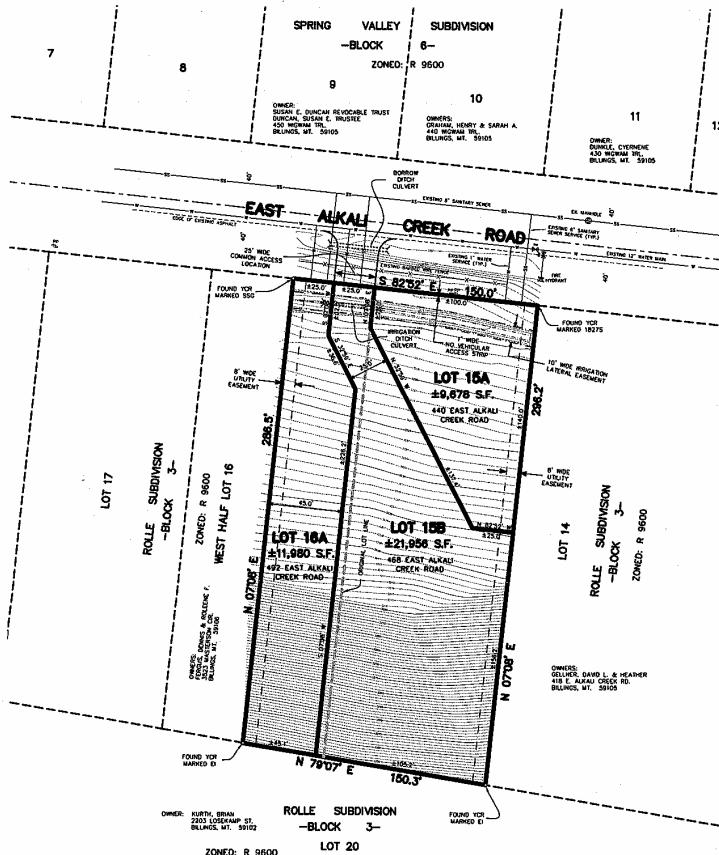
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : MICHAEL and STACY HASKELL
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1" = 30'

NOVEMBER, 2005
 BILLINGS, MONTANA

(Back to

NORTH



PLAT DATA

GROSS AREA	= 43,814 Sq. Ft.
NET AREA	= 43,814 Sq. Ft.
NUMBER OF LOTS	= 3
MINIMUM LOT SIZE	= 9,678 Sq. Ft.
MAXIMUM LOT SIZE	= 21,656 Sq. Ft.
LINEAL FEET OF STREETS	= NONE
EXISTING ZONING	= R 9600
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL
PARK LAND REQUIREMENTS	= NONE

Consent Agenda)

Y1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 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 \$1,302,721.10 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 12, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

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

Y2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 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 \$651,926.24 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 19, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

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

Y3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 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 \$860,592.97 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 26, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$14,474.74 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 1, 2006 to April 30, 2006 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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, JUNE 12, 2006

SUBJECT: Public Hearing and Approval of Resolution Approving and Adopting Budget Amendments for Fiscal Year 2005/2006

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Budget adjustments are requested for Fiscal Year 2005/2006. The adjustments involve several funds; the property/liability insurance fund, transfers of capital assets from the motor pool fund to the facilities management fund, amend park fund, cemetery trust fund, GO street bond fund, park acquisition & development fund, general fund and public safety fund (fire).

The property/liability insurance funds budget is requesting a budget amendment to increase compensation for damage expenses by \$133,500. In February 2006, a settlement was made related to the Cloverleaf Subdivision litigation which resulted in a payment from this fund in the amount of \$133,500. The general fund will loan the property/liability insurance fund an additional \$133,500 until FY 2007, when increased charges from the property/liability insurance fund will be sufficient to repay total borrowed monies of \$433,500. A separate agenda item is being submitted to council for approval to increase the loan from the general fund to the property/liability insurance fund.

In fiscal year 2006, the facilities management fund assumed responsibility for the BOC buildings, grounds and debt service payments. Therefore, the capital assets and related liabilities are being transferred from the motor pool fund to the facilities management fund. Equipment used in motor pool operations remain in that fund. Note that this transfer does not involve cash or any other current asset.

Budget adjustments are required to increase transfers-out for the Amend Park fund and the cemetery trust fund. These funds transfer interest earned to the general fund and because interest earnings exceed estimates, transfers-out exceed budgets.

The General Obligation Street Bonds Fund needs to have a budget increase in FY 2006. The timing of the construction costs had originally been budgeted to occur in FY '05. However, the majority of the construction did not occur until in FY '06 resulting in a shortage of budget authority of \$1,630,862 in FY'06. Also additional interest earnings have increased the amount of spending authority.

The Park Acquisition & Development Fund is providing additional funding for the Castle Rock Park Splash pad. The bids for this project exceeded the construction budget.

The General Fund needs budget increases for the Public Defender for outside legal counsel, City Attorney for outside legal counsel and consultants, and Municipal Court for legal services, computer equipment, postage and mental health.

The Public Safety Fund/Fire Department needs to have budget increases in FY 2006 for fire salaries, natural gas, medical exams, tuition assistance, fuel, and motor vehicle parts. The fire salaries increases are due to contract changes and an arbitration settlement. Natural gas expenditures were more than estimated. Medical exams reflect the addition of six new firefighters. Tuition Assistance was changed from \$12,000 per year to \$20,000 during negotiations. Fuel prices have increased. The motor vehicle parts are anticipated repairs to Engine 6. This increase for the Fire Department also affects the General Fund/Nondepartmental transfer to the Public Safety. The additional budget amount needed for the transfer to the Public Safety Fund is \$211,700.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendments for Fiscal Year 2005/2006 per attached.

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

ATTACHMENT

A-Resolution to Make Fiscal Year 2005/2006 Adjustment Appropriations (with Exhibit A)

Attachment A

RESOLUTION 06-

A RESOLUTION TO MAKE **FISCAL YEAR 2006** ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND REVISIONS WITHIN THE GENERAL CLASS OF SALARIES AND WAGES, MAINTENANCE AND SUPPORT AND CAPITAL OUTLAY.

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

WHEREAS, based upon a **Quarterly Budget Review (FY 2005/2006)**, it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT)

PASSED AND APPROVED by the City Council, this 12th day of June, 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMCC CITY CLERK

EXHIBIT A**BUDGET ADJUSTMENTS**

		<u>Revenue</u>	<u>Expenditure</u>
758-5174-371	6310	\$2,500	Interest earned on investments
758-5174-452	8216		\$2,500 Transfer-out to General Fund
010-5111-383	7564	\$2,500	Transfer-in from Amend Park Fund

The Amend Park Fund's interest earnings exceeded estimated amounts. Since interest earned is transferred to the general fund (where costs to maintain Amend Park are recorded), budgeted amounts are not sufficient to transfer all interest earned.

701-5170-371	6310	\$6,500	Interest earned on investments
701-5170-436	8216		\$6,500 Transfer-out to General Fund
010-5140-383	7565	\$6,500	Transfer-in from Cemetery Trust Fund
703-5172-371	6310	\$1,000	Interest earned on investments
703-5172-436	8216		\$1,000 Transfer-out to General Fund
010-5140-383	7514	\$1,000	Transfer-in from Cemetery Trust Fund

The Cemetery Trust Fund's interest earnings exceeded estimated amounts. Since interest earned is transferred to the general fund (where costs to maintain the cemeteries are recorded), budgeted amounts are not sufficient to transfer all interest earned.

630-1753-485	5130		\$ 133,500 Liability insurance premium
630-1753-381	6950	\$ 133,500	Loan funds borrowed from the general fund
010-1750-417	5930		\$ 133,500 Loan made to the property / liability insurance fund from the general fund

The Property / liability Insurance Fund's expenditure budget will be increased to give budget authority for the excess compensation for damages costs due to the Cloverleaf Subdivision litigation. The amendment will also establish the budget line items where the loan from the

general fund and the subsequent receipt of the loan funds in the property / liability insurance fund.

601-1551-481	8225	\$ 5,806,376 Transfer BOC assets to fund 650
650-1566-383	7518	Transfer BOC assets from fund 601

The Facilities Management Fund (650) assumed responsibility for the BOC facilities in fiscal year 2006. This adjustment reclassifies the land, building, non-building assets and the related debt to Koch Financial from Motor Pool Fund (601) to Facilities Management Fund (650). All equipment remains in the motor pool fund. Note – this transfer does not involve cash or any other current asset.

493-3110-431	9310	\$1,630,862 Increase FY '06 budget Authority
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The General Obligation Bonds Street Improvements fund needs additional budget authority of \$1,630,862 in FY 2006 to complete the three areas of construction at Alkali Creek Road, S. Billings Boulevard, and the Arlene Corridor. The GO bonds were sold for \$5,200,000 in FY 2005.

769-5182-452	9370	\$9,761 Nonbuilding Improvements
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The Park Acquisition & Development Fund is providing additional funding of \$9,761 for the Castle Rock Park Splash pad.

010-1545-418	3520	\$150,0000 Legal Counsel
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The General Fund/Public Defender needs additional budget authority for outside legal counsel.

010-1611-416	3520	\$5,000 Legal Counsel
010-1611-416	3560	\$8,000 Consultant Services

The General Fund/City Attorney needs additional budget authority for outside legal counsel and consultants.

010-1214-412	3520	\$30,000 Legal Services
010-1220-412	2925	\$7,500 Computer Equipment
010-1220-412	3110	\$8,000 Postage
010-1220-412	3575	\$10,000 Mental Health

The General Fund/Municipal Court needs additional budget authority for legal services, computer equipment, postage and mental health.

150-2229-422	1130	\$433,500 Fire Salaries
150-2221-422	3440	\$17,408 Natural Gas
150-2224-422	3510	\$8,650 Medical Exams
150-2224-422	3810	\$8,000 Tuition Assistance
150-2226-422	2310	\$19,500 Fuel
150-2226-422	2320	\$25,000 Motor Vehicle Parts

The Public Safety Fund needs budget authority for the Fire Department for additional expenditures for fire salaries, natural gas, medical exams, tuition assistance, fuel and motor vehicle parts. The increase in fire salaries is due to contract changes and an arbitration settlement.

010-1412-414	8253	\$211,700 Transfer to Public Safety
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The General Fund/Nondepartmental needs additional budget authority for the transfer to the Public Safety Fund to cover the additional expenditures for the Fire Department.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, JUNE 12, 2006

SUBJECT: Public Hearing and Approval of the Resolution Approving and Adopting the Budget for FY 2007

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: This resolution provides for the formal adoption of the budget. The proposed budget has been available for review since May 1, 2006. Six (6) public presentations have been made regarding the proposed budget. Section 2 of this resolution allows the City Administrator to amend this budget for Debt Service Funds, Federal and State Grants Special Assessment and donations accepted and approved by the City Council. The City Council authorizes issuing debt, acceptance of grants and donations, with the possible exception of donations which are handled per administrative order, which means that also needing to approve budget amendments to allow the expenditures is redundant. This delegation of authority is allowed by State Statutes.

RECOMMENDATION

Staff recommends that City Council conduct a public hearing and approve the resolution approving and adopting the Budget for the City of Billings for fiscal year 2006-2007.

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

ATTACHMENTS:

A-Resolution Approving & Adopting the Budget for the City of Billings, MT for FY 2006-2007
Includes Exhibit A-City of Billings Expenditure Budget for Fiscal Year 2006-2007

RESOLUTION NO. _____

**A RESOLUTION APPROVING AND ADOPTING THE BUDGET FOR
THE CITY OF BILLINGS, MONTANA FOR FISCAL YEAR 2006-2007**

WHEREAS, the City Administrator of the City of Billings has regularly and lawfully submitted to the City Council of the City of Billings, Montana, the budget for Fiscal Year 2005-2006; and

WHEREAS, the proper notice was published stating that said City Council has completed the PRELIMINARY MUNICIPAL BUDGET for said Fiscal Year, and that said budget has been placed on file and is open to inspection in the office of the City Clerk; and that said City Council would meet for the purpose of annually determining, approving and adopting the budget, and any taxpayer might appear and be heard.

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

Section 1: That the Revenue Budget for Fiscal year 2006-2007, as detailed in the Budget Report, and as amended by the City Council, and the Expenditure Budget for Fiscal year 2006-2007 as detailed in the budget report and as amended by the City Council and further detailed on EXHIBIT "A", be, and the same is hereby finally determined, approved, and adopted.

Section 2: That the City Administrator is authorized to amend this budget for the expenditure of additional funds from the following: Debt Service Funds, Federal, State Grants, special assessments and donations accepted and approved by the City Council.

PASSED AND APPROVED by the City Council this 26th day of June, 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, JUNE 12, 2006

SUBJECT: Public Hearing and Resolutions Setting Annual Assessments for Fiscal Year 2007
DEPARTMENT: Administration-Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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

Park Maintenance District
 Fire Hydrant Maintenance
 Storm Sewer

Light Maintenance District
 Street Maintenance

Park maintenance districts and light maintenance districts rates are calculated by estimating the expenses for maintenance and recovering actual expenditures. Street maintenance and arterial construction rates remain the same as FY07. The fire hydrant maintenance rate will increase to \$0.0127104 from \$0.00911 per taxable dollar. The assessment rate has not been increased for a number of years and the income from the assessment has fallen short of the cost of providing the service. The cost on a \$150,000 home will be approximately \$7.28 per year.

RECOMMENDATION

Staff recommends that a public hearing be held and that the City Council approve the resolutions on June 26, 2006.

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

ATTACHMENTS

- A-Park Maintenance Annual Assessment Resolution
- B-Light Maintenance District Annual Assessment Resolution and Exhibit A
- C-Fire Hydrant Maintenance Annual Assessment Resolution
- D-Street Maintenance Annual Assessment Resolution
- E-Storm Sewer Annual Assessment Resolution

RESOLUTION NO._____

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

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

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

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

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

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

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

3. **ASSESSMENT METHOD.** The entire maintenance costs shall be assessed against the entire district, each lot or parcel of land within said district to be assessed for that part of the whole costs which its area bears to the area of the entire district exclusive of streets, avenues, alleys and public places all as provided in M.C.A. Section 7-12-4162.

4. **COST OF MAINTENANCE.** The City Council estimates that the cost of maintenance for the fiscal year 2007 for the following Park Maintenance Districts is:

PARK MAINT. DISTRICT	NUMBER	PRIVATE PROPERTY	FY 07 ASSM'T RATE
HARVEST PARK	PMD 4001	4,305,296	\$ 0.022763
OLYMPIC PARK	PMD 4002	4,493,983	\$ 0.020622
PARKLAND WEST	PMD 4003	2,109,937	\$ 0.005213
GREGORY HILLS	PMD 4004	685,912	\$ 0.016037
HIGH SIERRA	PMD 4005	7,413,864	\$ 0.004330
FOREST PARK	PMD 4006	631,333	\$ 0.002677
WOODLAND COMMERCE	PMD 4007	849,406	\$ 0.004709
TERRA WEST SUB'D	PMD 4008	821,711	\$ 0.010344
ASPEN GROVE SUB.	PMD 4009	384,051	\$ 0.016925

LAKEVIEW SUBD	PMD 4010	239,498	\$ 0.002505
MT AVE PMD	PMD 4011	515,696	\$ 0.026178
CIRCLE 50 PMD	PMD 4012	4,018,829	\$ 0.004230
N BROADWAY	PMD 4013	285,355	\$ 0.028035
RUSH SUB	PMD 4014	3,701,576	\$ 0.005025
HOWARD HEIGHTS	PMD 4015	1,134,783	\$ 0.002556
MISSIONS UNITED	PMD 4016	820,568	\$ 0.001950
SOUTHGATE	PMD 4017	2,234,690	\$ 0.005502
FRANCES' PARK	PMD 4018	184	\$ 62.50
ROLLINGS HILLS	PMD 4019	33	\$ 187.88
DOKKEN PARK	PMD 4020	21	\$ 285.71
LUTHERAN PARK	PMD 4022	72	\$ 116.67
RIMROCK WEST PARK	PMD 4023	227	\$ 96.92
WALDEN GROVE PARK	PMD 4024	817,616	\$ 0.011313
REHBERG ESTATE SUB	PMD 4025	2,400,136	\$ 0.007916
UINTA PARK SUB.	PMD 4026	169	\$ 68.15
IRONWOOD SUB 1ST, 2ND, 3RD FIL	PMD 4027	5,419,282	\$ 0.003444
VINTAGE ESTATES	PMD 4028	112	\$ 36.47
COTTONWOOD GROVE SUB	PMD 4029	1,206,422	\$ 0.002391
KINGS GREEN SUB	PMD 4030	57	\$ 100.18
COPPER RIDGE SUB	PMD 4031	78	\$ 233.33
RIVERFRONT POINTE SUB	PMD 4032	74	\$ 44.59
FALCON RIDGE SUB	PMD 4033	29	\$ 366.24

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

6. **NOTICE OF HEARING.** On Monday, June 12, 2006 at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Billings Times.

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

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

The foregoing Resolution No. - _____ was ADOPTED by the City Council and APPROVED on the 26th day of June, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC CITY CLERK

Attachment B

RESOLUTION NO._____

A RESOLUTION LEVYING AND ASSESSING ALL PROPERTY IN CERTAIN LIGHTING MAINTENANCE DISTRICTS WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND ADOPTION.

WHEREAS, certain lighting maintenance districts have been created within the City of Billings, and

WHEREAS, State Law provides for assessment for maintenance costs annually, and

WHEREAS, M.C.A. 7-12-4332 provides that the City shall pass a resolution levying and assessing maintenance costs.

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

1. DISTRICTS AND ASSESSMENTS. The lighting maintenance districts and assessments to defray one hundred percent (100%) of all the costs of maintenance and lighting are hereby levied and assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. PERIOD OF ASSESSMENT. That said assessment is to defray costs for the fiscal year 2007.

3. DISPOSITION OF COLLECTIONS. That the assessments as collected shall be placed in the respective lighting maintenance funds and shall be used to defray the costs of maintenance and lighting as provided by law.

4. NOTICE OF HEARING. On Monday, June 12, 2006, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Billings Times.

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

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

The foregoing Resolution No. _____ was ADOPTED by the City Council and APPROVED on the 26 day of June 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

Exhibit A

District Number	FY07 Assessment	Cost Per Square or Lineal Foot
8	6,900	0.001982
9	3,600	0.000515
10	18,700	0.000884
13	204,600	0.013054
14	82,500	0.009091
17	13,600	0.012794
18	1,875	0.008463
95	4,725	0.009079
97	147,000	0.081109
99	21,500	0.030395
100	32,700	0.036203
107	23,400	0.019401
109	57,900	0.017100
113	4,130	0.011631
114	12,400	0.016701
115	2,900	0.015329
116	7,300	0.014848
117	36,200	0.017945
118	2,600	0.008184
119	1,700	0.003498
121	32,200	0.014644
122	2,200	0.013095
123	4,300	0.016945
124	12,100	0.014016
125	5,000	0.014690
126	2,300	0.013343
127	9,100	0.012609
128	6,500	0.012208
129	4,200	0.012478
130	1,700	0.011507
131	11,000	0.014083
133	2,700	0.009144
134	7,100	0.011778
135	6,400	0.012536
136	5,500	0.012743
137	5,400	0.005011
138	9,600	0.014732
139	3,100	0.013571
143	7,400	0.015744
144	300	0.007687
145	6,000	0.011910
146	4,300	0.012637
147	5,800	0.040547
149	27,700	0.010625
150	9,700	0.014875

151	8,000	0.013736
152	54,200	0.014146
153	7,000	0.011275
154	15,900	0.014137
155	6,400	0.015246
157	12,200	0.014067
158	10,300	0.014118
159	13,800	0.022295
160	8,500	0.011924
161	14,000	0.013593
162	700	0.001478
163	11,250	0.014584
164	4,900	0.013002
165	11,300	0.014880
167	3,000	0.011111
171	7,300	0.012314
172	6,900	0.006844
173	16,000	0.011912
174	13,000	0.012539
175	3,900	0.011800
176	530	0.009192
178	3,400	0.012492
179	6,700	0.010028
180	4,550	0.013470
181	22,000	0.015308
182	7,800	0.013489
183	15,500	0.013581
184	4,600	0.011231
185	1,700	0.009381
186	6,200	0.004927
187	2,700	0.008344
188	3,600	0.012409
189	2,900	0.013182
190	16,000	0.011916
191	5,700	0.013902
192	3,900	0.015234
193	10,000	0.014493
194	3,375	0.004306
195	3,370	0.008072
196	1,800	0.600000
197	1,150	0.366242
198	1,600	0.009467
200	1,300	0.359116
201	6,500	0.014773
202	15,000	0.033316
203	230	0.002044
204	5,400	0.010485
205	400	0.003724

206	4,400	0.010398
207	4,900	0.010622
208	9,600	0.125819
209	7,200	0.013659
210	1,450	0.003662
211	675	0.004500
212	675	0.004215
213	510	0.002776
214	5,900	0.015158
216	1,800	0.012988
217	6,750	0.825385
220	5,075	0.901581
221	100	0.001650
222	1,600	0.007709
223	2,200	0.004623
224	23,400	0.016281
225	6,750	0.025127
226	3,180	0.008446
227	6,750	0.012486
228	10,800	0.012376
229	5,800	0.014364
230	12,600	0.019016
231	7,700	0.012142
232	34,700	0.013038
233	18,900	0.004413
234	7,200	0.014531
235	6,750	0.014513
236	3,600	0.008124
237	5,700	0.016380
238	200	0.003255
239	1,300	0.037247
240	6,300	0.017704
241	8,400	0.059574
242	1,100	0.007481
244	1,500	0.010236
245	1,100	0.030556
246	4,500	0.017473
247	15,600	0.033125
248	31,200	0.061354
249	37,100	0.014426
250	3,300	0.020870
251	53,800	0.012467
252	7,500	0.022256
253	26,300	0.015401
254	5,050	0.009019
255	3,375	0.005812
257	15,600	0.002173
258	31,500	0.011662

259	26,250	0.013631
261	6,600	0.020706
262	31,000	0.010614
263	15,000	0.004585
264	3,500	0.005241
265	3,700	0.013778
266	700	0.001008
269	800	0.003681
270	12,250	0.008432
271	9,500	0.005425
272	26,500	0.014226
273	2,200	0.007317
274	1,400	0.001421
276	7,000	1.474926
277	8,900	0.014008
278	5,650	2.441659
279	900	0.005677
280	16,000	0.005242
281	3,200	0.828998
283	8,500	1.193485
285	3,500	0.007689
286	2,700	0.010978
287	3,000	1.246013
288	7,500	0.005466
289	5,000	0.003931
290	4,800	0.000000
292	7,050	0.000000
293	2,750	0.000000
294	5,900	0.000000
295	1,300	0.000000
296	14,500	0.000000
297	2,450	0.000000
298	2,200	0.000000
320	1,500	0.003281

RESOLUTION 06-

**A RESOLUTION LEVYING AND ASSESSING PROPERTIES
WITHIN THE CITY OF BILLINGS THE PROPERTY SAFETY
WATER SUPPLY SERVICE CHARGE, PROVIDING FOR
NOTICE, HEARING AND ADOPTION.**

WHEREAS, Billings, Montana City Code provides for assessment for property safety water supply service charge annually; and

WHEREAS, said Billings, Montana City Code provides that the City Council shall fix, levy, and assess said charge on or before the second Monday in August.

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

1. **SERVICE CHARGE FOR FISCAL YEAR 2007.** The Property Safety Water Supply Service Charge for the fiscal year 2007 is hereby fixed, levied and assessed against each and every parcel of real and personal property within the City. Each parcel shall pay to the City that portion of the total Property Safety Water Supply Service Charge imposed annually as hereinafter provided, as the total taxable value of each parcel bears to the total taxable value within the City. The assessment is **\$0.0127104** per taxable value dollar, provided, however:

- (a) Parcels of real property which have no taxable value shall pay an annual charge of \$20.00 per parcel.
- (b) All parcels having taxable value shall pay at least a minimum annual charge of \$1.00 per parcel.

2. **NOTICE OF HEARING.** On Monday, _____, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on _____ and _____, 2006, in the Billings Times.

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

4. **EFFECTIVE DATE.** This resolution shall be effective upon adoption.
ADOPTED and APPROVED by the City Council on the _____ day of _____, 2006.

CITY OF BILLINGS:

BY: _____

Ron Tussing, MAYOR

ATTEST:

BY: _____

Marita Herold, CMC/AAE CITY CLERK

RESOLUTION NO._____

A RESOLUTION DETERMINING AND FIXING THE METHODS OF ASSESSMENT IN EACH DISTRICT, FIXING THE RATE OF ASSESSMENT FOR COSTS OF STREET MAINTENANCE WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND ADOPTION

WHEREAS, the City, by Resolution, has defined the boundaries and established street maintenance districts as provided by State Law, and

WHEREAS, it is necessary to determine, levy and assess the properties within the districts.

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

1. METHOD OF ASSESSMENT. The City hereby determines that each lot or parcel of land within both Street Maintenance Districts One (1) and Two (2) shall be assessed for that portion of the whole cost which each lot or parcel of land in the respective district bears to the total area of the respective district exclusive of streets, avenues, alleys and public places.

2. ASSESSMENT DISTRICT ONE (1). Each lot or parcel within portions of the Central Business District, being District One (1), is hereby assessed **\$0.036348** per square foot of area for fiscal year 2007 .

3. ASSESSMENT DISTRICT TWO (2). Each lot or parcel within the balance of the City, being District Two (2), is hereby assessed **\$0.005975** per square foot of area for fiscal year 2007.

4. MAXIMUM ANNUAL CHARGE. The maximum annual charge for any tract, parcel or lot which is undeveloped and unimproved shall be Nine Hundred Ten Dollars (\$910.00).

5. LOTS AND PARCELS ASSESSED. A list which describes each lot or parcel of land assessed within the respective district, with the name of the owner thereof, and the amount levied thereon set is available as a printed document in the office of Public Works at the Parmly Billings Library Building, Billings, Montana.

6. EXCLUDED PROPERTIES. All properties, currently within the 12-year assessment term, 1988 through 1999, originally assessed for previous sidewalk, curb and gutter improvements, shall be

excluded from the curb and gutter repair portion of this additional Street Maintenance District assessment during this 12-year term. The curb and gutter repair portion of the new additional Street Maintenance Districts assessment is \$0.000625 per square foot of area. The exemption will include properties within a current assessment term who have previously paid their assessment off. Any party who would have been included in one of these City programs but elected to have their repairs done privately may make special application for an exclusion to the City Engineer's Office.

7. **EXEMPTION.** Street Maintenance District assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund or MET Transit Fund

8. **COLLECTION OF ASSESSMENTS.** Said special assessments shall be placed upon the assessment rolls and collected in the same manner as other taxes.

(NOTE: THE FOLLOWING PARAGRAPH WAS ADDED PER COUNCIL REQUEST.)

9. **CURB AND GUTTER POLICY.** The portions of the City Council's Proposed Curb, Gutter and Sidewalk Policy that applies to curb and gutter replacement/repair ONLY are incorporated herein:

"All curb and gutter repair and replacement is paid by the city curb and gutter program. Improvements to existing streets including the widening of those streets and the installation of curbs and gutters would have a cap placed on property owner assessments. The cap on assessments is based on the appraised value of the property (as follows:) (1) if the assessment is less than 5% of the property value, then the homeowner is responsible for the entire assessment; (2) if the assessment is more than 5% of the property value but less than 10%, the city curb and gutter program pays one-half of the assessment amount in excess of 5%; and (3) if the assessment is more than 10% of the property value, then the curb and gutter program pays one-half of the amount of the assessment between 5 and 10% and all of the assessment in excess of 10%."

"Home/property owners currently paying assessments will be exempt from paying fees to the annual curb and gutter program, until they have paid their assessment. Upon full payment of their assessment, they will be entered into the city-wide assessment program. Those owners who elected to pay assessments in full or contract to perform repairs without involvement in the city program, will need to submit proof of payment to the City Finance Office and will receive the same exemption."

10. **NOTICE OF HEARING.** On Monday, **June 12, 2006**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk is

hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Billings Times.

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

12. EFFECTIVE DATE. This resolution shall be effective upon final adoption.

The foregoing Resolution No. _____ was ADOPTED by the City Council and APPROVED this 26th day of June, 2006

CITY OF BILLINGS:

BY: _____

Ron Tussing, MAYOR

ATTEST:

BY: _____

Marita Herold, CMC, CITY CLERK

RESOLUTION 06-_____

A RESOLUTION LEVYING AND ASSESSING STORM SEWER FEES
FOR PROPERTIES WITHIN THE CITY OF BILLINGS, PROVIDING FOR
NOTICE, HEARING AND FINAL ADOPTION

WHEREAS, the Billings, Montana City Code did establish the rate table for Storm Sewer assessments; and

WHEREAS, extension of these charges have been made on individual properties to be assessed annually.

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

1. ANNUAL STORM SEWER FEE FOR FISCAL YEAR 2007. That for the purpose of defraying the cost of upgrading, repairing and maintaining the City Storm Sewer System an annual storm sewer fee is imposed for the fiscal year 2007, upon all lots or portions of lots as identified in the city's property tax record files. Rates are hereby levied and assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. EXEMPTION. Storm Sewer Fee assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund, or MET Transit Fund.

3. DISPOSITIONS OF COLLECTIONS. Monies collected from assessments shall be paid into the Storm Sewer Fund, of Billings, Montana.

4. NOTICE OF HEARING. On Monday, **June 12, 2006**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice on June 1, 2006 and June 8, 2006, in the Billings Times.

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

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

ADOPTED and APPROVED by the City Council on the **12th** day of **June, 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

Exhibit A

Storm Sewer Fee			
	ZONE	RATE	
	VACANT	913.00	Cap
	AT RATE	0.00116	
	P	0.00196	
	R-96	0.00343	
	R-80	0.00373	
	R-70	0.00393	
	R-70R	0.00393	
	RMH	0.00441	
	R-50	0.00473	
	PD	0.00540	
	R-60	0.00590	
	R-60R	0.00590	
	RP	0.00639	
	RMF-R	0.00667	
	RMF	0.00691	
	NC	0.00761	
	ELC	0.00761	
	MCPZD	0.00785	
	CC	0.00812	
	EGC	0.00834	
	PZD	0.00824	
	HC	0.00834	
	CI	0.00887	
	HI	0.00987	
	CBD	0.01181	
	ELI	0.00834	
	EMU	0.00812	

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, JUNE 12, 2006

SUBJECT: Public Hearing and Resolution Setting Annual Arterial Construction Fee Assessment Rates for Fiscal Year 2007

DEPARTMENT: Public Works Department

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

PROBLEM/ISSUE STATEMENT: The annual Arterial Construction Fee assessment resolution has been completed and is ready to spread on the tax files.

Arterial construction fee assessment rates remain the same as FY06.

RECOMMENDATION

Staff recommends that a public hearing be held and that the City Council approve the resolution on June 12, 2006.

Approved By: City Administrator City Attorney

ATTACHMENT

A- Arterial Construction Fee Annual Assessment Resolution and Exhibit A

RESOLUTION 06 - _____

A RESOLUTION LEVYING AND ASSESSING ARTERIAL CONSTRUCTION FEES FOR PROPERTIES WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND FINAL ADOPTION

WHEREAS, the Billings, Montana City Code did establish the rate table for Arterial Construction Fee assessments; and

WHEREAS, extension of these charges have been made on individual properties to be assessed annually.

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

1. ANNUAL ARTERIAL CONSTRUCTION FEE FOR FISCAL YEAR 2007. That for the purpose of paying the cost of construction and/or reconstruction of arterial roadways and depreciation and replacement of arterial roadways to provide safe facilities on which citizens and visitors may travel, including the principal and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee assessment is imposed for the fiscal year 2007, upon all lots or portions of lots as identified in the city's property tax record files. Rates are hereby levied and assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. EXEMPTION. Arterial Construction Fee assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund, or MET Transit Fund.

3. DISPOSITIONS OF COLLECTIONS. Monies collected from taxes shall be paid into the Municipal Arterial Construction System Fund, of Billings, Montana.

4. NOTICE OF HEARING. On Monday, **June 12, 2006**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on June 1 and June 8, 2006, in the Billings Times.

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

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

ADOPTED and APPROVED by the City Council on the **12th** day of **June, 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

Exhibit A

Arterial Construction Fee

ZONE	RATE
VACANT	988.00 Cap
AT RATE	0.00125
P	0.00212
R-96	0.00371
R-80	0.00404
R-70	0.00425
R-70R	0.00425
RMH	0.00477
R-50	0.00512
PD	0.00585
R-60	0.00638
R-60R	0.00638
RP	0.00692
RMF-R	0.00721
RMF	0.00748
NC	0.00824
ELC	0.00824
MCPZD	0.00850
CC	0.00879
EGC	0.00902
PZD	0.00892
HC	0.00902
CI	0.00960
HI	0.01068
CBD	0.01279
ELI	0.00902
EMU	0.00879

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing and Resolution Setting Mill Levy Rates

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: This resolution establishes the city property tax mill levy rates for fiscal year 2007.

The mill levy rates for general obligation debt service funds for PRPL and streets and the public safety levy which voters approved in 2004 will be established when the City has received the certified taxable valuation information from the Montana Department of Revenue.

RECOMMENDATION

Staff recommends that the City Council approve the resolution setting the mill levy rates for fiscal year 2007.

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

ATTACHMENT

A- A Resolution Making the Annual All-Purpose Mill Levy and Mill Levies for Library Operating, Transit Operating, Public Safety Funds for the Fiscal Year 2006-2007.

Attachment A

RESOLUTION NO._____

A RESOLUTION MAKING THE ANNUAL ALL-PURPOSE MILL LEVY AND MILL LEVIES FOR LIBRARY OPERATING, TRANSIT OPERATING, AND PUBLIC SAFETY FUNDS FOR THE FISCAL YEAR 2006-2007.

WHEREAS, pursuant to law, the City of Billings is required to make annual mill levies.

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

1. That an All-Purpose Annual Mill Levy in the amount of 69.50 Mills is hereby imposed on all taxable property within the City of Billings, Montana, for the Fiscal Year **July 1, 2006 through June 30, 2007.**

2. **That additional Mill Levies in the amounts stated are hereby imposed on all taxable property within the City of Billings, Montana, to provide payment for the following:**

- A. 10.00 Transit Operating Fund
- B. 9.50 Library Operating Fund
- C. 20.00 Public Safety Fund

3. That upon passage of this Resolution, the City Clerk shall certify that same to the County Treasurer of Yellowstone County, Montana, who shall collect said taxes in the manner as provided by law.

4. That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED by the City Council this 26th day of June, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Marita Herold, CMC/AAE City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing & Site Development Ordinance Variance(s) #CC05-03
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The City of Billings demolished the existing Smith's Funeral Home and plans to remodel/expand the existing Park II building in the downtown area. This property is located on Lots 7-12, Block 91 of the Original Townsite of Billings, being generally located between North 27th Street and North 26th Street and between 1st Avenue North and 2nd Avenue North. The City of Billings is requesting variances from the Site Development Ordinance, Section 6-1208(h)(3), and Section 6-1203(j)(2).

ALTERNATIVES ANALYZED:

1. a. Approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet.
 b. Do not approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet.
2. a. Approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb.
 b. Do not approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb.

FINANCIAL IMPACT: There is no financial impact associated with these variances.

RECOMMENDATION

Staff recommends that Council delay action to June 26, 2006.

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

ATTACHMENT

- A. Proposed Site Plan (2 pages)

INTRODUCTION

The City of Billings demolished the existing Smith's Funeral Home and is remodeling and expanding the existing Park II Parking Garage located at 2651 1st Avenue North. The new parking facility will be generally located between North 27th Street and North 26th Street and between 1st Avenue North and 2nd Avenue North. The City of Billings is requesting variances from the Site Development Ordinance, Section 6-1208(h)(3), and Section 6-1208(j)(2). Section 6-1208(h)(3) pertains to the maximum allowable driveway widths, and Section 6-1208(j)(2) pertains to the distance separating drive approaches serving the same property.

BACKGROUND

The first variance the City of Billings is seeking concerns the curb cut for the 2nd Avenue North entrance. The variance is to allow a curb cut of 32 feet instead of the standard 30 feet. For curb cuts, the Site Development Ordinance reads as follows:

Section 6-1208(h)(3)

In any commercial and industrial zoned districts, the maximum driveway width shall be thirty (30) feet except driveway widths for service stations and trucking businesses may be up to forty (40) feet when approved by the city, and shall be located in accordance with city specifications and drawings. The minimum distance between curb cuts shall be twenty-five (25) feet.

The second variance the City of Billings is seeking concerns the distance that separates the entrance drive approach from the exit drive approach. The Site Development Ordinance is as follows:

Section 1208(j)(2)

Two (2) or more curb cuts serving the same property must be separated by islands with full height curb not less than twenty-five (25) feet long.

ALTERNATIVES ANALYSIS

1. a. Approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet.
Approval of this variance will allow for improved turning movements for vehicles wishing to use the Wells Fargo drive-through banking facility on the first level of the parking garage.
1. b. Do not approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet. Denying this variance may decrease vehicle mobility.
2. a. Approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb. Approval of this variance will allow for improved turning movements for vehicles wishing to use the Wells Fargo drive-through banking facility on the first level of the parking garage.

- b. Do not approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb. Denying this variance would require substantial redesign of the site increasing project cost. In addition, if this variance is denied, and the drive approach is moved to the east to allow for 25 feet of full height curb separation, the drive approach will conflict with the existing support column causing multiple mobility issues.

RECOMMENDATION

Staff recommends that Council delay action to June 26, 2006.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing & Site Development Ordinance Variance #CC06-03
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Gerard Zimny, owner of Lot 2, Block 4, Monty's Place Subdivision, 2nd Filing is seeking a variance from the Site Development Ordinance Section 6-1208(i)(11). This area of Monty's Place Subdivision has very steep terrain. Due to the steep terrain, making a drive approach ninety (90) degrees to the street would be very costly and infeasible. In lieu of having a very steep driveway at ninety (90) degrees, the property owner has requested this variance to allow him to construct the driveway at approximately a forty-five (45) degree angle to the street.

Section 6-1208(i)(11) Curb Cut Regulations reads as follows:

The angle between any driveway apron and the street and/or curb line shall be ninety (90) degrees to the street tangent or on a radial line to the street curve.

ALTERNATIVES ANALYZED:

- Approve the Variance allowing the property owner to construct a driveway apron that is not ninety (90) degrees to the street.
- Do not approve the Variance allowing the property owner to construct a driveway apron that is not ninety (90) degrees to the street.

FINANCIAL IMPACT: If the Variance is approved, the property owner will pay yearly encroachment permit fees associated with the driveway and retaining wall.

RECOMMENDATION

Staff recommends that Council approve the Variance allowing the property owner to construct a driveway apron that is not ninety (90) degrees to the street.

Approved By: City Administrator _____ City Attorney _____
[\(Back to Regular Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing And Resolution, Amending Resolution No. 01-17659, A Resolution Setting Fees And Rates For City Owned Parking Garages And Meters.

DEPARTMENT: Administrative Services – Parking Division

PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: The Parking Advisory Board and Parking staff are proposing a restructuring of parking rates in the parking garages, parking lots and at the meters. The main reasons for this proposal are:

- To deter abuse of on-street spaces by longer-term parkers;
- To generate additional revenue for the Parking Division to finance large capital improvement plan projects already in progress; and,
- To plan for future projects which will require funding from the Parking Operations.

This proposal must be addressed at this time due to the fact that the Park 2 expansion project is soon to be underway and additional revenue is necessary to complete the project as requested by the public in various meetings.

ALTERNATIVES ANALYZED:

- Leave downtown parking rate structure as it exists.
- Make some, but not all, of the recommended changes to rate structure.

FINANCIAL IMPACT:

- If the current rate structure remains, the Park 2 expansion project will not be completed as proposed. Additionally, financing will not be available for future projects.
- Various alternates to the proposal have been analyzed. However, the proposed fees and rates have been determined by the Parking Advisory Board and City staff to be the most effective way to accomplish all goals listed above.

RECOMMENDATION

Staff recommends that Council approve the resolution amending the fees and rates for City owned parking garages and meters.

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

ATTACHMENTS

- A. Resolution No. 06-_____ (1 page)
- B. Resolution No. 01-17659 (1 page)
- C. Parking Fee and Rate Restructuring Proposal (3 pages)
- D. Garage Automation Analysis per Council request (2 pages)

INTRODUCTION

The last downtown parking rate increase went into effect in 2001. The Parking Advisory Board and Parking staff have been working together since that time to determine the best rate structure for downtown parking. The new structure is being proposed to accomplish a number of goals:

- To deter abuse of on-street spaces by longer-term parkers;
- To generate additional revenue for the Parking Division to finance large capital improvement plan projects already in progress; and,
- To plan for future projects which will require funding from the Parking Operations.

In 2001, meter and monthly garage rates were increased, but hourly rates were decreased and discounts were given to larger groups renting monthly parking spaces. This change was an attempt to encourage long-term parkers to utilize garage spaces, leaving metered and hourly spaces open for short-term customer parking.

This proposal must be addressed -- this time due to the fact that the 2001 rate structure is no longer deterring abuse of the on street parking spaces, the Park 2 expansion project is soon to be underway and additional revenue is necessary to complete the project as requested by the public in various meetings.

PROCEDURAL HISTORY

City staff has presented the Parking Advisory Board's proposal and solicited feedback at the following meetings:

Meeting:

DBA Property Owner's Committee Meeting
DBA Board Meeting
DBA Merchants Meeting
DBP Board Meeting
Public Feedback Meeting
Parking Advisory Board Special Meeting
Council Work Session
DBP Board Meeting
DBA Board – Subcommittee Meeting
Parking Advisory Board Meeting Discussion
Parking Advisory Board Meeting Final Approval
Council Meeting – Public Hearing

Date:

June 8, 2005
June 22, 2005
June 23, 2005
June 24, 2005
July 20, 2005
November 7, 2005
February 6, 2006
February 24, 2006
March 3, 2006
April 10, 2006
May 8, 2006
June 12, 2006

BACKGROUND

The Parking Advisory Board and City staff has been working together for the past four years to determine what fee and rate structure would best serve the City and downtown. The Park 2 expansion has been the priority project for the Advisory Board, City staff, City Council and various stakeholders for nearly ten years. The funding options for financing the Park 2

expansion have always included some form of a rate increase in order to retire the debt service needed for construction. The Council should note that none of the City's four (4) parking garages have ever been required to support both debt and operations. All debt for the garages' original construction was funded from the Tax Increment District. Additionally, there are a few projects currently being proposed that require additional funding in the Parking enterprise fund, as well as any projects that may arise in the near future. This proposal will allow the enterprise fund the opportunity to rebuild the reserves needed to assist in any future downtown parking needs. This recommendation has also been created in response to Council Goal #5 - Create Tax Increment Financing Districts (TIF) to assist in redeveloping blighted or declining areas and investing in infrastructure improvement and in public facilities, and encouraging private development. For FY06, City staff designated an action item to correspond with this Council goal:

"Ensure efficient operations to serve the Parking Division's customers. Be involved in long-range planning for affected areas, including cooperation in developing projects that may include a parking component. Recommend and implement changes in on-street parking to serve developments."

For FY06, City staff also created the following department goal and action plan:

Department Goal: *To maximize revenue capabilities for the Parking Division.*

- ***Action:*** *Increase the leased spaces at Park IV and remain at full capacity in the other three garages. To do this, staff will:*
 - *Increase advertising efforts for Park IV;*
 - *Monitor garage capacity on a monthly basis;*
 - *Identify alternatives, such as pricing; and,*
 - *Utilize current waiting lists.*
- ***Action:*** *Adopt a new rate structure for the Parking Division's operations by:*
 - *Creating a timeline for implementation;*
 - *Holding public feedback meeting with various organizations, boards, commissions and Council;*
 - *Recommending adoption of new structure to Council; and,*
 - *Implementing those changes with a public notification plan.*
- ***Action:*** *Continue the priority expansion of the Park II structure.*
- ***Outcome(s):*** *Maximize revenue potential for the Division as well as providing some funding for downtown development.*

ALTERNATIVES ANALYSIS

- **Leave downtown parking rate structure as it exists:** if this proposal is rejected, abuse of the on street parking spaces by long-term parkers will continue, the Park 2 expansion project will not be completed at the scale that was requested by the public in various meetings and financing will not be available for future projects.

- Make some, but not all, of the recommended changes to rate structure: Various alternates to the proposal have been analyzed. However, the proposed fees and rates have been determined to be the most effective way to accomplish all goals listed above.

STAKEHOLDERS

The Parking Advisory Board proposed and approved this recommendation. The Board conducted 11 meetings at which public comments were given and considered in the recommendation.

The DBP Board has written a letter supporting the new fee and rate structure. Various other stakeholders have expressed both support of and opposition to the proposal.

RECOMMENDATION

Staff recommends that Council approve the resolution amending the fees and rates for City owned parking garages and meters.

ATTACHMENTS

- A. Resolution No. 06-_____ (1 page)
- B. Resolution No. 01-17659 (1 page)
- C. Parking Fee and Rate Restructuring Proposal (3 pages)
- D. Garage Automation Analysis per Council request (2 pages)

RESOLUTION NO. **06-**_____

A RESOLUTION INCREASING CERTAIN FEES AND RATES FOR
CITY OWNED PARKING GARAGES AND PARKING METERS.

WHEREAS, the fees for parking in metered, City owned parking spaces and parking garages were last set in January 2001 by Council Resolution No. 01-17659; and,

WHEREAS, the fees should be increased to more accurately reflect the cost of services to be provided, to provide adequate revenue to finance construction, and reflect the increased inflation costs since 2001; and

WHEREAS, the City Council has duly considered the matter.

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

1. The monthly reserved parking fees for all City owned parking shall be as follows:

General Reserved	\$50.00
Basement/Assigned	\$65.00 YR1
	\$75.00 YR2
	\$85.00 YR3
	\$95.00 YR4
	\$100.00 YR5
Roof Reserved	\$25.00

Monthly discount per space for volume renters shall be as follows:

Five or more spaces	5%
Twenty-five or more spaces	10%
One hundred or more spaces	15%

The hourly rate for all City owned parking garages shall be \$.25 per hour for the first two hours and \$1.00 per hour for each subsequent hour or part of an hour with a maximum charge of \$5.00 per day.

2. The hourly rate for on street parking meters and all meters currently \$.25 per hour shall be \$.50.

3. The City Administrator or designee may establish parking meter rates as low as \$.10 per hour for meters located outside the core of the Central Business District as defined by the Parking Advisory Board.

4. The parking division may sell monthly permits for parking at parking meters that have been designated for 10 hour parking.

5. The “Green Meter Project” proposed by the Downtown Billings Association (DBA) is approved so that one parking meter on each side of each block may be designated a “green meter”. The hourly rate at a green meter shall be \$.50 per hour and the City and the DBA will equally share revenues from green meters. The DBA will provide signage for green meters. The signage is subject to approval of the Parking Advisory Board.

6. Effective July 1, 2001, all revenues from parking fines and parking meters shall be deposited in the Parking Enterprise Fund and parking enforcement costs will be paid from the Parking Enforcement Fund. The Parking Enterprise Fund will transfer to the City General Fund 17% of all revenues received by the fund.

7. The fees in this resolution supersede fees previously set by the City Council and may be changed by subsequent council action.

8. Resolution No. 01-17659 is hereby repealed.

9. EFFECTIVE DATE. This Resolution shall be effective July 1, 2006.
10. PASSED by the City Council and APPROVED this 12th day of June, 2006.

CITY OF BILLINGS

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

RESOLUTION NO. 01- 17659

A RESOLUTION SETTING FEES FOR CITY OWNED PARKING GARAGES AND PARKING METERS; ESTABLISHING MONTHLY PERMITS FOR LONG TERM PARKING, AUTHORIZING ESTABLISHMENT OF LOWER PARKING RATES FOR PARKING METERS OUTSIDE THE CORE OF THE CENTRAL BUSINESS DISTRICT; ESTABLISHING THE "GREEN METER" PROJECT IN COOPERATION WITH THE DOWNTOWN BILLINGS ASSOCIATION AND DIRECTING CERTAIN ACCOUNTING CHANGES FOR PARKING FINES AND METER REVENUES AND PARKING ENFORCEMENT EXPENSE.

Be it resolved by the City Council of the City of Billings, Montana as follows:

1. The monthly reserved parking fees for all city owned parking garages shall be as follows:

General Reserved \$45.00

Basement Reserved \$50.00

Roof Reserved \$20.00

Monthly discount per space for volume renters shall be as follows:

Five or more spaces \$2.50

Ten or more spaces \$5.00

Twenty-five or more spaces 6.00

The hourly rate for all city owned parking garages shall be \$.25 for each hour or part of an hour with no maximum charge. Daily tickets, where the customer pays for the day and may leave and enter the garage during the day will be allowed for a charge of \$2.50 per day.

2. The hourly rate for on street parking meters and all meters currently \$.10 per hour shall be \$.25.
3. The city administrator or designee may establish parking meter rates as low as \$.10 per hour for meters located outside the core of the Central Business District as defined by the Parking Advisory Board.
4. The parking division may sell monthly permits for parking at parking meters that have

been designated for 10 hour parking.

5. The “Green Meter Project” proposed by the Downtown Billings Association (DBA) is approved so that one parking meter on each side of each block may be designated a “green meter”. The hourly rate at a green meter will be twice that at other meters in the block and the city and the DBA will equally share revenues from green meters. The DBA will provide signage for green meters. The signage is subject to approval of the Parking Advisory Board.
6. Effective July 1, 2001 all revenues from parking fines and parking meters shall be deposited in the Parking Enterprise Fund and parking enforcement costs will be paid from the Parking Enforcement Fund. The Parking Enterprise Fund will transfer to the city General Fund 17% of all revenues received by the fund.
7. Paragraphs 1, 2, 3, 4, and 5 of this resolution shall be effective on April 1, 2001.
8. The fees in this resolution supersede fees previously set by the City Council and may be changed by subsequent council action.
9. **EFFECTIVE DATE.** This Resolution shall be effective upon adoption.
10. PASSED by the City Council and APPROVED this 22nd day of January, 2001.

CITY OF BILLINGS

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC CITY CLERK

Fees and Rates:

Parking Garages and Lots:

The current and proposed monthly fees in the garages and lots are:

	Current:	Proposed:
Roof	\$20	\$25
Reserved	\$45	\$50
Assigned	\$50	\$65 Year 1 \$75 Year 2 \$85 Year 3 \$95 Year 4 \$100 Year 5

Monthly discounts for volume renters shall be as follows:

Five or more spaces	5%
Twenty-five or more spaces	10%
One hundred or more spaces	15%

The increase in monthly rates is expected to generate an increase in revenue of \$216,480.

Hourly rates for parking in the garages are currently \$.25 per hour. The proposal for hourly rates in garages is \$.25 per hour for the first two hours and \$1.00 per hour for each subsequent hour, with a \$5.00 maximum per day charge.

The increase in hourly rates is projected to generate an increase in revenue of \$157,000. However, due to the fact that the restructuring of hourly rates in the garages will encourage long-term parkers to utilize monthly spaces and/or 10 hour meters leaving the hourly spaces in the garages for short-term customers, it is difficult to accurately project revenue capability for hourly rates. This factor influenced the revenue projection and staff believes that it is a conservative one.

Meters:

This proposal would raise parking meter rates from \$.25 per hour to \$.50 per hour. Each block has two (2) Green Meters. Those meters shall remain at \$.50 cents per hour and the proceeds are shared equally with the Downtown Billings Association (DBA).

The increase in meter rates is expected to generate \$229,125 in additional revenue for the parking fund.

In 1995, the firm of Carl Walker completed a parking study in the central business district and recommended increasing the meter rates from \$.10 to \$.50 per hour at that time. City staff, however, recommended a smaller increase to \$.25 per hour in 2001. Additional studies and publications, since that time, state:

“In an ideal setting, meter rates would have the highest hourly rate, to create maximum turnover of the most convenient spaces.

Businesses, which often express a desire for inexpensive rates at meters, believe that lower rates are more attractive to customers. This proves to be counterproductive when employees leave offices and shops to regularly feed low-priced meters, thereby denying the turnover and convenience intended for their customers.”

“Less expensive pricing of convenient on-street spaces as compared to further away off-street spaces promotes meter plugging and limits turnover of the spaces throughout the day. This can affect businesses if they rely on the metered spaces for their patrons.”

“On-street parking is convenient, visible and cost efficient. It is a form of shared parking, with each space serving many destinations, and so tends to have a high load factor. Price on-street parking as much as possible. Price and manage on-street parking to favor customers, and lease less convenient parking by the month, for use by employees.”

It is the opinion of City staff that meters and an appropriate rate structure are essential to the ability to adequately control parking in the most valuable parking in downtown.

Fines:

Fines for violations have been restructured twice in the last four years. Currently in place is a graduated fine structure for meters and timed zones. The first violation in a rolling 30-day period receives a courtesy ticket and no fine. The second violation in the rolling 30-day period is a \$5 fine. The third violation is a \$10 fine and the fourth and subsequent violations are \$20 fines. City staff believes that this structure has helped to deter some long-term offenders in the downtown, but could be assisted by a more effective fee and rate structure. Staff and the Parking Advisory Board shall continue to review the fine structure to determine if additional changes are needed.

General Notes:

- The parking enterprise fund will continue to pay a fee to the General Fund of 17% of revenues. This fee will help support activities in the General Fund that are related to parking. These include the Police Department and Municipal Court.
 - This allows the increased revenue from parking meters to mostly remain in the parking enterprise fund and be available for downtown parking programs while protecting the General Fund from loss of revenue that cannot be easily replaced.
- Parking meter rates have only been increased once in approximately 20 years (in 2001) from \$.10 per hour to \$.25 per hour.
- Parking rates in the garages have been adjusted only twice since the garages were built. Covered parking was increased in 1995 and 2001. Roof parking was only increased in 2001.

Exhibit “D”
Garage Automation Cost Estimate (6/12/06)
10 Year Cost/Revenue Analysis

	PARK 1	PARK 2	PARK 3	PARK 4
Automation Expense:	(\$472,800)	(\$591,000)	(\$354,600)	(\$827,400)
Associated Savings:	\$492,737	\$1,231,844	\$492,737	\$985,475
Additional Revenue:	\$100,000	\$250,000	\$135,000	\$0
+/-	\$119,937	\$890,844	\$273,137	\$158,075

NOTES:

The price range above does not include signage costs, which can be substantial (and are absolutely necessary), for conversion to automated equipment.

Cost for automation has been estimated at \$75,000/lane + misc. expenses, such as maintenance.

Associated savings includes wages, benefits, uniforms, etc.

The garage control equipment was replaced in Park 4 in 2005 and is underway in Park 1 - Total \$221,000

Additional revenue has been estimated at 1/3 of budgeted hourly revenue for each garage, except Park 4 which is locked down after hours.

Some level of staffing would still be needed to respond to customers, for maintenance needs, etc.

Labor relations (with the loss of nine employees) would also be a factor.

Unemployment costs are undetermined.

Exhibit “D” - continued

Garage Automation Cost Estimate (6/12/06) 10 Year Cost/Revenue Analysis

Park 1

<u>Year</u>	<u>Loan</u>	<u>On-going</u>	<u>Total</u>	<u>Pavroll</u>	<u>Net</u>	<u>Savings</u>	<u>Year</u>
	<u>Payments</u>	<u>Costs</u>	<u>Total</u>				
1	39,400	7,880	47,280	45,000	(2,280)		1
2	39,400	7,880	47,280	45,900	(1,380)		2
3	39,400	7,880	47,280	46,818	(462)		3
4	39,400	7,880	47,280	47,754	474		4
5	39,400	7,880	47,280	48,709	1,429		5
6	39,400	7,880	47,280	49,684	2,404		6
7	39,400	7,880	47,280	50,677	3,397		7
8	39,400	7,880	47,280	51,691	4,411		8
9	39,400	7,880	47,280	52,725	5,445		9
10	<u>39,400</u>	<u>7,880</u>	<u>47,280</u>	<u>53,779</u>	<u>6,499</u>		10
	\$ 394,000	\$ 78,800	\$ 472,800	\$ 492,737	\$ 19,937		

Park 3

<u>Year</u>	<u>Loan</u>	<u>On-going</u>	<u>Total</u>	<u>Pavroll</u>
	<u>Payments</u>	<u>Costs</u>	<u>Total</u>	<u>Pavroll</u>
1	29,550	5,910	35,460	45,000
2	29,550	5,910	35,460	45,900
3	29,550	5,910	35,460	46,818
4	29,550	5,910	35,460	47,754
5	29,550	5,910	35,460	48,709
6	29,550	5,910	35,460	49,684
7	29,550	5,910	35,460	50,677
8	29,550	5,910	35,460	51,691
9	29,550	5,910	35,460	52,725
10	<u>29,550</u>	<u>5,910</u>	<u>35,460</u>	<u>53,779</u>
	\$ 295,500	\$ 59,100	\$ 354,600	\$ 492,737

Park 2

<u>Year</u>	<u>Loan</u>	<u>On-going</u>	<u>Total</u>	<u>Pavroll</u>	<u>Net</u>	<u>Savings</u>	<u>Year</u>
	<u>Payments</u>	<u>Costs</u>	<u>Total</u>				
1	49,250	9,850	59,100	112,500	53,400		1
2	49,250	9,850	59,100	114,750	55,650		2
3	49,250	9,850	59,100	117,045	57,945		3
4	49,250	9,850	59,100	119,386	60,286		4
5	49,250	9,850	59,100	121,774	62,674		5
6	49,250	9,850	59,100	124,209	65,109		6
7	49,250	9,850	59,100	126,693	67,593		7
8	49,250	9,850	59,100	129,227	70,127		8
9	49,250	9,850	59,100	131,812	72,712		9
10	<u>49,250</u>	<u>9,850</u>	<u>59,100</u>	<u>134,448</u>	<u>75,348</u>		10
	\$ 492,500	\$ 98,500	\$ 591,000	\$ 1,231,844	\$ 640,844		

Park 4

<u>Year</u>	<u>Loan</u>	<u>On-going</u>	<u>Total</u>	<u>Pavroll</u>
	<u>Payments</u>	<u>Costs</u>	<u>Total</u>	<u>Pavroll</u>
1	68,950	13,790	82,740	90,000
2	68,950	13,790	82,740	91,800
3	68,950	13,790	82,740	93,636
4	68,950	13,790	82,740	95,509
5	68,950	13,790	82,740	97,419
6	68,950	13,790	82,740	99,367
7	68,950	13,790	82,740	101,355
8	68,950	13,790	82,740	103,382
9	68,950	13,790	82,740	105,449
10	<u>68,950</u>	<u>13,790</u>	<u>82,740</u>	<u>107,558</u>
	\$ 689,500	\$ 137,900	\$ 827,400	\$ 985,475

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing & 1st Reading -- Future Ballot Language

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: In November, the City Council approved an initiative directing staff to include specific information on mill levies to be required on future ballot initiatives. The initiative followed a presentation by Clayton Fiscus in which he asked the Council to amend the Charter to require future mill levy ballots specifically to show:

- a) If a levy is permanent, or has a sunset duration;
- b) If the levy is cumulative or not cumulative
- c) The dollar amounts and mills for each year and the total mills and dollars after the last increase;
- d) The ballot will have the ordinance language in its title; and
- e) Billings City PowerPoint presentations will display the ballot.

However, state statute prevents a charter from including initiative procedures under 7-3-708, MCA, Limitations on charter provisions. The City Council could amend the City Code to include the provisions requested, and an ordinance doing so is attached.

ALTERNATIVES ANALYZED:

- As requested, approve an ordinance to amend the Charter and place it on the November ballot, which violates 7-3-708 MCA;
- Approve an ordinance amending the City Code to include the request; or
- Take no further action at this time (recommended).

FINANCIAL IMPACT: Unknown at this time.

RECOMMENDATION

Staff recommends that the Council take no further action at this time.

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

ATTACHMENTS

- A: Ordinance
- B. Citizens' initiative from Mr. Fiscus

INTRODUCTION: The City Council has been asked to amend the City Charter to include language that requires future ballots specifically to show:

- a) If a levy is permanent, or has a sunset duration;
- b) If the levy is cumulative or not cumulative
- c) The dollar amounts and mills for each year and the total mills and dollars after the last increase;
- d) The ballot will have the ordinance language in its title; and
- e) Billings City PowerPoint presentations will display the ballot.

BACKGROUND

7-3-708, MCA, Limitations on charter provisions. states in part: “(1) Charter provisions may not conflict with the provisions of part 1, chapter 1, which establish statutory limitations on the powers of self-government units. (2) Charter forms are subject to state laws establishing election, initiative, and referendum procedures; and *charters shall not contain provisions establishing election, initiative, and referendum procedures* (emphasis added).”

The Attorney General issued a letter of advice in November 2005 in which he indicated that the language of a public safety ballot that raised this issue was “sufficient to be accurately interpreted by the voters” when taken in conjunction with the Ordinance passed with it, media coverage and public discussion. A copy of that letter is on file with the City Clerk’s Office for Council review.

Further, **15-10-425 MCA, Mill levy election.** already includes very specific requirements on the language that must be included on the ballot, including the specific purpose for which the money will be used; the specific amount to be raised; the approximate number of mills required; the durational limit, if any, of the levy; and the impact of the election on a home valued at \$100,000 and \$200,000 in terms of actual dollars in additional property taxes. The ballot language itself is limited to 25 words and the statement of purpose that accompanies it is limited to 100 words.

Finally, adding the reference in the proposal to PowerPoint assumes that the same technology will be in use a decade hence; a look a decade backward shows that is not likely to be the case.

ALTERNATIVES ANALYSIS

Amending the Charter: It is the Legal staff’s opinion that the requested Charter amendment is prohibited by **7-3-708, MCA, Limitations on charter provisions.**, as noted above.

Amending the Code: Given the above opinion on amending the Charter, staff has drafted an Ordinance amending the City Code to comply with the Council initiative. However, this alternative is not recommended for several reasons:

- 1) City Councilmembers must approve ballot language, and could require this or any wordage they desire that complies with state law on future mill levy issues, without a Code amendment.
- 2) If a Code amendment was approved by Council action, it could be rescinded by a future Council at any time, following a public hearing and two readings.
- 3) Given the limited number of words in the ballot issue and statement of intent, any additional restrictions may make such language difficult to draft.
- 4) Putting technological language that could quickly be dated in the Code would require future Council action to remove it.

Take No Action at This Time: Since the Council already has the right to include language it desires in any future ballot, and Councilmembers are aware of community concerns, staff recommends that the Council take no further action at this time.

RECOMMENDATION

Staff recommends that the Council take no further action at this time.

ATTACHMENTS

- A: Ordinance
- B. Citizens' Initiative

REVISED FOR AGENDA ITEM 10

Attachment A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING
THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED
BY REVISING SECTION 11 TO INCLUDE REQUIRED BALLOT
LANGUAGE FOR ANY MILL LEVY ELECTION

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

Section 1. That Section 11 of the Billings, Montana, City Code, be amended to include a new section that shall read as follows:

“Section 11-103. Ballot Language.

The procedure for the nomination and election of all City officials shall be as prescribed by state law for non-partisan elections.

A. The following will be specified on the face of a ballot for any mill levy election:

- (1) If the levy is permanent, or has a sunset duration date; (2) If the levy is cumulative or not cumulative; (3) The dollar amounts and mills for each year, and the total mills and dollars after the last increase; (4) The ballot will have the ordinance language in its title; and (5) Billings PowerPoint presentations will display the ballot.

Section 2. Effective Date. This ordinance shall be effective thirty (30) days after the second reading and final adoption, as provided by law.

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

Section 4. Severability. If any 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 12th day of June, 2006.

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

CITY OF BILLINGS

BY _____
Mayor

ATTEST:

By _____
City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Public Hearing & Resolution of Denial—Arterial Fee Complaint from J.A. Ziegler

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: J.A. "Ziggy" Ziegler has asked the City Council to rebate part of the 2005 arterial construction fee for his 13.82-acre property at 3040 Hollow Tree Rd.. The City Council approved the arterial construction fee in September of 2004. In April 2005, the Council amended the Code to provide that properties in Planned Development (PD) zones would be charged based on their underlying zoning classifications.

Article 22-1003 (e). Rates for Arterial Construction. allows the City Council to order a public hearing in regard to complaints on arterial fees, and to fix special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate. In August 2005, Mr. Ziegler asked during a Public Comment section for a rebate on the second half of 2005 arterial construction fees for his property, which is zoned PD with an underlying R-9600 zoning. The arterial fee for his property had been correctly calculated under the original ordinance at \$752.50; it would have been reduced to \$35.62 as a residential property if the underlying zoning classifications provision had been in place for Fiscal Year (FY) 2005. The \$35.62 was charged to Mr. Ziegler for FY 2006. No Council initiative occurred asking that the public hearing be held, but Mr. Ziegler has asked several Council members about the matter.

ALTERNATIVES ANALYZED: Hold the public hearing and:

- Approve a resolution providing Mr. Ziegler with an FY 2005 rebate of \$340.63 (arterial fees of $\$752.50 \div 2 - \$35.62 = \$340.63$).
- Approve a resolution denying the request (recommended). More than 4,000 other PD property owners paid the fee for FY 2005, and have not obtained a rebate, although their fees were adjusted for FY 2006. Mr. Ziegler's fee thus was not unfair, inequitable, unreasonable or inadequate.

FINANCIAL IMPACT: More than 4,000 other PD property owners could attempt to claim rebates for FY 2005 arterial fees set by the original calculation.

RECOMMENDATION

Staff recommends that Council hold the public hearing and approve a resolution denying the request.

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

ATTACHMENTS

A: Resolution denying request.

INTRODUCTION

Mr. Ziegler has asked for a rebate on the second half of his FY 2005 arterial fee for his property at 13.82-acre property at 3040 Hollow Tree Rd.. His FY 2005 fee of \$752.50, based on a PD zoning, was reviewed by staff and found to be accurate. The City Council amended the Ordinance in April 2005 to allow residential property owners to pay a fee based on their underlying zoning. Staff focused on adjusting the fees for FY 2006, but could not find a way to revise the fee method, and adjust charges retroactively. More than 4,000 owners of PD-zoned property in residential use, including Mr. Ziegler, received the residential rate of \$35.62 for FY 2006.

PROCEDURAL HISTORY

- September 13, 2004: After a City Council study committee recommended an arterial construction fee, the Council adopted it via Ordinance 04-5300. The fee replaced a procedure in which adjoining property owners paid for major road improvements potentially used by all residents. The arterial fee was to be charged against all properties, based on the area and zoning classification, and to be used for arterial road construction and reconstruction.
- November 4, 2004: Mr. Ziegler contacted Public Works about the arterial fee for his property, which was reviewed and determined to have been calculated correctly.
- November 17, 2004: Public Works requested direction on how to assess PD parcels with underlying zoning from City Administration, which determined the City Code must be amended to make any changes.
- April 4, 2005: Public Works informed Mr. Ziegler of the status of the City Code amendment, and told him there would be no adjustment to his FY 2005 arterial fee.
- April 11, 2005: City Council adopted Ordinance 05-5322, amending the original Ordinance to allow PD-zoned properties to be charged on their underlying zoning, with a 9600 square footage cap on residential properties.
- May 25, 2005: Mr. Ziegler formally protested his second half taxes, and later was informed by City Administration that the only body authorized to grant an exemption was the City Council.
- August 8, 2005: Mr. Ziegler appeared in front of the City Council during the Public Comment period to request a rebate. Staff notified Council at the time that Mr. Ziegler's fees were calculated correctly, and that it was not possible to recalculate the taxes for all PD-zoned parcels for FY 2005, due to the volume of parcels. Council took no action on the request.

BACKGROUND

Article 22-1000. Arterial Construction Fee. **states in part:**

“(d) Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the public works director for adjustment thereof, stating the facts and grounds of complaint, and the public works director may notify the owner of any premises as to which he considers the rates and charges to be inadequate. In either case, the public works

director shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

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

ALTERNATIVES ANALYSIS

Hold the public hearing and:

- Approve a resolution providing Mr. Ziegler with an FY 2005 rebate of \$340.63 (arterial fees of $\$752.50 \div 2 = \35.62 = \$340.63).
- Approve a resolution denying the request (recommended). More than 4,000 other PD property owners paid the fee for FY 2005, and have not obtained a rebate, although their fees were adjusted for FY 2006. Mr. Ziegler's fee thus was not unfair, inequitable, unreasonable or inadequate.

RECOMMENDATION

Staff recommends that Council hold the public hearing and approve a resolution denying the request.

ATTACHMENTS

A: Resolution denying request.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,
DENYING THE REQUEST OF J.A. ZIEGLER FOR A REBATE
ON FY 2005 ARTERIAL CONSTRUCTION FEES.**

WHEREAS, the City Council of the City of Billings, Montana, on September 13, 2004, adopted Ordinance No. 04-5300, setting an arterial construction fee based on the land area and zoning of a parcel for the purpose of construction and reconstruction of arterial roadways in the City; and

WHEREAS, the City Council on April 11, 2005, adopted Ordinance No. 05-5322, which amended Ordinance No. 04-5300 to allow parcels zoned Planned Development (PD) to be assessed at their underlying zoning, and to cap residential parcels at the rate applied to properties of 9,600 square feet or less; and

WHEREAS, Ordinance No. 04-5300 requires that if a property owner complains that the charges applied to his or her premises are unfair, inequitable or unreasonable, he or she may apply to the Public Works Director, who shall investigate and report on the findings of that investigation to the City Council; and

WHEREAS, the City Council has the right to order a public hearing into any such matter and, if convinced that an adjustment of the charges is necessary to provide reasonable equality with those charged to others, shall fix special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate; and

WHEREAS, J.A. Ziegler has requested such consideration from the City Council for the second half of Fiscal Year (FY) 2005 arterial construction charges on property identified as Tract 81S Certificate of Survey #2165 in the Briarwood Subdivision, commonly known as 3040 Hollow Tree Road, which carries a PD zoning with an underlying zoning of R-9600; and

WHEREAS, the Public Works Director has investigated and reported that more than 4,000 properties zoned PD were charged at the PD rate under the original provisions of Ordinance No. 04-5300 for FY 2005, but were re-evaluated and charged at their underlying zoning for FY 2006; and

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

1. **Findings:** The City Council of the City of Billings, Montana, hereby finds that the property identified as Tract 81S Certificate of Survey #2165 in the Briarwood Subdivision, commonly known as 3040 Hollow Tree Road, was charged the FY 2005

arterial construction fee on the same basis as other parcels zoned PD, so that the charges were fair, equitable and reasonable; and

2. Denial of Complaint: The City Council of the City of Billings, Montana, therefore denies the complaint of the property owner regarding a rebate of the second half of the FY 2005 arterial construction fee on said property.

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

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE, CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

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

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: City Council was requested to approve a resolution authorizing condemnation of six properties on Grand Avenue at the January 9, 2006, Council Meeting. Council delayed action on the resolution to allow staff 90 days to obtain expert advice on evaluation of appraisals and alternatives. Council delayed action 30 days at the April 10, 2006, Council Meeting and again at the May 8, 2006, Council meeting. The Public Works Department has received a separate market analysis of the six properties and has made new offers to the property owners based on that market analysis. The Public Works Department was asking for a response from the offers by May 12, 2006. There has only been one favorable response from the affected property owners on Grand Avenue. Ben Brown, owner of First National Pawn, has agreed to accept the City's offer.

ALTERNATIVES ANALYZED:

1. Approve resolution authorizing condemnation of five properties on Grand Avenue from 8th Street West to 12th Street West.
2. Do not approve resolution authorizing condemnation of five properties on Grand Avenue from 8th Street West to 12th Street West.

FINANCIAL IMPACT: Final values will be presented to City Council if the values exceed staff's allowable negotiating value.

RECOMMENDATION

Staff recommends that Council approve the resolution authorizing condemnation of five properties on Grand Avenue from 8th Street West to 12th Street West.

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. Construction is anticipated to begin spring 2007.

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 four property owners.

1. Randy Reger owns the Dairy Queen property at 12th Street West and Grand.
2. Randy Reger and Jeff Keil own the vacant lot at 12th Street West and Grand.
3. Merle Johns owns the property at 1144 Grand.
- 4&5. Philip Keith owns two properties, one at 1112 Grand and the other at 1102 Grand Avenue.

Each property owner was made an offer based on the appraisals. The Public Works Department has received a separate market analysis of the six properties and has made new offers to the property owners based on that market analysis. Based on the market analysis, Merle Johns and the Dairy Queen property were made offers for the whole property due to the loss in parking. The Public Works Department was asking for a response from the offers by May 12, 2006. Ben Brown, owner of First National Pawn, was the only property owner to accept the offer.

ALTERNATIVES ANALYSIS

Approve resolution authorizing condemnation of property on Grand Avenue. Under this option, City Staff would proceed with the condemnation process.

Do not approve resolution authorizing condemnation of property on Grand Avenue. Under this option, the city would need to reconsider the project with the right-of-way that has been acquired. This could include reconstructing the existing four-lane section.

RECOMMENDATION

Staff recommends that Council approve the resolution authorizing condemnation of five properties on Grand Avenue from 8th Street West to 12th Street West.

RESOLUTION NO. _____

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 12th day of June, 2006.

RON TUSSING, Mayor

ATTEST:

MARITA HEROLD
City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF GRAND AVENUE PROPERTY ACQUISITION

1. A tract of land identified as 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.
2. A tract of land identified as 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.
3. 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.
4. 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.
5. 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.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 12, 2006

TITLE: Site Development Ordinance Variance #CC06-01

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: On the May 22, 2006 City Council Meeting, City Council delayed action on the Site Development Ordinance Variance #CC06-01. This variance was delayed so City Staff could clarify issues regarding the Waiver of Right to Protest the Creation of a Special Improvement District. Susan J. Zurbuchen, owner of Lot 1, Block 1, of Bitterroot Subdivision is seeking a variance from the Site Development Ordinance Section 6-1206. Generally, this section states that in all zoning districts sidewalk, curb, and gutter shall be constructed, and the City Engineer is authorized to waive such improvements if a Waiver of Right to Protest is signed.

ALTERNATIVES ANALYZED:

- Approve the Variance that does not require the property owner to install the required improvements or sign a Waiver of Right to Protest.
- Do not approve the Variance and require the property owner to install the required improvements or require the property owner to sign a Waiver of Right to Protest.

FINANCIAL IMPACT: There is no financial impact associated with this variance.

RECOMMENDATION

Staff recommends that Council does not approve the variance and requires the property owner to sign the Waiver of Right to Protest the Creation of a Special Improvement District before the issuance of a building permit.

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

ATTACHMENT

- A. Variance Application (3 pages)

INTRODUCTION:

Susan J. Zurbuchen, owner of Lot 1, Block 1, of Bitterroot Subdivision is seeking a variance from the Site Development Ordinance Section 6-1206. Section 6-1206 Curbs, Gutters, and Sidewalks in all zones 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. The city engineer is authorized to waive the time requirements of section 6-1203(u) for installation of the curb, gutter and sidewalk, upon receipt of a proper application accompanied by a waiver for the right to protest creation of a special improvement district in the future to install these improvements. The waiver must be executed by the property owner and must run with the land.

This lot is located at 1747 Wicks Lane. The lot is located on the corner of Wicks Lane and Duran Drive. Duran Drive is currently an unimproved street. The portion of Wicks Lane fronting the property has been improved across the street (the south side of Wicks Lane) with curb, gutter, sidewalk, and 30-feet of asphalt surfacing. The north side of Wicks Lane fronting the property is currently a gravel-surfaced road with no curb, gutter and sidewalk. An irrigation ditch also runs along the front of the property along Wicks Lane. The owners are proposing to build a garage off of Duran Drive. All the other streets within the subdivision, Elaine Street, Maurine Street, Janie Street, and Cheryl Street, already have installed curb, gutter, and street paving. Wicks Lane and Duran, the streets which front both sides of the property have no improvements.

In lieu of placing curb, gutter and sidewalk and doing street improvements, the City Engineer's Office has agreed to accept a Waiver of Right to Protest the Creation of a Special Improvement District per Section 6-1206 of the Site Development Ordinance. The property owner does not want to do any street improvements and does not want to sign the Waiver of Right to Protest.

BACKGROUND

When a building permit is issued, property owners are required to bring their property into conformance with City Code. The Site Development Ordinance requires that curb, gutter and sidewalk be placed along property frontages. In addition, asphalt surfacing is required. When a single lot comes in for a building permit, the property owner is required to install the necessary improvements. The Site Development Ordinance allows the City Engineer's office to delay installation of these improvements by allowing the property owner to sign a Waiver of Right to Protest. The Waiver of Right to Protest the Creation of a Special Improvement District could be valuable when a Special Improvement District is created for the entire area to install street improvements.

Mr. Zurbuchen was present at the May 22, 2006 City Council meeting and stated that there was inconsistency in the issuance of Building Permits within his neighborhood. Our office has reviewed all recent building permit applications and found that either Waivers of Right to

Protest the Creation of a Special Improvements District were required or that the required improvements were previously installed. The pictures Mr. Zurbuchen provided show garages that were constructed off of the alley, for which no improvements are required. The pictures also show garages built off the street and the street is paved with curb and gutter.

It appears that Mr. Zurbuchen's concern with the Waiver of Right to Protest the Creation of a Special Improvement District is that it is all inclusive. The Public Works Department will provide to Mr. Zurbuchen a Waiver of Right to Protest the Creation of a Special Improvement District for the required improvements that would include waiving the right to protest the construction of curb, gutter, sidewalk, and street improvements.

ALTERNATIVES ANALYSIS

If the Variance is approved, the property owner will not be required to install the required improvements, and the property owner will have the right to protest the creation of a Special Improvement District.

If the Variance is not approved, the property owner will be required to construct the improvements or sign a Waiver of Right to Protest the creation of a Special Improvement District. The City Engineer's Office has agreed to allow the property owner to sign the Waiver of Right to Protest the creation of a Special Improvement District in lieu of constructing the required improvements.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

If street improvements are not done, signing a Waiver of Right to Protest the creation of a Special Improvement District is consistent with policy and is required by the Site Development Ordinance.

RECOMMENDATION

Staff recommends that Council does not approve the variance and requires the property owner to sign the Waiver of Right to Protest the Creation of a Special Improvement District before the issuance of a building permit.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 12, 2006

SUBJECT: Resolution Awarding Sale of Bonds Relating to \$851,000 Pooled Special Improvement District Series 2006

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City Council has previously approved the authorization for the sale of bonds relating to Pooled Special Improvement District Series 2006. This staff memo recommends award of the sale of bonds totaling \$851,000 for the financing of construction for the following projects:

SID 1368-Annandale Road extension	\$ 227,000
SID 1370-Interlachen Drive improvements	\$ 333,000
SID 1373-South Billings Boulevard improvements	\$ 291,000

BACKGROUND INFORMATION: Bids on \$851,000 in bonds will be received June 12, 2006, and a report will be made at the Council meeting.

RECOMMENDATION

Staff recommends award of the bond bid to _____ at _____ true interest rate.

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

ATTACHMENT

A – Resolution

ATTACHMENT A

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$851,000 POOLED SPECIAL IMPROVEMENT DISTRICT BONDS, SERIES 2006 (SPECIAL IMPROVEMENT DISTRICT NOS. 1368, 1370, AND 1373); AWARDING THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on June 12, 2006, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

_____; voted against the same:

_____; abstained from voting thereon:

_____; or were absent: _____

_____.

WITNESS my hand and seal officially this _____ day of June, 2006.

(SEAL)

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO \$851,000 POOLED SPECIAL IMPROVEMENT DISTRICT BONDS, SERIES 2006 (SPECIAL IMPROVEMENT DISTRICT NOS. 1368, 1370, AND 1373); AWARDING THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO

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

1. This Council on May 22, 2006 adopted Resolution No. 08-18422 providing for the public sale of \$851,000 Pooled Special Improvement District Bonds (the “Bonds”) to finance the costs of certain local improvements to be undertaken in or for the benefit of Special Improvement District Nos. 1368, 1370, and 1373. Notice of the sale has been duly published in accordance with Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106. Pursuant to the notice of sale, two (2) bids for the purchase of the Bonds were received at or before the time specified for receipt of bids. The bids have been opened or accessed and publicly read and considered, and the purchase price, interest rates and net interest cost under the terms of each bid have been determined.

2. The bid of RBC Capital Markets of Chicago, Illinois (the “Purchaser”), attached as Exhibit A, to purchase the Bonds of the City, is hereby determined to comply with the notice of sale, and to be the lowest, most reasonable bid for the purchase of the Bonds. The bid of the Purchaser is hereby accepted by the Council and the sale of the Bonds is hereby awarded to the Purchaser. The bid security of the Purchaser shall be retained pending delivery of the payment for the Bonds and the bid security of all other bidders shall be promptly returned.

3. The Mayor and City Clerk are hereby authorized and directed to execute a purchase contract with the Purchaser with respect to the Bonds.

4. The Preliminary Official Statement relating to the Bonds, dated June 1, 2006, is hereby approved. The officers of the City are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement.

5. This Council shall prescribe the form and security for the Bonds in a subsequent resolution.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 12th day of June, 2006.

Mayor

Attest: _____
City Clerk

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