

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

October 10, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Larry Brewster

ROLL CALL

MINUTES – September 25, 2006

COURTESIES

PROCLAMATIONS

- Month of October – National Arts and Humanities Month
- October 14: National Martial Arts Day

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #6 and #7 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) **Vehicles, City of Billings.** (Opened 9/26/06). Recommend Schedules I, II, IV, VI, VII, VIII, X, XI and XII with trades be award to Archie Cochrane Ford, \$251,519.00 and Schedules II, V and IX with trades be awarded to Denny Menholt Chevrolet, \$107,359.03.

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

(2) One New 10,275 Pound Tracked Excavator. (Opened 9/26/06). Recommend Westco Machinery Inc., \$55,762.00.

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

(3) Gasoline, Diesel Fuel & Lubrication Products. (Opened 9/26/06). Recommend Schedule A to GM Petroleum Distributors and Schedule B to A & I Distributors.

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

(4) New Skid Steer Loader for Billings Logan International Airport. (Opened 9/26/06). Recommend Yellowstone County Implement, \$24,772.23.

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

(5) Pneumatic Pipe Bursting System to Install 8" IPS, 10" IPS and 12"IPS HDPE Pipe. (Opened 9/26/06). Recommend Vermeer Rocky Mountain, Inc., \$140,000.00.

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

(6) Window Replacement for the Airport Administration Offices for Billings Logan International Airport. (Opened 9/26/06). Recommend Dale & Jax, \$77,370.00.

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

(7) One 2007 Current Model 48,000 GVW 8-Yard Dump Truck. (Opened 10/10/06). Recommend delaying award to 10/23/06.

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

B. C.O. #10, W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, \$6,572.40.

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

C. C.O. #11, W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, not to exceed \$145,000.00.

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

D. Approval to Trade-in the Replaced City Hall AS/400 (9406 Model 720 Feature 2061 Serial #10-42 LAM) in exchange for \$13,000 trade-in value credit from IBM for future purchase of IBM hardware, software, services and education.

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

E. Donation of Equipment Unit #1970 and all attachments to the Business Improvement District.

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

F. Confirmation of Probationary Police Officers:

- (1) George Zorzakis
- (2) Thomas Keightley.

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

G. Authorization for the City of Billings to administer two Children's Advocacy Center (CAC) Grants.

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

H. Subordination of Rental Rehabilitation Loan, Gary Fox applicant, \$15,392.50.

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

I. Second/final reading ordinance for Zone Change #790: A zone change from Residential-9,600 to Neighborhood Commercial on a 0.913- acre parcel of land described as the North 1 acre (less 3,795 sq ft for street) of the E2 of Lot 2 in the NE4 of Section 9, Township 1 South, Range 26 East and located at 4130 State Avenue. Guy & Lloyd Romero, owners; George Esparza and Valerie Dangerfield, agents.

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

J. Second/final reading ordinance for Zone Change #791: A City Council-initiated zone change to correct the zoning from Public to Residential-9,600 on a 20,022 square parcel of land described Lots 19 and 20 of Block 61, Lake Hills Subdivision, 27th Filing and located at 241 and 301 Glenhaven Drive. Lloyd & Leon Irvine and Laura Dimmler and Robert Guisti, owners; City of Billings, agent.

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

K. Second/final reading ordinance for Zone Change #792: A City Council-initiated zone change to correct the zoning from Agriculture-Open Space to Public on a 202-acre parcel of land described as Tract 1 of C/S 2432 and Tracts 1-8 & 11 of C/S 2037 and generally located on Airport Property. City of Billings, owner/agent.

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

L. Preliminary Plat of E.D. King Subdivision, generally located on the northeast corner of Grand Avenue and Zimmerman Trail; conditional approval of the plat, approval of the variance and adoption of the findings of fact. (Delayed from 9/25/06).

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

M. Final plat of Bellville Subdivision. (Delayed from 9/25/06).

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

N. Bills and payroll.

(1) September 8, 2006

[\(Corresponding Staff Memo N1\)](#)

(2) September 15, 2006

[\(Corresponding Staff Memo N2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION approving an application for a tax incentive under Res #05-18376 and 15-24-1401 MCA for Home Training Tools,

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

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

3. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annex #06-13: a 64.714 acre parcel described as Tracts 1 and 2, C/S 2054, and Cynthia Park; Krutzfeldt Ranch LLC, owner. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

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

4. **PUBLIC HEARING AND FIRST READING ORDINANCE** relating to the creation of the East Billings Urban Renewal Area; and adopting an urban renewal plan, including a tax increment provision. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

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

5. **PUBLIC HEARING AND FIRST READING ORDINANCE** modifying the Urban Renewal Plan of 27th Street District Urban Renewal Area to include certain property formerly part of the Downtown Redevelopment District in order to establish the *Extended North 27th Street District Urban Renewal Area.*; adopting a modified urban renewal plan therefor, including a tax increment provision; approving an urban renewal project therein and authorizing the issuance of tax increment urban renewal revenue bonds of the City to finance costs thereof. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

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

6. **2006 CTEP PROJECT APPLICATIONS** to be submitted to the Montana Department of Transportation for funding from the Community Transportation Enhancement Project (CTEP) program. Staff recommends the Council formulate a recommendation for the Mayor to take to the Policy Coordinating Committee (PCC). (**Action:** approval or disapproval of Staff recommendation.)

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

7. **CITY ADMINISTRATOR CONTRACT** with Tina Volek. (Delayed from 9/25/06.) Staff recommends approval of the employment agreement. (**Action:** approval or disapproval of Staff recommendation.)

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

8. **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

(NOTE: Additional information on any of these items is available in the City Clerk's Office)

Visit our Web site at:
<http://ci.billings.mt.us>

CALENDAR (Council AND Boards & Commissions)

OCTOBER:

10/02/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
10/03/2006	Electronic Signs Ad Hoc Committee Community Development Board Zoning Commission Aviation & Transit Commission	1:00 p.m. 3:00 p.m. 4:30 p.m. 5:30 p.m.	4 th Floor Library 4 th Floor Library Council Chambers Airport
10/04/2006	Policy Coordinating Committee Board of Adjustment	8:00 a.m. 6:00 p.m.	4 th Floor Library Council Chambers
10/05/2006	EMS Commission Human Relations Commission	7:30 a.m. 12:15 p.m.	Main Fire Station Conf. Rm 2300 9 th Ave. N. CH Conference Room
10/09/2006	COLUMBUS DAY – CITY OFFICES CLOSED		
10/10/2006	Parking Advisory Board Planning Board REGULAR Council Meeting	4:00 p.m. 6:00 p.m. 6:30 p.m.	CH Conference Room 4 th Floor Library Council Chambers
10/11/2006	Parks/Recreation/Cemetery Bd	11:30 a.m.	Community Center 360 N. 23 rd St.
10/12/2006	Library Board Homeless Committee	NOON 2:00 p.m.	Library 3 rd Floor Library

10/16/2006	Energy & Conservation Commission Council WORK SESSION	3:00 p.m. 5:30 p.m.	BOC Conference Room Community Center 360 N. 23 rd St
10/17/2006	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
10/19/2006	Public Utilities Board	6:30 p.m.	Public Works-Belknap 2251 Belknap Ave
10/23/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
10/24/2006	Planning Board Traffic Control Board Board of Ethics	6:00 p.m. NOON 4:00 p.m.	4 th Floor Library 4 th Floor Library CH Conference Room
10/25/2006	Housing Authority Development Process Advisory Review Board (DPARB)	NOON 1:00 p.m.	2415 1 st Avenue North CH Conference Room
10/26/2006	Yellowstone County Board of Health (Note: November and December meetings to be combined at a date decided in October)	7:00 a.m.	Community Health Center

NOVEMBER:

11/01/2006	Policy Coordinating Committee	8:00 a.m.	4 th Floor Library
11/02/2006	Human Relations Commission	12:15 p.m.	CH Conference Room
11/06/2006	Community Development Board Council WORK SESSION	3:00 p.m. 5:30 p.m.	4 th Floor Conf. Rm. Community Center 360 N. 23 rd St
11/07/2006 ELECTION DAY – CITY OFFICES CLOSED			
11/08/2006	Zoning Commission Aviation & Transit Commission	4:30 p.m. 5:30 p.m.	Council Chambers Airport Terminal
11/08/2006	Parks/Recreation/Cemetery Bd Board of Adjustment	11:30 a.m. 6:00 p.m.	Community Center 360 N. 23 rd St. Council Chambers
11/09/2006	Library Board Homeless Committee	NOON 2:00 p.m.	Library 3 rd Floor Library
11/10/2006 VETERAN'S DAY – CITY OFFICES CLOSED			
11/13/2006	Energy & Conservation Commission Parking Advisory Board REGULAR Council Meeting	3:00 p.m. 4:00 p.m. 6:30 p.m.	BOC Conference Room CH Conference Room Council Chambers
11/14/2006	Planning Board	6:00 p.m.	4 th Floor Library

11/20/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
11/21/2006	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
11/22/2006	Housing Authority Development Process Advisory Review Board (DPARB)	NOON 1:00 p.m.	2415 1 st Avenue North CH Conference Room
11/23/2006	THANKSGIVING DAY – CITY OFFICES CLOSED		
11/27/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
11/28/2006	Planning Board	6:00 p.m.	4 th Floor Library
11/29/2006	Housing Authority	NOON	2415 1 st

A1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Tuesday, October 10, 2006

TITLE: Award of bid for City Vehicles
DEPARTMENT: Administration – Motor Pool
PRESENTED BY: Larry Deschene, Motor Pool Manager

PROBLEM/ISSUE STATEMENT: Nineteen City Vehicles are scheduled for replacement in the City's Equipment Replacement Program and were approved by City Council during the FY 06/07 budget process.

The bids are for the following types of vehicles:

- One compact sedan (Building),
- Two ½ ton mid-size extended cab pickups (1 Code Enforcement/ 1 Engineering),
- One full size 4x4 SUV (Fire),
- One mid-size 4x4 SUV (Fire),
- Four mid-size sedans (3 Police/ 1 Fire),
- Two ½ ton mid-size 2wd regular cab pickups (1 Recreation/ 1 Motor Pool),
- One ¾ ton 2wd pickup (Solid Waste),
- One 1 ton regular cab 2wd pickup (PW Belknap),
- One ½ ton mid-size 4x4 extended cab pickup (PW Belknap),
- One 1-ton 4x4 extended cab pickup with utility box and air compressor (PW Belknap),
- Three ¾ ton 2wd regular cab pickups with utility boxes (PW Belknap),
- One 1-ton regular cab 2wd dual rear wheel pickup with flatbed (PW Belknap).

The Purchasing Division advertised for sealed bids for City Vehicles on September 14 and 21, 2006, with a bid opening on September 26, 2006.

FINANCIAL IMPACT: The City received 2 bids on the vehicles as outlined below:

Bid Schedule I – One Compact Sedan

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$13,553.11	\$500.00	\$13,053.11
Archie Cochrane Ford	\$12,600.00	\$700.00	\$11,900.00

Bid Schedule II – Two Mid-size Ext. Cab Pickups

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$29,249.78	\$1,250.00	\$27,999.78
Archie Cochrane Ford	\$28,400.00	\$2,800.00	\$25,600.00

Bid Schedule III – One full size 4x4 SUV

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$34,591.22	\$3,000.00	\$31,591.22
Archie Cochrane Ford	No Bid		

Bid Schedule IV – One mid-size 4x4 SUV

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$31,884.11	None	\$31,884.11
Archie Cochrane Ford	\$24,800.00	None	\$24,800.00

Bid Schedule V – Four mid-size sedans

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$61,514.92	\$2,500.00	\$59,014.92
Archie Cochrane Ford	\$75,600.00	\$4,350.00	\$71,250.00

Bid Schedule VI – Two ½ ton mid-size 2wd regular cab pickups

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	No Bid		
Archie Cochrane Ford	\$28,000.00	\$200.00	\$27,800.00

Bid Schedule VII – One ¾ ton 2wd pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	No Bid		
Archie Cochrane Ford	\$18,702.00	None	\$18,702.00

Bid Schedule VIII – One 1 ton regular cab 2wd pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	No Bid		
Archie Cochrane Ford	\$19,530.00	\$2,000.00	\$17,530.00

Bid Schedule IX – One ½ ton mid-size 4x4 extended cab pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$16,752.89	None	\$16,752.89
Archie Cochrane Ford	\$17,500.00	None	\$17,500.00

Bid Schedule X – One 1-ton 4x4 extended cab pickup with utility box and air compressor

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	No Bid		
Archie Cochrane Ford	\$37,650.00	\$3000.00	\$34,650.00

Bid Schedule XI – Three ¾ ton 2wd regular cab pickups with utility boxes

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>

Denny Menholt Chevrolet	No Bid
Archie Cochrane Ford	\$70,890.00
	\$3650.00
	\$67,240.00

Bid Schedule XII – One 1-ton regular cab 2wd dual rear wheel pickup with flatbed

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	No Bid		
Archie Cochrane Ford	\$23,297.00	None	\$23,297.00

RECOMMENDATION

Staff recommends that City Council award Schedules I, II, IV, VI, VII, VIII, X, XI, and XII with trades to Archie Cochrane Ford for the bid amount of \$251,519.00 and to award Schedules III, V and IX with trades to Denny Menholt Chevrolet for the bid amount of \$107,359.03.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: One (1) New 10,275 Pound Tracked Excavator
DEPARTMENT: Public Works Department
PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Department received bids for one (1) new 10,275 pound tracked excavator in accordance with the approved equipment replacement plan and is recommending award.

FINANCIAL IMPACT: The bid was advertised on September 14 and September 21, 2006. There is sufficient money in the FY 07 budget for the Construction and Equipment Fund to cover the award. Four bids were received on September 26, 2006, as follows:

Modern Machinery Co., Inc.....	\$50,000.00
Westco Machinery, Inc.	\$55,762.00
Western Plains Machinery Co.	\$56,850.00
Western Plains Machinery Co.	\$58,416.00

RECOMMENDATION

Staff recommends that Council award the bid for one (1) new 10,275 pound tracked excavator to Westco Machinery Inc. in the amount of \$55,762.00. The unit bid by Modern Machinery Co., Inc. does not meet bid specifications.

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

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CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, OCTOBER 10, 2006

TITLE: Award of bids for supply of City-Wide Gasoline, Diesel Fuel and Lubrication Products.

DEPARTMENT: Administration – Motor Pool

PRESENTED BY: Larry Deschene, Motor Pool Manager

PROBLEM/ISSUE STATEMENT: The Motor Pool Division administers the annual contracts for all gasoline, diesel fuel and lubrication products for City equipment. The bids are for: Schedule A: gasoline, diesel fuel and optional bids for biodiesel B2 and biodiesel B10 and Schedule B: lubrication products.

The Purchasing Division advertised for sealed bids for Gasoline, Diesel Fuel and Lubrication Products on September 14 and 21, 2006, with a bid opening on September 26, 2006.

FINANCIAL IMPACT: All departments with city equipment budget for the fuel and lubrication products expense. Four bids were received September 26, 2006, as outlined below:

SCHEDULE A – GASOLINE AND DIESEL FUEL PRODUCTS

Town and Country Supply:

Price/Gallon x Estimated Amount = Total Bid (Cost to City)			
Regular Unleaded (85)	\$2.1497	5,000	\$ 10,748.50
Mid Grade Unleaded (88)	\$2.1212	240,000	\$ 509,088.00
Super Unleaded (91)	\$2.2997	5,000	\$ 11,498.50
#1 Diesel	\$2.2347	50,000	\$ 111,735.00
#2 Diesel	\$1.9847	475,000	\$ 942,732.50
Total Bid			\$1,585,802.50
Optional: Biodiesel(B2)	\$1.9947	475,000	\$ 947,480.03
Optional: Biodiesel(B10)	\$2.0347	475,000	\$ 966,470.15

GM Petroleum Distributors:

Price/Gallon x Estimated Amount = Total Bid (Cost to City)			
Regular Unleaded (85)	\$2.0249	5,000	\$ 10,124.50
Mid Grade Unleaded (88)	\$2.0744	240,000	\$ 497,856.00
Super Unleaded (91)	\$2.1635	5,000	\$ 10,817.50
#1 Diesel	\$2.0888	50,000	\$ 104,440.00

#2 Diesel	\$1.8413	475,000	\$ 874,617.50
Total Bid			\$1,497,855.50
Optional: Biodiesel(B2)	\$2.0514	475,000	\$ 974,415.50
Optional: Biodiesel(B10)	\$2.2693	475,000	\$1,077,917.50

Stockton Oil Company :

	Price/Gallon x	Estimated Amount	= Total Bid (Cost to City)
Regular Unleaded (85)	\$2.327	5,000	\$ 11,635.00
Mid Grade Unleaded (88)	\$2.407	240,000	\$ 577,680.00
Super Unleaded (91)	\$2.467	5,000	\$ 12,335.00
#1 Diesel	\$2.1925	50,000	\$ 109,625.00
#2 Diesel	\$1.9425	475,000	\$ 922,687.50
Total Bid			\$1,633,962.50
Optional: Biodiesel(B2)	No Bid		
Optional: Biodiesel(B10)	No Bid		

A & I Distributors: No Bid

The gasoline and diesel fuel price per gallon will rise and fall with the market based on the posted refinery rack price. The total amount listed is the current price per gallon times the estimated annual usage. The City pays \$.27 State tax and \$.0097 storage clean-up, superfund and (L.U.S.T.) tax per gallon with no federal tax for gasoline products. For diesel fuel products, the City pays storage clean-up and superfund tax of \$.0097 per gallon with no state or federal tax.

SCHEDULE B - LUBRICATION PRODUCTS

Stockton Oil Company:	\$ 91,068.10
A & I Distributors:	\$ 90,882.30
GM Petroleum:	\$116,304.00
Town & Country Supply:	No Bid

RECOMMENDATION

Staff recommends that City Council award Schedule A, the gasoline and diesel fuel contract to GM Petroleum Distributors and Schedule B, the lubrication products contract to A & I Distributors.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Tuesday, October 10, 2006

TITLE: Approval of the Award to Supply a New Skid Steer Loader

DEPARTMENT: Aviation and Transit

PRESENTED BY: Thomas H. Binford, A.A.E., Interim Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: Each year the Airport undertakes a number of maintenance and minor construction projects that require the need to rent a Skid Steer Loader. A Skid Steer Loader is known to most people as a "Bobcat," even though that is a name brand and many other equipment manufacturers now offer a similar type of equipment. This versatile piece of equipment can be utilized for a number of different types of projects, including fencing, installing sign posts and bollards, landscaping and ground maintenance, small pavement projects, snow removal, and even as a small forklift. The successful bidder will be required to provide the Skid Steer Loader, as well as a hole drilling auger attachment, a bucket with a bolt-on asphalt cutter, and adjustable pallet jacks. This piece of equipment was an approved FY 07 budget item. In spite of advertising this project in the *Billings Times* and on the City's Web site, on Tuesday, September 26, 2006, we received only one valid bid:

<u>SUPPLIER</u>	<u>BID</u>
Yellowstone County Implement	\$24,772.23
Tractor and Equipment	No Bid
ESTIMATE	\$30,000

FINANCIAL IMPACT: The total cost of this equipment is \$24,772.23. The source of the funding for this project is the Department's Capital Fund.

RECOMMENDATION

Staff recommends that the City Council approve the award for the supply of a New Skid Steer Loader to the sole bidder Yellowstone County Implement, in the amount of \$24,772.23.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Tuesday, October 10, 2006

TITLE: Pneumatic Pipe Bursting System

DEPARTMENT: Public Works Department

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Department received bids for Pneumatic Pipe Bursting System to install 8" IPS, 10" IPS and 12" IPS HDPE Pipe in accordance with the approved equipment replacement plan and is recommending award.

FINANCIAL IMPACT: The bid was advertised on September 14 and September 21, 2006. There is sufficient money in the FY 07 budget for the Construction and Equipment Fund to cover the award. Two bids were received on September 26, 2006, as follows:

Pipe Genie.....	\$ 54,900.00
Vermeer Rocky Mountain, Inc.	\$140,000.00

RECOMMENDATION

Staff recommends that Council award the bid for the Pneumatic Pipe Bursting System to Vermeer Rocky Mountain, Inc. in the amount of \$140,000.00. The unit bid by Pipe Genie does not meet bid specifications.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Tuesday, October 10, 2006

TITLE: Approval of the Contract for New Windows for the Airport Terminal Building's Second Floor Offices

DEPARTMENT: Aviation and Transit

PRESENTED BY: Thomas H. Binford, A.A.E., Interim Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: The existing exterior windows in the Terminal Building's second floor offices are the original windows installed in 1958. In the past several years, they have required increased maintenance to stop water and wind leakage. In addition, they are very energy inefficient and offer little thermal resistance, which increases the heating and cooling costs during the Winter and Summer months. This project, which is included in the City's Capital Improvement Program, will replace existing windows in the thirteen office areas with new energy efficient windows. In spite of advertising this project in the *Billings Times* and on the City's Web site, on September 26, 2006, we received only one bid for this project:

<u>CONTRACTOR</u>	<u>BID</u>
Dale & Jax	\$77,370
ESTIMATED COST	\$100,000

FINANCIAL IMPACT: The total cost of this project is \$77,370. The source of funding for this project is the Department's Capital Budget.

RECOMMENDATION

Staff recommends that the City Council approve the award of the New Windows for the Airport Terminal Building's Second Floor Offices to the sole bidder Dale & Jax, in the amount of \$77,370.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: One (1) 2007 Current Model 48,000 GVW 8-Yard Dump Truck

DEPARTMENT: Public Works Department

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Department will receive bids for one (1) 2007 current model 48,000 GVW 8-yard dump truck in accordance with the approved equipment replacement plan and is recommending award.

FINANCIAL IMPACT: There is sufficient money in the FY 07 budget for the Construction and Equipment Fund to cover the award. Bids will be received on October 10, 2006.

RECOMMENDATION

Staff recommends delaying the award of the bid until the October 23, 2006 City Council meeting in order to allow staff additional time to evaluate the bids received.

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

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B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Tuesday, October 10, 2006

TITLE: W.O. 04-13, Schedule I—Filter Building Expansion and Improvements,
Change Order Number Ten

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: HDR Engineering, the designer and consultant for the expansion and improvements to the Water Treatment Plant (WTP) Filter Building (W.O. 04-13), has submitted Change Order Number Ten to modify the construction contract with COP Construction. Change Order No. Ten involves labor and materials related to modifying the type of unit heaters to be used, extending a concrete slab, providing reducers for the blower piping, deleting a window, and rerouting HVAC duct. No additional time has been requested, but a change in costs results from the recommended changes, as outlined below.

The original drawings show wall-mounted unit heaters to be installed. WTP personnel requested and had intended to have suspended type unit heaters, so the wall-mount units must be changed. The change in material results in additional costs of \$1,114.89.

The south gallery ground floor slab is designed to interface with the existing roof slab of the east tunnel. During construction, it was discovered the tunnel slab is lower than the new slab. To create the interface between the two, the new slab must be extended over the existing slab and associated reinforcing rebar must be added. The labor and materials needed to achieve this interface result in additional costs of \$853.70.

On the new blowers, the sizes of the suction flanges and the intake silencer/filters are 10-inch. However, the plans call for a 12-inch modulating butterfly valve to be placed in between the blower and the intake silencer/filter. In lieu of replacing the 12-inch valve with a 10-inch, it has been determined to be more cost affective to install 12" X 10" reducers on each side of the valve on each blower. The labor and materials for installing the reducers result in additional costs of \$1,808.67.

The plans call for new windows in Area 'D', the new Operations Center area. WTP personnel have determined one of the existing windows does not need to be replaced. Dry wall will be installed up to the existing opening, and the existing window will remain. Eliminating one new window will reduce the materials originally required, resulting in a cost deduction of \$944.32.

The original routing of the HVAC ducting was designed to minimize the number of bends in the duct system, but it has been discovered that this routing would partially cover up some windows above doors and the tops of other windows. To avoid these conflicts with windows, windows above doors, and with spandrel beams, the ducting must be rerouted. The labor and materials needed to complete this rerouting result in additional costs of \$3,739.46.

In summary, Change Order Number Ten creates an increase of \$6,572.40 to the contract amount, but no change to the schedule for time of completion. The Change Order Cover Sheet is shown in Attachment A.

FINANCIAL IMPACT: W.O. 04-13 – Water Treatment Plant Filter Building Expansion and Improvements is being funded by a State Revolving Fund (SRF) loan and supplemented by the City's Utilities Water Building and Operation Facilities Fund, Account #416-7493-603-9220. Change Order Number Ten represents an addition to the project's costs. The approved project budget includes a contingency to pay for unforeseen circumstances characteristic with those depicted in Change Order Number Ten. There are adequate funds available to cover the additional costs. The table below summarizes the financial impact to the project.

ORIGINAL CONSTRUCTION CONTRACT:	\$16,400,000.00	
	Amount	% Of Contract
Change Orders 1 A thru 5 (Additions)	\$ 99,397.19	0.61%
Change Order No. 6 (Deduction)	(\$ 1,588.17)	-0.01%
Change Order No. 7 (Addition)	\$ 2,029.08	0.01%
Change Order No. 8 (Addition)	\$ 48,312.49	0.29%
Change Order No. 9 (Addition)	\$ 6,349.72	0.04%
Change Order No. 10 (Addition)	\$ 6,572.40	0.04%
TOTALS to date:	\$161,072.71	0.98%

RECOMMENDATION

Staff recommends that Council approve Change Order Number Ten to the construction contract with COP Construction for W.O. 04-13, Schedule I—Filter Building Expansion and Improvements, adding \$6,572.40 to the contract.

Approved By: City Administrator City Attorney

ATTACHMENT

A. Cover sheet of Change Order Number Ten

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: W.O. 04-13, Schedule I—WTP Filter Building Expansion and Improvements, Change Order Number 11

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: HDR Engineering, the designer and consultant for the expansion and improvements to the Water Treatment Plant (WTP) Filter Building (W.O. 04-13), has submitted Change Order Number 11 to modify the construction contract with COP Construction. Change Order No. 11 involves labor and materials related to modifying the backwash drain piping in new Filters 1-4.

On Wednesday, September 20, 2006, the City was notified by HDR that a design flaw had been detected in the construction of the four new filters. The elevation of the filter influent/backwash drain pipe was too high. When preliminary backwash activities were started, flow from the backwash entered the influent pipe and influent flume, which would not be acceptable for final operation of the filters. HDR took full responsibility for the design flaw and stated they would pay any additional costs associated with fixing the problem.

HDR developed a fix to the problem within 24 hours of detection. COP submitted an estimate to the City on Friday, September 22, for the complete correction work. COP agreed to perform the work on a time and materials (T&M) basis utilizing a change order written with a not-to-exceed amount of \$145,000. The cover sheet of the change order is shown in Attachment A.

The correction work must be completed immediately to maintain the schedule for the critical path of putting the new filters on-line by November 1. This work is crucial for the progress and success of the entire project, so emergency verbal approval was received from City Council and the City Administrator on September 26, allowing COP to begin the work immediately.

HDR has provided a letter to the City, included as Attachment B, that guarantees payment to the City up to \$145,000 (the not-to-exceed amount of Change Order No. 11) as reimbursement for the work required to correct the design problem. Change Order No. 11 will increase the amount of the contract with COP, but reimbursement from HDR will result in a no-cost change to the City.

FINANCIAL IMPACT: W.O. 04-13 – Water Treatment Plant Filter Building Expansion and Improvements is being funded by a State Revolving Fund (SRF) loan and supplemented by the City's Utilities Water Building and Operation Facilities Fund, Account #416-7493-603-9220.

Change Order Number 11 represents an addition to the project contract with COP Construction, but the reimbursement from HDR Engineering results in no net change to the City's project cost. The table on the following page summarizes the financial impact of the project's change orders.

ORIGINAL CONSTRUCTION CONTRACT: \$16,400,000.00

	Amount	% Of Contract	Cumulative % Of Contract
Change Orders 1 A thru 5 (Additions)	\$ 99,397.19	0.61%	
Change Order No. 6 (Deduction)	(\$ 1,588.17)	-0.01%	
Change Order No. 7 thru 9 (Additions)	\$ 56,691.29	0.35%	
Change Order No. 10 (Addition)	\$ 6,572.40	0.04%	
Change Order No. 11	\$145,000.00	0.88%	
(Not-to-exceed addition of \$145,000, less \$145,000 reimbursement from HDR)			
TOTALs to date:	\$306,072.71		1.87%

RECOMMENDATION

Staff recommends that Council approve Change Order Number 11 to the construction contract with COP Construction for W.O. 04-13, Schedule I—Filter Building Expansion and Improvements, adding a not-to-exceed amount of \$145,000.00 to the contract amount, with the knowledge that HDR Engineering will reimburse the City for 100% of the costs incurred by Change Order No. 11.

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

ATTACHMENTS

Attachment 'A': Cover sheet of Change Order No. 11.
Attachment 'B': Letter of reimbursement guarantee from HDR Engineering.

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

D



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Tuesday, October 10, 2006

TITLE: Approval to Trade-in the Replaced City Hall AS/400 (**9406 Model 720 Feature 2061 Serial # 10-42LAM**)

DEPARTMENT: Administration - ITD

PRESENTED BY: David Watterson, ITD Manager

PROBLEM/ISSUE STATEMENT: The Information Technology Division wishes to transfer ownership of our old City Hall AS/400 (9406 Model 720 Feature 2061) to IBM for a trade-in credit of \$13,000. The trade-in promotion from IBM did not allow us to reduce the purchase price of the i5 system that was purchased in August of 2006. However, because of our recent i5 purchase, the promotion does allow us to obtain a \$13,000 credit in our account in exchange for our old AS/400 system. This credit does not expire and can be used to purchase any additional hardware, software, networking equipment, services, and education from IBM. In addition to the \$13,000 credit, IBM will pay all costs associated with the disposal of the AS/400. On the open market, our old City Hall AS/400 hardware is worth less than \$1,000.

FINANCIAL IMPACT: Our old City Hall AS/400 9406-720-2061 is of no future use to our organization and worth less than \$1,000 on the open market. The trade-in promotion from IBM will result in a \$13,000 credit in our account for future purchases of IBM hardware, software, services, and education.

RECOMMENDATION

Staff recommends that Council approve the request to trade-in the replaced City Hall AS/400 (9406 Model 720 Feature 2061) in exchange for \$13,000 in credit towards the future purchase of IBM hardware, software, services, and education.

Approved By: City Administrator _____ City Attorney _____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: DONATION OF UNIT #1970 AND ALL ATTACHMENTS TO THE BUSINESS IMPROVEMENT DISTRICT

DEPARTMENT: ADMINISTRATIVE SERVICES – PARKING DIVISION

PRESENTED BY: CHRIS MALLOW, PARKING SUPERVISOR

PROBLEM/ISSUE STATEMENT: The Parking Division is scheduled to replace the John Deere Tractor 318 #1970. This equipment is due for replacement in the Equipment Replacement Plan for FY 2007 and currently has 491 hours logged on it. The tractor is mainly used for snow removal and has a direct drive broom attachment, which is very high maintenance and is prone to break downs. Parts are expensive and hard to obtain for the broom system. Therefore, it had to be replaced two years ago, but the Division continues to have problems with the attachment. The tractor is unreliable and, due to the direct drive broom attachment, also not time-effective. The plan is to replace the tractor with a John Deere X700, 23 horsepower, gas tractor with a hydraulic-driven, hydraulic-angling broom attachment.

Lisa Harmon, Business Improvement District Director, has expressed interest in the tractor for the Business Improvement District's snow removal use. They are aware of the unit's current state and would accept it as a donation.

ALTERNATIVES ANALYZED:

- Accept Staff recommendation and donate unit #1970 to the Business Improvement District.
- Reject Staff recommendation and unit will be placed on next year's auction.

FINANCIAL IMPACT:

- Similar equipment has brought up to \$1000.00 at the City Auction.

RECOMMENDATION

Staff recommends that City Council donate unit #1970 to the Business Improvement District.

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

F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Confirmation of Probationary Police Officers George Zorzakis and Thomas Keightley

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: On September 26, 2005, Officers George Zorzakis and Thomas Keightley were hired by the Billings Police Department as probationary Police Officers. According to MCA 7-32-4113, their probationary period is for one year from date of hire. At this time, Officers Zorzakis and Keightley have completed their one year probation, and according to state statute, their names are to be submitted to City Council within 30 days for confirmation. All of the supervisor comments concerning Officers Zorzakis' and Keightley's performance are positive and indicate that they are doing a good job, and recommend confirmation.

RECOMMENDATION

City staff recommends Officers George Zorzakis and Thomas Keightley be confirmed as Billings Police Officers.

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

004.CONFIRMATION OF POLICE OFFICER

Cc: Lt. Cady for 10/10/2006 Council meeting
Chief St. John for 9/25/2006 Agenda Meeting
Capt. Verne Petermann
Capt. Tim O'Connell
Nancy Riggs, Payroll
Rhea Grandahl/Kari Dvorak
Marita Herold, City Clerk
Review Copy

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Request for the City of Billings to Administer Children's Advocacy Center (CAC) Grants

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: The Children's Advocacy Center Committee (consisting of representatives of the Billings Police Department, Yellowstone County Sheriff's Office, County Attorney, and Child Protective Services) are joining forces as community partners to establish the Yellowstone County Children's Advocacy Center (CAC) with the intent of minimizing trauma for victims of physical and sexual child abuse and increasing prosecution rates for perpetrators. The Committee has applied for two (2) grants totaling \$10,600 for training and has asked the City of Billings to act as grant administrator. City Council is being asked to approve the City of Billings as grant administrator for these two grants.

FINANCIAL IMPACT: If these grants are awarded, the City will receive \$5,000 in November, 2006 from the National Children's Alliance. The \$5,600 requested from the Children's Justice Act will be on a reimbursement basis back to the City.

RECOMMENDATION

Staff recommends that Council approve the City of Billings as grant administrator for the two grants submitted on behalf of the Children's Advocacy Center Committee.

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

INTRODUCTION

The Children's Advocacy Center Committee (consisting of representatives of the Billings Police Department, Yellowstone County Sheriff's Office, County Attorney, and Child Protective Services) are joining forces as community partners to establish the Yellowstone County Children's Advocacy Center (CAC) with the intent of minimizing trauma for victims of physical and sexual child abuse and increasing prosecution rates for perpetrators. The Committee has applied for two (2) grants totaling \$10,600 for training and has asked the City of Billings to act as grant administrator.

BACKGROUND

The Children's Advocacy Center Committee (consisting of representatives of the Billings Police Department, Yellowstone County Sheriff's Office, County Attorney, and Child Protective Services) are joining forces as community partners to establish the Yellowstone County Children's Advocacy Center (CAC) with the intent of minimizing trauma for victims of physical and sexual child abuse and increasing prosecution rates for perpetrators. The purpose of the CAC will be to establish a single, child-friendly location where all child abuse interviews can be conducted by trained personnel, thus reducing the necessity for multiple interviews and improving communication capabilities across agencies. In support of this endeavor, a CAC committee has been meeting regularly to develop an Interagency Agreement and protocol to begin formal CAC operations. In the course of the committee's investigations, it has become clear that there is no model for a CAC program of this type in Montana. It has become necessary to look outside our State for guidance. The Committee is seeking funding from the National Children's Alliance (\$5,000) and the Children's Justice Act (\$5,600) to send six Committee members to the 23rd National Symposium on Child Abuse to be held March 20-23, 2007, in Huntsville, Alabama. This Symposium will offer education and training designed specifically for medical providers, prosecutors, social workers and law enforcement personnel, and provides valuable networking and cross-training opportunities. The grant applications will be submitted by the Children's Advocacy Center Committee, and will facilitate training. Those Committee members who attend the training will assist in the development of a resource manual for all parties involved to continue to CAC. After the training is completed, this will be incorporated into our day-to-day operations. As there are multiple agencies involved in this project, there needs to be a designated grant administrator. This administrator will make travel arrangements and will be responsible for submitting reports as required.

ALTERNATIVES ANALYSIS

- Should no agency agree to serve as grant administrator, members of the Children's Advocacy Center (CAC) Committee will not receive the necessary training to establish a single, child-friendly location where all child abuse interviews can be conducted by trained personnel, thus reducing the necessity for multiple interviews.
- If the City of Billings steps up as grant administrator, the Children's Advocacy Center Committee will send selected members to the 23rd National Symposium on Child Abuse to be

held March 20-23, 2007 in Huntsville, Alabama. This training will lay the groundwork for establishing the single, child-friendly location for child abuse interviews.

STAKEHOLDERS

- The Billings Police Department, Yellowstone County Sheriff's office, Yellowstone County Attorney and Child Protective Services are joining forces as community partners to establish the Yellowstone County Children's Advocacy Center (CAC).
- Failure of the City of Billings to act as grant administrator will negate the goals of the CAC, therefore disbanding the Committee or temporarily putting the training on hold until such time that a grant administrator can be secured.

RECOMMENDATION

Staff recommends that Council approve the City of Billings as grant administrator for the two grants submitted on behalf of the Children's Advocacy Center Committee.

148. Administration of CAC Grants

cc: Lt. Cady for 10/10 Council meeting
Chief St. John for 9/25 Agenda Meeting
Capt. Dave Hinkel
Detective Ballantyne
Marita Herold, City Clerk
Review Copy
File

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday October 10, 2006

TITLE: Subordination of Rental Rehabilitation Loan
DEPARTMENT: Planning and Community Services
PRESENTED BY: Brenda Beckett, Community Services Manager
Vicki Lapp, Community Development Program Coordinator

PROBLEM/ISSUE STATEMENT: Gary Fox, a landlord who participated in the City of Billings Rental Rehabilitation Program has requested that the City of Billings subordinate the zero percent deferred loan given to him, in order to refinance and consolidate his first mortgage loans on his rental properties.

ALTERNATIVES ANALYZED: (1) To approve the loan, keeping the housing units affordable. (2) To deny the subordination request requiring Mr. Fox to pay back the funds loaned to him and losing 8 units of affordable housing.

FINANCIAL IMPACT: CDBG funds were provided to Mr. Fox for two different rental properties during 2005 and 2005 for assistance with minor repairs. The loans together total \$15,392.50 are zero percent interest and are typically held in second position behind the mortgage. It is deferred for an initial 5 year period, with an additional 5 years provided the recipient complies with rent and income restrictions imposed by program guidelines. Mr. Fox is applying for a loan consolidation which will consolidate all his separate mortgages on the properties into one loan. He is not receiving any cash back. The sole purpose of the loan is to allow the borrower to obtain a loan at a lower interest rate lowering the monthly payment for his mortgage. Staff has reviewed the market value of the properties and the preliminary HUD-1 settlement statement and has determined that subordinating the loan to a new consolidated mortgage loan and remaining in second position will not jeopardize the City's investments or create greater risk.

RECOMMENDATION

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

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

ATTACHMENT(S)

A. Subordination Agreements

SUBORDINATION AGREEMENT

Comes Now, The City of Billings, a Municipal Corporation, organized under the laws of the State of Montana, represents that it is the secured party under the provisions of a certain Trust Indenture dated October 18, 2004 executed by Gary Fox, and the City Attorney, Brent Brooks, as Trustee, recorded October 28, 2004 under Document 3309752 in the records of the Clerk and Recorder for Yellowstone County, Montana.

DO HEREBY SUBORDINATE the lien of said Trust Indenture to the lien and obligation of a Trust Indenture wherein Beartooth Bank is named as Beneficiary, Gary Fox is Grantor, and First Montana Title Company is named as Trustee, dated _____, recorded in book ___, page ___, under document number _____, Yellowstone County Montana.

The intent of the undersigned is to subordinate the first above described Trust Indenture to the new lien ONLY as it is related to the below described real property; and to retain the priority position of the first above described Trust Indenture as to all other real property described herein; to wit:

C/S AMDN Tr A @ 2 in Lot 15 Sugar Subdivision 9-1A-26E (93), to the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, Montana.

IN WITNESS WHEREOF, this instrument has been executed this _____ day of _____ 2006.

CITY OF BILLINGS

By: _____, Mayor

ATTEST: _____, City Clerk

ACKNOWLEDGEMENT

STATE OF MONTANA)
: ss.
County of Yellowstone)

On this _____ day of _____, 2006, before me, a Notary Public for the State of Montana, personally appeared RON TUSSING and MARITA HEROLD, known to be to be the Mayor and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Printed Name: _____
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission Expires: _____

SUBORDINATION AGREEMENT

Comes Now, The City of Billings, a Municipal Corporation, organized under the laws of the State of Montana, represents that it is the secured party under the provisions of a certain Trust Indenture dated August 23, 2005 executed by Gary Fox, and the City Attorney, Brent Brooks, as Trustee, recorded August 31, 2005 under Document 3346349 in the records of the Clerk and Recorder for Yellowstone County, Montana.

DO HEREBY SUBORDINATE the lien of said Trust Indenture to the lien and obligation of a Trust Indenture wherein Beartooth Bank is named as Beneficiary, Gary Fox is Grantor, and First Montana Title Company is named as Trustee, dated _____, recorded in book ___, page ___, under document number _____, Yellowstone County Montana.

The intent of the undersigned is to subordinate the first above described Trust Indenture to the new lien ONLY as it is related to the below described real property; and to retain the priority position of the first above described Trust Indenture as to all other real property described herein; to wit:

Lot 14, Block 87 of Billings Original Townsite to the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, Montana.

IN WITNESS WHEREOF, this instrument has been executed this _____ day of _____ 2006.

CITY OF BILLINGS

By: _____, Mayor

ATTEST: _____, City Clerk

ACKNOWLEDGEMENT

STATE OF MONTANA)
: ss.
County of Yellowstone)

On this _____ day of _____, 2006, before me, a Notary Public for the State of Montana, personally appeared RON TUSSING and MARITA HEROLD, known to be to be the Mayor and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Printed Name: _____

Notary Public for the State of Montana

Residing at Billings, Montana

My Commission Expires: _____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Zone Change #790, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Lora Mattox, AICP, Planner II, Neighborhood Planner

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Residential 9600 to Neighborhood Commercial on a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East. The property is located at 4130 State Avenue. The owners are Guy and Lloyd Romero and the agents are Valerie Dangerfield and George Esparza. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on September 25, 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 3-0 vote recommends that the City Council approve Zone Change #790 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 the western 110' front portion of State Avenue by 129' south within the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East, containing approximately 14,190 square feet

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 a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East, containing approximately 14,190 square feet and is presently zoned Residential 9600 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 **Neighborhood Commercial** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood Commercial** 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 September 25, 2006.

PASSED, ADOPTED AND APPROVED on second reading October 10, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

ZC#790

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Zone Change #791, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a City Council initiated zone change request from Public to Residential-9,600 on Lots 19 and 20 of Block 61 Lake Hills Subdivision, 27th Filing located at 241 and 301 Glenhaven Drive. The City Council initiated the zone change to correct an error in the zoning map. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on September 25, 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 will have a minimal effect on the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #791 and adopt the determinations of the 12 criteria.

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

ATTACHMENTS:

A: Ordinance

ATTACHMENT A

Zone Change #791

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lots 19 & 20, Block 61 of Lake Hills Subdivision, 27th
Filing, containing approximately 20,022 square feet

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 19 & 20, Block 61 of Lake Hills Subdivision, 27th Filing, containing approximately 20,022 square feet 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 **Public** to **Residential-9,600** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential-9,600** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading September 25, 2006.

PASSED, ADOPTED AND APPROVED on second reading October 10, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

ZC#791– 241 & 301 Glenhaven Drive

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Zone Change #792, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a City Council initiated zone change request from Agriculture-Open Space to Public on C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and Tract 11 located north and west of Billings Logan International Airport. The City Council initiated the zone change to correct an error in the zoning map. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on September 25, 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 will have a minimal effect on the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #792 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 C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and
Tract 11, containing approximately 204.5 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 C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and Tract 11, containing approximately 204.5 acres and is presently zoned Agriculture-Open Space and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Agriculture-Open Space** to **Public** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Public** 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 September 25, 2006.

PASSED, ADOPTED AND APPROVED on second reading October 10, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

ZC#792 – Airport Property

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

L

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Preliminary Plat of E. D. King Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On August 15, 2006, Latigo Development LLC applied for preliminary minor plat approval for E. D. King Subdivision, which contains three (3) lots on approximately 172,918 square feet (3.97 acres) of land for commercial development. The proposed subdivision is located on the northeast corner of Grand Avenue and Zimmerman Trail. The owner is Latigo Development LLC and the representing agent is Engineering Inc.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this minor plat; the 35 working day review period for the proposed plat ends on October 3, 2006. State and City subdivision regulations also 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. Within the 35 day review period, 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 may further develop under private ownership, resulting in additional tax revenues.

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of E. D. King Subdivision, approval of the variance and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

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

INTRODUCTION

On August 15, 2006, Latigo Development LLC applied for preliminary plat approval for a minor subdivision of E. D. King Subdivision. The subject property contains 172,918 square feet (3.97 acres) of land for commercial development. The surrounding property zoning is; north R-6000-R, south Agricultural Open, east Residential Professional and R-8000, and on the west Agricultural Open.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on August 15, 2006.
- The City Council will consider the preliminary plat application on September 25, 2006.

BACKGROUND

General location:	On the north side of Grand Avenue and east of Zimmerman Trail
Legal Description:	Tract B, E. D. King Subdivision
Subdivider:	Latigo Development LLC
Owner:	Same
Engineer and Surveyor:	Engineering Incorporated
Existing Zoning:	Community Commercial (CC)
Existing land use:	Agricultural
Proposed land use:	Commercial
Gross area:	172,918 square feet
Net area:	172,918 square feet
Proposed number of lots:	3
Lot size:	Max: 65,340 square feet (1.5 acres) Min.: 42,253 square feet (0.970 acres)
Parkland requirements:	A parkland dedication is not required, as this is a minor subdivision for commercial development.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

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:

1. To minimize the effects to the natural environment, a geotechnical study shall be submitted for review and approval by the Building Official prior to the submission of the final plat application. (*Recommended by City-County Planning*)
2. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
3. The final documentation shall show changes to the development agreement, part 1.d showing the water stub to Tract C, C/S 1011 should be an 8" not 6" as stated. Under the SIA VI.X.1., it should be stated that the water service for Lot 3 shall come from the 8" public water main that will be extended near the north property line of Lot 3. (*Recommended by the Public Works Department*)
4. To minimize the effects on public health and safety the final plat shall include an additional fire hydrant be placed at the proposed west entrance located off of Zimmerman Trail that accesses the subdivision through Block 1, Lot 2. (*Recommended by the City of Billings Fire Marshal's Office.*)
5. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance from the provisions of Section 23-302(f)(1) of the City of Billings Subdivision Regulations which requires a geotechnical study to be submitted at the preliminary plat. The subdivider did submit variance justification (attachment C). Staff is supportive of the variance, as the geotechnical study will be submitted prior to the submittal of the final plat, as required by condition #1.

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 or questions regarding the proposed subdivision.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

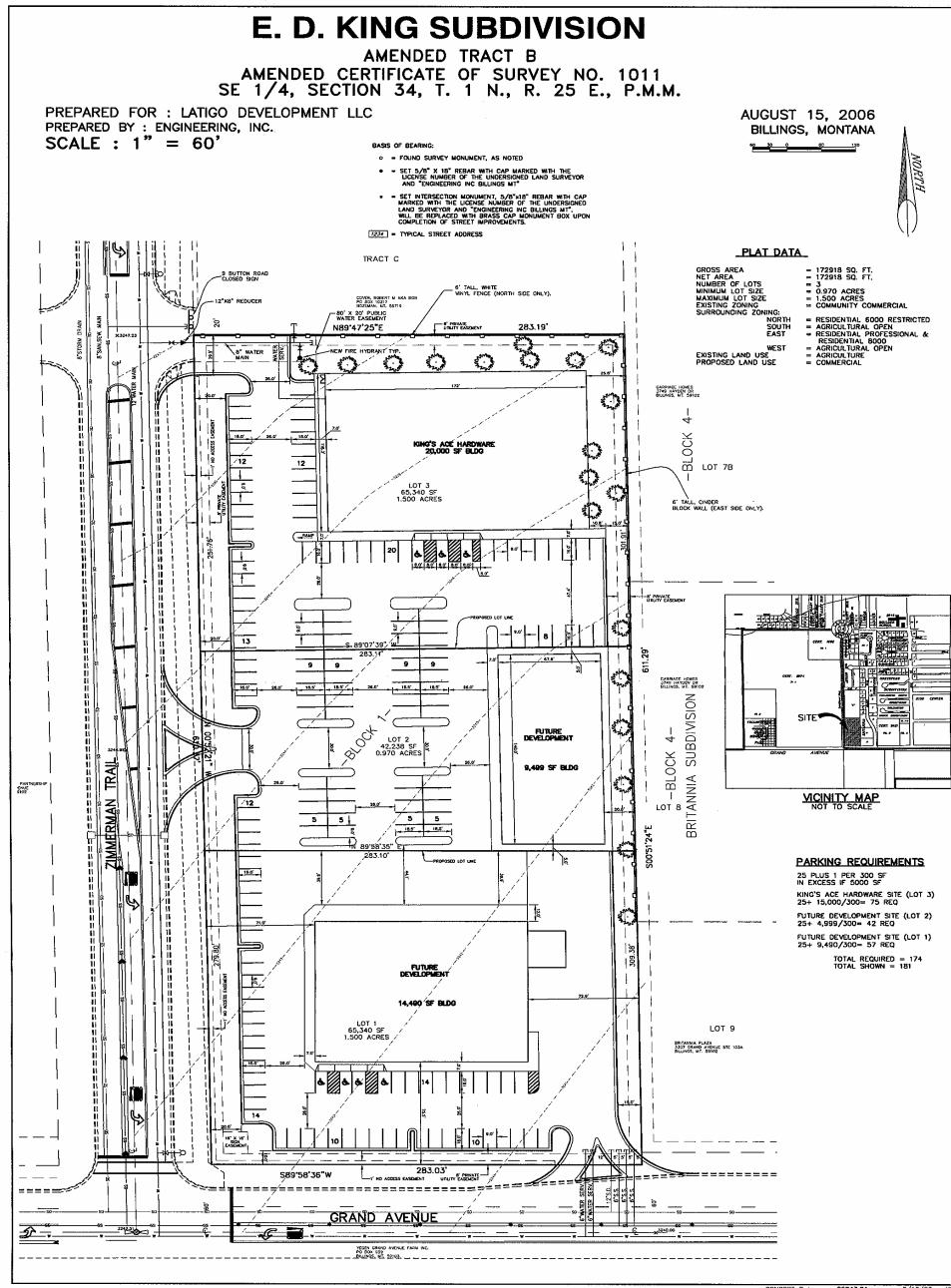
Staff recommends conditional approval of the preliminary plat of E. D. King Subdivision, approval of the variance and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of E. D. King Subdivision



ATTACHMENT B
Site Photographs



Figure 1: View east across the subject property from Zimmerman Trail.



Figure 2: View west across Zimmerman Trail from the subject property.



Figure 3: View south from the west edge of subject property.

ATTACHMENT C



ENGINEERING, INC.

Consulting Engineers and Land Surveyors

August 1, 2006

Aura Lindstrand
City-County Planning Department
4th Floor, Parmly Billings Library
510 N. Broadway
Billings, MT 59101

Reference: E. D. King Subdivision-Variance Request
EI# 05043.01

Dear Aura,

We are requesting a variance from the provisions of Section 23-302(f)(1) of the City of Billings Subdivision Regulations that requires the documents listed in Appendix F of the City of Billings Subdivision Regulations be submitted with the Preliminary Plat Application. Due to a scheduling problem with our geotechnical firm, we are not able to provide the geotechnical report for this site with the pre-application package. It will be forwarded to you immediately upon receipt. In the meantime, we are providing the following information to address a variance request for this information:

1. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties in any way.
2. The E. D. King site is currently open agricultural property which was not planted this year. The parcel has recently been annexed and zoned community commercial. There are residential housing units and commercial structures to the immediate east of the parcel and new road improvements to the immediate west. All of these projects had geotechnical studies and there findings would lead us to believe that we will have a finding of no significant impact from our report when it is finalized.
3. The variance will not result in an increase to taxpayers.
4. The variance will not place the subdivision in nonconformance with any zoning regulations or Growth Policies.

5. The subdivider will provide a geotechnical report for E. D. King Subdivision prior to the design and approval of the subdivision. The design will be in accordance to the findings of the geotechnical report.

We do not want the geotechnical report to delay the platting process. We realize the importance of the full geotechnical report and the subdivision will be designed in accordance with its findings. Please review the above information, and feel free to contact me if you have any questions.

Sincerely,



Rick Leuthold P.E.
President

ATTACHMENT D

Findings of Fact

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

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and (23-302(H)(2), BMCC)]

1. Effect on agriculture and agricultural water user facilities

The subject property has historically been utilized for crop production. It has had one hay crop cut on it this year. As specified in the submitted SIA no water rights have been transferred to the lot owners. The proposed subdivision will take approximately 4 acres out of agricultural production.

2. Effect on local services

- a. **Utilities** – As required by Public Works the final documentation shall show changes to the development agreement, part 1.d showing the water stub to Tract C, C/S 1011 should be an 8" not 6" as stated. Under the SIA VI.X.1., it should be stated that the water service for Lot 3 shall come from the 8" public water main that will be extended near the north property line of Lot 3, See condition #3. As specified in the submitted SIA, there is an existing water main in Grand Avenue and one in Zimmerman Trail. There is an existing sanitary sewer line located in Grand Avenue.
- b. **Stormwater** – As specified in the submitted SIA, storm sewers are in place in Grand Avenue. Any additional drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to proposed Lot 1 is to be provided by a proposed right-in and right-out from the south east corner of the lot off of Grand Avenue. Access to proposed Lot 2 is to be provided by a proposed right-in and right-out from the west edge of the property from Zimmerman Trail. Access to proposed Lot 3 is to be provided by a proposed entry on the north west corner of the lot from Zimmerman Trail.
- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street (Station #5). The Fire Department is requiring an additional fire

hydrant to be installed adjacent to the site. See condition #4. The subdivision is located within the ambulance service area of American Medical Response.

- f. **Schools** - The subdivision is a commercial development and has no affect on schools.
- g. **Parks and Recreation** - A parkland dedication is not required, as this is a minor subdivision for commercial development.

3. Effect on the natural environment

A variance from the provision which requires a geotechnical study to be submitted at the preliminary plat has been requested. The geotechnical study shall be submitted prior to the submission of the final plat as required by condition #1. 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 surrounded by an urbanized portion of the city and these effects should be minimal.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or 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 23-901, BMCC)]

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2003 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, Page 6)
The proposed subdivision is consistent with the surrounding neighborhood and the CC development that is along Grand Avenue.
- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element Goal, Page 6)

The subject property is zoned CC and is bordered by R-8000 and CC on the east, agriculture open on the south and west, and R-6000-R to the north; the proposed CC development is consistent with creating a buffer zone between a principle arterial and single-family residential.

- c. Contiguous development focused in and around existing population centers separated by open space. (Land Use Element Goal, Page 6)

While the subject property is adjacent to the west of an annexed portion of the City, the property is not located within an area surrounded by an existing population center and could be considered sprawl.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The Heritage Trail Master Plan shows that a trail has already been built along the east side of Zimmerman Trail roadway in this vicinity and that no other trail is identified within this subdivision.

4. West Billings Plan

The proposed subdivision satisfies the following policies of the West Billings Plan:

- The development is in the urban expansion area as identified on the planned growth map.
- Project avoids leapfrog development as described in PG1.0.1
- Condition approval of new development in the West Billings Plan area on the ability to provide infrastructure and public services, including streets, sidewalks, curb, gutter or alternative standards, police, fire, public water and sewer services.

The proposed subdivision is in conflict with the following goal of the West Billings Plan:

- Development is in an area identified for residential expansion as shown on the Future Land Utilization map.
- Development of non-irrigated farmland (generally lands located north of the Big Ditch) within the appropriate zoning designation is considered a priority.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and (23-301, BMCC)]

The proposed subdivision, with the proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [(23-408, BMCC)]

The property is served by municipal water, sewer, storm drain and solid waste services.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [(23-402, BMCC)]

The subject property is located within the CC zoning district and shall comply with the standards set forth in Section 27-309, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and (23-410(A)(1), BMCC)]

The City Engineering Department will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #2 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

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 (23-406, BMCC)]

Private accesses from Grand Avenue and Zimmerman Trail will provide legal and physical access to the site.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of amended plat of E. D. King Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, October 10, 2006

Ron Tussing, Mayor

ATTACHMENT E
Mayor's Approval Letter

October 10, 2006

City of Billings
Engineering Department
510 North Broadway, 4th Floor
Billings, Montana 59101

Dear Applicant:

On September 25, 2006, the Billings City Council conditionally approved the preliminary plat of E. D. King Subdivision, subject to the following conditions of approval:

1. To minimize the effects to the natural environment, a geotechnical study shall be submitted for review and approval by the Building Official prior to the submission of the final plat application. (*Recommended by City-County Planning*)
2. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
3. The final documentation shall show changes to the development agreement, part 1.d showing the water stub to Tract C, C/S 1011 should be an 8" not 6" as stated. Under the SIA VI.X.1., it should be stated that the water service for Lot 3 shall come from the 8" public water main that will be extended near the north property line of Lot 3. (*Recommended by the Public Works Department*)
4. To minimize the effects on public health and safety the final plat shall include an additional fire hydrant be placed at the proposed west entrance located off of Zimmerman Trail that accesses the subdivision through Block 1, Lot 2. (*Recommended by the City of Billings Fire Marshal's Office*.)
5. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Dave Green with the Planning Division at 247-8654 or by email at greend@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

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

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Tuesday, October 10, 2006

TITLE: Final Plat of Bellville Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Bellville Subdivision is being presented to the City Council for approval. On January 9, 2006, the City Council conditionally approved the 22-lot preliminary major plat on 7.19 acres for residential development. The subject property is zoned Residential 7000 (R-7000) and is located north of Wicks Lane, west off of Brewington Lane at the terminus of Kyhl Lane. The owners are Steve and Sok Sun Kerns and the representing agent is EEC, Inc. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

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

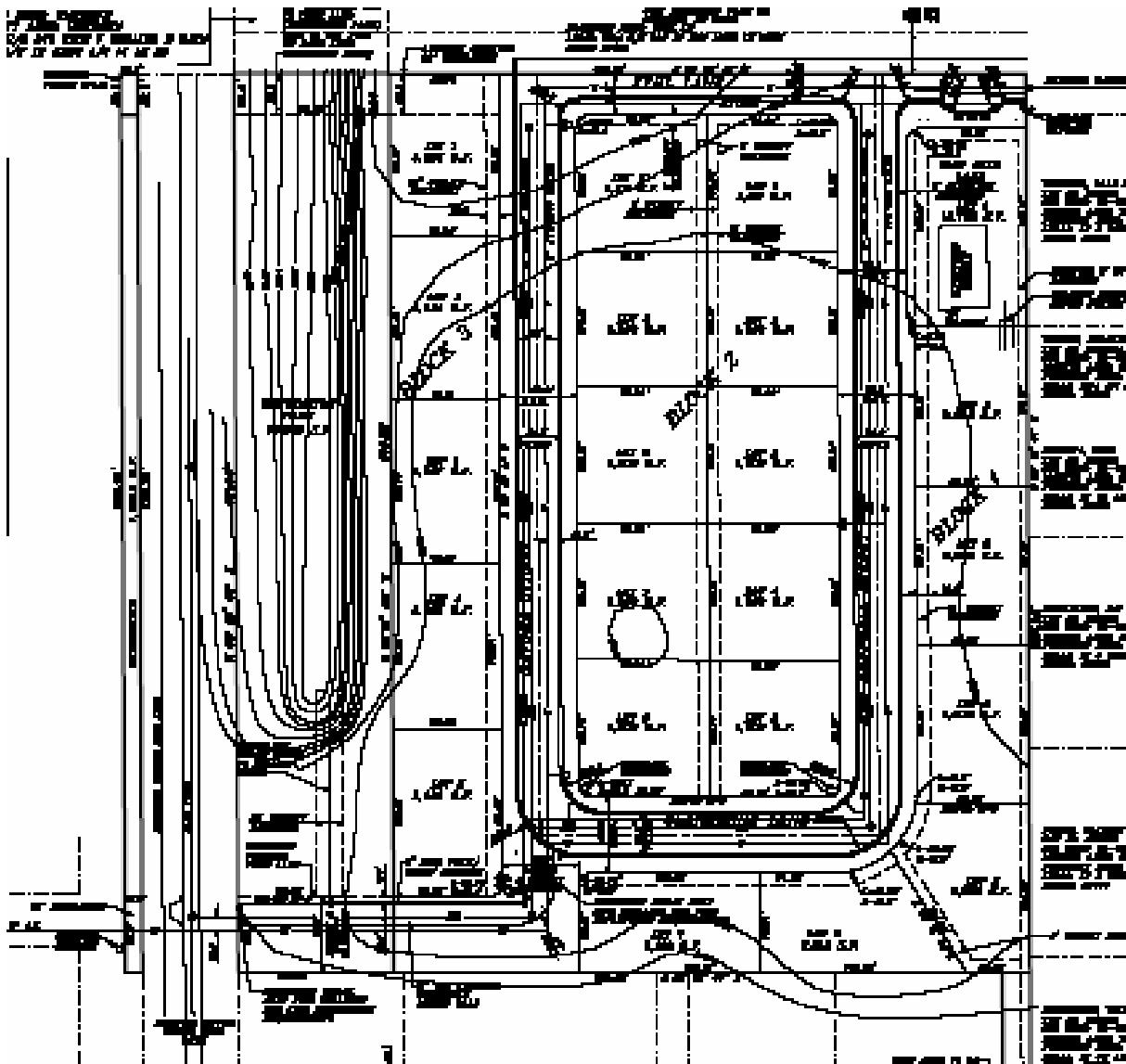
Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat



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

N1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 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 \$1,447,424.42 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 8, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

ATTACHMENT:

A -- List of claims greater than \$2500

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

N2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 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 \$1,882,746.94 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 15, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

ATTACHMENT:

A -- List of claims greater than \$2500

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Public Hearing and Resolution – Tax incentive for Home Training Tools
DEPARTMENT: Administration
PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The Council adopted three tax incentive programs in 2005 and agreed that BSEDA would process all applications for the incentives. BSEDA is recommending that the City favorably consider an incentive application from Home Training Tools, Ltd. The City Council must conduct a public hearing and then act to approve or deny the application.

ALTERNATIVES ANALYZED: The City Council may:

- Approve the application
- Conditionally approve the application
- Deny the application

FINANCIAL IMPACT: The new and expanding industry incentive program exempts 50% of the taxable value of the improvement from local school and local government tax levies for five (5) years. Ten percent (10%) is added to the taxable value each year after five years until the full value is taxed in the tenth and subsequent years. The estimated savings in City taxes is \$3,105 in the first year. The incentive value will change each year because the property value will increase as reappraisal is instituted and the City's levy will change.

RECOMMENDATION

Staff recommends that Council conditionally approve the application from Home Training Tools Ltd. for a tax incentive under City Resolution 05-18376 and 15-24-1401 MCA.

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

ATTACHMENTS

- A: Application
- B: Resolution
- C: Site photos

INTRODUCTION

The Council adopted three tax incentive programs in 2005 and agreed that BSEDA would process all applications for the incentives. BSEDA is recommending that the City favorably consider an incentive application from Home Training Tools, Ltd. The City Council must conduct a public hearing and then act to approve or deny the application.

BACKGROUND

In 2005 the City adopted three tax incentive programs that are authorized by state law; for new and expanding industries; for remodeling or expanding buildings or structures and; for remodeling or expanding certain commercial buildings or structures. Home Training Tool, Ltd., located at 665 Carbon Street, has applied through BSEDA for a tax incentive for new and expanding industries. The company purchases, warehouses, packages and sells educational science kits to individuals and schools in the U.S. The company owners lease the building at 665 Carbon Street from a company in which they are 50% owners and all tax benefits from this program accrue to the operating company. The building costs were certified at over \$1 million. The company employs 12 full time and 20 part time employees and plans to hire 2-3 additional employees each year for the next few years. The company qualifies for the incentive because it expended more than \$50,000 for its expansion and earns 50% or more of its annual gross income from out of state sales.

If approved by all government entities, the first year of exemption will be for tax year 2007. Construction started in 2005 but the application wasn't submitted until August 2006. Therefore, the company will not be eligible for the 2006 tax year value exemption and will be eligible for the program for nine (9) years rather than the full ten year term. If the Council chooses to grant the incentive, the following condition should apply:

- Applicant must submit County Treasurer certification that all taxes have been paid in full.

RECOMMENDATION

Staff recommends that Council conditionally approve the application from Home Training Tools, Ltd. for a tax incentive under City Resolution 05-18376 and 15-24-1401 MCA.

ATTACHMENTS

- A: Application
- B: Resolution
- C: Site photos

ATTACHMENT A



HOME TRAINING TOOLS

Strengthening Home Schools with Practical Science Tools

665 Carbon St, Billings, MT 59102

Phone: 406.256.0990 • Fax: 406.256.0991

August 3, 2006

Brandon Berger
Big Sky EDC
222 N 32nd St, Ste 200
Billings, MT 59101-1948

Dear Mr. Berger:

Attached is my application and \$500 application fee for the Billings/Yellowstone Country Tax incentive program. We first discussed this program in November 2005 when you sent the application and program details. Due to the heavy demand on my time during the construction period and subsequent move-in while still growing this business, I was unable to submit the application earlier.

Home Training Tools, Ltd. is an S-Corp registered in the State of Montana which leases the property at 665 Carbon Street, Billings, MT from Promise Holdings, LLC. My wife Deborah and I are 100% owners of Home Training Tools and 50% owners of Promise Holdings. Home Training Tools has a triple net lease with Promise Holdings and pays 100% of the property taxes directly to the county. All reductions in property taxes on the property at 665 Carbon Street directly benefits Home Training Tools.

Home Training Tools is a mail order and web based business that provides educational science materials to families and schools throughout the US. We purchase our products and kit components from over 300 suppliers around the US and China. These products are warehoused and shipped to our customers from the 665 Carbon Street facility, which is our only business location. In addition, we package and assemble a large quantity of custom science kits at this location. We also conduct all of our customer service, marketing, and administrative operations from this location.

Home Training Tools has grown at an average rate of 20% per year over the past six years. Sales in 2005 were \$2,422,000 with \$51,400 of this amount to our Montana customers (2.1%). We are adding 2-3 full-time equivalent jobs to our operation per year. The current 16,000 sq. ft. facility at 665 Carbon Street will meet our needs for about five years at which time we plan to expand this facility another 13,000-14,000 sq. ft. We will be bringing new jobs to this area for many years to come.

Please let me know if you have additional questions or need additional documentation for this application.

Kind regards,

Frank Schauer
President, Home Training Tools

**APPLICATION FORM FOR NEW OR EXPANDING INDUSTRY
TAX REDUCTION**

(As allowed under City of Billings Resolution, Yellowstone County Resolution 94-92
and 15-24-1401 and 15-24-1402 MCA)

1. Name of Business: Horse Training Tools, Ltd.
2. New Business: Start of construction (date) _____
End of construction (date) _____
3. Expanding Business: Start of construction (date) Oct. 2005
End of construction (date) May 2006
4. Address of business: 665 Carbon St, Billings, MT 59102
Actual location of business: 665 Carbon St, Billings, MT 59102
FIM: 84-1402842
Tax Code: 454390
Within city limits of Billings YES NO
5. Person representing business and responsible for application:
Name: Frank Schauer Title: President
Address: 665 Carbon St, Billings 59102 Telephone: (406) 258-0990 x103
6. Amount of capital investment for new or expanded industry in Billings / Yellowstone County: \$1,280,761 (Attach detailed costs of new construction or expansion including land, materials, labor, equipment, and dates of construction. The County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents, prior to acting on this request.): Please see the attached cost certificating that is the basis of our loan with First Interstate Bank.
7. Explain business activity - what business does: Horse Training Tools is a mail order and web-based business that provides educational science products to families and schools throughout the US. We purchase products from all over the US and China (300 suppliers), package and assemble many of these into custom science kits, and then ship orders throughout the US. We also have full customer service and marketing activities.

8. How long has this business been located in Billings and/or Yellowstone County: 11 years since April 1995.

9. At the time of ^{construction start} application, how many employees does the business have: 10 Full-time; 4 Part-time. October 2005

10. How many employees will the applicant have after completion of construction: 12 Full-time; 20 Part-time. May 2006

11. Describe job skills required for all new employees, both full and part time.
Most new jobs created will be in our warehouse or customer service. Job skills required are high school diploma or equivalent, good physical condition, willingness and ability to learn. Customer service jobs also require basic computer and written communication skills.

12. What is hourly pay scale of both full and part-time employees to include benefits (new employees only): New employees are paid \$7.50 to \$14.50 per hour based on job responsibilities. With benefits factored in, new employees are paid \$8.25 to \$18.00 per hour.

13. Economic impact of capital investment:
Home Training Tools is growing at an annual rate of 20% over the next 8 years. We are adding 2-3 full-time equivalent positions per year.

14. Planned hiring schedule:
We plan to hire 2-3 full-time equivalent people per year.

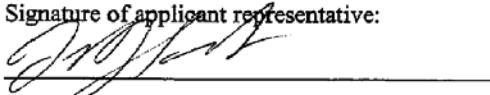
15. List other property tax benefits business currently receives or has applied for:
None

16. If applicant is transporting, wholesaling, providing services, warehousing, or distributing commercial products or materials, proof must be provided that fifty percent or more of the applicant's gross sales or receipts are earned from outside the State, or that fifty percent or more of applicant's annual gross income is from out-of-state sales. Total 2005 sales were \$2,922,000. Of that \$1,51,400 sales were in Montana (2.1%)

17. Building permit (attach copy or explain absence):

18. City/County Planning Department or Laurel-Yellowstone City/County Planning Board certifies that the business conforms with zoning regulations: Yes. Building passed full inspection and received occupancy permit.

19. City/County Health Department certifies that if a non-public water or sewer system is used (i.e., septic tank and water well) that system conforms to acceptable standard, or will do so on the completion of construction: Y/A - as city water/sewer.
20. County Treasure's Office certifies that City and County taxes have been paid in full or otherwise satisfied:
Yes
21. A non-refundable fee of \$500.00 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.
22. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, Attn: Brandon Berger, 222 North 32nd Street, Suite 200, Billings, MT 59101 (Telephone 256-6871). If application is complete, a duly advertised public hearing will be scheduled, after which the County Commissioners and/or City Council will decide whether to approve, conditionally approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearing.
23. The application to Department of Revenue form, which is part of the application, must also be completed and signed by the applicant.
24. The Board of County Commissioners and/or City Council may review this applicant's tax incentive at any time and terminate further reductions at its discretion if it finds the provisions of County Resolution 94-92, City Resolutions or State Code are not being met.
25. In order for this incentive program to apply to the applicant's current year taxes, the application must be approved by the City Council and/or the County Commissioners by the second Wednesday in May of the year in which the reduction is desired.

26. Signature of applicant representative:


27. Date of application:
5/3/05

Recommendation by the Big Sky Economic Development Authority:

Approve Deny

CITY OF BILLINGS CERTIFICATE OF OCCUPANCY

The structure as described below, has been inspected for compliance with the regulations of this code for the occupancy and use stated herein.

Address 665 CARBON Permit 05-1283 Date JUNE 7, 2006

Description OFFICE/WAREHOUSE

Owner HOME TRAINING TOOLS Owner Address 546 S 18TH WEST BILLINGS MT 59102

Use/Occupancy S1 Type of Construction IIB Code Edition 2003 Sprinkler Required Yes

Conditions: Pallet Racking System per permit 06-0563

Inspector Kim Palmieri Building Official Kim Palmieri



Post in conspicuous place

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,
MONTANA, APPROVING TAX BENEFITS FOR HOME TRAINING TOOLS, LTD.

WHEREAS, Resolution 05-18376 provides for granting tax incentives for new or expanding industries pursuant to Section 15-24-1401, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, Home Training Tools, Ltd. has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of Home Training Tools, Ltd. and has determined that said application meets all qualifications for the tax incentive and should be approved

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

That the application for tax benefits made by Home Training Tools, Ltd, dated August 3, 2006 is APPROVED. The tax benefits approved are those provided in Resolution 05-18376. The property receiving the tax benefits is described as follows:

Tax Code #A32159, Lot 2, Block 1 OCCS Subdivision

PASSED AND APPROVED by the City Council this 10th day of October, 2006.

CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

ATTEST:

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Public Hearing and First Reading of an Ordinance Expanding Ward IV

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: On September 25, 2006, the City Council approved the annexation of properties described as Tracts 1 and 2, Certificate of Survey 2054 and Cynthia Park, a County park containing 64.714 acres. (Annexation #06-13). The petition for annexation was submitted by Krutzfeldt Ranch LLC, owner of property on behalf of the developers, Blue Diamond Ranch Partnership, LLC. After annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward IV will be held on October 10, 2006. The second reading of the ordinance is scheduled for Council action on October 23, 2006.

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

RECOMMENDATION

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

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

ATTACHMENT

A. Ward Ordinance and Exhibit A

ORDINANCE NO. 06-_____

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

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

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

Tracts of land situated in the N1/2 of Section 32, the NE1/4 of Section 31, the SE1/4 of Section 30 and the SW1/4 of Section 29, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as: Tracts 1 and 2 of Certificate of Survey 2054, Recorded March 2, 1981, Under Document No. 1191101, Records of Yellowstone County, Montana; Cynthia Park of Yerger Heights Subdivision, Recorded December 27, 1956, Under Document No. 575291, Records of Yellowstone County, Montana; including all adjacent right-of-way of Rimrock Road, 54th Street West, 50th Street West and Cynthia Park Drive. Containing 68.128 gross and 64.714 net acres.

(# 06-13) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 10th day of October, 2006.

PASSED by the City Council on the second reading this 23rd day of October, 2006.

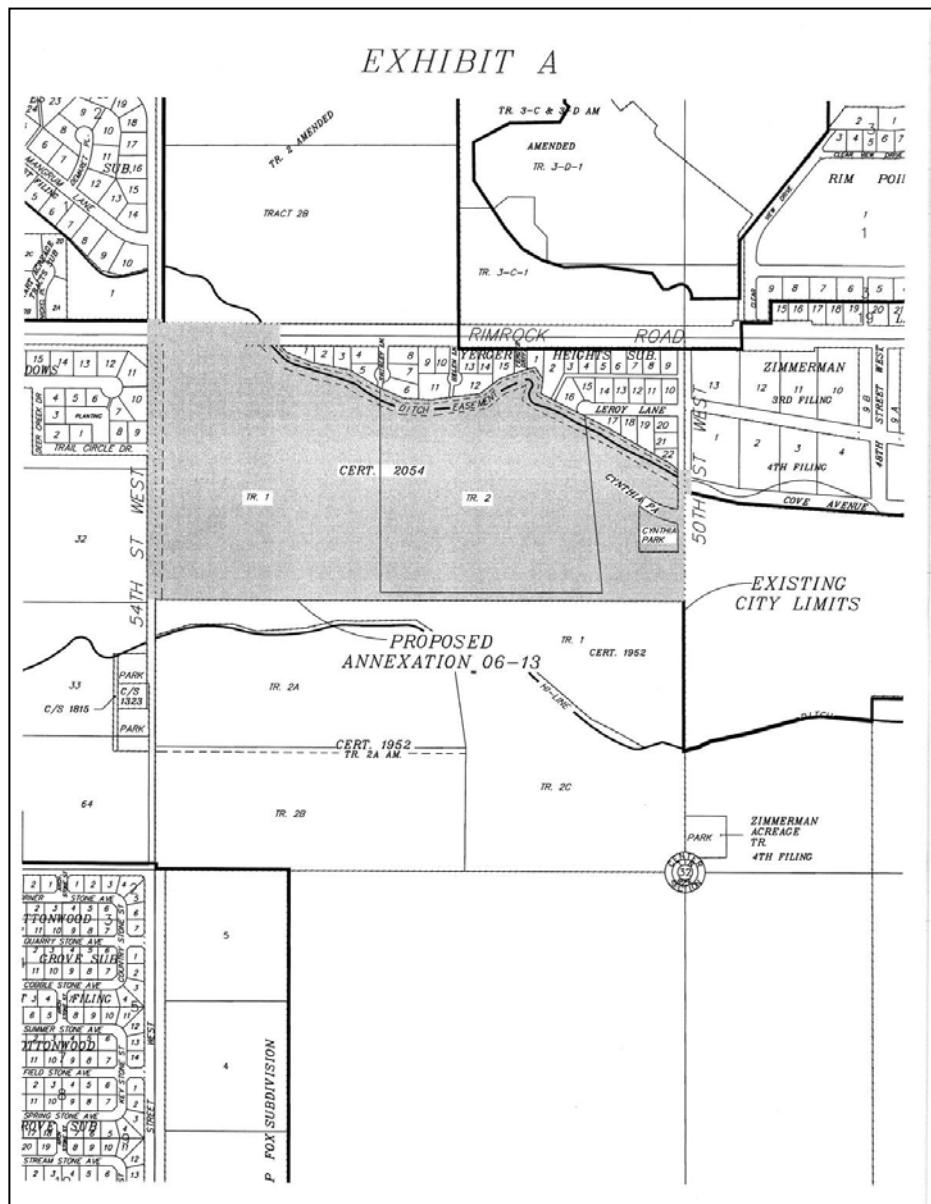
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CITY CLERK

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Public Hearing and First Reading Ordinance for the East Billings Urban Renewal District

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: The Council will consider adopting an ordinance creating an East Billings Urban Renewal District. On September 25, 2006, Council adopted a resolution of intent to create the district, which also included tax increment authority, a description of the property involved and the blighted conditions. The next step is to create the district by Ordinance and establish the boundary for the new district. It is important that the district be created this calendar year in order to take advantage of the lowest possible taxable value when establishing the District's base value.

ALTERNATIVES ANALYZED: Creating this district is discretionary. The City Council may:

- reject the ordinance
- modify the proposed boundary
- adopt the ordinance with the proposed boundary

FINANCIAL IMPACT: The financial impact is unknown. However, the taxable market value is approximately \$75,000,000 and is stagnant. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur, thus there is no "loss" of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value.

RECOMMENDATION

Staff recommends that City Council adopt the Ordinance creating the East Billings Urban Renewal District.

Approved By: City Administrator City Attorney

ATTACHMENTS

A. Ordinance

INTRODUCTION

The City Council will hold a public hearing and consider the ordinance that adopts the plan and allows the City to use tax increment financing for public improvements.

PROCEDURAL HISTORY

- April 3, 2006, City Council work session on new downtown and East Billings urban renewal districts
- August 21, 2006; City Council work session status report on downtown and East Billings urban renewal districts
- August 22, 2006; Yellowstone County Planning Board voted to recommend that the City Council adopt the East Billings Urban Renewal Plan
- September 25, 2006; City Council considers adopting a resolution of intent to create the East Billings district and setting a public hearing date
- September 28, 2006; City publishes and mails notice of public hearing to property owners
- October 10, 2006; City Council public hearing and first reading of an ordinance to create the district
- October 23, 2006; City Council considers ordinance second and final reading. The ordinance becomes effective 30 days later unless appealed

BACKGROUND

With the Billings Downtown Core TIFD sunsetting in 2008, key players saw the need to move forward with the East Transition Zone revitalization effort. These key players represent the Big Sky EDA, the City of Billings and local community members. A consultant team was selected in fall of 2005, to rally support, facilitate meetings relating directly to the TIFD and to write the Urban Renewal Plan based on the desires of the local property and business owners. At that time there was a desire to explore the possibility of expanding the district boundaries to include properties outside the original proposed district boundary. After the first round of stakeholder and public meetings, it became clear that a smaller district would be more manageable.

A group of property owners saw a need for a grassroots effort led by the owners themselves. They formed their own non-profit organization called the Billings Industrial Revitalization District Incorporated or BIRD, Inc. The BIRD, Inc. with the guidance of the consultant team and the assistance of the volunteer group began to build consensus with the property owners and garner support for revitalization. The volunteer group dedicated a couple hours a week of their time to assisting the BIRD, Inc. contacting business owners and assisting in any other way possible with the process.

The BIRD, Inc., or other succeeding local stakeholder owner entity, is the organization that will provide management of the tax increment finance district and submit recommendations to the City Council as revitalization projects emerge.

A Vision Map was created through an open forum workshop with the property owners. They took charge of what revitalization means for the district and what improvements they wanted to see. These changes included improvements to traffic patterns, residential housing, open lot

development, filling vacated warehousing, streetscape improvements, pedestrian friendly linkages from the downtown core to the MetraPark and many others.

Concurrent with the vision mapping effort, drafting of the urban renewal plan began. Multiple drafts have been produced, discussed and reviewed in Urban Renewal Task Force meetings, Steering Committee meetings, and BIRD, Inc. meetings. The high level of transparency and frequency of meetings has ensured that a large local constituency have been involved, and as many as possible approve of the plan.

The Urban Renewal Plan was review by the City Attorney and City Administration. Comments and recommendations were taken into account and incorporated into the plan.

The plan was also sent to the Planning Board for their review and recommendations regarding the plan's conformity to the 2003 Growth Policy. Approval with recommendations was passed by the Planning Board on August 22, 2006.

At the time of the reviews the district included county parcels. Several meetings were held with City Administration, City Legal, an Independent attorney and members of the Board of County Commissioners to pursue drafting the interlocal agreement to create a basis for a bi-jurisdictional district. A final interlocal agreement was never completed because an Attorney General opinion was given on September 6th, 2006, stating that a bi-jurisdictional urban renewal district cannot be created. The Ruling also states that Urban Renewal Districts can only be formed within municipalities.

After the boundaries were modified to conform to the Montana Attorney General's opinion the Urban Renewal Plan was reviewed and edited by the Urban Renewal Plan Task Force. The local office for the Department of Revenue provided taxable values for the revised district boundaries.

A resolution on blight for the district was prepared for the City Council. On September 25, the City Council approved the resolution on blight, paving the way for adoption of the urban renewal plan.

ALTERNATIVES ANALYSIS

Creating this district is discretionary. The City Council may:

- reject the ordinance
- modify the proposed boundary
- adopt the ordinance with the proposed boundary

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The Yellowstone County Planning Board voted to recommend approval of the East Billings Urban Renewal Plan on August 22, 2006. The Board determined that the plan was consistent with the 2003 Growth Policy. The Board also recommended minor changes to the draft plan in order to improve clarity. These changes, where appropriate, have been made to the final plan.

RECOMMENDATION

Staff recommends that City Council adopt the Ordinance creating the East Billings Urban Renewal District.

ATTACHMENTS

A. Ordinance

ORDINANCE NO. 06 _____

AN ORDINANCE RELATING TO THE CREATION OF THE EAST BILLINGS URBAN RENEWAL AREA; AND ADOPTING AN URBAN RENEWAL PLAN, INCLUDING A TAX INCREMENT PROVISION.

Recitals:

WHEREAS, this Council on October 10, 2006, conducted a public hearing on a proposal to establish a new urban renewal area on specified property (as hereinafter defined, the "Property") to be designated "The East Billings Urban Renewal Area", and to adopt an urban renewal plan, as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

WHEREAS, the Property is depicted on the attached Exhibit A and legally described on the attached Exhibit B (each of which is hereby incorporated herein and made a part hereof).

WHEREAS, opportunities have been presented to the City that make it desirable for the City to consider an urban renewal project within the District consisting of the acquisition of certain vacant or blighted properties, demolishing the blighted structures thereon, improving such properties with, landscaping, utilities, and other similar improvements, assembling such properties, and making the properties so improved available for private redevelopment in accordance with the Act.

WHEREAS, an urban renewal plan entitled the East Billings Urban Renewal Plan is attached hereto as Exhibit C (which is hereby incorporated herein and made a part hereof) (the "Plan"). The Plan contains a tax increment provision and will govern the operation and administration of the District.

WHEREAS, the Plan has been reviewed and approved by the Yellowstone County Planning Board, as evidenced by the Board meeting minutes of August 22, 2006. The Plan contains a description of the Project and its estimated costs.

Ordinance:

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

1. Findings. This Council hereby finds, determines and declares, based on the comments received at the public hearing and other studies and information available to this Council, that:

a. The Property presently contains structures and property that are in a state of substantial deterioration, are obsolete or defective, pose unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses, the present condition of the Property substantially impairs the sound functioning of the East Billings area of the City and its environs, is conducive to juvenile delinquency and crime, poses the threat of vandalism or mischief and fire or loss, constitutes an economic and social liability, and is a menace to the public health, safety, and welfare of the residents of the City. Accordingly, the Council finds that the Property is a blighted area within the meaning of Section 7-15-4210 of the Act. This Council finds that the rehabilitation, redevelopment or a combination thereof of the Property is necessary in the interest of the public, health, safety, morals or

welfare of the residents of the City. This Council finds that undertaking measures to eradicate or diminish the blight affecting the Property will help to foster a more dynamic, livable, and vibrant downtown.

- b. No housing element or structure is disturbed by this District making no relocation necessary;
- c. The Plan conforms to the Growth Policy or parts thereof of the City for the municipality as a whole;
- d. The Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

2. Plan Adoption. The Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein.

3. Conditional Commitment. The adoption of the Plan does not constitute a guarantee or a firm commitment that the City will issue the Bonds or undertake the Project. If, based on comments or information made available to or obtained by the City, it appears that the issuance of the Bonds or the Project is not in the public interest or consistent with the purposes of the Act, the City reserves the right not to issue the Bonds or undertake the Project.

4. Effective Date. This Ordinance shall be in full force and effect from and after the date that is 30 calendar days after the date set forth below.

PASSED by the City Council on first reading October 10, 2006.

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

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

EXHIBIT A
MAP OF URBAN RENEWAL AREA

EXHIBIT B
LEGAL DESCRIPTION OF URBAN RENEWAL AREA

Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of North 22nd Street and 8th Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8th Avenue North and North 19th Street, extending south down the centerline of North 19th Street to the intersection of North 19th Street and 7th Avenue North, extending east along the centerline of 7th Avenue North to the intersection of North 18th Street and 7th Avenue North, extending south down the centerline of North 18th Street to be perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, T01NR26E, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, T01NR26E and hence eastward including in their entirety the southern most properties most directly adjacent to 6th Avenue North to the city boundary line, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west along the northern edge of the railroad tracks to the centerline of North 22nd Street, extending north along the centerline of North 22nd Street to the ending point at the intersection of Montana Avenue and North 22nd Street. Excluding the non-incorporated land that envelops the empire steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16TH ST BLK 258 & 259.

EXHIBIT C
EAST BILLINGS URBAN RENEWAL PLAN

(separate attachment)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: Public Hearing and First Reading Ordinance for the Expanded N. 27th Street Urban Renewal District

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The Council will consider adopting an ordinance that removes property from the existing downtown urban renewal and tax increment district and adds it to the existing N. 27th Street Urban Renewal District. On September 25 the Council adopted a resolution of intent to create the district, which included a description of the property and the blighted conditions and set a public hearing for this date. The next step is to adopt this ordinance that creates the expanded district. It is important that the district be expanded this calendar year in order to take advantage of the relatively low base taxable value. Taxable value in the proposed district is expected to increase next year because a number of properties have changed ownership and property investments will occur that will increase the taxable value, which creates the increment that will be important for financing future public improvements.

ALTERNATIVES ANALYZED: Creating this district is discretionary. The City Council may:

- approve the ordinance
- modify the proposed boundary
- not approve the ordinance

FINANCIAL IMPACT: The financial impact is unknown. However, the taxable market value is approximately \$22 million and includes a lot of public and tax exempt property. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur, thus there is no "loss" of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value.

RECOMMENDATION

Staff recommends that Council adopt the ordinance removing property from the present downtown urban renewal and tax increment district and expanding the N. 27th Street urban renewal and tax increment district.

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

ATTACHMENTS

A: Ordinance

INTRODUCTION

The City Council will conduct a public hearing and consider adopting an ordinance that removes property from the existing downtown urban renewal and tax increment district and adds it to the N. 27th Street urban renewal and tax increment district.

PROCEDURAL HISTORY

- April 3, 2006; City Council work session on an expanded N. 27th Street and a new East Billings urban renewal district
- August 21, 2006; City Council work session status report on the proposed N. 27th Street district expansion and a new East Billings urban renewal district
- September 25, 2006; City Council adopted a resolution of intent to expand the N. 27th Street district and setting a public hearing date
- September 28, 2006; City publishes and mails notice of public hearing to property owners
- October 10, 2006; City Council public hearing and first reading of an ordinance to expand the district
- October 23, 2006; City Council considers ordinance second and final reading. The ordinance becomes effective 30 days later unless appealed

BACKGROUND

In 2005 and at least twice this year, the Council heard presentations on the potential of creating a new downtown tax increment district. The Downtown Billings Partnership (DBP) took the lead and wrote an urban renewal plan for an area of the central downtown that expands the existing N. 27th Street district that was created in 2005. After the Dept. of Revenue ruled earlier this summer that boundary changes are acceptable, it was decided that this is the most efficient way to create the new TIF area. The area is roughly bounded by N. 25th Street, 6th Avenue North, N. 30th Street and 1st Avenue North, however, the boundary is irregular and does not include all of the property within this general description. A more exact boundary description is included in the plan and the attached ordinance. The boundary was established to capture the lowest possible base value and to take advantage of planned private investments that will produce a tax increment.

The expanded N. 27th Street Urban Renewal Plan outlines a number of objectives and projects. The objectives focus on creating additional housing, retail, office space and parking within the area. The projects mirror the objectives, calling for a mixed use project near the Library, the possible remodel of the Library, a new bank and parking. The City may choose to contract for plan implementation and administration by the DBP or other organization or it may retain all administrative functions.

ALTERNATIVES ANALYSIS

The City Council may approve or disapprove the ordinance and it may alter the boundaries. Adopting the ordinance will remove property from the existing district and add it to the N. 27th Street district. It will allow the City to freeze the property tax base in that area at the January 1, 2006 value, so that any property improvements that occur after that date and that add taxable value will create a tax increment that can be used for public improvements to spur further private investments.

The Council may modify the proposed boundary. It is irregular, primarily in an attempt to capture future increased taxable value from properties between N 25th and N 26th Street, along N. 27th Street and in the vicinity of 4th Avenue North and Broadway.

The Council may reject the ordinance. If that occurs, the property will remain in the existing district, which expires on March 1, 2008. The N. 27th Street district will remain in place but it is not expected to produce a tax increment until the property is redeveloped.

STAKEHOLDERS

- The DBP initiated this project and endorses it.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy is one requirement for adopting an urban renewal plan. Growth Policy compliance is outlined in the body of the urban renewal plan.

RECOMMENDATION

Staff recommends that Council adopt the ordinance removing property from the present downtown urban renewal and tax increment district and expanding the N. 27th Street urban renewal and tax increment district.

ATTACHMENTS

A: Ordinance

ORDINANCE NO. _____

AN ORDINANCE MODIFYING THE URBAN RENEWAL PLAN OF 27TH STREET DISTRICT URBAN RENEWAL AREA TO INCLUDE CERTAIN PROPERTY FORMERLY PART OF THE DOWNTOWN REDEVELOPMENT DISTRICT IN ORDER TO ESTABLISH THE EXTENDED NORTH 27TH STREET DISTRICT URBAN RENEWAL AREA; ADOPTING A MODIFIED URBAN RENEWAL PLAN THEREFOR INCLUDING A TAX INCREMENT PROVISION; APPROVING AN URBAN RENEWAL PROJECT THEREIN AND AUTHORIZING THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL REVENUE BONDS OF THE CITY TO FINANCE COSTS THEREOF

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

WHEREAS, the City Council of the City (this “Council”) created the Downtown Redevelopment District as an urban renewal area (the “Redevelopment Area”) pursuant to, among other documents, Resolution No. 12303, adopted by this Council on December 20, 1975, as amended and supplemented, and the City has issued its tax increment urban renewal bonds payable from the tax increment generated from the Redevelopment Area, which were outstanding as of September, 2006 in the aggregate principal amount of \$2,645,000 (the “Outstanding Bonds”), pursuant to Resolution No. 12937, adopted February 26, 1979, as amended and supplemented from time to time (as amended and supplemented to date, the “Bond Resolution”).

WHEREAS, on July 11, 2005 the City Council adopted Ordinance No. 05-5333, which created the 27th Street District Urban Renewal Area (hereafter “North 27th Street District”) and adopted the Urban Renewal Plan of 27th Street District Urban Renewal Area (“27th Street Plan”) that included a tax increment provision and endorsed a mixed-use urban renewal project known as “the Sandstone.”

WHEREAS, it has been determined that the North 27th Street District and the 27th Street Plan should be modified to include additional property contiguous to the North 27th Street District that is currently included in the Redevelopment Area.

WHEREAS, this Council on October 10, 2006, conducted a public hearing on a proposal to modify the North 27th Street Plan by adopting the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area, which calls which calls for the removal of certain property from the Downtown Redevelopment District (the “Extension Property”) and aggregating said Extension Property North 27th Street District, thereby establishing a modified urban renewal area to be formally designated as the Extended North 27th Street District Urban Renewal Area (the “Extended North 27th Street District” or “the Property”), and to undertake urban renewal projects therein, all as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”).

WHEREAS, the Extended North 27th Street District is depicted on Attachment 1 and Attachment 1a (depicting the relationship of the old urban renewal area to The Redevelopment Area) hereto and Attachment 2 (each of which is hereby incorporated herein and made a part

hereof). Pursuant to this Ordinance, the boundaries of the Redevelopment Area are being modified to reflect the removal of the Extension Property from the Redevelopment Area and addition the removed properties of Extension Property depicted on the map on Attachment 1. The Redevelopment Area, as modified, is depicted on Attachment 2 and legally described on Attachment 3 (the “Resulting Redevelopment Area”) (each of which is hereby incorporated herein and made a part hereof). The Resulting Redevelopment Area is contiguous.

WHEREAS, the Extension Property, as part of the Downtown Redevelopment Area, was previously determined by this Council to be “blighted” within the meaning of the Act and an appropriate area for an urban renewal project in Resolution 12107 dated January 5, 1976; and

WHEREAS, opportunities have been presented to the City that makes it desirable for the City to consider urban renewal projects within the Extended North 27th Street District consisting of demolishing certain blighted structures within the district; improving such properties with new construction, landscaping, utilities, and other similar improvements; and making the properties so improved available for private redevelopment in accordance with the Act (the “Projects”). Development proposals to be considered for funding include mixed use occupancies. The Projects could also include building renovations and the construction or expansion of City owned parking structures within the District (the “Bonds”).

WHEREAS, the proposed modified urban renewal plan titled the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area is attached hereto as Attachment 4 (which is hereby incorporated herein and made a part hereof) (the “Modified Plan”). The Modified Plan contains a tax increment provision and will govern the operation and administration of the Extended North 27th Street District.

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

1. Findings. This Council hereby finds, determines and declares, based on the comments received at the public hearing and other studies and information available to this Council, that:

a. The Property presently contains structures and improvements that are in a state of substantial deterioration, are obsolete or defective, pose unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses. The present condition of the Property substantially impairs the sound functioning of the downtown area of the City and its environs, is conducive to juvenile delinquency and crime, poses the threat of vandalism or mischief and fire or loss, constitutes an economic and social liability, and is a menace to the public health, safety, and welfare of the residents of the City. Accordingly, the Council reaffirms its previous findings that the Property remains a blighted area within the meaning of Section 7-15-4210 of the Act. This Council finds that the rehabilitation, redevelopment or a combination thereof of the Property is necessary and in the interest of the health, safety, morals or welfare of the residents of the City. This Council finds that undertaking measures to eradicate or diminish the blight affecting the Property will help to foster a more dynamic, livable, and vibrant downtown.

b. If Projects require relocation of displaced persons, a detailed relocation plan is required.

c. The Plan must conform to the Growth Policy and Framework Plan or parts thereof of the City.

d. The Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise.

e. A sound and adequate financial program is required for the financing of Projects, which program includes substantial private investment and financing and the sale and issuance by the City of the Bonds in an amount not to exceed \$10 million after payment of administration costs, reserve fund deposits, capitalized interest and costs of issuance of the Bonds, in proportions yet to be determined, for the purpose of financing a portion of the costs of the Projects as set forth above.

f. Approved Projects will constitute urban renewal projects within the meaning of the Act and are authorized to be undertaken by the City.

2. Plan Adoption. The Modified Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein. For purposes of allocating taxes according to the Act, the "prior assessed value" of taxable property within the Extended North 27th Street District is that value shown on the assessment rolls as of January 1, 2006.

3. Project Approval. Authorized Projects are hereby approved.

4. Bonds. This Council approves financing the costs of Urban Renewal Projects, or a portion thereof, with proceeds of the Bonds. The City is hereby authorized and directed to undertake activities and analysis ordinarily prerequisite to the issuance of tax increment urban renewal revenue bonds in a principal amount not to exceed \$10 million for financing of the costs of Urban Renewal Projects or a portion thereof.

5. Conditional Commitment. The adoption of the Plan does not constitute a guarantee or a firm commitment that the City will issue the Bonds or undertake Projects. If, based on comments or information made available to or obtained by the City, it appears that the issuance of the Bonds or Projects is not in the public interest or consistent with the purposes of the Act, the City reserves the right not to issue the Bonds or undertake the Project.

7. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

8. 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.

9. Effective Date. This Ordinance shall be in full force and effect from and after the date that is 30 calendar days after the date set forth below.

ADOPTED by the City Council of the City of Billings, Montana, on second reading this _____ day of 2006.

Mayor

ATTEST:

City Clerk

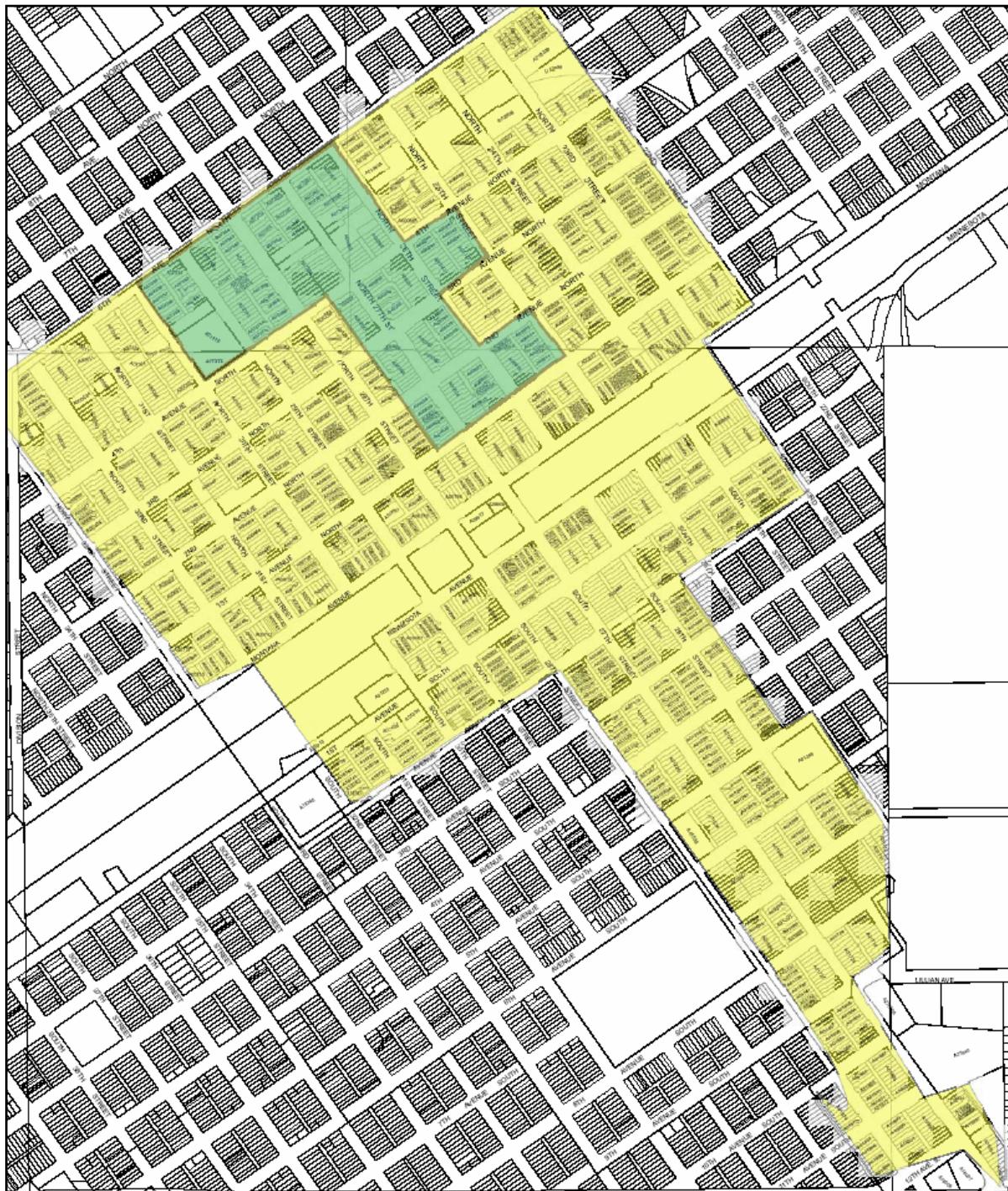
ATTACHMENT 1

Map of the Proposed Extended District In Relation to Established District (2005) (NORTH = ↑)



ATTACHMENT 1a

Map of the Proposed Extended District In Relation to Old Urban Renewal Area – TID
(NORTH = ↑)



ATTACHMENT 2

Map of Resulting Redevelopment Area (NORTH = ↑)



ATTACHMENT 3

Legal Description of the Resulting Redevelopment Area

Legal Description of Property

The area in the City of Billings which is inside the boundaries described as:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

**URBAN RENEWAL PLAN OF THE
EXTENDED NORTH 27TH STREET DISTRICT
URBAN RENEWAL AREA**

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URBAN RENEWAL PLAN OF THE EXTENDED NORTH 27TH STREET DISTRICT
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SECTION 1 – INTRODUCTION

On July 11, 2005, the City Council adopted an ordinance that (a) created the North 27th Street District Urban Renewal Area (“North 27th Street District”) and (b) adopted an urban renewal plan for the district. The North 27th Street District is located on the west side of the 100 Block of North 27th Street. For reasons discussed in this Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area (“Modified Plan”), it has been determined that the North 27th Street District should be expanded to include other blighted properties in need of redevelopment. Further, it has been determined that this area, known as the “core” of downtown Billings, has been and is in need of expanded public parking, enhanced pedestrian connections and experiences, and infrastructure improvements to public and private properties that will lead to increased taxable values. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. The Urban Renewal Plan of the 27th Street District Urban Renewal Area approved by the City Council on July 11, 2005 (“27th Street Plan”) is hereby included by reference as part of this Modified Plan and shall remain applicable hereto except to the extent the original plan is explicitly or impliedly amended by this Modified Plan. It is recognized as part of this Modified Plan that the basic vision of the document known as Downtown Billings Framework Plan, adopted by the Billings City Council on December 22, 1997 and by the Yellowstone County Commissioners on December 23, 1997, is still valid and should be considered a part thereof. The terms defined in “Part I – DEFINITIONS” of the 27th Street Plan shall have the same meanings in this Modified Plan unless a contrary meaning is expressed herein. The expanded district proposed in this Modified Plan is hereafter referred to as the “Extended North 27th Street District.”

SECTION 2 – BACKGROUND

The original Downtown Redevelopment District, a downtown tax increment finance district, was created on December 20, 1975 by a resolution which cited hazardous conditions existing in the district due to overhead utility wires, inefficient land use, problems of access and circulation, physical constraints to development, random location of mixed uses and deteriorated building conditions, and found that rehabilitation and redevelopment of the District would be in the public

interest. That original district (hereafter “1975 District”) comprised about seventy blocks in the city center was expanded in 1985 and again in 2004. The 1975 District expires March 1, 2008.

In 1979, bonds were issued to pay for the construction of a city parking garage in the downtown at a cost of \$3,990,000. Other downtown improvements that have occurred over the years include: The Depot renovation, downtown streetscape improvements, Old Chamber Building renovation and parking lot, the Venture Theatre, SoNoMa Lofts, renovation of the Securities Building and Wells Fargo Bank Building, The CTA Building, The Rocky Mountain Professional Building, and numerous housing, parking, technical assistance, façade and awning projects. Currently, Park 2 is being expanded, and a bus transfer facility is planned on North 25th Street.

It is estimated that since the original 1975 District was created there has been over \$75 million dollars of private investment and about \$25 million dollars of tax increment dollars spent in the downtown. In today’s marketplace this could well equate to over \$150 million of development. The tax increment program has been a major factor in the Central Business District resurgence.

Because the 1975 District will soon terminate, it was determined that it would be in the best interest of the City to form a new tax increment district to assist the construction of public and private development, stabilize and grow the tax base, increase the parking inventory, increase the inventory of downtown residential property, stimulate multi-use development (“Multi-Use Facility Projects”) and further implement the vision of the Downtown Framework Plan.

On June 14, 2005, the Yellowstone County Planning Board approved an urban renewal plan to allow creation of a tax increment district. This new district, called the 27th Street District Urban Renewal Area, was to be located on the west side of the 100 Block of North 27th Street. Subsequently, the new tax increment district was created by Ordinance adopted by the City Council on July 11, 2005.

Currently, there is a need to expand the North 27th Street District to encompass development needs on the North 27th Street corridor, North 28th Street and other underutilized properties

within the core of downtown Billings. Although there has been significant improvement in the valuation of property in much of the 1975 District, the area defined by this proposed expanded tax increment district has been neglected for many years and either continues to or is starting to show signs of blight and tax base decline. In fact, much of the property shows an continued decline in taxable value. Many parcels have been removed from the tax rolls. The Extended North 27th Street District creates an opportunity to continue redevelopment of the center of downtown with a mixture of public and private investment in a slightly larger than fourteen - square-block district (about 12% of the size of the 1975 expanded district) encompassing the existing 27th Street District, by **beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.**

The area has a low taxable value, with several lots of the land being owned by government and other non-profit entities.

The creation of the Extended North 27th Street District is essential to any planned development at 4th Avenue North and North 28th Street. It could also assist with the essential remodeling of the property immediately north of Park 2, i.e., the Wells Fargo Bank Building, as well as, following possible additional expansion when the 1975 District sunsets, the redevelopment of the Babcock Theater Building, the Northern Hotel properties, the Sheraton and the Lincoln Hotel properties. Specifically, it is currently expected that the Extended North 27th Street District may help fund the following projects:

1. At least one new parking structure for approximately 400 to 500 cars
2. Expansion of the Park II facility
3. Construction of multi-use facilities that include housing, commercial and office space
4. Upgrading infrastructure and beautification of the district
5. A potential new office tower in the “core” area

SECTION 3 – SUMMARY OF BLIGHT FINDINGS

The area in the proposed Extended North 27th Street District contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, and a railroad spur line that has been abandoned. Several of the commercial buildings in the district are deteriorated and need demolition. Many of the storefronts and upper floors are vacant or under-occupied. Sidewalks are cracked; alleys are deteriorated, and, in general, much of the area is below accepted standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district; and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success

stories will once again decline in taxable value. Most of the district falls into the blighted, neglected and under-utilized categories.

SECTION 4 – DESCRIPTION OF BLIGHTED AREA

The extended urban renewal area described in this Modified Plan incorporates portions of several blocks centered in the downtown area. Within the district there are several older, single-story structures that have been retrofitted for offices and warehousing, numerous surface parking lots, and several vacant structures. Many of these structures are unsuited to their current uses because of age obsolescence and physical deterioration.

Montana's Urban Renewal Law (Montana Code Annotated Title 7, Chapter 15, Parts 42 and 43) provides the authority to declare the existence of blighted areas and to target them for improvements. "Blighted area" is defined in Section 7-15-4206(2), M.C.A., as follows:

[A]n area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- (a) *the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;*
- (b) *inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;*
- (c) *inappropriate or mixed uses of land or buildings;*
- (d) *high density of population and overcrowding;*
- (e) *defective or inadequate street layout;*
- (f) *faulty lot layout in relation to size, adequacy, accessibility, or usefulness;*
- (g) *excessive land coverage;*
- (h) *unsanitary or unsafe conditions;*
- (i) *deterioration of site;*
- (j) *diversity of ownership;*
- (k) *tax or special assessment delinquency exceeding the fair vale of the land;*
- (l) *defective or unusual conditions of title;*
- (m) *improper subdivision or obsolete platting;*
- (n) *the existence of conditions that endanger life or property by fire or other causes; or*

(o) *any combination of the factors listed in this subsection (2).*

The extended urban renewal area includes 81 (Exhibit A) properties. Within that total area, there are “target blocks” that should be, the initial focus for redevelopment, but potential projects outside of this “target area” may come forward and should be considered as equal in value to the urban renewal plan as the “target area.” This target area includes all of Blocks 48, 49, 50, 52, 53 and 54 of Foster Addition; Lots 13 through 23 and Lot 24A of Block 51, Foster Addition; Lots 13A and Lots 14 through 21 of Block 9, Billings Original Townsite; Lots 13 through 24 of Block 43, Billings Original Townsite; Lots 1 through 12 of Block 44, Billings Original Townsite; Lots 1 through 12 of Block 58, Billings Original Townsite; Lots 13 through 24 of Block 59, Billings Original Townsite; all of Block 91, Billings Original Townsite; all of Blocks 109 and 110, Billings Original Townsite; the east half of Block 93, Billings Original Townsite and Lots 5 through 12 of Block 92, Billings Original Townsite. Also included are the intervening street rights-of-way of North 27th, 28th, 29th Streets and 2nd, 3rd, 4th Avenues North, as well as all the intervening alley rights-of-way. The total area of the Expanded District, excluding public sidewalks and streets, is 291,987 square feet. Within the “target area” described above, there are approximately 31 commercial structures, one public parking ramp, one private parking ramp, one warehouse, 21 paved parking lots, and several tax exempt structures. Three of the commercial structures are completely vacant and several more are 50% or less occupied.

The target area encompasses at least six, intersecting streets serving the downtown area. Two of the streets, 4th Avenue North and North 27th Street, are classified as principal arterials. Fourth Avenue is an eastbound one-way street. The intersecting streets, including North 29th and North 30th, are one-way streets, northbound and southbound, respectively. Only North 27th and North 28th Streets are two-way. North 27th Street is part of the state highway system and carries approximately 18,000 vehicles a day.

SECTION 5 – DETERMINATION OF BLIGHT

The proposed Extended North 27th Street District contains a number of underdeveloped properties. The Council previously determined that the property included in the North 27th Street

District was “blighted” within the meaning of the Act in Resolution 05-18276 adopted June 13, 2005. The Redevelopment Area, including the portion that is to be expanded, to form the Extended North 27th Street District, was previously determined to be blighted and an appropriate area for an urban renewal project in Resolution No. 12107 dated January 5, 1976. Deficiencies in public and private properties located in the district lead to a determination that the area continues to be blighted, as defined by state statute. Specific areas of blight on the site are listed below:

Deficient Structures in Extended Area

There are several buildings that are over 50 years in age and do not qualify as being historically significant. Many are in poor repair and may contain potentially hazardous asbestos and lead paint.

Deficient Public Facilities in Extended Area

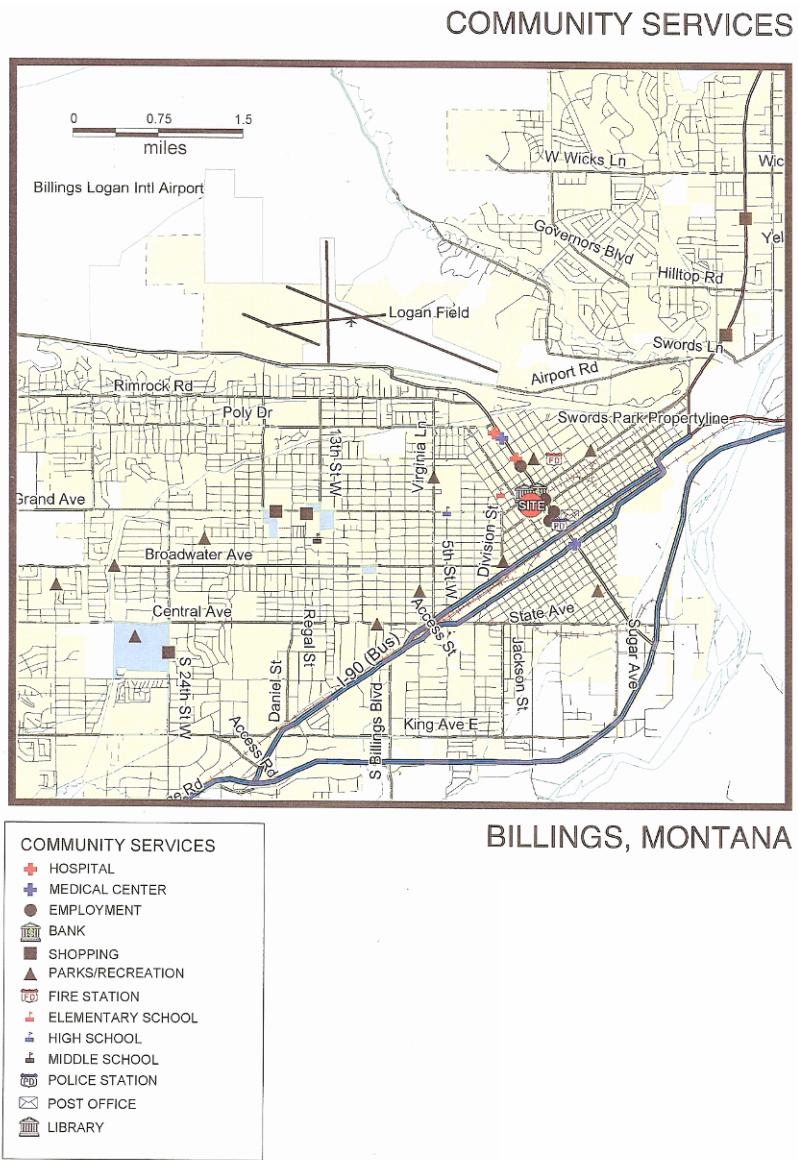
The streets, curbs, gutters and sidewalks are generally in satisfactory repair. However, sewer and water utilities in the area are aging and have required frequent repairs in recent years. City parking lots generally do not meet code requirements for paving, striping and landscaping. Many of them are cracked and crumbling. The city owned parking ramps within the area have extensive “waiting lists” and public parking for adjacent office and commercial structures continues to be inadequate. Demand for parking will continue and additional and expanded parking structures will be required to accommodate commercial growth.

Deficient Land Use in Extended Area

In general, the area is under-utilized due to the significant amount of surface parking areas and a large number of single-story structures. The extended district is located in what could be a prime commercial area including and surrounding what is considered to be the center of the CBD and may have a higher development potential than what is presently in place.

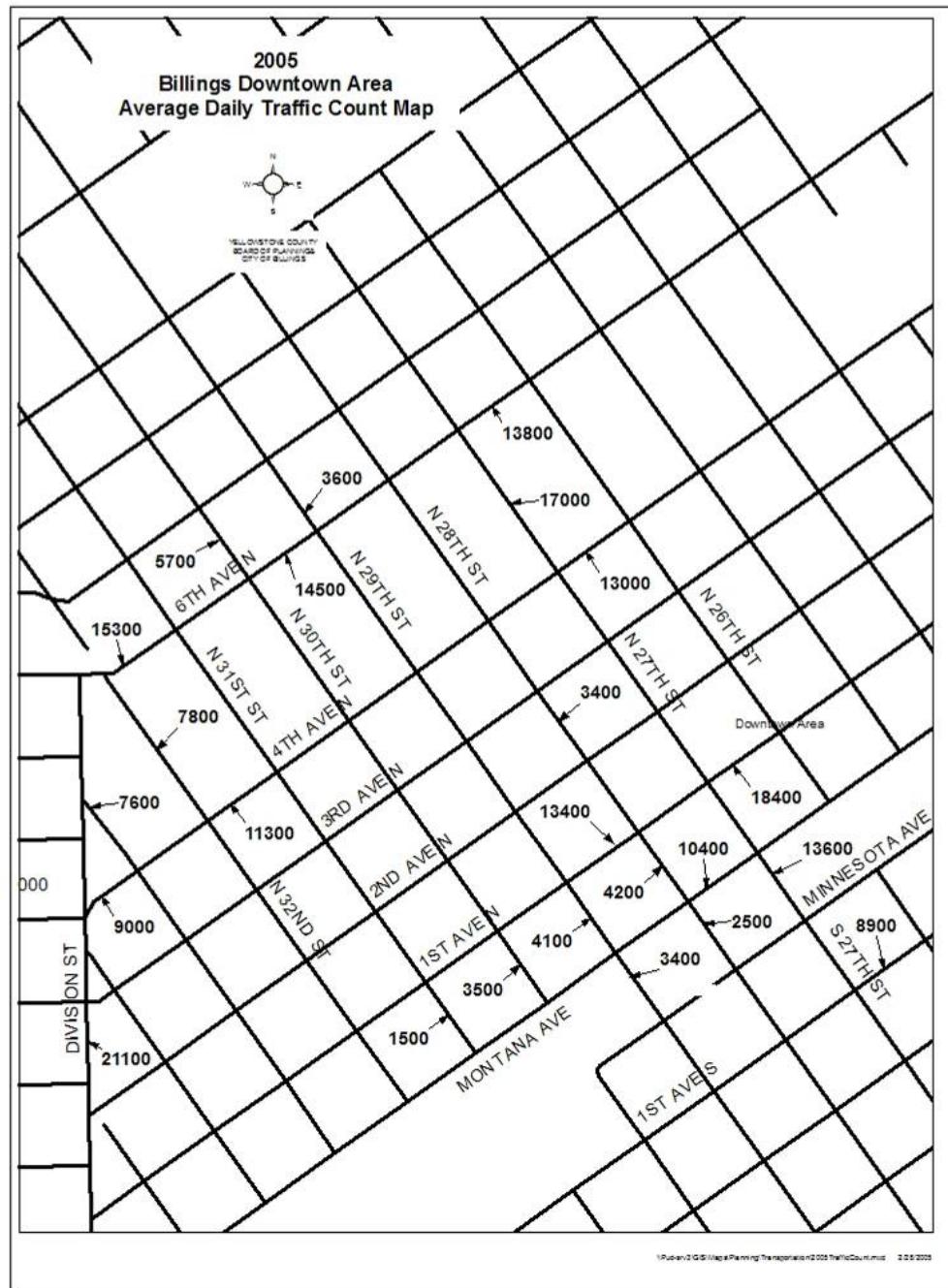
SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY

The proposed Expanded North 27th Street District is located within and around the primary downtown business district. It is surrounded by a number of community services as described and shown on the following:



SECTION 7 – TRAFFIC PATTERN

Average daily traffic counts along streets that surround and flow through the extended tax increment district are shown below as excerpted from the 2005 Billings Urbanized Area Traffic Count Map prepared by the City-County Planning Department.



SECTION 8 – LEGAL DESCRIPTION

The legal description of the proposed Extended North 27th Street District is as follows:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

Map of entire Expanded N. 27th District (NORTH = ↑)



Section 9 -- TAX STATUS

A breakdown of the tax status of 81 properties suitable for private redevelopment located in the proposed district follows. A more detailed breakdown is attached as Exhibit A.

Appraisal Value							
\$62,580,330.00							
	Totals	\$727,855	19	30	32	32	81
	2006 TAXABLE VALUE		Decline	Moderate Growth		Flat	Total Parcels
4% Growth of Entire Taxable Value including BASE in proposed Area				30% Growth of JUST THE INCREMENT in entire current TID			

SECTION 10 – PROPERTY DEVELOPERS

New development in the proposed tax increment district will also be accomplished through the implementation of the Downtown Framework Plan and through development incentive programs that have already been tested and proven effective within the 1975 and expanded Urban Renewal Area. These projects could include:

- At least one new parking structure for approximately 400 to 500 cars
- Construction of multi-use facilities that include housing, commercial, lodging and/or office space
- Upgrading infrastructure and beautification of the district
- A potential new office tower in the “core” area

SECTION 11 – PROJECT RELATIONSHIP TO THE FRAMEWORK PLAN

The proposed urban renewal area and extended tax increment district is located generally in the North Downtown District, The City Center, and The Civic District as defined by the Billings Framework Plan (“Framework Plan”). One goal of the Framework Plan was to remove barriers to downtown circulation and development created by 4th Avenue North and 6th Avenue North

and establish the area between the avenues as both a discreet district and a recognized extension of the CBD, thereby allowing potential ties to the medical corridor and MSU-Billings from the CBD. Generally, the Framework Plan stressed the downtown's ability to make a positive impact on the entire city. The Framework Plan also established a private non-profit organization to assist the City of Billings with the management of the Tax Increment District through an annual work plan and contract. This Extended N 27th Street District could be managed in a similar manner and could make use of the redevelopment criteria established by the criteria outlined in Exhibit B. The Framework Plan identified the following problems confronting Downtown Billings and recommended strategies for addressing them.

Framework Plan Recommendation: Entertainment, Retail, Culture and Image

- The discontinuity of land uses and activity levels creates gaps and a lack of connection between the core of Downtown and the surrounding neighborhoods.
- Downtown has no apparent center, edges or entryways
- Downtown's districts are poorly defined (geographically and internally) and unconnected; there is no program to reinforce their function; and there is poor directional signage, maps, or brochures.
- The richness of the Billings community – its culture, personality, and spirit – is present but not apparent in Downtown.
- Downtown is not perceived as the nucleus of the community, and it does not take advantage of its potential to be the social, cultural, and business center of the region. Billings' citizens come to a number of Downtown destinations, but Downtown as a whole is not in and of itself a destination.
- Downtown does not have a residential population that makes it alive after office hours; Downtown does not reach its potential as a neighborhood or an amenity for the close-in neighborhoods. Because there is no residential population, there is a lack of excitement and vibrancy in the Downtown.

The Extended North 27th Street District will help to address these problems by supporting the proposed redevelopment of 4th Avenue North and North 28th Street and many other target sites. One proposed development, which centers on a multi-use residential/office/parking structure, provides specific solutions to many of the above-described problems by strengthening the center of town, building its edges, and providing a gateway into Downtown Billings via North 28th Street. Further, development near the Library and structural improvements of the Library building will be a major cultural benefit to the community. Development in this urban renewal district will make Downtown more of a destination and promote housing that will strengthen the CBD. In sum, the proposed extended district promotes the goals of the Framework Plan by making a larger portion of the downtown a safe and inviting place for citizens to work and play.

Framework Plan Recommendation: Housing

K.

The Framework Plan continues by stating that housing should be a top priority and that the City should continue to work with builders and developers to encourage downtown housing through various methods. Specifically, the plan states that high-rise housing is to be located in the east transition zone and portions of the north transition zone.

The formation of an expanded tax increment district will help to raise funds that can be used for the construction or rehabilitation of housing in the urban renewal area or for construction or rehabilitation of public infrastructure necessary to attract and retain housing in the area. It is estimated that one or more development projects could include approximately 40 high-end residential condominium units that will be occupied by approximately 120 people.

Framework Plan Recommendation: Development of North Downtown District

One goal of creating the North Downtown District was to reduce barriers to downtown circulation and development posed by 4th Avenue North and 6th Avenue North, both busy arterials, and establish the area between the avenues as an extension of the CBD, thereby tying the CBD to the medical corridor and the university district. The Framework Plan further states that North 28th Street should be promoted as the primary pedestrian connection between downtown and the medical corridor.

The Extended North 27th Street District would promote the development of the North Downtown District and help achieve the goals of the Framework Plan. Development in the district, and especially development in the vicinity of 4th Avenue North and North 28th Street, and Montana Avenue and North 28th Street would reduce the barriers of blighted and decaying property and potentially transform the area into a vibrant neighborhood featuring a new bank, at least 40 housing units, office space, major new street-level commercial space, and an addition to the Library.

L. Framework Plan Recommendation: Priorities

The top priorities identified in the Framework Plan include the following:

- Development incentives, including business retention and recruitment
- Housing – demonstration projects
- Streetscape Kit of Parts – Pedestrian Cores
- Events Kit of Parts
- Paring configuration adjustments
- 5th Avenue North Corridor preservation

This Modified Plan and the urban renewal projects that it contemplates specifically address all six of these priorities.

M. SECTION 12 – OPPORTUNITIES CREATED BY THE EXTENDED URBAN RENEWAL DISTRICT
N.

Specific opportunities for the City of Billings that may be created as a result of this Modified Plan and the urban renewal projects described herein include, but are not necessarily limited to, the following:

1. Demolition of substandard structures located on the west side of North 28th Street from 4th Avenue North to the Library.
2. Replacement of the City/Library surface parking on North 28th Street with covered parking that will increase total parking opportunities in this area.
3. Possible expansion of the Billings Parmly Library.
4. Introducing a new bank and office building into the district.
5. Adding first-floor commercial area for restaurants, stores, or other retail uses.
6. Adding owner-occupied office space.
7. Development of condominium residential living units.

8. Landscaping of the area, including potential new street lighting and landscaping.
9. Removal of blight in the area and upgrading of the public rights of way.

Similar development requiring expansion of The District could be placed as a “bookend” at Montana Ave. and N. 28th Street thus linking the Historic District to the Library and North Downtown and creating a pedestrian CBD with multiple “anchors.”

O. SECTION 13 – ECONOMIC IMPACT

At the request of the Big Sky Economic Development Authority, Scott Rickard, PhD of the Center of Applied Economic Research at MSU-Billings analyzed a mixed-use development concept and indicated strong economic advantages to the City of Billings as a result of such projects. His report describes a very positive impact on the neighborhood from the shopping and restaurant activity that would be generated because of a mixed use project and the new downtown residents. Professor Rickard’s review identified positive impacts in the following areas:

P. Retail

Professor Rickard found that mixed use development containing a residential component could have a significant beneficial economic impact on the city. Retailers inhabiting the space may offer goods and services not currently available locally. These additional retail opportunities may create or enhance downtown retail clusters and lead to new local spending, thereby generating positive economic impacts.

Q. Parking

The study indicated that new parking to be used by residents and users of a mixed use development and visitors to the surrounding area would generate substantial income each year. It specifically stated that this amount would be between \$480-\$900 per space per year based on a minimum of 400 parking places in the core structure. This would generate total income of between \$192,000-\$360,000 per year respectively.

R. Condominiums

If a development of approximately 91,000 square feet of condominium space were to be constructed, sales income for such condominiums could be nearly \$20 million with the construction of an overall facility, less the parking, to be in excess of \$16 million. This could make a substantial economic impact both through construction jobs and the benefits of the sales themselves. There is also a ripple effect as it is estimated that at least half the condominium owners, and perhaps as much as 75%, are currently property owners in Billings and putting their property in the sales market could stimulate another \$10-\$15 million in sales. Thus, this condominium development could motivate nearly \$30 million in total sales.

It is further pointed out that if one-third of the potential residents' available disposable income were spent downtown, it would represent nearly \$12,500 per unit, thus creating new sales in downtown Billings of approximately \$500,000 per year.

SECTION 14 – CONFORMANCE TO THE GROWTH POLICY

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43) is that the urban renewal plan must conform to the community's growth policy. The Yellowstone County and City of Billings 2003 Growth Policy Plan ("Growth Policy") refers to and promotes downtown redevelopment in a variety of ways. The relevant goals in the Growth Policy are:

GOAL: An economically and culturally vibrant Downtown Billings.

OBJECTIVES:

Preserve and promote economic development of Downtown Billings.

Create a strong central 'core' for our community.

Establish downtown as a recognizable landmark.

GOAL: More housing and business choices within each neighborhood.

OBJECTIVES:

Improve quality of life.

Encourage more live-work environments.

Reduce commuting and subsequent drain on natural resources.
Develop more self-contained neighborhoods.

GOAL: Rational consideration of all City neighborhoods and County townsites for public funds expenditures.

OBJECTIVES:

Identify and prioritize neighborhood needs.

Empower public to provide direction on capital improvements expenditures.

Leverage public funds with other resources.

SECTION 15 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS

Section 7-15-4217, M.C.A., of the Act requires cities to make certain findings when they adopt an urban renewal plan and approve Urban Renewal Projects. These are addressed below:

1. The part of the extended district that is immediately targeted for development (the area west of North Broadway from 4th Avenue North to the Library) contains no existing dwelling units or housing, and a Multi-Use Facility Project would not displace any persons from housing. Accordingly, there is no need to have a workable and feasible plan for substitute housing.
2. Second, this Modified Plan with Multi-Use Facility Projects conform to the Growth Policy for the City as a whole and to the Framework Plan.
3. This Modified Plan affords maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the Extended North 27th Street District by private enterprise. It is unreasonable to expect that the district will be redeveloped without public support. The area in question is generally dilapidated. As presently constituted, property in the district is not conducive to any sort of uniform or integrated development and, as presently existing, cannot compete with other areas of the City for substantial developments, particularly areas at the outskirts of the City. Experience has validated the foregoing facts and observations. This Modified Plan is intended to facilitate the identification and construction of significant Urban Renewal Projects, which would not be possible in the absence of this Modified Plan.
4. A sound and adequate financial program exists for financing Multi-Use Facility Projects, which program includes the sale and issuance by the City of the Bonds in an amount not to exceed the costs of the Project, including administration costs and costs of issuance of the Bonds. Any approved Development Project will require commitments of substantial private financing that will provide the primary means for funding construction of the improvements.

S. SECTION 16 – TAX INCREMENT

Tax increment financing is necessary to encourage a company or companies to construct improvements within the District, such as, without limitation, a Multi-Use Facility or Facilities,

which will further encourage economic growth in the North 27th Street District and Downtown Billings, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The North 27th Street District is hereby established as a tax increment financing urban renewal area within the meaning of the Act, and, in particular, Section 7-15-4282 through 7-15-4293 of the Act. This Section constitutes a tax increment provision within the meaning of the Act. In connection therewith:

1. For the purpose of calculating the incremental taxable value each year for the life of the district, the base taxable value shall be calculated as the taxable value of all real and personal property within the district as of **January 1, 2006.**
2. The City is hereby authorized to segregate as received the tax increment derived in the district and use and deposit such increment into the tax increment fund of the district for use as authorized by the Act and as authorized herein from time to time, including, without limitation, pledging the tax increment to repayment of Bonds.
3. The tax increment received from the district may be used to pay directly costs of an approved Development Project as may from time to time be approved by the Council. The Council also hereby authorizes the use of tax increment in the district to pay debt service on Bonds issued to finance a portion of the costs of these Development Projects, and costs associated with the sale and security of such Bonds in compliance with the Act, subject to any limitations imposed by the Montana Constitution and federal law.
4. The tax increment provision of the district will terminate upon the latter of:
 - a. The twentieth (15th) year following the creation of the district; or
 - b. The payment or provision for payment in full or discharge of all Bonds, and the payment of interest thereon, for which the tax increment has been pledged.

After termination of the tax increment provision, all taxes shall continue to be levied upon the actual taxable value of the taxable property in district, but shall be paid into funds of the taxing bodies levying taxes within the district.

SECTION 17 – COMPONENT IMPROVEMENTS FOR THE EXPANDED DISTRICT PLAN

T. Transportation and Circulation

Development projects may increase traffic in the area. North Broadway is currently blocked approximately four blocks to the north, thus, there is no continuous north/south travel along North Broadway to the northern portion of the City.

U. Proposed Site Improvements

There will be substantial streetscape, sidewalk and general beautification improvements of the district as requirements contained within approved Development Agreements associated with approved Urban Renewal Projects. Sidewalks may incorporate patterned concrete and street trees. Street furniture may be placed in appropriate locations.

V.

W. Neighborhood Considerations

The primary impact of new construction resulting from the creation of this extended district would be felt around North Broadway and 4th Avenue North. Businesses and users in this general area, i.e., School District Number 2, Billings Clinic, Underriner Motors and the Billings Gazette, have been contacted and are favorable to the redevelopment plan.

When this tax increment district is extended it will also have a favorable impact on North 27th Street A potential future tax increment district extension may also have a favorable impact on the revitalization and renewal of the former Sheraton, Wells Fargo Tower, Park II and the Northern Hotel properties and well as enhance and provide several more opportunities of redevelopment.

X.

Y. SECTION 18 – CONCLUSIONS

The creation of this Extended North 27th Street Urban Renewal District will have a positive impact on Downtown Billings and no impact on the sunset and expiration date of the 1975 Urban Renewal District. This expanded N. 27th District is separate from the 1975 District and has no impact on the increment generated by that district, the base taxable value of that district and the sunset of that district

Expansion of the existing 27th Street District is an essential first-step in completing what may be a number of urban renewal projects. If completed, mixed use projects approved within the first year could stimulate over \$30 million in new construction, and possibly as much as \$15 million in re-sales. Approximately 200 employees could be located on the commercial and office floors of possible mixed use projects. Also new condominiums housing could be a substantial contribution to the district. Thus, expansion of the district, in addition to eliminating blight and providing renaissance to the CBD, will also bring new employees and residents to the CBD.

Mixed use development within the Expanded District ties in favorably with and actually stimulates the remodeling plans that are currently underway for several downtown properties.

Additionally, like any major new development, the anticipated construction at 4th Avenue North and North Broadway will have a stimulating effect on the surrounding area. Specific examples of this are:

1. It will tie the CBD to the medical corridor located immediately to the north of the development.
2. The Billings Clinic has purchased the Underriner property to the north. The Clinic's plans at this point have not been determined; however, the development proposed in this Modified Plan will enhance and encourage future development by this group.
3. The Framework Plan encourages the development of the 5th Avenue North corridor. An enhanced Library, as accomplished by projects described in this Modified Plan, will provide an excellent entrance to this corridor.
4. Future redevelopment and revitalization of structures like the Northern Hotel and the Babcock Theater Building are enabled by this district and its possible future expansion.

In conclusion, expansion of the existing 27th Street Urban Renewal District to include the property described in this Modified Plan will have a positive effect on the CBD.

TAX_ID	MAX(TX_GIS.LEGALDESC)	LOT SIZE (SQ FT)	2006 APPRAISAL VALUE	2006 MARKET VALUE	2006 TAXABLE VALUE
A00062	LTS 1-6 BLK 9 BILLINGS ORIGINAL TOWN	21000	\$97,300.00	\$83,483.00	\$2,621
	LTS 7-12 & 14-24 BLK 9 BILLINGS ORIGINAL TOWN & LTS 13A BLK 58 FOSTERS ADD AMND (LESS 642 SQ FT STREET) (98)	70431	\$2,665,481.00	\$2,253,292.00	\$0
A00063	LTS 1-6 BLK 42 BILLINGS ORIGINAL TOWN	21000	\$780,300.00	\$525,382.00	\$16,497
A00237	LTS 7-8 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$163,500.00	\$134,012.00	\$4,208
A00241	LTS 9-10 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$37,833.00	\$1,188
A00242	LTS 11-12 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$67,600.00	\$54,376.00	\$1,708
A00243	LTS 13-14 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$810,800.00	\$833,721.00	\$25,901
A00244	LTS 15-16 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$37,948.00	\$1,192
	LTS 17-24 BLK 42 BILLINGS ORIGINAL TOWN COMBO W/A00248-50 28,000 SQ FT (05)	28000	\$142,100.00	\$106,174.00	\$3,334
A00247	LTS 1-12 BLK 43 BILLINGS ORIGINAL TOWN	42000	\$6,179,200.00	\$5,301,753.00	\$0
	LTS 13-16 BLK 43 BILLINGS ORIGINAL TOWN (LESS 150 SQ FT ST TO CITY)	13850	\$177,915.00	\$149,043.00	\$4,680
A00252	LTS 17-19 N2 LT 20 BLK 43 BILLINGS ORIGINAL TOWNSITE	12250	\$64,575.00	\$55,405.00	\$1,740
A00254	LTS 20-24 S2 LT 20 BLK 43 BILLINGS ORIGINAL TOWN (LESS 30 SQ FT ST TO CITY)	15720	\$1,094,208.00	\$889,082.00	\$27,918
	LTS 1-9 BLK 44 BILLINGS ORIGINAL TOWN & LTS 1-9 BLK 56 FOSTERS ADDITION (LESS 762 SQ FT ST TO CITY)	62238	\$3,485,813.00	\$2,724,592.00	\$0
A00256	LTS 10-12 BLK 44 BILLINGS ORIGINAL TOWN & LTS 10-12 BLK 56 FOSTERS ADDITION (LESS 75 SQ FT ST TO CITY)	10425	\$261,838.00	\$215,071.00	\$6,754
A00257	LTS 1-12 BLK 58 BILLINGS ORIGINAL TOWN	42000	\$2,072,600.00	\$1,733,910.00	\$0
	LTS 5-6 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,411.00	\$0
A00378	GENERAL FUND PARKING LOT 208 26TH ST				
	LTS 7-8 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,382.00	\$0
A00379	GENERAL FUND PARKING LOT 216 26TH ST				
A00380	LTS 9-10 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$49,400.00	\$42,155.00	\$1,323
A00381	LTS 11-12 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,238.00	\$1,263
	LTS 13-24 BLK 59 BILLINGS ORIGINAL TOWN				
A00382	GENERAL FUND COURTHOUSE 2630 3RD AVE N	42000	\$8,550,800.00	\$7,323,962.00	\$0
	LTS 1-4 BLK 90 BILLINGS ORIGINAL TOWN (SS 00348)	14000	\$284,900.00	\$205,916.00	\$6,465
A00611	LTS 5-6 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00612	LTS 7-8 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00613	LTS 9-10 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00614	LTS 11-12 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00615	LTS 13 BLK 90 BILLINGS ORIGINAL TOWNSITE	3500	\$237,800.00	\$138,916.00	\$4,362
A00616	LTS 14 BLK 90 BILLINGS ORIGINAL TOWNSITE	3500	\$55,250.00	\$37,070.00	\$1,164
A00617	LTS 15-24 BLK 90 BILLINGS ORIGINAL TOWN	35000	\$805,100.00	\$603,017.00	\$18,935
	LTS 1-4 19-24 S130.3' OF 20' OF ABDN ALLEY				
A00620	BLK 91 BILLINGS ORIGINAL TOWNSITE	35000	\$2,978,100.00	\$2,518,543.00	\$0
A00620A	LOTS 5-7 AMEND	4215	\$62,503.00	\$50,885.00	\$0

	LTS 5-6 AMEND BLK 91 BILLINGS	ORIGINAL			
A00621	TOWNSITE		3081	\$47,194.00	\$39,000.00
A00622	LTS 7A & 8 BLK 91 BILLINGS ORIGINAL TOWN		6940	\$368,890.00	\$282,705.00
A00623	LTS 9-12 BLK 91 BILLINGS ORIGINAL TOWN		14000	\$194,600.00	\$148,499.00
A00624	LTS 13-18 BLK 91 BILLINGS ORIGINAL TOWN		21000	\$6,284,200.00	\$5,370,603.00
A00630	LTS 1-4 BLK 92 BILLINGS ORIGINAL TOWN		14000	\$1,766,300.00	\$1,472,750.00
A00630A	ALSO LOT 6		7000	\$100,100.00	\$80,074.00
A00631	LT 7 BLK 92 BILLINGS ORIGINAL TOWNSITE		3500	\$102,400.00	\$82,419.00
A00632	LT 8 BLK 92 BILLINGS ORIGINAL TOWNSITE		3500	\$55,250.00	\$45,335.00
A00633	LTS 9-10 BLK 92 BILLINGS ORIGINAL TOWN		7000	\$104,600.00	\$83,762.00
A00634	LTS 11-12 BLK 92 BILLINGS ORIGINAL TOWN		7000	\$298,000.00	\$249,872.00
A07331	ALSO LTS 2-4		14000	\$204,000.00	\$161,507.00
	OF AMND LOTS 5-6 BLK 48				
A07332	32-1N- 26E		2216	\$212,916.00	\$182,142.00
	OF AMND LOTS 5-6 BLK 48				
A07332A	32-1N- 26E		4850	\$214,575.00	\$175,593.00
A07333	LTS 7 & 8 BLK 48 FOSTER'S ADD		7000	\$132,700.00	\$100,660.00
A07334	L: 9-12 B: 48 FOSTERS ADD		14000	\$1,694,600.00	\$1,440,442.00
A07335	L: 13-14 B: 48 FOSTER'S ADDITION		7000	\$104,000.00	\$83,420.00
A07336	ALSO LT 16		7000	\$104,500.00	\$83,849.00
A07337	ALSO LT 18		7000	\$104,500.00	\$83,849.00
A07338	LT 19-20 BLK 48 FOSTER SUBD		7000	\$134,470.00	\$84,936.00
A07339	ALSO LT 22-24		14000	\$207,800.00	\$164,767.00
A07341	ALSO LTS 2-6		21000	\$2,119,300.00	\$1,707,637.00
	ABDN RAILROAD R/W BETWEEN BLKS 49 & 53 (LESS 7500 SQ FT RR TRACKS E00087)				
A07341A	FOR PARKING LOT		16500	\$228,350.00	\$179,644.00
A07342	ALSO LT 8		7000	\$100,100.00	\$80,074.00
A07343	LTS 9 & 10 BLK 49 FOSTER'S ADD		7000	\$107,000.00	\$85,994.00
A07344	LTS 11-12 BLK 49 FOSTER'S ADD		7000	\$107,200.00	\$86,050.00
A07345	LTS 13-20 BLK 49 FOSTER'S ADD		30940	\$725,200.00	\$590,028.00
A07347	S 3FT ALSO LTS 22-24		10920	\$159,820.00	\$126,765.00
A07348	LTS 1 AND 2 BLK 50 FOSTER ADDITION		7000	\$408,200.00	\$391,587.00
A07349	ALSO LT 4		7000	\$104,300.00	\$83,677.00
A07350	ALSO LTS 6-9		17500	\$253,750.00	\$200,335.00
A07352	ALSO LTS 11 & 12		10500	\$147,350.00	\$116,758.00
A07353	ALSO LTS 14-17		17500	\$470,150.00	\$382,685.00
A07355	ALSO LTS 19 & 20		10500	\$153,650.00	\$122,163.00
A07356	ALSO LTS 22-24		14000	\$221,100.00	\$175,262.00
	LT 1-4, 21-23 BLK 51 FOSTER ADDITION & LTS 1-4 & ADJ VAC 20' ALLEY BLK 268 BILLINGS OT (97)		26250	\$462,000.00	\$438,208.00
A07356A	LT24A BLK51 FOSTERS ADD AMND (97)		22677	\$311,740.00	\$210,048.00
A07356C	(A27734 & A07356A)				
	L:5-12 B:51 FOSTER'S ADD (OLD A-7358,A-7359 & A-7360) (2000)		28000	\$655,700.00	\$487,969.00
A07357	LTS 13-17 BLK 51 FOSTER ADDITION		17500	\$407,350.00	\$377,826.00
A07361	ALSO N 1/2 OF LT 19		5250	\$80,375.00	\$65,079.00
A07362	S 1/2 ALSO LT 20		5250	\$293,975.00	\$240,877.00

A07364	LT 1-10 & 15-24 BLK 52 FOSTERS ADD AMND & TR 1 C/S 2278 & ABND RR	113,684 SQ FT	113684	\$4,690,034.00	\$6,529,111.00	\$200,738
A07366	LTS 1,2,3,4 BLK 53 FOSTER'S ADD		14000	\$451,300.00	\$352,093.00	\$0
A07367	ALSO LT 6		7000	\$216,100.00	\$170,270.00	\$0
A07368	L:7 & 8 B:53 FOSTER'S ADD		7000	\$104,700.00	\$83,877.00	\$0
A07369	L:9-12 B:52 FOSTER'S ADD		14000	\$203,900.00	\$161,106.00	\$0
<u>EXHIBIT A</u>	LTS 13-20 BLK 53 FOSTERS ADD		28000	\$873,058.00	\$755,547.00	\$23,676
A07371B	LT 21 & 22 BLK 53 FOSTER'S ADDITION		3500	\$110,100.00	\$90,382.00	\$1,419
	ALSO LOT 24		7000	\$104,500.00	\$83,676.00	\$0
A07372	ALSO LTS 2-24 ALSO BILLINGS ALL BLK 8 & VAC 5TH LYING BTWN BLKS 48 & 54 FOSTERS ADD ABDN R/W 32'X160' & 17'X140' LYING BTWN BLKS 49 &		114000	\$4,044,600.00	\$3,346,544.00	\$0
D12396	53 (OLD #E00087)		7500	\$106,850.00	\$85,315.00	\$0

EXHIBIT B

LARGE DOWNTOWN BILLINGS DEVELOPMENT PROJECTS DEVELOPMENT CRITERIA

INTRODUCTION

The Downtown Billings Partnership, Inc. (DBP) has been responsible for administering the Tax Increment Finance dollars in Billings, pursuant to Montana Urban Renewal Law (Title 7 Chapter 15 part 42 Montana Code Annotated, "Urban Renewal." Tax Increment Financing (TIF) is an important element of the program as it provides a means to finance urban renewal activities

The DBP encourages large development projects, defined as those with over \$1 million in property improvements. This program enables the Developer and the DBP to work together in a streamlined, efficient manner.

Z.

INVESTMENT PARAMETERS

Each project is unique. A 5:1 private:public leveraging investment ratio (for every \$5 in private funds a maximum of \$1 of TIF funds invested into public improvements) is desired for each project. Please note that property acquisition costs are *not* to be included in the 5:1 calculation; *only* property improvements are to be considered. Property improvements are defined as all project costs excluding property acquisition.

AA. ELIGIBLE ACTIVITIES

As specified by Title 7 Chapter 15 Part 4288 Montana Code Annotated (please see Attachment), TIF may be used to finance certain urban renewal activities. The DBP places special emphasis on those projects that exemplify the Downtown Billings Framework Plan, particularly mixed-use developments. In addition, all projects should address parking needs and accommodations for the completed project (see Criteria for Review #13). Please note that the investment levels indicated below serve as examples only.

POTENTIAL MIXED USE DEVELOPMENT								
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)			POSSIBLE PUBLIC BENEFIT GUIDELINES					
Total	Private:Public 5:1 Ratio		Retail Space	Office Space	Market Rate Housing Units	Job Retention/Creation (FTE)	Parking	Entertainment (if applicable)
\$1,000,000	\$833,333	\$166,667	$\geq 1,000 \text{ ft}^2$	$\geq 8,000 \text{ ft}^2$	≥ 2	≥ 4		avg. ≥ 50 patrons/day
\$1,500,000	\$1,250,000	\$250,000	$\geq 1,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	≥ 2	≥ 4		avg. ≥ 60 patrons/day
\$2,000,000	\$1,666,667	\$333,333	$\geq 1,400 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	≥ 3	≥ 5		avg. ≥ 70 patrons/day
\$2,500,000	\$2,083,333	\$416,667	$\geq 1,600 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	≥ 3	≥ 5		avg. ≥ 80 patrons/day
\$3,000,000	\$2,500,000	\$500,000	$\geq 1,800 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	≥ 4	≥ 6		avg. ≥ 90 patrons/day
\$3,500,000	\$2,916,667	\$583,333	$\geq 2,000 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	≥ 4	≥ 6		avg. ≥ 100 patrons/day
\$4,000,000	\$3,333,333	\$666,667	$\geq 2,400 \text{ ft}^2$	$\geq 14,000 \text{ ft}^2$	≥ 5	≥ 7		avg. ≥ 110 patrons/day

POTENTIAL HOUSING DEVELOPMENT (MARKET RATE)								
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)			POSSIBLE PUBLIC BENEFIT REQUIREMENTS					
Total	Private:Public 5:1 Ratio				Market Rate Housing Units		Parking	
\$1,000,000	\$833,333	\$166,667			≥ 10			
\$1,500,000	\$1,250,000	\$250,000			≥ 15			
\$2,000,000	\$1,666,667	\$333,333			≥ 20			
\$2,500,000	\$2,083,333	\$416,667			≥ 23			
\$3,000,000	\$2,500,000	\$500,000			≥ 26			
\$3,500,000	\$2,916,667	\$583,333			≥ 29			
\$4,000,000	\$3,333,333	\$666,667			≥ 32			

POTENTIAL DINING/ENTERTAINMENT							
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)			POSSIBLE PUBLIC BENEFIT GUIDELINES				
Total	Private:Public 5:1 Ratio				Job Re-tention/ Creation (FTE)	Parking	Entertainment (if applicable)
\$1,000,000	\$833,333	\$166,667			≥4		avg. ≥75 patrons/day
\$1,500,000	\$1,250,000	\$250,000			≥4		avg. ≥90 patrons/day
\$2,000,000	\$1,666,667	\$333,333			≥5		avg. ≥105 patrons/day
\$2,500,000	\$2,083,333	\$416,667			≥5		avg. ≥120 patrons/day
\$3,000,000	\$2,500,000	\$500,000			≥6		avg. ≥135 patrons/day
\$3,500,000	\$2,916,667	\$583,333			≥6		avg. ≥150 patrons/day
\$4,000,000	\$3,333,333	\$666,667			≥7		avg. ≥165 patrons/day

CRITERIA FOR REVIEW

The DBP evaluates projects based on the following criteria.

1. Relevance to the Framework Plan – Documentation of the project's impact on Downtown Billings in relation to the goals and objectives of the Framework Plan, particularly mixed-use development. Urban design elements will also be considered, including pedestrian emphasis, quality of design, and downtown Billings' personality.
2. Economic Stimulus – The amount of economic activity to be generated by the project is assessed, as well as the leverage ratio of public to private investment.
3. Tax Generation – The increase in taxable value due to new construction/rehabilitation is estimated by the County Assessor's office to determine tax increment generation.
4. Employment Generation – Total employment generated by the project assessed in terms of new permanent and part-time jobs, and construction jobs.
5. Elimination of Blight – The project's direct and indirect impact on the physical and fiscal deterioration within the Tax Increment District and the community is documented by the Developer.
6. Special or Unique Opportunities – The extent to which the project represents a unique opportunity, meets a special need, or addresses specific Framework or community goals. The restoration of historic property or the provision of an unmet community need are examples of special and unique opportunities.

7. Impact Assessment – The extent of both positive and negative environmental impacts, appropriateness of the project design, and impact on existing businesses or residents.
8. Financial Assistance – Various forms of financing available to the Developer ; i.e. lender participation and state and federal grant monies
9. Project Feasibility – A determination of feasibility is made on the strength of the Developer's demonstration of market demand for the project as contained primarily on the pro forma and financing commitments.
10. Developer Ability to Perform – An assessment of the developer's capability to undertake the relative complexities of the project based on past performance on similar or comparable projects.
11. Timely Completion – The feasibility of completing the project according to the Developer's project schedule.
12. Payment of Taxes – All property taxes, special improvement district assessments, and other assessments on the project property must be paid to date.
13. Parking – Developer should present a parking needs assessment for the completed project and a plan for using new or existing parking to meet the anticipated demand.

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

AGENDA ITEM:

CITY COUNCIL ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: 2006 CTEP Project Applications
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Scott Walker, Transportation Planner

PROBLEM/ISSUE STATEMENT: Each year Billings submits projects to the Montana Department of Transportation for funding from the Community Transportation Enhancement Project (CTEP) program. These projects typically represent construction of pedestrian and/or bicycle facilities in the community. Council must formulate a recommendation to the Policy Coordinating Committee (PCC).

ALTERNATIVES ANALYZED:

- Approve the CTEP applications for submission as recommended by TAC.
- City Council formulate their own project list.
- Do not approve the CTEP applications for submission. This would result in the loss of CTEP funding for this year.

FINANCIAL IMPACT: These projects were budgeted and planned to utilize CTEP funding. Failure to approve the applications would result in the loss of the CTEP funding. As a result, the projects would not be fully funded, and additional funding would need to be allocated in order to proceed with construction.

RECOMMENDATION

Staff recommends that Council formulate a recommendation so the Mayor can bring it with him to the Policy Coordinating Committee (PCC) meeting.

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

INTRODUCTION

Each year, projects are submitted for Community Transportation Enhancement Project (CTEP) funding, to offset some of the construction costs. These projects are typically pedestrian and/or multi-modal transportation projects that include construction of sidewalks, bike lanes and bike paths.

Other categories eligible for CTEP funding include; acquisition of scenic easements, landscaping, rehabilitation of historic buildings, establishment of transportation museums, historic preservation, archeological planning and research, mitigation of water pollution due to highway runoff, preservation of abandoned railroad corridors, control and removal of outdoor advertising, educational and safety programs.

In order for CTEP funding to be authorized, an application must be submitted and each application must go through a local selection process. This process includes a recommendation from the Technical Advisory Committee (TAC), and recommendations from the Planning Board, County Commission and City Council. Projects are then submitted to the Montana Department of Transportation (MDT) for final approval.

PROCEDURAL HISTORY

- Completed Items
 - 8/1/06; CTEP project applications received
 - 9/14/06; Technical Advisory Committee (TAC) reviews applications and makes recommendation on which projects to fund and their priority
 - 9/18/06; Council receives information and presentation of CTEP projects at Work Session
- Future Items
 - 9/26/06; Planning Board reviews applications and approves/revises TAC's recommendation and prioritization list
 - 9/28/06; County Commissioners review the applications and approve/revise TAC's recommendation and prioritization list
 - 10/10/06; City Council reviews applications and approves/revises TAC's recommendation and prioritization at their regular meeting.
 - 11/1/06; Policy Coordination Committee reviews the applications and action taken by the other groups and determines the final recommendation and prioritization
 - The final recommendation and prioritization are reviewed by the Montana Department of Transportation (MDT)
 - MDT forwards the recommendation and prioritization to the Highway Commission for final approval
 - Highway Commission approves the recommendation and prioritization
 - MDT creates the project specific agreements and forwards them to the City
 - City Council accepts and executes the project specific agreements
 - The executed agreements are returned to MDT
 - The Highway Commission approves the project agreements
 - MDT authorizes the City to begin project development

- Project development and design
- Project construction
- Project close-out

BACKGROUND

Each CTEP project must follow an established approval procedure before funding is allocated. The first step of the process is the submission of project applications. All the applications are reviewed and prioritized through a previously approved process. The process includes a review by Council. The applications are consistent with previous CTEP project agreements accepted and executed by Council.

If Council does not approve the submission of the applications, then no CTEP funding can be allocated from this year's allocation for these projects. It would be a full year before CTEP applications could be submitted again. This could cause lengthy project delays or require Council to allocate additional funding to the projects in order to remain on schedule.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Council has previously approved the recommended projects during the approval of the Capital Improvement Plan. All the projects will proceed through the established CTEP project approval process for the City of Billings and Yellowstone County.

BACKGROUND

It should be noted that project request this year totals \$1,590,863 and CTEP funding available is \$581,000. Current projects and recommendations are as follows:

F.Y. 2006 CTEP PROPOSALS

- **Big Ditch Trail Connections**

This project would construct four connection paths and a ditch crossing for bicycle and pedestrians to link the adjacent neighborhoods to the main Big Ditch Trail located between the Shiloh Underpass and 46th St. W.

CTEP Funds: **\$73,593** City of Billings/Local Match: **\$11,407** Project Cost: **\$85,000**

- **Lake Elmo – Hilltop To Wicks (Sidewalks)**

This project would fund sidewalks along high priority school walking routes on Lake Elmo from Hilltop Road to Wicks Lane. This would include approximately ¾ of a mile of sidewalks and just under a mile of multi-use path.

CTEP Funds: **\$384,630** City of Billings/Local Match: **\$59,620** Project Cost: **\$2,850,000***

* This total includes \$2,405,750 in additional local funding.

- **Lampman Strip Park Trail**

This project would construct a 10' wide, approximately ½ mile, hard surface path in Lampman Park from Monad road to the Famous Dave's path.

CTEP Funds: **\$264,069** City of Billings/Local Match: **\$40,931** Project Cost: **\$305,000**

- **Main Street Bike/Pedestrian Underpass**

This project would construct a culvert under Main Street connecting Metra Park and the Alkali Creek area.

CTEP Funds: **\$264,069** City of Billings/Local Match: **\$40,931** Project Cost: **\$700,000***

* This total includes \$395,000 in additional local funding (2001-Federal Appropriation).

- **On-Street Bike Lanes**

This project would stripe bike lanes on various street segments through out the City of Billings.

CTEP Funds: **\$100,823** City of Billings/Local Match: **\$15,628** Project Cost: **\$116,451**

- **Swords Park Trail - Phase II**

This project would construct approximately 1 mile of hard surfaced path extending the existing trail connection that was built from the west side of Swords Park to where it currently ends at the fork in the Black Otter Trail Road. Phase II will continue the trail access to the east end of Swords Park and eventually make the connection to the north to the pedestrian underpass that will be built as part of the Airport Road project.

CTEP Funds: **\$457,142** City of Billings/Local Match: **\$70,858** Project Cost: **\$528,000**

- **Laurel Pedestrian Bridge**

This project would construct a bridge over the Big Ditch connecting 12th Street to the neighborhood to the East in Laurel, MT.

CTEP Funds: **\$46,537** Yellowstone Co./Local Match: **\$7,213** Project Cost: **\$53,750**

F.Y. 2006 CTEP APPLICANT REQUESTS

\$ 1,590,863

F.Y. 2006 CURRENT CTEP DOLLARS AVAILABLE

\$ 581,000

TAC RECOMMENDATION

PROJECT	CTEP REQUEST	RECOMMENDED FUNDING
1. Lake Elmo – Hilltop To Wicks (Sidewalks)	\$384,630	\$384,630
2. Main Street Bike/Pedestrian Underpass	\$264,069	\$264,069
3. Laurel Pedestrian Bridge	\$46,537	\$46,537
TOTAL	\$695,236	\$695,236

*The TAC recommendation includes allocating approximately \$114,000 of 2007 CTEP funds.

ISSUES

The TAC felt strongly that it is important to utilize the 2001 Federal Earmark to make the connection under Main Street. Main Street remains the largest obstacle to making the connection from the Rims to the River. TAC also felt that the Lake Elmo and Laurel Bridge Projects were of importance to the safety of children that use these routes to get to and from school. TAC is following the president set by PCC several years ago to borrow future year funding to pay for this years projects. The City Council members will need to determine which projects are their priority.

RECOMMENDATION

Staff recommends that Council formulate a recommendation so the Mayor can bring it with him to the Policy Coordinating Committee (PCC) meeting.

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AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 10, 2006

TITLE: City Administrator Employment Agreement

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The City Council will consider approving an employment agreement with City Administrator Christina Volek. The agreement describes the conditions of employment, salary and benefits, a severance provision, a term and renewal terms. Employment agreements between city managers and city governing bodies are common and have been used for many years in Billings. This is the first such agreement for the recently named City Administrator.

FINANCIAL IMPACT: The FY 2007 City Administrator salary is budgeted for \$104,000 and benefits for \$25,000. The contract amount is \$105,833 but 25% of the year has passed, so the salary and benefits should equal less than has been budgeted.

RECOMMENDATION

Staff recommends that Council approve the employment agreement with Christina Volek.

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

ATTACHMENTS

A: Employment agreement

INTRODUCTION

The City Council will consider approving an employment agreement with City Administrator Tina Volek.

BACKGROUND

Former City Administrator Kristoff Bauer resigned in July, 2005. The City Council decided to not recruit a new City Administrator until after the November 2005 City election. Following the election, the City Council appointed a citizen committee to advise it on the professional and personal characteristics that it should seek in a new city administrator. The committee members' comments were combined with those from the Councilmembers and transmitted to the Mercer Group. The Mercer Group was retained by the City to assist with the recruitment. Mercer solicited applications in June and July and met with the Council in July to select finalists. Six semi-finalists were selected but the field quickly narrowed to three. The City Council eventually determined that it would not conduct interviews and offered the position to Ms. Volek at its meeting on August 28th. A Council subcommittee was formed and has been working with Ms. Volek to develop the contract for Council consideration.

RECOMMENDATION

Staff recommends that Council approve the employment agreement with Christina Volek.

ATTACHMENTS

A: Employment agreement

ATTACHMENT A

Employment Agreement

Introduction

This Agreement, made and entered into October 10, 2006, by and between the City of Billings, Montana, a municipal corporation, (hereinafter called "Employer") and Christina F. Volek (hereinafter called "Employee"), an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term

The term of this agreement shall be for an initial period of two years, from September 8, 2006, to October 1, 2008. This Agreement shall be reviewed annually on its anniversary date, and shall be renewed for an additional 2-year year term unless notice is given by the Employer at least 12 months before the expiration date that the Agreement shall be terminated. If the agreement is not renewed, all compensation, benefits and requirements of the agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns. If the Employee is terminated, as defined in Section 9 of this agreement, the Employee shall be entitled to all compensation including salary, accrued vacation, 1/4 of accrued sick leave, car allowance paid in lump sum, plus continuation of all benefits for the remainder of the term of this agreement.

Section 2: Duties and Authority

Employer agrees to employ Christina F. Volek as City Administrator to perform the functions and duties specified in Section 4.03 of the City Charter of the City of Billings, Montana.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee in the first year of this Agreement an annual base salary of \$105,833 payable in biweekly installments at the same time that the other management employees of the Employer are paid.

B. This agreement shall be amended each subsequent October 1 to reflect a cost-of-living adjustment (COLA) and an increase in compensation as agreed by the Employer and Employee, dependent upon successful completion of the performance evaluation conducted under the provisions of Section 12 of this Agreement.

Section 4: Health, Disability and Life Insurance Benefits

- A. Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and her dependents equal to that which is provided to other employees of the City of Billings, Montana
- B. Employer shall pay the amount of premium due for term life insurance in the amount of the Employee's two-year annual base salary. The Employee shall name the beneficiary of the life insurance policy.
- C. Should Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee's remains back to the custody of the Employee's family.

Section 5: Vacation and Sick Leave

- A. On the effective date of this agreement, Employee shall be credited with her existing sick and vacation leave earned to date. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to any other employees.
- B. Employee is entitled to accrue all unused leave, up to 500 hours, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, and other benefits to date.

Section 6: Automobile

Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$4,800 per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The amount of the vehicle allowance may be increased in the future by mutual consent of the parties. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee on the basis of gasoline receipts for any business use of the vehicle beyond the greater Billings area. For purposes of this Section, use of the car within the greater Billings area is defined as travel to locations within a 50-mile radius of Billings.

Section 7: Retirement

- A. Employer agrees to contribute 6.8% of the Employee's annual salary into the Montana Public Employees' Retirement System (MPERS) or its successor. Employee will contribute 6.9% of her annual salary to MPERS.
- B. In addition to Employer's payment to MPERS as referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] or other Section

457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay ICMA-RC an amount equal to 6.8% of Employee's base salary, in equal proportionate amount each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

Section 8: General Business Expenses

A. Employer agrees to budget for and to pay for:

1. Professional dues and subscriptions of the Employee for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
2. Reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
3. Reasonable travel and subsistence expenses of Employee for short courses, institutes, and seminars for the Employee's professional development and for the good of the Employer.

B. Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations reasonably related to Employee's duties. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination

For the purpose of this agreement, termination shall occur when:

- A. The majority of the governing body votes to terminate the Employee at a duly authorized public meeting.
- B. If the Employer, citizens or legislature acts to amend any provisions of the City Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the majority of the governing body, then the Employee may declare a termination as of the date of the suggestion.

Section 10: Severance Compensation

A. Severance compensation shall be paid to the Employee if employment is terminated as defined in Section 9.

B. If the Employee is terminated, the Employer shall provide a minimum severance compensation payment equal to one year salary at the current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by the Employer and the Employee.

C. The Employee shall also be compensated for all accrued vacation leave and $\frac{1}{4}$ of accrued sick leave. The Employer agrees to make a contribution to the Employee's deferred compensation account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation.

D. For a minimum period of one year following termination, the Employer shall pay the cost to continue the following benefits:

1. Health insurance for the employee and all dependents as provided in Section 4A;
2. Life insurance as provided in Section 4B;
3. Out-placement services should the employee desire them in an amount to be negotiated at time of separation.
4. Any other benefits as negotiated at the time of separation.

E. If the Employee is terminated for cause, the Employer is not obligated to pay severance under this section.

Section 11: Resignation

If the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

Section 12: Performance Evaluation

Employer shall annually review the performance of the Employee in September, subject to a review form shown as Attachment A or to another process for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to:

1. Prepare a written evaluation;
2. Meet and discuss the evaluation; and
3. Present a written summary of the evaluation results, along with specific suggestions for improvement. The final written evaluation shall be completed and delivered to the Employee within 30 days of the evaluation meeting.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Residency

Employee agrees to maintain residence within the corporate boundaries of the City of Billings.

Section 15: Indemnification

Employer shall defend, save harmless and indemnify Employee as provided in the current version of Montana Code Annotated Section 2-9-305(2005) which is set forth in its entirety below. This obligation shall survive and extend beyond the Employee's separation from Employer and Employee shall be indemnified and held harmless for any post-separation costs or expenses incurred in connection with the investigation or defense of any claim related to her employment.

1. It is the purpose of this section to provide for the immunization, defense, and indemnification of public officers and employees civilly sued for their actions taken within the course and scope of their employment.
2. In any non-criminal action brought against any employee of a state, county, city, town, or other governmental entity for a negligent act, error, or omission, including alleged violations of civil rights pursuant to *42 U.S.C. 1983*, or other actionable conduct of the employee committed while acting within the course and scope of the employee's office or employment, the governmental entity employer, except as provided in subsection (6), shall defend the action on behalf of the employee and indemnify the employee.
3. Upon receiving service of a summons and complaint in a non-criminal action against him, the employee shall give written notice to his supervisor requesting that a defense to the action be provided by the governmental entity employer. If the employee is an elected state official or other employee having no supervisor, the employee shall give notice of the action to the legal officer or agency of the governmental entity defending the entity in legal actions of that type. Except as provided in subsection (6), the employer shall offer a defense to the action on

behalf of the employee. The defense may consist of a defense provided directly by the employer. The employer shall notify the employee, within 15 days after receipt of notice, whether a direct defense will be provided. If the employer refuses or is unable to provide a direct defense, the defendant employee may retain other counsel. Except as provided in subsection (6), the employer shall pay all expenses relating to the retained defense and pay any judgment for damages entered in the action that may be otherwise payable under this section.

4. In any noncriminal action in which a governmental entity employee is a party defendant, the employee shall be indemnified by the employer for any money judgments or legal expenses, including attorney fees either incurred by the employee or awarded to the claimant, or both, to which the employee may be subject as a result of the suit unless the employee's conduct falls within the exclusions provided in subsection 6.
5. Recovery against a governmental entity under the provisions of parts 1 through 3 of this chapter constitutes a complete bar to any action or recovery of damages by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act, error, or omission or other actionable conduct gave rise to the claim. In any such action against a governmental entity, the employee whose conduct gave rise to the suit is immune from liability by reasons of the same subject matter if the governmental entity acknowledges or is bound by a judicial determination that the conduct upon which the claim is brought arises out of the course and scope of the employee's employment, unless the claim constitutes an exclusion provided in (b) through (d) of subsection (6).
6. In a noncriminal action in which a governmental entity employee is a party defendant, the employee may not be defended or indemnified by the employer for any money judgments or legal expenses, including attorney fees, to which the employee may be subject as a result of the suit if a judicial determination is made that:
 - (a) the conduct upon which the claim is based constitutes oppression, fraud, or malice, or for any other reason does not arise out of the course and scope of the employee's employment;
 - (b) the conduct of the employee constitutes a criminal offense as defined in Title 45, chapters 4 through 7;
 - (c) the employee compromised or settled the claim without the consent of the government entity employer; or
 - (d) the employee failed or refused to cooperate reasonably in the defense of the case.
7. If no judicial determination has been made applying the exclusions provided in subsection (6), the governmental entity employer may determine whether those exclusions apply. However, if there is a dispute as to whether the exclusions of subsection (6) apply and the governmental entity employer concludes it should

clarify its obligation to the employee arising under this section by commencing a declaratory judgment action or other legal action, the employer is obligated to provide a defense or assume the cost of the defense of the employee until a final judgment is rendered in such action holding that the employer had no obligation to defend the employee. The governmental entity employer has no obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the employer under this subsection.

Section 16: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 17: Other Terms and Conditions of Employment

A. Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other exempt employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 18: Notices

Notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on September 8, 2006.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Approved this ____ day of _____, 2006,

The City of Billings

By:

Ron Tussing, Mayor

Attest:

Marita Herold, CMC/AAE, City Clerk

Christina F. Volek, Employee

Approved as to Form:

Brent Brooks, City Attorney

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