

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

August 13, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing
PLEDGE OF ALLEGIANCE – Mayor Tussing
INVOCATION – Councilmember Boyer
ROLL CALL
MINUTES – July 23, 2007
COURTESIES
PROCLAMATIONS
ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: and 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) **New Landfill Compactor.** (Opened 7/24/07) Recommend Tractor & Equipment, \$584,929.00.

(Corresponding Staff Memo A)

B. **Airport Improvement Program (AIP) Airport Master Plan Update Request for Proposals.** Recommendation to be made prior to August 13, 2007, meeting.

(Corresponding Staff Memo B)

C. **Approval** of two-year service contract with Big Sky Linen Supply for uniform rental/purchase and laundry services. \$65,130.00.

(Corresponding Staff Memo C)

D. Approval of one-year agreement to provide library services to Golden Valley County. \$6,874.80 annual revenue.

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

E. Approval and award of field light salvage from the existing Cobb Field to the Billings American Legion Baseball organization.

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

F. Approval and award of red dirt and sod salvage from the existing Cobb Field to the Billings Heights National Little League in conjunction with Little League Baseball Montana District #1 and Billings American League Baseball.

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

G. Approval of Assignment and Transfer of the West End Hangar Ground Lease from Martin Elshire to Steve Vold.

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

H. Approval of 3-year Park I Lease Agreement with Budget Instant Print, Inc., \$39,241.80 3-year total revenue.

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

I. Approval and acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant 32.

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

J. Memorandum of Understanding with BikeNet for Pepsico Grant Application for Bike Lanes.

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

K. Easement from Yellowstone County for installation of a gateway monument located on Lot 24, Block 182, of Billings Original Town at 5th Avenue South and South 27th Street at no cost to the City.

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

L. W.O. 04-33: Lake Elmo Drive (Hilltop Road to Wicks Lane) Right-of-Way Acquisition

(1) **Parcel 23:** Portion of Lot 14, Josephine Subdivision, Scott M. Longman and Elmer L. Rudolph & Lavonne K. Rudolph. \$8,800.00.

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

(2) **Parcel 46:** Portion of Tract 1-B of Amended Tract 1 of Certificate of Survey 332, John M. Wiesner & Deborah K. Wiesner. \$1,950.00.

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

(3) **Parcel 51:** Portion of Lot 21, Block 2 of Broadmoor Subdivision, Shane Headlee and Hope Headlee. \$9,600.00.

[\(Corresponding Staff Memo L3\)](#)

M. Street Closures:

(1) Billings Central High School Homecoming Parade, 5:00 p.m. to 6:15 p.m., September 29, 2007, leaving Central High School onto Division Street; west on Broadwater Avenue; north on 5th Street West; through the intersection at Grand Avenue; ending in the Senior High School parking lot.

[\(Corresponding Staff Memo M1\)](#)

(2) Skyview High School Homecoming Parade, 12:30 p.m. to 2:00 p.m., September 14, 2007, leaving Skyview High School; proceeding east on Wicks Lane; ending at St. Bernard's Church.

[\(Corresponding Staff Memo M2\)](#)

(3) YMCA 2007 Marathon, 5:30 a.m. to 1:30 p.m., September 16, 2007, leaving Molt, MT, east to Sam Snead Trail and Walter Hagan Drive, south on 54th Street West, east on Rimrock Road, south on 46th Street West, east on Rangeview, north on 38th Street West, east on Poly Drive, south on Patricia Lane, east on Colton Boulevard, south on 17th Street West, east on Parkhill Drive, south on 3rd Street West, ending at Daylis Stadium.

[\(Corresponding Staff Memo M3\)](#)

N. Approval of Library Donation of 40 plastic chairs to Friendship House.

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

O. Resolution expanding the boundaries of Special Improvement Lighting Maintenance District 288 to include four existing street lights near the intersection of Wentworth Drive and Glenhaven Drive.

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

P. Resolution authorizing the issuance and calling for the public sale of \$168,000 pooled special improvement districts bonds (SID 1375 and SID 1377).

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

Q. Resolution temporarily suspending Section 24-411, BMCC, Parking for Camping Purposes, in the Shrine Auditorium parking lot during the Billings Big Sky Polka Fest, September 1-3, 2007.

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

R. Second/Final reading ordinance for Zone Change #814: A zone change from Residential 9,600 to Community Commercial, Neighborhood Commercial, Residential Professional, Residential Multi-family Restricted, Residential 6,000, Residential 7,000 Restricted, and Public generally located south of Wicks Lane, west of Governors Boulevard, and north of Constitution and Kootenai Avenues, State of Montana, owner.

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

S. Preliminary Major Plat of Skyview Ridge Subdivision, 1st Filing, generally located south of Wicks Lane, west of Governors Boulevard, and north of Constitution and Kootenai Avenues in Billings Heights; approval of a trail on the south side of Swift Current Drive, the northeast side of Keno Street, and the southeast side of Targhee

Avenue in lieu of sidewalks; and conditional approval of the plat and adoption of the Findings of Fact.

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

T. Bills and Payroll.

(1) July 17, 2007

[\(Corresponding Staff Memo T1\)](#)

(2) July 20, 2007

[\(Corresponding Staff Memo T2\)](#)

(3) May 1 – May 31, 2007 (Municipal Court)

[\(Corresponding Staff Memo T3\)](#)

(4) June 1 – June 30, 2007 (Municipal Court)

[\(Corresponding Staff Memo T4\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** approving Council Contingency Fund appropriation in the amount of \$12,500 for the City Website Renovation project. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

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

3. **PUBLIC HEARING AND RESOLUTIONS** – Special Improvement District 1379, King Avenue West from South 31st Street West to Shiloh Road.

(a) Resolution creating Special Improvement District 1379, King Avenue West from South 31st Street West to Shiloh Road. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

(b) Resolution authorizing construction bids for Special Improvement District 1379, King Avenue West from South 31st Street West to Shiloh Road. Staff recommends approval **(Action:** approval or disapproval of staff recommendation.)

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

4. **PUBLIC HEARING AND RESOLUTIONS** creating Light Maintenance District 301 - Josephine Crossing Subdivision and Light Maintenance District 302 – Grand Avenue, 8th to 12th Streets West. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

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

5. **PUBLIC HEARING AND RESOLUTION** vacating the north/south alley located on Lots 1A-12A, Amended Plat of a Portion of Lots 1 through 12, Block 38, Town of Billings; and Lots 13-24, Block 38, Town of Billings, for a value of \$25,500.00.

Billings Food Bank, petitioners. Staff recommends approval (**Action:** approval or disapproval of staff recommendation.)

(Corresponding Staff Memo 5)

6. **PUBLIC HEARING AND FIRST READING ORDINANCE** adopting the International Fire Code (IFC), 2006 Edition, as the Billings Fire Code. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

(Corresponding Staff Memo 6)

7. **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>

A

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Approval of Award to Purchase New Landfill Compactor

DEPARTMENT: Public Works/Solid Waste Division

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

PROBLEM/ISSUE STATEMENT: The Solid Waste Division currently has one landfill compactor to spread and compact waste at the landfill. It's critical to achieve the greatest compaction possible to maximize the amount of waste per cubic yard of landfill airspace. Historically the landfill compactor is replaced every 3 years. The amount of waste the landfill receives exceeds the capacity that can be handled by one compactor. A supplemental request to add a second compactor to the fleet was submitted and approved through the ERP process. Rather than replace the current 3 year old compactor with this new purchase, it will be retained as a second compactor for an additional 3 years. We will continue to replace the older machine every 3 years. The second compactor will be used to help spread and compact waste during peak hours of landfill activity. Bid specifications were mailed to four vendors and an Invitation to Bid was published July 12th and 19th. Bids were opened and read on July 24th.

FINANCIAL IMPACT: The current FY08 Solid Waste Division budget includes \$600,429 to purchase a new landfill compactor. We received one bid from Tractor & Equipment Company for \$584,968 to provide a new landfill compactor.

There are only three manufacturers that offer landfill compactors. Our specifications require direct drive and only one manufacturer meets that specification. The other two manufacturers are only available with hydrostatic drive. Our experience and research with other landfills has shown that machines with hydrostatic drive have not been as reliable as direct drive equipment. We have used the same specifications for over 20 years to assure the City receives equipment that is reliable and dependable. We recently checked with another landfill in Montana that has a compactor with hydrostatic drive. They have indicated that due to significant down time from mechanical breakdowns and poor parts availability, they have lost 19% compaction efficiency. They have decided to replace that machine now rather than in 2010 when programmed in their ERP.

RECOMMENDATION

Staff recommends that Council award the contract for purchase of a new landfill compactor for the Solid Waste Division to Tractor & Equipment Company in the amount of \$584,929.

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

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B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 13, 2007

TITLE: Approval of Award of Airport Improvement Program (AIP) Airport Master Plan Update.

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Federal Aviation Administration (FAA) requires Airport Master Plans to be updated at regular intervals. The last comprehensive Master Plan effort was performed over twenty (20) years ago and has outlived its usefulness. The Airport Master Plan provides a comprehensive approach for the development of the Airport over the next twenty years. Advisory Circular 150/5070 Airport Master Plan includes the following elements to be addressed within Master Plans:

- Environmental Considerations
- Existing Conditions
- Aviation Forecasts
- Facility Requirements
- Alternative Development and Evaluation
- Facilities Implementation
- Financial Feasibility Analysis

Staff developed a Request for Proposals for these services, and distributed it to nine consulting and engineering firms. This Request for Proposals was also advertised in the *Billings Times* and on the City's Web site. Proposals were received from Morrison Maierle, Inc., and Mead & Hunt.

A selection committee, comprised of City Council members Vince Ruegamer and Ed Ulledalen, Airport Commission member Sterling Starr, and City of Billings staff members, evaluated the proposals and the committee unanimously selected the firm of Mead & Hunt. Airport staff, Mead & Hunt, and the FAA have developed a scope of work for this project, and Airport staff has been negotiating the fees for the associated work. The final negotiated fees will be reviewed and approved by the FAA. The fees are estimated to be in the area of \$570,000. Staff will provide final numbers prior to the Council Meeting.

FINANCIAL IMPACT: The total cost of the Master Planning Update with Mead & Hunt is expected to be approximately \$570,000 and will be funded with \$475,000 of an AIP entitlement grant and the balance to be funded with local capital dollars currently available in the Department's capital fund. The local share amount will subsequently be eligible to be reimbursed in full through the next Passenger Facility Charge (PFC) application, which staff is

currently preparing. Funds are available in the PFC fund to reimburse the Capital fund once the new PFC application is approved later this year. The FAA's portion will be \$475,000 and the City's match with local capital funds will be approximately \$95,000. This project is included in the current Capital budget.

RECOMMENDATION

Staff recommends that the City Council approve the award of AIP 32 Airport Master Plan Update to Mead & Hunt. The final cost for the Master Plan Update will be provided to Council prior to the August 13, 2007 meeting.

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

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 13, 2007

TITLE: Approval of 2-Year (with two options to renew) Uniform Rental or Purchase and Laundry Services Contract with Big Sky Linen Supply.

DEPARTMENT: Administrative Services – Finance Division

PRESENTED BY: Liz Kampa-Weatherwax, Purchasing Agent

PROBLEM/ISSUE STATEMENT: The Finance Division recently prepared a Request for Proposals (RFP) for a two-year contract for Uniform Rental or Purchase and Laundry Services for various City departments currently utilizing these types of services, with two 2-year options to renew. The RFP was advertised in the *Billings Times* on June 21 and 28, 2007. Two companies were also sent copies of the RFP via e-mail.

The selection committee consisted of City staff: Liz Kampa-Weatherwax, Scott Emerick, Bill Kemp, Ken Behling, Larry Deschene and Saree Couture. Prices were requested for various uniform and services options. The following proposals were received:

1. Alesco, Inc. – Approx. Annual Price - \$60,086
2. Big Sky Linen Supply – Approx. Annual Price - \$65,130

The committee evaluated the proposals and considered Proposal Compliance, Comprehensiveness of Services Provided, Related Experience, Firm Stability, Prior City Experience, Assigned Individuals and Quality Assurance, before considering charges for services. The committee unanimously selected the proposal from Big Sky Linen Supply.

FINANCIAL IMPACT:

Many City Departments/Divisions have been providing uniform and laundry services for employees for a number of years. At least seven City Divisions have agreed to utilize this centralized service contract. Additional uniform and laundry service options may be added with contract pricing, as the need arises. The Divisions have budgeted for this expense.

RECOMMENDATION

The Committee recommends that the City Council approve, and the Mayor sign, a two-year contract, with two 2-year options to renew, for \$65,130 with Big Sky Linen Supply.

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

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D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Golden Valley Contract for Library Services 2007/2008

DEPARTMENT: Parmly Billings Library

PRESENTED BY: Bill Cochran, Library Director

PROBLEM/ISSUE STATEMENT: Parmly Billings Library began contracting with Golden Valley County in 1977 to provide library service to its residents at Billings. Golden Valley is one of two counties in Montana that does not have its own public library and for this reason it contracts with Parmly Billings Library for service. The proposed contract is for a one-year period beginning July 1, 2007; either party may cancel the agreement with thirty (30) days written notice.

ALTERNATIVES AVAILABLE:

1. Approve the contract.
2. Direct renegotiation of the rate in the contract.
3. Do not approve the contract.

FINANCIAL IMPACT: The Library charges Golden Valley County \$1.70, the same rate that has been charged since the contract began, which was estimated to be proportionate to the local support provided per circulation at that time for each item circulated. Based on the actual activity for 4,044 circulations, an annual payment of \$6,874.80 for the contract period July 1, 2007 – June 30, 2008 is due to the Library no later than September 30, 2007.

RECOMMENDATION

Staff recommends that Council approve the one-year agreement to provide library service to Golden Valley County.

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

ATTACHMENTS:

A. Contract

CONTRACT FOR LIBRARY SERVICES

THIS IS AN AGREEMENT entered into as of July 1, 2007 between the **BOARD OF TRUSTEES OF THE PARMLY BILLINGS LIBRARY**, Billings, Montana (Billings) and the **GOLDEN VALLEY COUNTY COMMISSIONERS**, Ryegate, Montana.

K. RECITALS

- A. Section MCA 22-1-309 (3) provides that the Board of Trustees of every public library shall have the power to contract with other libraries, to give and receive library service, and to pay out or receive funds to pay the costs of such contracts.
- B. Golden Valley County Commissioners and Billings desire to enter into such a contract, pursuant to the foregoing statute, whereby Billings will provide library service to the residents of Golden Valley County on the terms and conditions contained herein.
- C. In consideration of the mutual covenant herein contained, the parties agree as follows:

L. AGREEMENT

1. The terms of the contract shall commence on July 1, 2007 and terminate on June 30, 2008.
2. The consideration for this contract shall be \$6,874.80 detailed as follows:

1-ea Walk-in Service: (4,044 circulations x \$1.70)

3. In consideration for this contract an amount shall be payable from Golden Valley County to Billings according to the following Schedule:

September 30, 2007 \$6,874.80

In the event any payment required is late by more than fifteen (15) days, a carrying charge of one percent (1%) per month shall be attached and be made with the payment.

4. The books and other printed materials made available to Golden Valley County residents through the Billings Library, pursuant to this contract shall at all times remain and be the property of the lending library, and shall be returned immediately to said library if this contract is not renewed.
5. If there is no renewal contract negotiated by July 31, 2007, the library in Billings is authorized to begin such measures so as to insure the return of all books and other library materials to the lending libraries.
6. If either party fails, refuses, or neglects to perform any of the terms or conditions of this contract then, if such failure, refusal, or neglect is not cured within thirty (30)

days after written notice, the other party may immediately terminate this contract. If this contract is terminated as provided in this paragraph, Golden Valley County Commission shall pay Billings for only those services rendered prior to such termination.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written.

GOLDEN VALLEY COUNTY COMMISSION

By: _____

Chairperson

ATTEST:

Library Director

Library Board Chair

IN WITNESS WHEREOF, the said City Council of Billings has caused this Agreement to be executed and signed by its Mayor this _____ day of _____ 2007.

Mayor, City of Billings

ATTEST:

APPROVED AS TO FORM

City Clerk, City of Billings

City Attorney

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Award of Salvage Items form the Existing Cobb Field

DEPARTMENT: Parks, Recreation, and Public Lands Department

PRESENTED BY: Mike Whitaker, Director, PRPL Department

PROBLEM/ISSUE STATEMENT: As Cobb Field nears its final season of service at Athletic Park, the Billings American Legion Baseball is requesting the City of Billings donate the eight (8) banks of field lights to their organization.

At no cost to the City, the Billings American Legion Baseball organization will remove and place on the ground all eight (8) light poles and then remove the banks of lights. The lights will be transferred to Pirtz Field at Stewart Park and installed on new light poles to provide lighting for that field. The Billings American Legion Baseball organization is prepared to accomplish the above described work during the week of September 17 to 20, 2007 which is the time set aside for approved organizations to remove designated items from the Cobb Field complex.

The Council appointed Steering Committee for the New Stadium unanimously recommended the Billings American Legion Baseball organization be granted their request to salvage the field lights.

FINANCIAL IMPACT: There will be no cost to the City for removal of the field lights. As a result of the Billings American Legion Baseball organization removing the field lights, there will be a cost savings to the New Stadium project of \$4,800.00. These savings will be realized by not exercising Alternates #1 and #2 in the Demolition of Existing Cobb Field Bid. Alternate #1 - Remove Field Lights would increase the demolition contract cost by \$6,000.00. Alternate #2 - Field Light fixture Salvage Value would decrease the contract cost \$1,200.00.

Location of Work: At Athletic Park comprising the entire block bounded by North 27th Street, North 25th Street, 9th Avenue North and 10th Avenue North.

Funding Sources: None needed.

ALTERNATIVES ANALIZED:

- Award the salvage rights for the field lights to the Billings American Legion Baseball organization, or
- Accept the Bid Alternates #1 and #2 to have the demolition contractor remove the field lighting, or
- Secure another organization willing to remove the field lighting at no cost to the City.

RECOMMENDATION:

Staff recommends that Council grant the request of the Billings American Legion Baseball organization to salvage the field lights at Cobb Field.

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

Attachment A: Letter of request (2 pages)



June 19, 2007

Mike Whitaker
Billings Parks and Recreation Department
390 N. 23rd St.
Billings, MT 59101

Dear Mike,

On behalf of the Billings American Legion Baseball Program, I am writing to request certain pieces of Cobb Field before the complete demolition this fall.

First, at no cost to the city we would request the lights that are currently on the wood poles. We would transfer the lights to Pirtz Field and install them. Work is currently underway for the installation of lights at Pirtz. Lights poles have already been donated and the locations of the poles have already been marked. Conduit has been put in place for the wiring. Northwestern Energy has already been contacted for transformer upgrades. Action Electric is prepared to do the wiring. Equipment for the removal and installation of the lights is ready to go.

Second, the dirt at Cobb Field is premium infield dirt and Pirtz is in great need for new infield dirt. At no cost to the city, we are prepared to remove the infield dirt and transport to Pirtz field for installation.

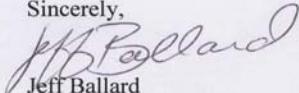
Third, if available we would take some of the existing sod from Cobb for use at Pirtz field. I do not know how much at this time, but we can discuss it at the appropriate time.

Fourth and final request, the current public address system at Cobb Field is in decent working order and ours at Pirtz is not. We would like to have the P.A. system for installation at Pirtz. The system would include speakers and amplifier.

Mike, as you are aware of, Legion Baseball has been putting a lot of money and donated upgrades into Pirtz Field. Our goal is to have a nice little stadium and the improvement that can be realized from the items currently at Cobb Field will go along way to helping our cause. We have a motivated work force of volunteers that are putting countless hours into the improvements of this facility and it is very important for the Legion program to have quality alternative to the new ballpark. We have four legion teams that need game and practice facilities and next year with the construction of the new ballpark more pressure will be put on Pirtz Field. I believe Legion baseball is a quality choice for the items requested above not only because of our strong baseball tradition in the community but because we are prepared to act quickly and cover the expenses of moving the items.

Thank you for your consideration in this matter.

Sincerely,



Jeff Ballard
Chairman
Billings American Legion Baseball

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 13, 2007

TITLE: Award of Salvage Items from the Existing Cobb Field
DEPARTMENT: Parks, Recreation, and Public Lands Department
PRESENTED BY: Mike Whitaker, Director, PRPL Department

PROBLEM/ISSUE STATEMENT: As Cobb Field nears its final season of service at Athletic Park, the Billings Heights National Little League in conjunction with Little League Baseball Montana District #1 and Billings American Legion Baseball are requesting the City of Billings donate the infield red dirt and the sod from Cobb Field to their organizations.

At no cost to the City, the above organizations will remove the infield red dirt and sod from Cobb Field and use it to upgrade little league fields in the community. These organizations are prepared to accomplish the above described work during the week of September 17 to 20, 2007, which is the time set aside for approved organizations to remove designated items from the Cobb Field complex.

Typically user groups such as Little Leagues and Legion baseball organizations do the majority of field maintenance and game preparation for the baseball fields in City parks. For PRPL staff to salvage these items it would take significant resource including the cost of salaries, equipment, time away from routine operations and significant material storage space. The above named organizations are willing to salvage the red dirt and sod at no cost to the City and these materials will most likely be used on baseball fields located in City parks which would be an indirect benefit to the City.

The Council appointed Steering Committee for the New Stadium unanimously recommended the Billings Heights National Little League in conjunction with Little League Baseball Montana District #1 and Billings American Legion Baseball be granted their request to salvage the infield red dirt and the sod from Cobb Field.

FINANCIAL IMPACT: There will be no cost to the City for removal of the infield red dirt and sod. These organizations will provide all the equipment and labor necessary to accomplish this work.

Location of Work: At Athletic Park comprising the entire block bounded by North 27th Street, North 25th Street, 9th Avenue North and 10th Avenue North.

Funding Sources: None needed

ALTERNATIVES ANALIZED:

- Award the salvage rights for the infield red dirt and sod to the Billings Heights National Little League in conjunction with Little League Baseball Montana District #1 and Billings American Legion Baseball organizations, or
- Allow the infield red dirt and sod to be removed as part of the excavation work for the new stadium, or
- Secure another organization willing to remove the infield red dirt and sod at no cost to the City.

RECOMMENDATION:

Staff recommends that Council grant the request of the Billings Heights National Little League in conjunction with Little League Baseball Montana District #1 and Billings American Legion Baseball to salvage the infield red dirt and sod from Cobb Field.

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

Attachment A: Letter of request (4 pages)



Billings Heights National Little League
P.O. Box 50535 Billings, MT 59105

July 10, 2007

Mr. Mike Whitaker, Director
Billings Parks, Recreation, and Public Lands Department
390 North 23rd Street
Billings, Montana 59101

Dear Mr. Whitaker:

On behalf of Billings Heights National Little League (BHNLL), I would like to thank you for providing BHNLL an opportunity to voice and share its concerns and interests regarding the demolition of Cobb Field. It was exciting to hear and learn about the demolition plans of Cobb Field.

As I am sure it is true with all the Montana District 1 Little Leagues in the Billings Community, BHNLL believes it is great pleasure and pride to acquire some important part of the remains of Cobb Field. BHNLL is continually working hard to improve the aesthetics and playing conditions of its baseball and softball fields in the Heights community.

I am providing you this letter to formally request BHNLL be allowed to acquire the sod and infield dirt to be used at the baseball and softball fields utilized by BHNLL. We are currently improving and enhancing a 5-field complex that BHNLL currently utilizes. We see a great opportunity to sod all of the infields and some of the common areas between the fields with the sod from Cobb Field.

In addition to the sod, BHNLL would also like to request an opportunity to acquire some of the bleacher seating from Cobb Field. Bleacher seating is lacking at our 5-field complex and BHNLL believes by acquiring some of Cobb Field's bleacher material, this could help alleviate our problem with lack of bleacher seating at our fields.

Thank you for allowing us to submit our formal request to you in writing, to acquire some memorabilia from Cobb Field and have it placed and utilized at our Little League fields. If you have any questions or need to contact me, you can reach me at 406-256-8228 or email me at tfelchlemt@bresnan.net.

Respectfully,

A handwritten signature in black ink that reads "Tim H. Felchle".

Tim H. Felchle, President
Heights National Little League

Cc: Richard DeVore, District Administrator
 Montana Little League, District 1
 2614 Park Ridge Lane
 Billings, MT 59106

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G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Assignment and Transfer of West End Hangar Ground Lease from Martin Elshire to Steve Vold

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: On July 26, 1999, Martin Elshire entered into a West End Hangar Ground Lease with the City of Billings for a parcel in Township 1 North, Range 25 East, Section 25, referred to as Lot 8 (said parcel containing 5,950 square feet). Mr. Elshire subsequently built a new 60' x 60' hangar on the leased parcel, which is currently identified as Hangar #2511. Mr. Elshire wishes to sell his hangar to Steve Vold. This Assignment and Transfer will formally transfer the Lease on Lot 8 from Martin Elshire to Steve Vold.

FINANCIAL IMPACT: There is no financial impact from this action. The name on the Lease is all that changes with this Assignment and Transfer, all other terms and conditions remain in full force and effect until July 31, 2019, the expiration date of the Lease.

RECOMMENDATION

Staff recommends that Council approve the Assignment and Transfer of the West End Hangar Ground Lease from Martin Elshire to Steve Vold.

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

ATTACHMENT

A. Assignment and Transfer

ASSIGNMENT AND TRANSFER

Martin Elshire
1633 Main Street, Suite A #382
Billings, MT 59105

with the consent of the City of Billings, hereby grants, transfers, assigns, sells, and sets over to

Steve Vold
2448 Interlachen Drive
Billings, MT 59105

a one hundred percent (100%) undivided interest in the following described property and property interests:

1. That certain leased parcel of real property, together with improvements, specifically described as follows:

Commencing at the S.E. Corner of Section 25 (Iron Pipe), T. 1. N., R. 25 E., P.M.M., Yellowstone County, Montana; thence from said point, N 37°05'15" W a distance of 2, 531.18 feet to the Point of Beginning; thence N 69°00'33" W a distance of 85.00 feet; thence S 20°59'27" W a distance of 70.00 feet; thence S 69°00'33" E a distance of 85.00 feet; thence N 20°59'27" E a distance of 70.00 feet to the Point of Beginning.

Said parcel containing 5,950 square feet.

2. That certain West End Hangar Ground Lease entered into by and between the CITY OF BILLINGS, MONTANA as Lessor and MARTIN ELSHIRE as Lessee (hereafter known as Assignor), dated July 26, 1999.

This Assignment and Transfer is made on condition that STEVE VOLD, as Assignee, takes all property and property interests subject to all of the conditions and provisions of the West End Hangar Ground Lease. Assumption of any rights under this Assignment constitutes acceptance pursuant to the conditions imposed by Assignor.

ASSIGNMENT AND TRANSFER made and entered into this _____ day of
_____, 20____.

CITY OF BILLINGS

BY: _____

TITLE: _____

STATE OF MONTANA)
County of Yellowstone)
:ss)

On _____, 20 ___, before me, the undersigned, a Notary Public for the State of Montana, personally appeared

_____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

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

(Signature)

(NOTARIAL SEAL)
Name)

(Printed

NOTARY PUBLIC for State of Montana

NOTARY PUBLIC for State of Montana
Residing at

My Commission Expires

ASSIGNOR: MARTIN ELSHIRE

BY: _____

TITLE:

STATE OF MONTANA)
County of Yellowstone)
:ss)

On _____, 20 ___, before me, the undersigned, a Notary
Public for the State of Montana, personally appeared

_____, known to me to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same.

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

(Signature)

(NOTARIAL SEAL)
Name)

_____ (Printed
Name)

NOTARY PUBLIC for State of Montana
Residing at _____
My Commission Expires _____

ASSIGNEE: STEVE VOLD

BY: _____

TITLE: _____

STATE OF MONTANA)
:ss
County of Yellowstone)

On _____, 20 ___, before me, the undersigned, a Notary
Public for the State of Montana, personally appeared

_____, known to me to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same.

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

(Signature)

(NOTARIAL SEAL)
Name)

_____ (Printed
Name)

NOTARY PUBLIC for State of Montana
Residing at _____
My Commission Expires _____

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

H

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Lease Agreement for Budget Instant Print, Inc.
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: The ground level of the Park 1 garage has six tenants that lease retail/office space. This space is located at 214 North 29th Street, has been leased to Budget Instant Print, Inc. for the last fourteen years. This memo shall serve as a request to approve and sign a new space lease agreement with Budget Instant Print, Inc. for three years with three one-year options to renew. Budget Instant Print, Inc. is a copy and printing company serving Billings and surrounding areas. The space at the Park 1 garage will serve as their main printing facility.

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

FINANCIAL IMPACT: The revenues are projected in the Parking Enterprise Fund FY 2008 budget. The office space consists of 1,677 square feet. Revenue for the first year will be \$12,996.75 (1,677 square feet x \$7.75). Revenue for the second year will be \$13,080.60 (1677 square feet x \$7.80). Revenue for the third year will be \$13,164.45 (1,677 square feet x \$7.85). If tenant exercises the options to renew, the fourth, fifth and sixth year revenues will be \$13,416.00 (1,677 square feet x \$8.00).

RECOMMENDATION

Staff recommends Council approval of a three year lease agreement with three one-year options to renew with Budget Instant Print, Inc.

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

ATTACHMENTS

Lease agreement with Budget Instant Print, Inc. (3 copies)

PARK ONE LEASE AGREEMENT

THIS INDENTURE, made and entered into this 1st day of September, 2007, by and between the **CITY OF BILLINGS, MONTANA**, hereinafter referred to as "Landlord" and **BUDGET INSTANT PRINT, INC.**, 214 North 29th Street, City of Billings, County of Yellowstone, Montana, hereinafter referred to as "Tenant."

That in consideration of the covenants hereinafter contained on the part of the Landlord and Tenant to be observed and performed, the parties hereby agree:

1. LEASE

The Landlord does hereby grant, demise and lease unto the Tenant, for and in consideration of the rents, covenants, and agreements hereinafter specified to be paid, kept and performed by the Tenant, premises at 214 North 29th Street consisting of 1,677 square feet of integrated part of building known as "Park I" parking garage located between 29th and 30th Streets on 3rd Avenue North, in Billings, Montana. Exact location and size of premises to be shown on Exhibit "A" which is attached and made a part of this agreement.

2. TERM, POSSESSION, AND RENEWAL

The term of this lease shall be from September 1, 2007, through August 31, 2010. Landlord grants to Tenant the three (3) consecutive options to renew this lease for a further term of one (1) year commencing on September 1, 2010, and ending August 31, 2013, both inclusive, subject to the provisions of this lease. However, that written notice of the exercise of this option shall be given by Tenant to Landlord at least ninety (90) days before expiration of the original term of this lease and provided further, that this option may be exercised by Tenant only in event all rents have been fully paid and that all provisions of this lease on the part of the Tenant to be observed have been fully and faithfully observed.

3. RENT

Rent for the first 12 months of this lease shall be \$12,996.75 (1,677 square feet x \$7.75) payable in twelve (12) equal monthly installments of \$1,083.07.

Rent for the second year (from September 1, 2008, through August 31, 2009) shall be \$13,080.60 (1,677 square feet x \$7.80) payable in twelve (12) equal monthly installments of \$1090.05.

Rent for the third year (from September 1, 2009, through August 31, 2010) shall be \$13,164.45 (1,677 square feet x \$7.85) payable in twelve (12) equal monthly installments of \$1097.03.

Rent for the fourth, fifth and sixth years, beginning September 1, 2010, if Tenant exercises the option to renew this lease, shall be \$13,416.00 (1,677 square feet x \$8.00) payable in twelve (12) equal monthly installments of \$1,118.

Rent for each year of the renewal option shall be paid in twelve (12) equal monthly installments. All rents shall be paid in advance by the first day of each month.

4. INSURANCE

Tenant shall provide fire and hazard insurance for the protection of the premises and the contents and shall be liable for said protection. Provided, however, that in case said premises shall be damaged by fire or other casualty for some cause not related to tenant's business or operation so as to render the premises untenable, in which case the Landlord shall at its cost repair the same. During the period the premises remain untenable, the rent shall abate, and provided further, if such repairs cannot or are not completed within 120 days, Tenant may elect to terminate its interest in this lease and the premises by giving notice thereof to Landlord. Tenant shall not be required to provide plate glass window insurance coverage.

Tenant shall obtain and maintain at all times during the term hereof, with a responsible insurer, naming the Landlord as an additional insured, comprehensive general liability insurance against any loss or liability, personal injury or property damages, and any expenses of the parties against any claim, demands, payments, suits, actions, recoveries or judgments for damages which might result from the use, occupation or condition of the premises in the amount of \$750,000 for each claim and \$1.5 million per occurrence. Tenant shall furnish a copy of such insurance policy and renewals thereof to the Landlord and such policy shall not be canceled without a 30-day written notice to the Landlord.

5. UTILITIES SERVICES

Tenant agrees, at his own expense to pay for all utilities, except for water and electricity, used by the Tenant on the premises during the term of this lease. The premise presently uses an overhead electric heating system. The City expressly reserves the right to convert this system to gas heat and the Tenant agrees to pay for heating bills after conversion.

6. INDEMNIFICATION OF LANDLORD BY TENANT

Tenant hereby agrees to indemnify and hold the Landlord harmless at all times from and against all actions, claims, demands and all costs, expenses and fees, including attorney's fees, incurred by the Landlord, arising from the use, occupancy or non-use of the premises by the Tenant, or arising from the failure of the Tenant to maintain the premises as required by this lease. Such indemnification shall include but not be limited to carelessness, negligence,

improper conduct or breach of this lease by Tenant or its agents, employees, customers, suppliers or licensees.

7. ADVERTISING SIGNS

The Tenant shall be allowed to provide, at his own expense, such advertising displays on the exterior of the building as may be appurtenant to his business, provided however that such displays will be in accordance with the laws and regulations of the State of Montana and the City of Billings, Montana, and that such displays will not deface, damage or devalue the demised property during their use or after their removal, reasonable wear and tear expected. All signs must be approved in writing by the Landlord prior to installation which approval shall not be unreasonably withheld.

8. IMPROVEMENTS BY TENANTS

All improvements, alterations, additions and all such work shall be done at Tenant's expense and shall, unless Landlord elects otherwise, become the property of the Landlord at the conclusion of the lease, and shall remain upon and be surrendered with said premises, as a part thereof, at the end of the term or renewal of this lease. No improvements, alterations or additions shall be made by Tenant without the written consent of Landlord, which consent shall not be unreasonably withheld.

9. FIXTURES AND PERSONAL PROPERTY

All trade fixtures, equipment, signs, cabinets, shelves, showcases, counters, mirrors and other moveable personal property, shall remain the property of the Tenant and may be removed by Tenant at any time during, or at the termination of this lease agreement, provided, however, that the same can be removed without serious injury to the leased premises.

10. ASSIGNING AND SUBLetting

Tenant shall not assign this agreement or sublet the premises in whole or in part without first obtaining the concurrence in writing from Landlord which shall not be unreasonably withheld.

11. LANDLORD'S ACCESS TO INSPECT

Landlord or its agent, at all reasonable times during business hours, shall have free access to the demised premises, for the purpose of examining and inspecting the same and making any needed repairs or alterations thereon which Landlord may see fit to make. In such case Landlord will make every reasonable effort not to interfere with the Tenant's operation of business.

12. TENANT TO HAVE PEACEABLE POSSESSION

Landlord covenants that Tenant shall peaceably hold and enjoy the premises so long as they are in faithful compliance with the terms hereof and the covenants thereof.

13. TRASH AND RUBBISH

The Landlord shall at its expense provide an area for the collection of and pickup of all trash and rubbish. The tenant shall provide containers for the collection of said rubbish. Said area may be a common area within or outside the premises.

14. ATTORNEY FEES AND COSTS ON VIOLATION OF LEASE

In the event that either party shall be required to commence any action, retain an attorney, or use in-house council to enforce the covenants or agreements of this lease, the party whose failure to perform occasioned such action shall pay and discharge all reasonable costs, expenses, and attorney fees, including fees of in-house council, which shall be made or incurred by the other party.

15. DEFAULT AND RE-ENTRY

If the Tenant shall neglect or fail to perform or observe any of the covenants contained herein on their part to be observed and performed for thirty (30) days after notice by the Landlord of such breach, or if tenant shall be adjudicated bankrupt or insolvent, or shall make an assignment for the benefit of creditors, or permit any mechanics or materialman's liens to be filed against the demised premises for labor or material furnished, which Tenant does not in good faith defend against, then and in any of said cases the Landlord may lawfully enter into and upon said premises or any part thereof and repossess the same, and expel the Tenant and those claiming under and through them and remove their effects, forcibly if necessary, without being deemed guilty of any manner of trespass, without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenant, and upon entry of the aforesaid, this Lease shall terminate and wholly expire.

16. CONDUCT OF BUSINESS BY TENANT

Recognizing that it is in the interest of Tenant's successful operation of his business, Landlord shall allow Tenant at Tenant's election to be open for business daily, including Sundays and Holidays, and Landlord shall not interfere, by regulation or other imposition, with the hours or the days of business operation by the Tenant. The Tenant covenants and agrees that from and after its initial opening for business, it will operate and conduct within the premises the business which it has been licensed and permitted to operate or such other lawful business licensed and permitted by Landlord.

17. NOTICES

All notices to be given hereunder by either party hereto shall be in writing and given by personal service or by first class mailing by registered or certified mail, return receipt requested. Said method of notice is deemed sufficient service thereof, and shall be deemed given as to the date when served or deposited in any post office. Either party may change address by written notice by certified or registered mail to the other. The initial address for receipt of notices is as follows:

Budget Instant Print
ATTN: Jim Whitbeck
214 North 29th Street
Billings, MT 59101

City of Billings
Parking Supervisor
P.O. Box 1178
Billings, MT 59103

18. MUTUAL RELEASE FOR HAZARDS COVERED BY INSURANCE

The Landlord and Tenant and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the leased property, or covered by insurance, in connection with the property on or activities conducted on the leased property, regardless of the cause of the damage or loss to the extent such waiver of subrogation can be reasonably obtained.

19. COMPLIANCE WITH ALL EXISTING CITY ORDINANCES AND POLICE, FIRE, AND SANITARY MEASURES

Tenant agrees to use and occupy the above described premises in accordance with all lawful police, fire and sanitary regulations imposed by a municipal, state or federal authority, or made by fire insurance underwriters as the basis for insurance for said Landlord's interest in said building, and will observe and obey the laws, City ordinances and other requirements governing the conduct of Tenant's business with respect to the use of said premises.

20. SMOKE FREE CITY-OWNED OR LEASED BUILDINGS

Effective May 12, 1999, all buildings owned or leased by the City of Billings will be designated as smoke free as provided in Sec. 2-402 of the Billings, Montana, City Code. The Tenant agrees to comply with all requirements of this ordinance.

21. WAIVER

A waiver of any breach or default by either Landlord or Tenant shall not be a waiver of any other breach or default. Landlord or Tenant approval of any act by the other requiring

consent or approval shall not be deemed to waive or render unnecessary Landlord or Tenant consent to or approval of any other subsequent similar act by Landlord or Tenant.

22. PREVENTION OR DELAY

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restriction, governmental regulations or controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of either party obligated to perform, shall excuse the performance by such part of its obligation hereunder for a period equal to any such prevention, delay or stoppage, provided that Tenant shall be excused from performance only if the premises are rendered untenable or the Tenant is unable to operate their business because of the delay or stoppage.

23. PARKING SPACES - PARK I

Up to Five (5) covered spaces in at the regular monthly rate in the Park I Garage are available to Tenant and will be on a space reserved in the garage, rather than an individual reserved space concept.

24. TAXES AND ASSESSMENTS

Tenant shall pay and discharge all taxes, assessments, penalties, charges, rates, or liens of any nature whatsoever, that may, during the term hereof or any renewal, be levied, assessed, charged, imposed, or claimed on or against the demised premises or any improvements or fixtures thereon or appurtenances thereto, or any part thereof, or against the owner or owners of such land or the improvements, by reason of such ownership or tenancy, by whatsoever authority levied, assessed, charged, imposed, claimed, and whether the same is on or against the property herein leased, its improvements, fixtures, or appurtenances, or any part thereof, or on or against the income from the property or its improvements.

25. BINDING EFFECTS

The Covenants and agreements herein contained shall be binding upon the parties hereto, their successors and assigns.

This Lease Agreement, and all terms and conditions established herein, supersedes and revokes all previous agreements between the parties. Therefore, all previous agreements between the parties are declared null and void and inapplicable.

IN WITNESS WHEREOF, the parties have executed this Lease on this ____ day of
_____, 20____.

CITY OF BILLINGS (LANDLORD)

BY: _____
ITS (MAYOR)

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

BUDGET INSTANT PRINT, INC. (TENANT)

BY: _____

ITS _____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant 32

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: It is necessary to secure the City Council's approval and authorization for the Mayor to execute the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant 32 once it has been received from the FAA. Grant 32 contains this year's entitlement funding that will be used to undertake the Airport's Master Plan Update. As required by the FAA, the Grant offer is based on the actual amounts awarded for planning associated with this project. The City Council previously approved this year's CIP projects, which included the Airport Master Plan Update.

FINANCIAL IMPACT: The total costs of the planning services associated with this Grant will be approximately \$570,000. The AIP Grant will fund \$475,000 of this cost, and the City will be required to provide the balance as a local share. The local share amount will subsequently be eligible to be reimbursed in full through the next Passenger Facility Charge (PFC) application, which staff is currently preparing. The interim local source for the City's match is the Department's Capital fund. Funds are available in the PFC fund to reimburse the Capital fund once the new PFC application is approved later this year.

RECOMMENDATION

Staff recommends that the City Council approve the acceptance of this Grant and authorize the Mayor to execute the FAA AIP Grant 32.

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

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Memorandum of Understanding (MOU) with BikeNet for Pepsico Grant Application for Bike Lanes

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, Planning Director

PROBLEM/ISSUE STATEMENT: The City of Billings is seeking funding to stripe bike lanes on select City streets that are wide enough to accommodate both a parking and a bike lane. Ms. Kathy Aragon presented information at the City Council work session on Monday, July 30, regarding a grant available from Pepsico for this purpose. Council agreed that Ms. Aragon should proceed with the grant application on behalf of the City. A component of the project will be donated by a local street striping company which is willing to provide paint, equipment and labor. Additional components including signage and street symbols would be covered by this grant. Only a not-for-profit organization with a 501 (c)(3) status can apply for this grant. BikeNet is willing to apply for this Pepsico Fund on behalf of the City of Billings in accordance with the attached Memorandum of Understanding

FINANCIAL IMPACT: The application to Pepsico will request up to \$100,000 which would cover the additional cost associated with an on-street bike lane project. The project will be sized to meet the funds available if the grant application is chosen.

RECOMMENDATION

Staff recommends that Council approve the Memorandum of Agreement and allow BikeNet to submit a grant to Pepsico contingent upon the agreement to transfer grant funds to the City for the bike lane project

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

ATTACHMENTS

- A. Memorandum of Understanding Agreement
- B. Letter of Request from BikeNet

Memorandum of Understanding

This is an agreement between the CITY OF BILLINGS, a municipal corporation, hereinafter referred to as "CITY", and BIKENET, a local non-profit 501 (c) (3) advocacy group for trails, hereinafter referred to as "BIKENET" for a mutual agreement concerning grants.

- A. BIKENET agrees that it will submit a grant application to Pepsico which requires application from a non-profit 501 (c) (3) status organization.
- B. The grant submitted through BIKENET for this City bike lane project is designated in the approved Heritage Trail Plan, the Capital Improvement Plan and grant submittal needs approval from the City Council and has been approved by the BikeNet President.
- C. Kathy Aragon will provide electronic grant writing assistance to BIKENET to submit the Pepsico electronic grant application.
- D. If the grant application is successful in receiving funding, BIKENET agrees to transfer the grant funding to the CITY for construction of the project.

IN WITNESS WHEREOF, the parties have executed this agreement on this 13th day of August, 2007.

BIKENET

BY: _____
Authorized Signature

THE CITY OF BILLINGS

BY: _____
MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



August 1, 2007
City of Billings
City Hall
210 N. 27th
Billings Montana 59101

Dear Mayor and City Council Members,

The BikeNet Board of Directors supports the Heritage Trail Plan and the work the City has accomplished with the development of the trail network. Since BikeNet is a non-profit 501 (c)(3) organization, it can assume the responsibility to fund raise to help provide some of the funding for local trail and bike infrastructure projects. In fact, BikeNet has provided or has promised funds from their Ales for Trails fundraising campaign for almost \$100,000 in match for various trail projects.

BikeNet is also willing to submit grant applications to foundations and funding agencies that will only accept applications from non-profit 501 (c)(3) organizations. We are a volunteer organization and have no paid staff, so we do need assistance from the City or other individuals to write those grants. Kathy Aragon has contacted Rob Hunter, the president of BikeNet, for permission to submit a grant to Pepsico for bike lane infrastructure within some of the roadways in Billings that are wide enough to accommodate parking and a bike lane. BikeNet, has lent their assistance in previous requests of this nature. It would be the understanding of BikeNet that if our organization received any funding from the grant, those funds would then transfer to the City to pay for the bike lane project.

We hope that BikeNet can be of assistance to the City of Billings for these type of infrastructure projects and we look forward to working with you in the future.

Sincerely,

Rob Hunter, Chair
BikeNet Board of Directors

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K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Work Order 06-20, Downtown Billings Wayfinding Signage – Approval of Easement from Yellowstone County

DEPARTMENT: Public Works/Engineering Division

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

PROBLEM/ISSUE STATEMENT: The City of Billings, in conjunction with the Downtown Billings Partnership installed wayfinding signs in Billings. The project was awarded to Epcon Signs at the February 12, 2007 City Council meeting. Included in the project are 24 wayfinding directional signs in the downtown area that have already been installed and a gateway monument sign at 5th Avenue South and South 27th Street that has not been installed. The gateway monument sign will be installed next to the Youth Services Center on Yellowstone County property. The attached easement is granted to the City by the County of the area to install the gateway monument.

ALTERNATIVES ANALYZED:

1. Accept the easement for the installation of the gateway monument sign.
2. Do not accept the easement for the installation of the gateway monument sign.

FINANCIAL IMPACT: There is no financial impact to the City with this easement.

RECOMMENDATION

Staff recommends that Council accept the easement from Yellowstone County at the southwest corner of Lot 24, Block 182 of said Billings Original Town for the gateway monument.

ATTACHMENT

- A. Sign and Landscape Easement

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

DM/7-24-07

Return to:
City Clerk
P.O.Box 1178
Billings, MT 59103

*** SIGN AND LANDSCAPE EASEMENT ***

For valuable consideration, **YELLOWSTONE COUNTY**, ("Grantor") a political subdivision of the State of Montana, whose address is Post Office Box 35000, Billings, Montana 59103, through its Board of County Commissioners, does hereby GRANT, SELL and CONVEY to the **CITY OF BILLINGS, MONTANA**, ("Grantee") a municipal corporation, whose address is Post Office Box 1178, Billings Montana 59103, a perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for a Way Finding Sign and Landscaping over, across, under and through the following described property that is located in the City of Billings, Yellowstone County, Montana:

DESCRIPTION OF EASEMENT
SEE ATTACHED EXHIBIT "A"

Basis of Bearings, Plat of Billings Original Town, Recorded September 1, 1884, Under Document No. 16312.

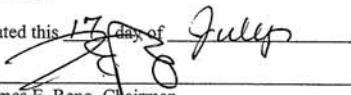
Beginning at the southwest corner of Lot 24, Block 182 of said Billings Original Town; Thence N 34°36'30" W for a distance of 25.0 feet to the northeast corner of said Lot 24; Thence N 55°25'30" E for a distance of 40.0 feet; Thence S 34°36'30" E for a distance of 25.0 feet; Thence S 55°25'30" W for a distance of 40.0 Feet to the Point of Beginning.

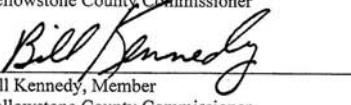
The above described parcel contains 1,000.0 square feet.

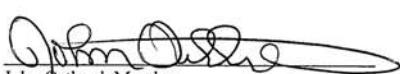
This easement shall continue from the date it is executed by all parties so long as the City of Billings continues to use the property for the above-described purposes, and shall terminate when the City of Billings ceases to use the property to maintain, operate, repair and improve necessary fixtures and appurtenances for a Way Finding Sign and Landscaping.

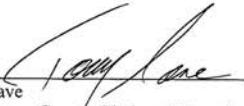
The Board of County Commissioners authorized the conveyance of the property pursuant to Section 7-8-101(1) of the Montana Code Annotated (2005) at its July 17, 2007 meeting.

Dated this 17 day of July 2007.


James E. Reno, Chairman
Yellowstone County Commissioner


Bill Kennedy, Member
Yellowstone County Commissioner


John Ostlund, Member
Yellowstone County Commissioner

Attest: 
Tony Nave
Yellowstone County Clerk and Recorder

State of Montana }
County of Yellowstone }

On July 17, 2007, before me, personally appeared James E. Reno, Bill Kennedy and John Ostlund, members of the Board of County Commissioners of Yellowstone County, and Tony Nave, The Yellowstone County Clerk and Recorder, and acknowledged to me that they executed the attached quitclaim deed on behalf of Yellowstone County in their official capacities as Board members and the Clerk and Recorder.

Meri Reitz

Teri Reitz

(Notarial Seal)

Notary Public for the State of Montana
Residing in Billings, Montana
My commission expires 2-27-2010

ACKNOWLEDGEMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Ron Tussing, Mayor, City of Billings

ATTEST:

By: _____

State of Montana }
County of Yellowstone }
ss. }

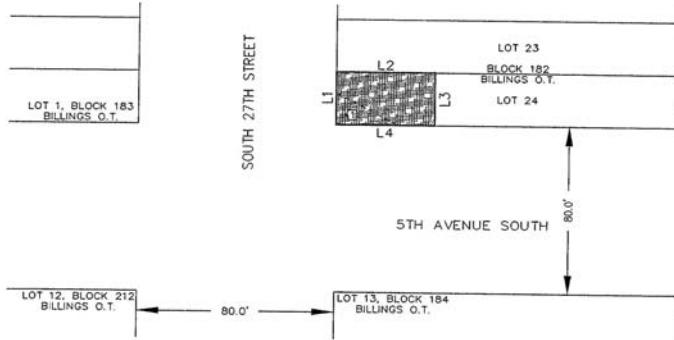
On this _____ day of _____, 200_____, before me, a Notary Public in and for the State of Montana, personally appeared Ron Tussing and Cari Martin known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

(Notarial Seal)

Notary Public for the State of Montana
Residing in Billings, Montana
My commission expires _____

EXHIBIT A
SIGN AND LANDSCAPE EASEMENT
SITUATED IN LOT 24, BLOCK 182 OF
BILLINGS ORIGINAL TOWN
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

| LINE TABLE | | |
|------------|--------|-------------|
| LINE | LENGTH | BEARING |
| L1 | 25.00 | N34°36'30"W |
| L2 | 40.00 | N55°25'30"E |
| L3 | 25.00 | S34°36'30"E |
| L4 | 40.00 | S55°25'30"W |



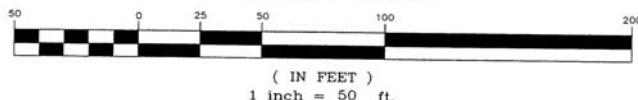
EASEMENT DESCRIPTION

BASIS OF BEARINGS, PLAT OF BILLINGS ORIGINAL TOWN, RECORDED SEPTEMBER 1, 1884, UNDER DOCUMENT NO. 16312.

BEGINNING AT THE SOUTHWEST CORNER OF LOT 24, BLOCK 182 OF SAID BILLINGS ORIGINAL TOWN; THENCE N34°36'30"W FOR A DISTANCE OF 25.0 FEET TO THE NORTHEAST CORNER OF SAID LOT 24; THENCE N55°25'30"E FOR A DISTANCE OF 40.0 FEET; THENCE S34°36'30"E FOR A DISTANCE OF 25.0 FEET; THENCE S55°25'30"W FOR A DISTANCE OF 40.0 FEET TO THE POINT OF BEGINNING.

① EXISTING EASEMENT
 DOCUMENT NO. 3075533

GRAPHIC SCALE



LEGEND

| | |
|--|-----------------------------|
| | SIGN AND LANDSCAPE EASEMENT |
| | CITY OF BILLINGS, MONTANA |
| | EASEMENT EXHIBIT |
| | CITY W.O. 06-20 |

F:\VME-Grant\1\Backup\1\DO 2007 Projects\WO 06-20 Wayfinding Signage\dwg\Easement Exhibit.dwg 5/23/2007

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #23, a Portion of Lot 14 of Josephine Subdivision with Scott M. Longman and Elmer L. Rudolph & Lavonne K. Rudolph

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #23 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$8,800.00. A copy of the right-of-way agreement; deeds; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$8,800.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deeds for right-of-way acquisition for Parcel #23, a Portion of Lot 14 of Josephine Subdivision with Scott M. Longman and Elmer L. Rudolph & Lavonne K. Rudolph in the amount of \$8,800.00, and authorize the Mayor to execute these documents.

ATTACHMENT

A. Right-of-Way Agreement and Warranty Deeds (8 pages)

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

INTRODUCTION

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow (typically 60 feet wide) to allow these necessary street improvements. The street improvements are anticipated to include full-depth street reconstruction, curb & gutter, sidewalks, a multi-use trail, accessibility ramps, crosswalks, and storm drain improvements. This right-of-way acquisition project will provide a new right-of-way width of 70 feet along Lake Elmo Drive. It will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street.

PROCEDURAL HISTORY

Completed Items

- January 9, 2006 – Award of Contract for Professional Services for Right-of-Way Acquisition to Right-of-Way Acquisition Group, LLC
- January 23, 2006 – Award of Contract for Professional Services for Land Surveying services related to right-of-way acquisition to Engineering, Inc.
- February 27, 2006 – Council selection of proposed improvements street section
- March 10, 2006 – Public meeting with adjoining property owners
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- December 2006 – Right-of-way negotiations began with property owners

Future Items

- June 2007 – Estimated completion of right-of-way acquisition
- 2009-2010 – Design and construction of street improvements (in draft CIP)

BACKGROUND

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

| <u>Phase</u> | <u>Status</u> |
|---|---|
| Phase I – Wicks Lane to Angel Drive | Completed in 1999. |
| Phase II – Main Street to Hansen Lane | Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in early 2007. |
| Phase III – Sioux Lane to Wicks Lane | Right-of-way acquisition (this memo) |
| Phase IV – Hilltop Road to Rice Lane | Right-of-way acquisition (this memo) |
| Phase V – Angel Drive to Pemberton Lane | Not scheduled in the 2006-2011 CIP |

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

The right-of-way width of 70 feet was chosen as a width that would accommodate the necessary improvements with the minimum intrusion onto existing features. A wider right-of-way width (e.g., 76 feet or 80 feet) would almost assuredly require the purchase of several entire parcels due to the proximity of the wider right-of-way to existing houses.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deeds for right-of-way acquisition for Parcel #23, a Portion of Lot 14 of Josephine Subdivision with Scott M. Longman and Elmer L. Rudolph & Lavonne K. Rudolph in the amount of \$8,800.00, and authorize the Mayor to execute these documents.

ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deeds (8 pages)

CITY OF BILLINGS
 (hereinafter referred to as City)
RIGHT-OF-WAY AGREEMENT

| | | |
|--|---|-------------------------------------|
| <u>Lake Elmo Road Hilltop Road to Wicks Lane</u> | Work Order: 04-33 Project No. 05153 | <u>Yellowstone</u> <u>COUNTY</u> |
| DESIGNATION | | |
| Parcel No. 23 | Parcel Description Lot 14, Josephine Subdivision | Section 22 |
| | | Township 1N |
| | | Range 26E |

List Names & Addresses of the Grantors
 (Contract Purchaser, Contract Seller, Lessee, etc.)

CONTRACT SELLER

ELMER L. RUDOLPH AND LAVONNE K. RUDOLPH
 2642 WYOMING AVENUE
 BILLINGS, MT. 59105
 656-1036

CONTRACT PURCHASER

SCOTT M. LONGMAN
 419 LOLA LANE
 BILLINGS, MT. 59105
 860-7709

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the payment(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

| | |
|--|--------------------------|
| 1,691 square feet by deed Improvements (Tree, fencing, gravel, sod) | \$5,919.00 \$2,705.00 |
|--|--------------------------|

3. OTHER COMPENSATION:
4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$8,800.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$8,800.00, to be made payable to SCOTT M. LONGMAN and mailed to 419 LOLA LANE, BILLINGS, MT 59105

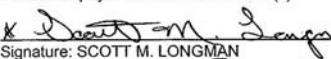
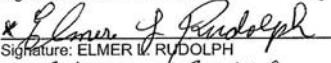
6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:
 Reconfigure and repair sprinkler system, if any, affected by project.

Grantors understand and agree that upon completion of the construction of this item located upon the Grantors' land, they shall be considered the sole property of the Grantors, and the maintenance and repair of said property shall be the responsibility of the Grantors.

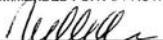
(Continued from Previous Page)

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identification number(s) to the City of Billings and that failing to comply may subject us to civil and criminal penalties. We certify that the number(s) below is/are our correct taxpayer identification number(s).

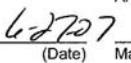
| | | |
|---|---------|------------|
|  | 6-27-07 | — |
| Signature: SCOTT M. LONGMAN | (Date) | — |
|  | 6/27/07 | — |
| Signature: ELMER V. RUDOLPH | (Date) | — |
|  | 6/27/07 | — |
| Signature: LAVONNE K. RUDOLPH | (Date) | Tax ID No. |

RECOMMENDED FOR APPROVAL:


Ronald E. Olson, Olson Land Services

6-27-07
(Date) Mayor, City of Billings (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:


City of Billings, Mayor (Date)

City Clerk (Date)

ATTEST:


Vicki Bailey 7/5/07
City of Billings, Public Works Department (Date) City Clerk (Date)

LER-023.200 Longman

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 23 County of YELLOWSTONE
Designation LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 27th day of June, 2007.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, WITNESSTH THAT:

SCOTT M. LONGMAN
419 LOLA LANE
BILLINGS, MT 59105

does hereby GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM unto the **CITY OF BILLINGS** for the benefit and use of the Public the following described real property, to wit:

Parcel No. 23 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project. Said parcel is also described as a tract of land within Lot 14 of Josephine Subdivision, on file under Document No. 428862, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 1,691 sq. ft.

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 497 sq. ft.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever. IN WITNESSTH WHEREOF, the undersigned have executed these premises the day and year first above written.

Project No. : W.O. 04-33

Parcel No. 23

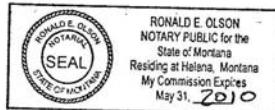
Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

Scott M. Longman

State of Montana)
County of Yellowstone)

This instrument was acknowledged before me on June 27, 2007
(date)

by Scott M. Longman
(names)



Ronald E. Olson
Notary Signature Line

Ronald E. Olson
Notary Printed Name

Notary Public for State of _____
Residing at: _____
My Commission Expires: _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA)
:ss
County of Yellowstone)

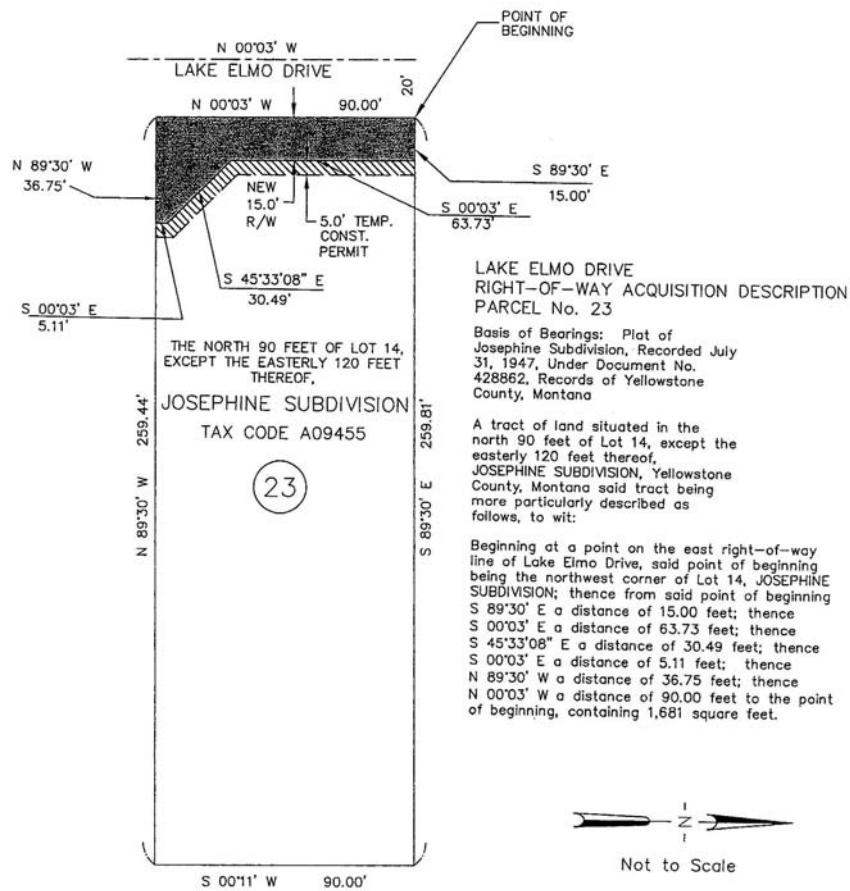
On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

Print Name

EXHIBIT A

RIGHT-OF-WAY ACQUISITION AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN THE NORTH 90 FEET OF LOT 14, EXCEPT THE EASTERLY
120 FEET THEREOF, JOSEPHINE SUBDIVISION,
YELLOWSTONE COUNTY, MONTANA



AREA TO BE ACQUIRED: 1,691 S.F.
AREA OF TEMPORARY CONSTRUCTION
PERMIT: 497 S.F.

LEGEND

- RIGHT-OF-WAY ACQUISITION
- CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 23
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY PLAN.

UPDATED: 04/24/07 MB PARCEL 33292

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 23 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 27th day of June, 2007.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by
the CITY OF BILLINGS, THE receipt whereof is acknowledged, WITNESSTH THAT:

ELMER L. RUDOLPH AND LAVONNE K. RUDOLPH
2642 WYOMING AVENUE
BILLINGS, MT. 59105-2438

does hereby GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM unto the CITY
OF BILLINGS for the benefit and use of the Public the following described real property, to wit:

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herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions,
remainders, tenements, hereditaments and appurtenances thereto, unto the CITY OF BILLINGS, and
to its successors and assigns forever. IN WITNESSTH WHEREOF, the undersigned have executed
these premises the day and year first above written.

Project No. : W.O. 04-33

Parcel No. 23

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

Elmer L. Randolph

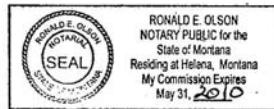
Lavonne K. Randolph

State of Montana)

County of Yellowstone)

This instrument was acknowledged before me on June 27, 2007
(date)

by Elmer L. Randolph and Lavonne K. Randolph
(names)



Notary Signature Line

Ronald E. Olson
Notary Printed Name

Notary Public for State of _____

Residing at: _____

My Commission Expires: _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____
City Clerk

STATE OF MONTANA)

:ss

County of Yellowstone)

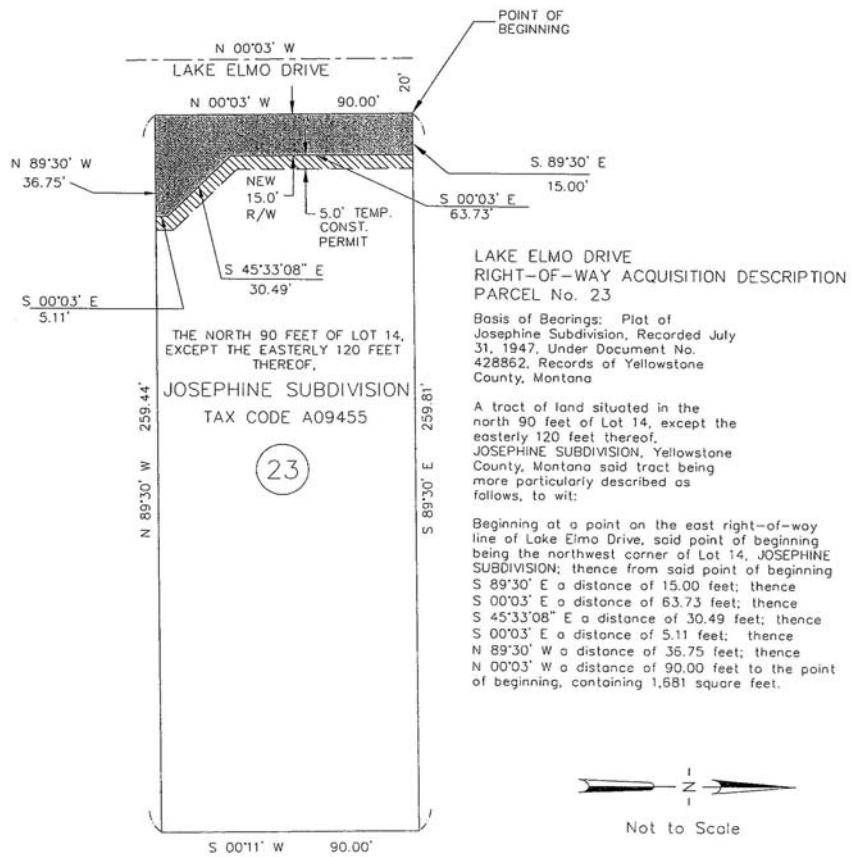
On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

Print Name

EXHIBIT A

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SITUATED IN THE NORTH 90 FEET OF LOT 14, EXCEPT THE EASTERLY
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AREA TO BE ACQUIRED: 1,691 S.F.
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PERMIT: 497 S.F.

(Back to Consent Agenda)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #46, a Portion of Tract 1-B of Amended Tract 1 of Certificate of Survey No. 332 With John M. Wiesner & Deborah K. Wiesner

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #46 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$1,950.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$1,950.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #46, a Portion of Tract 1-B of Amended Tract 1 of Certificate of Survey No. 332 with John M. Wiesner & Deborah K. Wiesner in the amount of \$1,950.00, and authorize the Mayor to execute these documents.

ATTACHMENT

A. Right-of-Way Agreement and Warranty Deed (5 pages)

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

INTRODUCTION

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|---|---|
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| Phase II – Main Street to Hansen Lane | Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in early 2007. |
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RECOMMENDATION

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ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deed (5 pages)

CITY OF BILLINGS

(hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

| | | | | |
|-----------------------|---|-------------------|--------------------|-------|
| <u>Lake Elmo Road</u> | <u>Hilltop Road to Wicks Lane</u> | Work Order: 04-33 | <u>Yellowstone</u> | |
| DESIGNATION | | Project No. 05153 | <u>COUNTY</u> | |
| Parcel No. | Parcel Description | Section | Township | |
| 46 | Tract 1-B of Amended Tract 1, Certificate of Survey No. 332 | 22 | 1N | Range |
| | | | 26E | |

List Names & Addresses of the Grantors
(Contract Purchaser, Contract Seller, Lessee, etc.)

JOHN M. WIESNER AND DEBORAH K. WIESNER
4311 SMOHAWK TRAIL
BILLINGS, MT. 59106
652-2698

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the payment(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

| | |
|---------------------------------------|------------|
| 1,788 square feet by deed | |
| (1,021 square feet existing easement) | \$ 110.00 |
| (767 square feet new acquisition) | \$1,649.00 |
| Improvements (concrete) | \$ 98.00 |

3. OTHER COMPENSATION:

| | |
|---|----------|
| 255 square feet Temporary Construction Permit | \$ 55.00 |
|---|----------|

4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$1,950.00.

5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$1,950.00, to be made payable to JOHN M. WIESNER AND DEBORAH K. WIESNER and mailed to 4311 SMOHAWK TRAIL, BILLINGS, MT. 59106

6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:

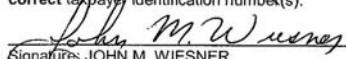
Reconfigure and repair sprinkler system, if any, affected by project. Relocate mail box if applicable.

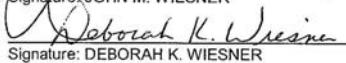
Grantors understand and agree that upon completion of the construction of this item located upon the Grantors' land, they shall be considered the sole property of the Grantors, and the maintenance and repair of said property shall be the responsibility of the Grantors.

(Continued from Previous Page)

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identification and that failing to comply may subject us to civil and criminal penalties. We certify that correct taxpayer identification number(s).

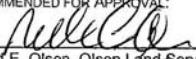
 6/27/07
Signature: JOHN M. WIESNER (Date)

 6-27-07
Signature: DEBORAH K. WIESNER (Date)

Signature: _____ (Date) _____ Tax ID No.

Signature: _____ (Date) _____ Tax ID No.

RECOMMENDED FOR APPROVAL:

 6-27-07
Ronald E. Olson, Olson Land-Services (Date) Mayor, City of Billings (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

 7/5/07
City of Billings, Public Works Department (Date) City Clerk (Date)

ATTEST:

LER-046.200 Wiesner

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 46 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 27th day of June, 2007.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT**:

JOHN M. WIESNER AND DEBORAH K. WIESNER
4311 SMOHAWK TRAIL
BILLINGS, MT. 59106

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of the Public the following described real property, to wit:

Parcel No. 46 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project. Said parcel is also described as a tract of land within Tract 1-B of Amended Tract 1, Certificate of Survey No. 332, on file under Document No. 3017007, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 1,788 sq. ft., including 1,021 sq. ft., which constitutes a part of an existing road easement.

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 255 sq. ft..

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenuements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed these premises the day and year first above written.

Project No. : W.O. 04-33

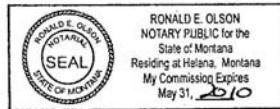
Parcel No. 46

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

X John M. Wiesner _____
Deborah K. Wiesner _____
State of Montana _____
County of Yellowstone _____

This instrument was acknowledged before me on June 27, 2007
(date)

by John M. Wiesner AND Deborah K. Wiesner
(names)



Ronald E. Olson
Notary Signature Line
Ronald E. Olson
Notary Printed Name
Notary Public for State of _____
Residing at _____
My Commission Expires: _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA _____
:ss
County of Yellowstone _____

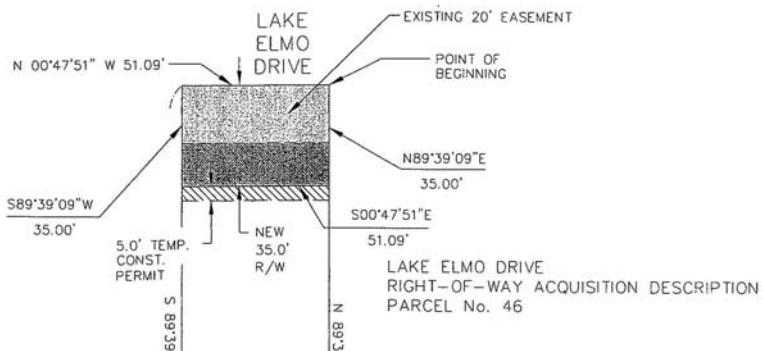
On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

Print Name

EXHIBIT A

RIGHT-OF-WAY ACQUISITION AND TEMPORARY CONSTRUCTION PERMIT TRACT 1-B, AMENDED TRACT 1 CERTIFICATE OF SURVEY NO. 332, YELLOWSTONE COUNTY, MONTANA



C OF S NO. 332
AMENDED TRACT 1
TRACT 1-B

TAX CODE D05298

AREA TO BE ACQUIRED: 1,788 S.F.
AREA OF EXISTING EASEMENT: 1,021 S.F.
AREA OF TEMPORARY CONSTRUCTION
PERMIT: 255 S.F.

A tract of land situated in Tract 1-B, Amended Tract 1, Certificate of Survey 332, Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Beginning at a point which is the northwest corner of Tract 1-B, Amended Tract 1, Certificate of Survey 332; thence N 89°39'09" E for a distance of 35.00 feet; thence S 04°7'51" E for a distance of 51.09 feet; thence S 89°39'09" W for a distance of 35.00 feet; thence N 04°7'51" W for a distance of 51.09 feet to the point of beginning, containing an area of 1,788 square feet.



LEGEND

- RIGHT-OF-WAY ACQUISITION
- CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 46
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY PLAN.

UPDATED: 8/7/07 NO. PARCEL 46.DWG

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #51, a Portion of Lot 21, Block 2 of Broadmoor Subdivision With Shane Headlee and Hope Headlee

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #51 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$9,600.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$9,600.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #51, a Portion of Lot 21, Block 2 of Broadmoor Subdivision with Shane Headlee and Hope Headlee in the amount of \$9,600.00, and authorize the Mayor to execute these documents.

ATTACHMENT

A. Right-of-Way Agreement and Warranty Deed (5 pages)

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

INTRODUCTION

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow (typically 60 feet wide) to allow these necessary street improvements. The street improvements are anticipated to include full-depth street reconstruction, curb & gutter, sidewalks, a multi-use trail, accessibility ramps, crosswalks, and storm drain improvements. This right-of-way acquisition project will provide a new right-of-way width of 70 feet along Lake Elmo Drive. It will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street.

PROCEDURAL HISTORY

Completed Items

- January 9, 2006 – Award of Contract for Professional Services for Right-of-Way Acquisition to Right-of-Way Acquisition Group, LLC
- January 23, 2006 – Award of Contract for Professional Services for Land Surveying services related to right-of-way acquisition to Engineering, Inc.
- February 27, 2006 – Council selection of proposed improvements street section
- March 10, 2006 – Public meeting with adjoining property owners
- June 2006 – Initial design completed using the chosen street section
- November 2006 – Appraisals completed on parcels to be acquired
- December 2006 – Right-of-way negotiations began with property owners

Future Items

- June 2007 – Estimated completion of right-of-way acquisition
- 2009-2010 – Design and construction of street improvements (in draft CIP)

BACKGROUND

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

| <u>Phase</u> | <u>Status</u> |
|---|---|
| Phase I – Wicks Lane to Angel Drive | Completed in 1999. |
| Phase II – Main Street to Hansen Lane | Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in early 2007. |
| Phase III – Sioux Lane to Wicks Lane | Right-of-way acquisition (this memo) |
| Phase IV – Hilltop Road to Rice Lane | Right-of-way acquisition (this memo) |
| Phase V – Angel Drive to Pemberton Lane | Not scheduled in the 2006-2011 CIP |

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

The right-of-way width of 70 feet was chosen as a width that would accommodate the necessary improvements with the minimum intrusion onto existing features. A wider right-of-way width (e.g., 76 feet or 80 feet) would almost assuredly require the purchase of several entire parcels due to the proximity of the wider right-of-way to existing houses.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #51, a Portion of Lot 21, Block 2 of Broadmoor Subdivision with Shane Headlee and Hope Headlee in the amount of \$9,600.00, and authorize the Mayor to execute these documents.

ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deed (5 pages)

CITY OF BILLINGS
 (hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

| | | |
|--|--|---|
| <u>Lake Elmo Road Hilltop Road to Wicks Lane</u> | Work Order: 04-33 | <u>Yellowstone</u> |
| DESIGNATION | Project No. 05153 | <u>COUNTY</u> |
| Parcel No. 51 | Parcel Description Lot 21, Block 2 of Broadmoor Subdivision | Section 22 Township 1N Range 26E |

List Names & Addresses of the Grantors
 (Contract Purchaser, Contract Seller, Lessee, etc.)

SHANE HEADLEE AND HOPE HEADLEE
 1329 LAKE ELMO DRIVE
 BILLINGS, MT. 59105
 245-0526

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the payment(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

| | |
|--|--------------------------|
| 1.056 square feet by deed Improvements (Sod, tree, fence) | \$6,864.00 \$2,583.00 |
|--|--------------------------|
3. OTHER COMPENSATION:

| | |
|---|-----------|
| 339 square feet Temporary Construction Permit | \$ 220.00 |
|---|-----------|
4. TOTAL COMPENSATION (includes all damages to the remainder): \$9,600.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$9,600.00, to be made payable to SHANE HEADLEE AND HOPE HEADLEE and mailed to 1329 LAKE ELMO DRIVE, BILLINGS, MT. 59105
6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:

Reconfigure and repair sprinkler system, if any, affected by project.

Grantors understand and agree that upon completion of the construction of this item located upon the Grantors' land, they shall be considered the sole property of the Grantors, and the maintenance and repair of said property shall be the responsibility of the Grantors.

(Continued from Previous Page)

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identifier and that failing to comply may subject us to civil and criminal penalties. We certify correct taxpayer identification number(s).

llings
our


Signature: SHANE HEADLEE

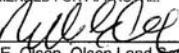
6-29-07
(Date)


Signature: HOPE HEADLEE

6-29-07
(Date)

Signature: _____ (Date) Tax ID No. _____

RECOMMENDED FOR APPROVAL:


Ronald E. Olson, Olson Land Services

7-3-07
(Date)APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:
Mayor, City of Billings (Date)

ATTEST:

City of Billings, Public Works Department (Date) City Clerk (Date)
LER-051.200 Headlee

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 51 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 29 day of June, 2007.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, WITNESSTH THAT:

SHANE HEADLEE AND HOPE HEADLEE
1329 LAKE ELMO DRIVE
BILLINGS, MT. 59105

does hereby GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM unto the **CITY OF BILLINGS** for the benefit and use of the Public the following described real property, to wit:

Parcel No. 51 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project.
Said parcel is also described as a tract of land within Lot 21, Block 2 of Broadmoor Subdivision, on file under Document No. 411808, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 1,056 sq. ft..

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 339 sq. ft..

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed these premises the day and year first above written.

Project No. : W.O. 04-33

Parcel No. 51

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

X Shane Headlee
SHANE HEADLEE

X Hope Headlee
HOPE HEADLEE

State of Montana)
County of Yellowstone)

This instrument was acknowledged before me on 6-29-01 (date)

by Shane Headlee + Hope Headlee (names)

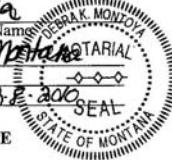
Debra Montoya

Notary Signature Line

Debra Montoya

Notary Printed Name

Notary Public for State of Montana
Residing at: Billings
My Commission Expires: 2-8-2002



ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

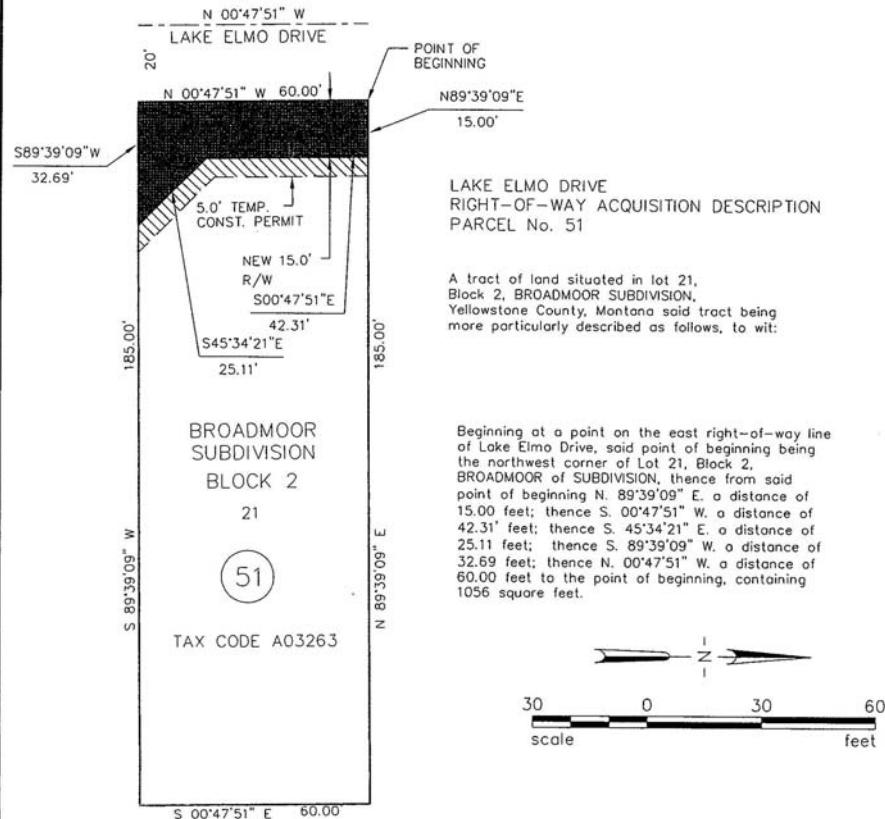
STATE OF MONTANA)
:ss
County of Yellowstone)

On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

Print Name

EXHIBIT A
RIGHT-OF-WAY ACQUISITION
AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN LOT 21,
BLOCK 2,
BROADMOOR SUBDIVISION,
YELLOWSTONE COUNTY, MONTANA



| LEGEND | |
|--|--------------------------|
| ■ | RIGHT-OF-WAY ACQUISITION |
| ▨ | CONSTRUCTION PERMIT |
| CITY OF BILLINGS, MONTANA RIGHT-OF-WAY EXHIBIT | |
| CITY W.O. 04-33 PARCEL 51 THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA RIGHT-OF-WAY PLAN. | |
| PARCEL 51-DWG | |

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



ENGINEERING, INC.
 Consulting Engineers and Land Surveyors

1300 North Triantech Way
 Billings, Montana 59102
 Phone (406) 656-5255
www.anginc.com

M1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 13, 2007

TITLE: Billings Central High School's Homecoming Parade Street Closure

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Billings Central High School requests permission to hold its annual Homecoming parade on Friday, September 29, 2007, from 5:00 pm to 6:15 pm (including set up and disbanding time). The parade will be assembling at the school (Wyoming Ave) at 5:00 pm and departing at 5:45 pm. It will travel from Wyoming Avenue to Division Street, then proceed westward on Broadwater to 5th Street West and head north on 5th Street West through Grand Avenue, and disband at 6:15 pm at the parking entrance behind Senior High School.

Recommended conditions of approval include Billings Central High School:

1. Have no alcohol consumption in the public right of way
2. Clean the area to be used after the event and provide and empty waste cans
3. Contact all businesses and make them aware of the event as soon as possible
4. Notify all emergency facilities, bus lines and media as soon as possible
5. Provide and install adequate traffic barricades directing motorists around closure
6. Provide a certificate of insurance with required liability amounts naming the City of Billings as additional insured
7. Instruct parade participants to obey the traffic signals at intersections 5th/Broadwater and at 5th/Grand

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closure named above on September 29, 2007, for Billings Central High School's Homecoming Parade.

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

ATTACHMENTS

- A. Letter outlining event (1 page)
- B. Right of Way Special Activity Permit (2 pages)
- C. Course map (1 page)
- D. Certificate of insurance (2 pages)



May 7, 2007

Director of Parks, Recreation and Public Lands
390 N. 23rd Street
Billings, MT 59101

Re: Parade permit cover letter

Dear Sir or Madam:

We have just finalized plans for our fall football schedule and our Homecoming game and festivities are scheduled for September 29, 2007.

Our plan is to have a carcade from our school to Daylis Stadium. We will be departing the staging area at approximately 6:00 PM and our route will be from Wyoming Avenue to Division Street to Broadwater Avenue. We will go West on Broadwater to 5th Street West, turn right heading North on 5th Street West through Grand Avenue, entering the parking lot behind Senior High School at which time the carcade will disband.

We expect to have approximately 15 floats and 5 or 6 convertibles with the Homecoming Royalty. I have asked all of the drivers to display flashing amber lights.

Should you have any questions, my point of contact is Chuck Carroll, and may be reached at 245-6651 or on his cell phone at cell 861-9678.

Thank you,

Sheldon Hanser
Principal



**CITY OF BILLINGS
RIGHT-OF-WAY ACTIVITY PERMIT
APPLICATION**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, Mt 59101 for any events that are not in the Downtown Central Business District. Events in the Central Business District are to be submitted to: Downtown Billings Association, 2815 2nd Avenue North, Billings, MT 59101. Application should be made at least 60 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Sheldon Hansb
ORGANIZATION MAKING APPLICATION Billings CENTRAL CATHOLIC HIGH School
PHONE 245-6651
ADDRESS 3 BROADWATER AVE BILLINGS MT 59101
City STATE ZIP

APPROXIMATE TIME EVENT WILL:

Assemble 5:00 PM Start 5:45 PM Disband 6:15 PM

DATE OF EVENT SEPTEMBER 29, 2007

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

Homecoming CAR-CADE PARADE

EVENT ROUTE DESIRED: (Please attach map.)

FROM WYOMING AVE TO DIVISION ST, TO BROADWATER AVE, WESTON BROADWATER AVE TO 5TH ST WEST, NORTH ON 5TH ST WEST THROUGH THE INTERSECTION AT GRAND AVE, ENTERING THE SENIOR HIGH PARKING LOT - DISBAND

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per individual claim and \$1,500,000 per occurrence, and (2) the City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF WAY
ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

PLEASE COMPLETE BOTH SIDES

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY
STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "safe or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE SurDane DATE 5/1/07

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES [] NO []
(IF YES, ATTACH COPY.)

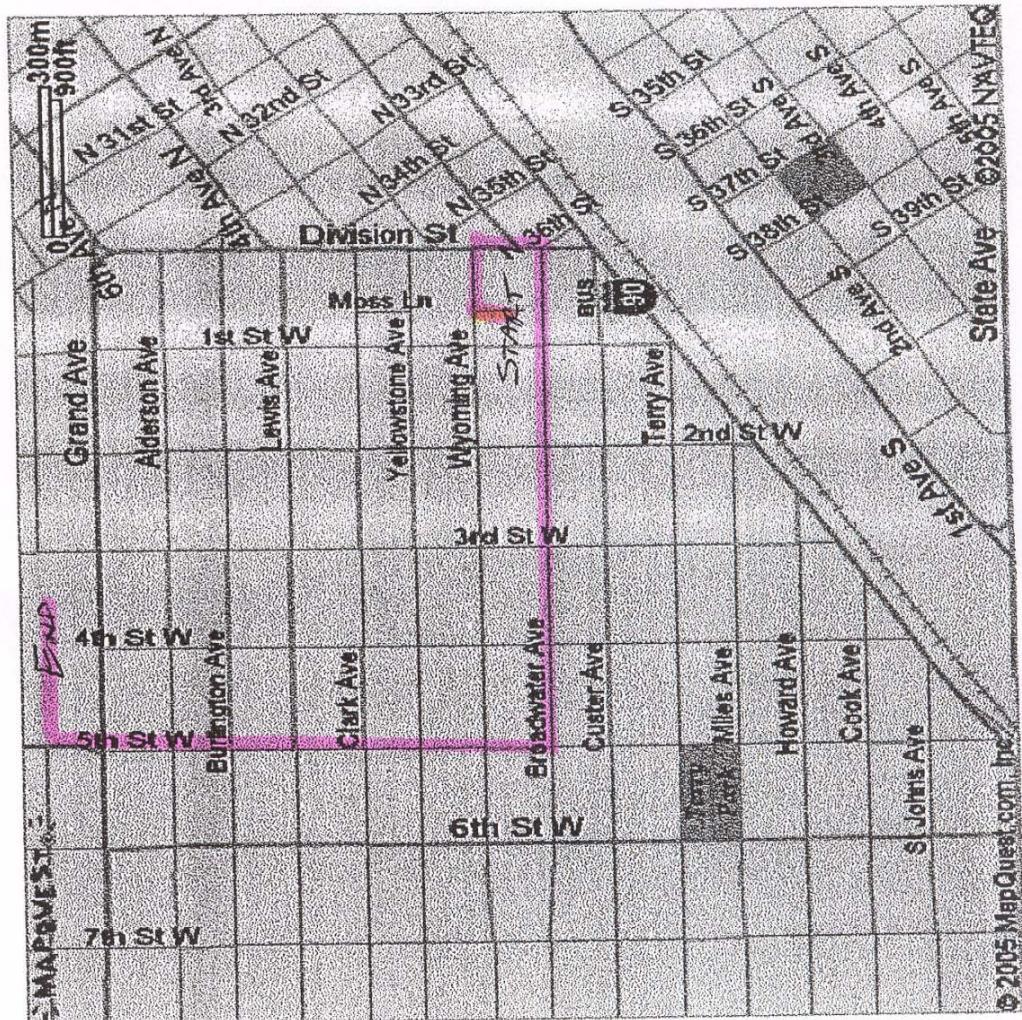
FOR CITY USE ONLY

FEE: _____

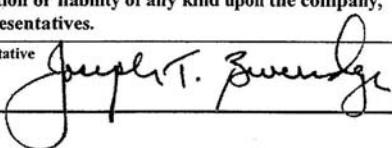
APPLICANT NOTIFIED BY: _____

DATE: _____

| |
|-------------------------------|
| COPIES TO: |
| CITY ADMINISTRATOR |
| DEPUTY CITY ADMINISTRATOR |
| POLICE CHIEF |
| FIRE CHIEF |
| FIRE MARSHALL |
| MET TRANSIT MANAGER |
| STREET/TRAFFIC SUPERINTENDANT |
| TRAFFIC ENGINEER |
| PRPL DIRECTOR |
| PARKING SUPERVISOR |
| CITY ATTORNEY |
| DOWNTOWN BILLINGS ASSOCIATION |



Attachment D

| Certificate of Coverage | | | | | Date: 6/7/2007 | |
|--|-------------------|---|--|--------------------------|----------------------------|-----------|
| Certificate Holder The Roman Catholic Bishop of Great Falls A Corporation Sole, Chancery Office P O Box 1399 Great Falls, MT 59403 | | This Certificate is issued as a matter of information only and confers no rights upon the holder of this certificate. This certificate does not amend, extend or alter the coverage afforded below. | | | | |
| Covered Location Billings Central Catholic High School c/o Billings Catholic School PO Box 31158 Billings, MT 59107 | | Company Affording Coverage THE CATHOLIC MUTUAL RELIEF SOCIETY 10843 OLD MILL RD OMAHA, NE 68154 | | | | |
| Coverages <p>This is to certify that the coverages listed below have been issued to the certificate holder named above for the certificate indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded described herein is subject to all the terms, exclusions and conditions of such coverage. Limits shown may have been reduced by paid claims.</p> | | | | | | |
| | Type of Coverage | Certificate Number | Coverage Effective Date | Coverage Expiration Date | Limits | |
| | Property | 8560 | 7/1/2007 | 7/1/2008 | Real & Personal Property | |
| | | | | | General Aggregate | |
| | General Liability | <input checked="" type="checkbox"/> Occurrence <input type="checkbox"/> Claims Made | 8560 | 7/1/2007 | Products-Comp/OP Agg | |
| | | | | | Personal & Adv Injury | |
| | | | | | Each Occurrence | 1,500,000 |
| | | | | | Fire Damage (Any one fire) | |
| | | | | | Med Exp (Any one person) | |
| | Excess Liability | | | | Each Occurrence | |
| | | | | | | |
| | Other | | | | Each Occurrence | |
| | | | | | | |
| Description of Operations/Locations/Vehicles/Special Items Coverage only extends for claims arising out of Billings Central Catholic High School holding a "Homecoming Parade/Carcade", on September 29, 2007, from 5:00 PM to 6:15 PM. | | | | | | |
| Holder of Certificate Additional Protected Person(s) City of Billings 0069000164 | | | Cancellation <p>Should any of the above described coverages be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the holder of certificate named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.</p> <p>Authorized Representative</p>  | | | |

ENDORSEMENT
(TO BE ATTACHED TO CERTIFICATE)

Effective Date of Endorsement 9/29/2007 Charge _____ Credit _____
Cancellation Date of Endorsement 9/30/2007
Certificate Holder The Roman Catholic Bishop of Great Falls
A Corporation Sole, Chancery Office
P O Box 1399
Great Falls, MT 59403

Certificate No. 8560 of The Catholic Mutual Relief Society is amended as follows:

SECTION II - ADDITIONAL PROTECTED PERSON(S)

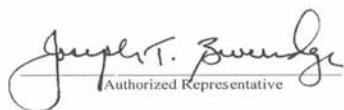
It is understood and agreed that Section II - Liability (only with respect to Coverage D - General Liability, Coverage F - Medical Payments to Others and Coverage H - Counseling Errors and Omissions) is amended to include as an Additional Protected Person(s) members of the organizations shown in the schedule, but only with respect to their liability for the Protected Person(s) activities or activities they perform on behalf of the Protected Person(s).

It is further understood and agreed that coverage extended under this endorsement is limited to and applies only with respect to liability assumed by contract or agreement; and this extension of coverage shall not enlarge the scope of coverage provided under this certificate or increase the limit of liability thereunder. Unless otherwise agreed by contract or agreement, coverage extended under this endorsement to the Additional Protected Person(s) will not precede the effective date of this certificate of coverage endorsement or extend beyond the cancellation date.

Schedule - ADDITIONAL PROTECTED PERSON(S)
City of Billings

Remarks: Coverage only extends for claims arising out of Billings Central Catholic High School holding a "Homecoming Parade/Carcade", on September 29, 2007, from 5:00 PM to 6:15 PM.

PKS-122 (1-99)



Joseph T. Bewender
Authorized Representative

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

M2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 13, 2007

TITLE: Skyview High School's Homecoming Parade Street Closure

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Skyview High School requests permission to hold their annual Homecoming parade on Friday, September 14, 2007, from 12:30 pm to 2:00 pm (including set up and disbanding time). They will be assembling at the Skyview High School parking lot and proceeding down Wicks Lane to St. Bernard's Church.

Recommended conditions of approval include Skyview High School:

8. Have no alcohol consumption in the public right of way
9. Clean the area to be used after the event and provide and empty waste cans
10. Contact all businesses and make them aware of the event 60 days in advance
11. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
12. Provide and install adequate traffic barricades and signs directing motorists around closure
13. Provide a certificate of insurance with required liability amounts naming the City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closure named above on September 14, 2007, for Skyview High School's Homecoming Parade.

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

ATTACHMENTS

- A. Letter outlining event (2 pages)
- B. Right of Way Special Activity Permit (2 pages)
- C. Map outlining route (1 page)
- D. Certificate of insurance (1 page)



**City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT**

*REC'D
Sept 14, 2007
MTC*

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure Block Party

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 25th Street, Billings, Mt 59101. Application should be made at least 60 days in advance of the date of proposed event.

PERSON MAKING APPLICATION

Kurt Wohler

ORGANIZATION MAKING APPLICATION

Skyview High School

PHONE (A) 671-7748 (W) 247-2472

ADDRESS 1775 High Sierra Blvd. Billings MT

CITY

STATE

ZIP

EMAIL ADDRESS wohlerk@billings.k12.mt.us

APPROXIMATE TIME EVENT WILL:

Assemble 12:30 pm Start 1:00 - 1:15 pm Disband 2:00 pm

DATE OF EVENT Friday September 14, 2007

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

Homecoming Celebration for Skyview High School
floats, marching units, firetruck

EVENT ROUTE DESIRED (IF APPLICABLE): (Please attach map.)

Exit from School parking lot to High Sierra -
to Wicks - east to St. Barnards church - End

CLEAN UP IMPLEMENTATION: (Company contracted or services you will provide)

N/A - only candy to kids

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/ \$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of Insurance as the additional insured. (Refer to the sample insurance copy. Please note a certificate of insurance is not required for Block Parties)

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

FOR DOWNTOWN EVENTS: YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF WAY
ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE



DATE

7/3/07

APPLICATION APPROVED

DATE

APPLICATION DENIED

DATE

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES NO
(IF YES, ATTACH COPY.)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY

1775 High Sierra Blvd.

Billings, MT 59105

406-247-2472

wohlerk@billings.k12.mt.us

To whom it may concern:

This letter is to request approval for Skyview's 2007 Homecoming Parade. It will occur on Friday, September 14th, 2007 from 1:00pm until 2:00 pm. It will start at Skyview, proceeding east on Wicks Lane, ending at St. Bernards' Church. Please see attached application and map for further details.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kurt Wohler".

Kurt Wohler

Skyview High School Student Council Advisor

To whom it may concern:

Additional restrictions and conditions for the Skyview High School 2007 Homecoming Parade
are as follows:

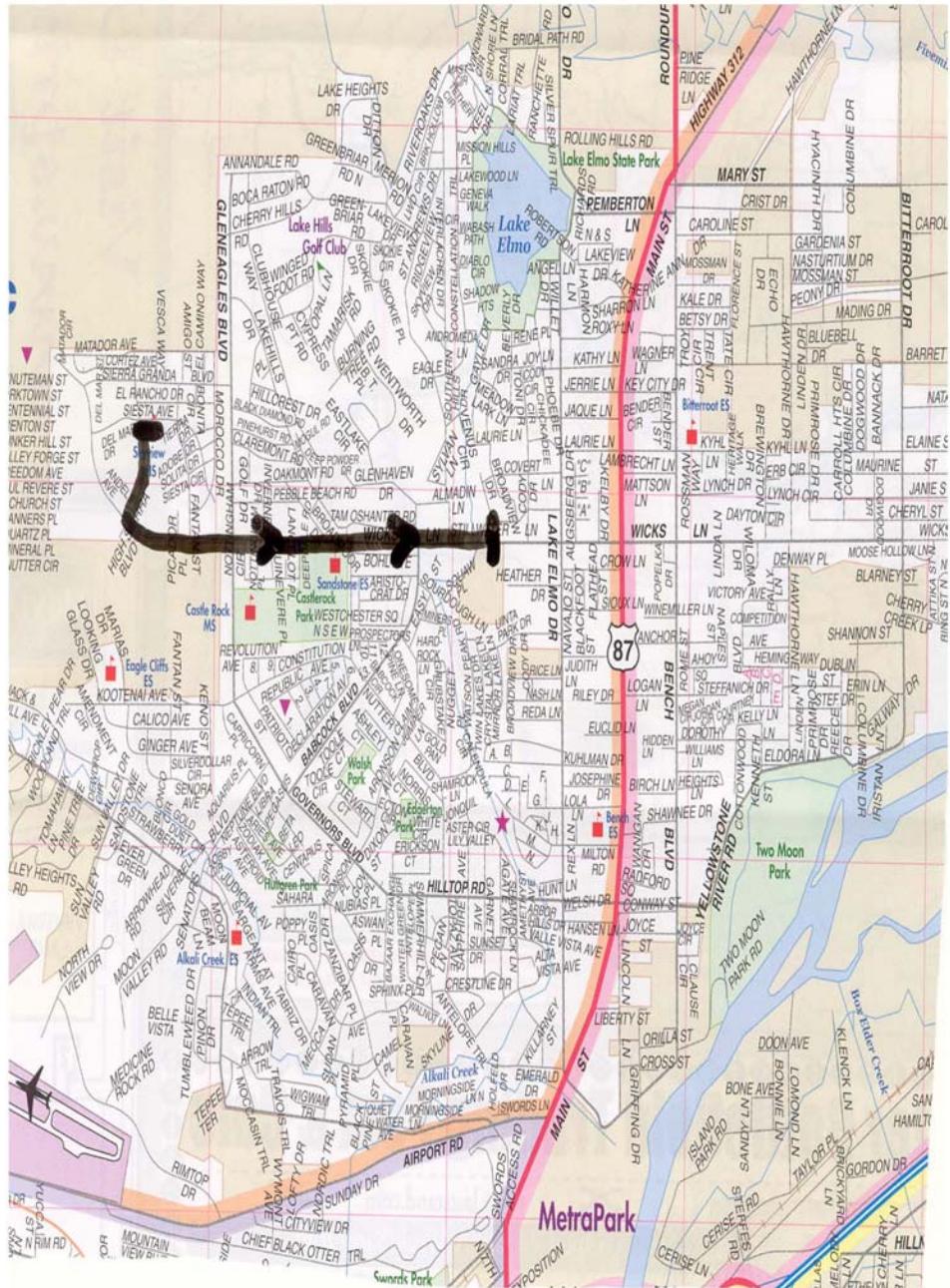
Participants will be limited to organizations recognized by the Skyview Administration,
and club or group sponsors. They will be pre-approved and registered prior to being
allowed into the parade.

Sincerely:

A handwritten signature in blue ink, appearing to read "Kurt Wohler".

Kurt Wohler

671-7748 (h) 247-2472 (w)



Client#: 1747

SDIST2YE

DATE (MM/DD/YYYY)
07/05/07

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

| | | | |
|--|--|--|--------|
| PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638 | | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. | |
| INSURED Billings Public Schools (dba) School Dist #2 and High School Dist #2 415 North 30th Street Billings, MT 59101-1298 | | INSURERS AFFORDING COVERAGE | NAIC # |
| | | INSURER A: Zurich American Insurance Co. | |
| | | INSURER B: American Alternative Insurance Compa | |
| | | INSURER C: | |
| | | INSURER D: | |
| | | INSURER E: | |

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD'L LTR | INSR NSRC | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|-------------------|--------------|--|---------------|-------------------------------------|--------------------------------------|---|
| A | | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BI/PD Ded: \$15,000 GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO- <input type="checkbox"/> LOC | BINDER727072 | 07/01/07 | 07/01/08 | EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$100,000 MED EXP (Any one person) \$EXCLUDED PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 |
| | | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | |
| | | GARAGE LIABILITY <input type="checkbox"/> ANY AUTO | | | | |
| | | EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ \$10,000 | | | | |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below | | | | |
| | | OTHER | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
RE: Operations performed by the above insured - Skyview Homecoming Parade, September 14, 2007. Certificate holder is additional insured per blanket form as required by written contract.

| | |
|--|---|
| CERTIFICATE HOLDER | CANCELLATION |
| City of Billings, Department of Parks, Recreation & Public Lands ATTN: Diane P. O. Box 1178 Billings, MT 59107 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE |

ACORD 25 (2001/08) 1 of 2 #290896

DO1 © ACORD CORPORATION 1988

(Back to Consent Agenda)

M3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: YMCA 2007 Montana Marathon Street Closure Request

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Jennifer Anderson, of the YMCA, requests partial street closures for their Annual Montana Marathon event on Sunday, September 16, 2007, from 5:30 am to 1:30 pm. The route begins on Molt Road and disbands at Daylis Stadium. (Course attached) Volunteers will secure the course and provide crossing guards. Ms. Anderson will coordinate with County and State Departments for Molt Road usage.

Recommended conditions of approval include YMCA:

1. Contact all businesses and making them aware of the event as soon as possible
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines, and media at least two weeks in advance of the event
4. Provide certificate of insurance with required liability amounts naming the City of Billings as additional insured
5. Provide and install adequate traffic barricades and signs directing motorists around closure

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures named above for the Annual Montana Marathon.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit (2 pages)
- B. Web information outlining event (2 pages)
- C. Course map and directions (5 pages)
- D. Certificate of insurance (2 pages)



**CITY OF BILLINGS
RIGHT-OF-WAY ACTIVITY PERMIT
APPLICATION**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, Mt 59101 for any events that are not in the Downtown Central Business District. Events in the Central Business District are to be submitted to: Downtown Billings Association, 2815 2nd Avenue North, Billings, MT 59101. Application should be made at least 60 days in advance of the date of proposed event. *057-4697 (No longer works for the YMCA)*

PERSON MAKING APPLICATION Jennifer Anderson *Danielle*
ORGANIZATION MAKING APPLICATION YMCA - MT. Marathon

PHONE 248-1685
ADDRESS 402 N. 32nd Billings MT 59101
City STATE ZIP

APPROXIMATE TIME EVENT WILL:
Assemble 5:30am Start 7am Disband 1:30pm

DATE OF EVENT September 16, 2007

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

Marathon, Half Marathon, Relay and Tot Trot Marathon
Route Starts in Molt + ends in Dayle's Stadium. Fundraiser
for Annual Strong Kids Campaign.

EVENT ROUTE DESIRED: (Please attach map.)

See attached.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per individual claim and \$1,500,000 per occurrence, and (2) the City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY
MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO
PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF WAY
ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

PLEASE COMPLETE BOTH SIDES

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY
STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE



DATE 5.15.07

APPLICATION APPROVED

DATE

APPLICATION DENIED

DATE

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES NO
(IF YES, ATTACH COPY.)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY
DOWNTOWN BILLINGS ASSOCIATION

Presented By:



**Mark your calendars for
Montana Marathon coming
September 16th, 2007!**

Marathon Sponsors:



Employee Benefit Management Services, Inc.

2007 Registration Form Now Available!



COURSE DESCRIPTION

From an elevation of 4,200 to 3,130 feet above sea level, the 26.2 mile course travels through breathtaking countryside with a panoramic mountain view. Beginning at Molt, Montana, winding through Billings, and ending at Daylis Stadium in Billings, Montana, the scenic course is certified by USATF, #MT06011-MF. Check out the new course!

Half Marathon

The 13.1 mile course starts at the half-way mark of the (full) Marathon and follows the Marathon Course to the finish line at Daylis Stadium in Billings, certified by USATF #MT06012-MF.

SCHEDULE OF EVENTS



Friday, September 14th
12 - 6 pm packet pickup at time out sports

Saturday, September 15th
10 - 4 pm packet pickup at time out sports
5:30 pm pasta dinner catered by Stella's
6-7 pm final packet pick-up @ pasta dinner

Sunday, September 16th
5:00 am YMCA opens for runners and last minute packets available
5:30 am buses depart YMCA for marathon, 1st and 2nd relay runners
6:45 am buses depart YMCA for $\frac{1}{2}$ marathon, 3rd and 4th relay
runners
7 am marathon and relay starts
8 am $\frac{1}{2}$ marathon starts
11:30 am Montana tot trot (ages 2-10)
12:30 pm awards
1:15 pm bus to YMCA from Ddaylis on 3rd St. West
1:30 bus to YMCA from Daylis on 3rd St. West
1:30 pm course sweep - all runners must be off the course. Aid
support
will be taken off the course at this time.

Results will be posted on www.perfect-timing.org or
www.montanamarathon.org.



*Road Running Technical Council
USA Track & Field*

Measurement Certificate

RRCA

*Road Running Technical Council
USA Track & Field*

Montana Half Marathon

| Measurement Certificate | |
|--|--|
| Name of the course | Montana Half Marathon |
| Location (state) | Montana |
| Distance | 21.0975 km |
| Type of course: | road race X cross country O calibration O track O |
| Type of surface: | paved 99% dirt 1% gravel 0% grass 0% |
| Configuration: | Points-to-point |
| Start (meters above sea level) | 1140 |
| Finish | 955 |
| Highest | 1140 |
| Lowest | 995 |
| Start/finish | 11.3 km |
| Drop | 6.9 m/km |
| Separation | 53.6 % |
| Measured by (name, address, & phone) | David French, 3121 Forsythia, Billings, MT 59102 406-555-4467 corsair@hotmail.com |
| Race contact (name, address, & phone) | Jennifer Anderson, 402 N 32 nd , Billings, MT 59101 406-248-1655 |
| Measuring Methods: | bicycle X steel tape O electronic distance meter O |
| Number of measurements of entire course: | 2 |
| Dated when course measured: | 6-18-06; 7-2-06 |
| Race date: | 9-17-2006 |
| Course paperwork submission date: | 8-10-06; 8-24-06 |
| Replaces: | (if applicable) |
| Certification code: | MTW06012-MP |
| Notice to Race Director Use this Certification Code in all public announcements relating to your race. | |
| Be It Officially Noted That <p>Based on examination of data provided by the above named measurer, the course described above and in the map attached is hereby certified as reasonably accurate in measurement according to the standards adopted by the Road Running Technical Council. Any changes are made to the course, this certificate is void.</p> | |
| 1/2 Marathon Start | In line with orange and white fiber optic pole (BL091HA) on south side of Molt Road |
| Mile 14 | 242 feet to the east of the center of the driveway at 801 Molt Road |
| Mile 15 | 18 feet east of driveway, across from phone box 167E on south side of road |
| Mile 16 | Molt Road, second reflector west of Mile 4 marker |
| Mile 17 | 6006 Sam Snead, 33 feet west of fire hydrant on north side of street |
| Mile 18 | 3322 54 th Street, in line with north corner of house Rimmer Road, between telephone pole and phone box |
| Mile 19 | east side of Dead End sign |
| Mile 20 | 4555 Rangeview, east side of mailbox |
| Mile 21 | On sidewalk west of 32 nd Street, behind Poly Vista ballpark, 7 th line in sidewalk, north of 2 yellow posts |
| Mile 22 | East side of intersection of Poly & 32 nd , 5 th sidewalk, square on east side of 32 nd , even with jog in wood & fence |
| Mile 23 | West side of intersection of Brentwood & Colton, on north side of road, parallel to east side of garage |
| Mile 24 | West side of 17 th Street, north of the canal, across from telephone pole on east side of street |
| Mile 25 | 915 Parkhill, 1/2 way between west window and front door |
| Mile 26 | Middle of intersection of Avenue D & Third Street |
| Finish | On the west side of the track, in line with the middle of the 2nd set of stairs from the south end of the bleachers on the west side of the track. |

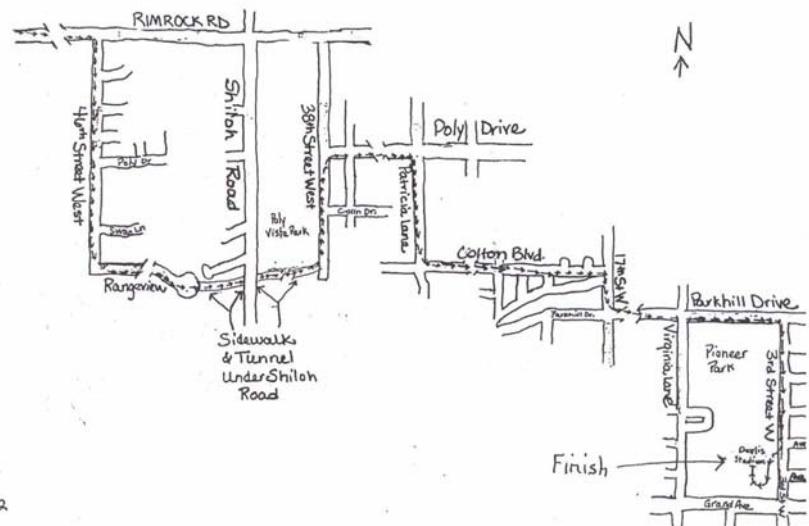
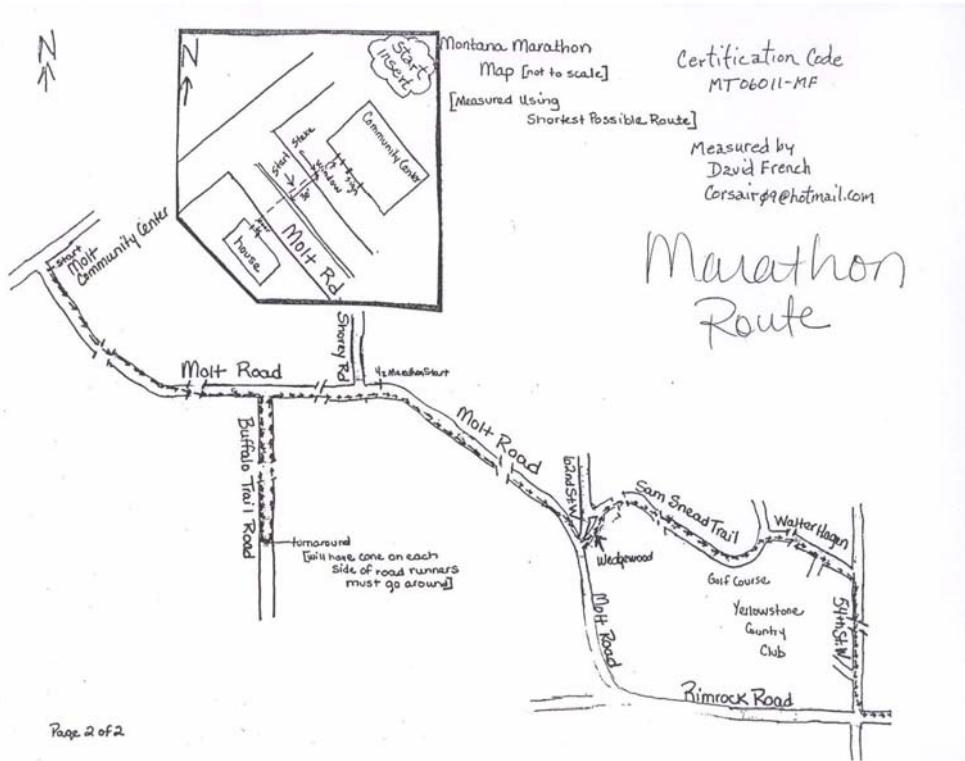
Be It Officially Noted That

Based on examination of data provided by the above named measure, the course described above and on the map attached is hereby certified as reasonably accurate in measurement according to the standards adopted by the Road Running Technical Council. If any changes are made to the course, this certification becomes void, and the course must then be recertified.

This Certification expires on December 31 in the year

AS NATIONALITY CERTIFIED BY:

Michael Franke Date: 8-30-2006
Michael Franke - DES-BAFPRRT National Captain
3824-51 Street, Des Moines, IA 50310 (515) 275-3140
Email: mfranke@art.net

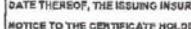


The runners will run on the north side of the road (against traffic) from Molt. When they reach the 62 St. W. turn into the Country Club, they will not be crossing the road, as they will take a left. We provide trained road guards with vests (we work very closely with the Rimrunners) to help runners make the left hand turn, which is usually not a problem as they are already on that side of the road.

(Going through the Country Club was chosen, as in 2005 there were problems with keeping the runners on Molt Rd into Rimrock road, as the road is very narrow.)

The runners will then exit the Country Club at 54th and Rimrock just as in 2006 (when we introduced the new course) with help from 2 Sheriff vehicles and 4 road guards and 2 bikers. They then run with traffic 8 blocks with the traffic in a small path on the side of the road coned off by Chief Construction and also assisted by the Sheriff Department. We do not cone off an entire lane, just the very edge of the road so runners do not run into the lane of traffic. They then make a right hand turn onto 46th St. West (they are already on the right hand side of the road).

All intersections through Billings have either a Sheriff or very well-trained road guards at intersections. This is the same course as last year and we had a very safe and successful run.

| | |
|--|--|
| CERTIFICATE HOLDER | CANCELLATION |
| City of Billings Parks & Recreation Department P.O. Box 1178 Billings, MT 59101 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. |
| | AUTHORIZED REPRESENTATIVE  |

DESCRIPTIONS (Continued from Page 1)

Doing Business As: YMCA Endowment Fund

Notice of cancellation for non payment of premium will be 10 days.

The certificate holder shall be an additional insured in accordance with all the terms, conditions, and limitations of the policy and then only with respect to liability caused by the negligent acts or omissions of the Named Insured and then only with respect the specific activity.

Re: South Park, Lake Elmo, all city parks, All YMCA activities including flag football, soccer, day camps, adult softball, fishing jamboree and fun run.

City of Billings Additional Insured as required.

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Donation of Chairs to Friendship House

DEPARTMENT: Library

PRESENTED BY: Bill Cochran, Library Director

PROBLEM/ISSUE STATEMENT: Friendship House officials have requested the donation of 40 plastic chairs that were part of the original furnishings of the Library when it opened at its current Broadway Avenue location in 1969. The chairs which have been stored on the third floor for many years are uncomfortable to sit in for long periods and many are paint-spattered, but their seats aren't split as are the chairs currently in use at Friendship House. The Library will still have 200 chairs available on the third floor, most all of which are more comfortable, more attractive and newer than those proposed to be donated.

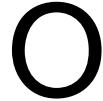
FINANCIAL IMPACT: The chairs have some residual value and might realize a small return to the Library if they were sold at the City surplus auction; if donated, the Library would forego that potential revenue.

RECOMMENDATION

Staff recommends that Council approve the donation of 40 plastic chairs to Friendship House to support its community service efforts.

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

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: SILMD 288, Wentworth Drive, Lake Hills Subdivision

DEPARTMENT: Public Works Department

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT:

When the Wentworth Drive area in Lake Hills Subdivision was originally developed, Ken Hollar, the developer, had four street lights installed on Wentworth Drive near the intersection of Wentworth Drive and Glenhaven Drive to highlight the entrance to his development. Mr. Hollar has given these four lights to the City and the costs of operating them are being charged to SILMD 288. These lights are of the same type & style as the lights ultimately installed under SILMD 288, and the lighting layout along the street takes them into account. Because they were not part of the original light district, the adjacent properties are receiving the benefit of these lights, without having to pay any of the operation and maintenance costs for the lighting.

ALTERNATIVES ANALYZED:

- Do nothing and continue to have these lights paid for by the existing district.
- Turn the lights off and have them removed.
- Incorporate the adjacent properties into SILMD 288 so they are paying their fair share for the lighting.

FINANCIAL IMPACT:

Incorporating these additional properties into the district will have the net effect of lowering the assessment for the properties in the original district by approximately 3%. There is no impact on other City funds since the District pays the entire cost of operating and maintaining the lighting and there are no City owned properties within the District.

RECOMMENDATION

Staff recommends that Council approve the resolution expanding the boundaries of Special Improvement Lighting Maintenance District 288.

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

ATTACHMENTS

Council Resolution

RESOLUTION NO. _____

A RESOLUTION AMENDING THE BOUNDARIES OF
SPECIAL IMPROVEMENT LIGHTING
MAINTENANCE DISTRICT No. 288

WHEREAS, the City of Billings, Montana, on the 9th day of August, 2004, duly created Special Improvement Lighting Maintenance District No. 288; and

WHEREAS, on the 25th day of October, 2004, Kenneth Hollar donated four (4) additional streetlights along Wentworth Drive to Special Improvement Lighting Maintenance District No. 288; and

WHEREAS, the additional lights are outside of the boundary of the District as originally created; and

WHEREAS, the properties adjacent to these lights are receiving the benefits of street lighting without sharing in the costs of operation and maintenance of the lights; and

WHEREAS, pursuant to MCA 7-12-4335, the City Council may, by resolution, change the boundaries of any lighting district;

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

That the boundaries of Special Improvement Lighting Maintenance District No. 288 are hereby amended to include the following tracts, pieces, lots or parcels of land:

- Lot 6, Block 60, Lake Hills Subdivision, 24th Filing (Tax Code A22819), at an assessed area of 13,205 square feet
- Lot 20, Block 61, Lake Hills Subdivision, 27th Filing (Tax Code A22837B), at an assessed area of 10,011 square feet
- A portion of Tract B1, C/S 793 (Tax Code D11957), at an assessed area of 9,742 square feet
- A portion of Tract A, C/S 793 (Tax Code D11957), at an assessed area of 14,690 square feet

PASSED by the City Council of the City of Billings, Montana and approved this _____ day of _____, 2007.

CITY OF BILLINGS

BY: _____
Mayor

ATTEST:

City Clerk

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Resolution Relating to \$168,000 Pooled Special Improvement Districts Bond, Authorizing the Issuance and Calling for the Public Sale Thereof

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City Council has previously approved Special Improvement District (SID) projects and has awarded construction contracts for SID 1375 and SID 1377. The following resolution authorizes the sale of \$168,000 in bonds for financing of the above stated project.

FINANCIAL IMPACT:

| | |
|--------------------------|------------|
| SID 1375-Claremont Road | \$ 110,000 |
| SID 1377-GreenBriar Road | \$ 58,000 |

RECOMMENDATION

Staff recommends City Council approve the attached resolution.

Approved By: City Administrator City Attorney

ATTACHMENT

A - Resolution prepared by Dorsey & Whitney

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the “City”), hereby certify that the attached resolution is a true copy of a Resolution entitled: “RESOLUTION RELATING TO \$168,000 POOLED SPECIAL IMPROVEMENT DISTRICT BONDS (SPECIAL IMPROVEMENT DISTRICT NOS. 1375 and 1377); AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF” (the “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on August 13, 2007, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand and seal officially this _____ day of August, 2007.

(SEAL)

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO \$168,000 POOLED SPECIAL IMPROVEMENT DISTRICT BONDS (SPECIAL IMPROVEMENT DISTRICT NOS. 1375 and 1377); AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF

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

Section 1. Recitals.

(a) This Council has duly and validly created and established in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended (the “Act”), special improvement districts, designated as Special Improvement District No. 1375 (“District No. 1375”), and Special Improvement District No. 1377 (“District No. 1377”) (collectively, the “Districts”), for the purpose of financing a portion of the costs of certain public improvements of special benefit to the properties within the Districts (the “Improvements”) and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds of the City drawn on the Districts (the “Bonds”), the creation and administration of the Districts, and the funding of a deposit to the City’s Special Improvement District Revolving Fund (the “Revolving Fund”). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Districts is \$168,000. The costs of the Improvements are to be paid from the proceeds of the Bonds, which are to be payable primarily from special assessments to be levied against property in the Districts, which property will be specially benefited by the Improvements in an amount not less than \$168,000.

(b) It is necessary that Bonds be issued and sold in an aggregate principal amount of \$168,000 to finance a portion of the costs of the Improvements within each of the Districts, including incidental costs, described in Subsection (a). The costs of the Improvements are currently estimated and financed as follows:

| | <u>District No. 1375</u> | <u>District No. 1377</u> |
|-------------------------|--------------------------|--------------------------|
| Construction | \$340,924.82 | \$121,682.14 |
| Administration Costs | 64,920.08 | 26,552.61 |
| City Finance Fee | 2,750.00 | 1,450.00 |
| Engineering Fee | 3,850.00 | 2,030.00 |
| Revolving Fund Deposit | 5,500.00 | 2,900.00 |
| Underwriter’s Discount | 2,200.00 | 1,160.00 |
| Bank Fees | 1,000.00 | 1,000.00 |
| Costs of Issuance | 3,331.55 | 1,675.05 |
| Subtotal | <u>\$424,476.45</u> | <u>\$158,449.80</u> |
| Less City Contributions | <u>(314,476.45)</u> | <u>(100,449.80)</u> |
| Total | <u>\$110,000.00</u> | <u>\$58,000.00</u> |

(c) The City is authorized pursuant to Montana Code Annotated, Section 7-12-4193, to issue and sell special improvement district bonds of more than one district in a single offering on a pooled basis upon a determination that such pooling is in the best interests of the Districts and the City.

(d) The City is further authorized by Montana Code Annotated, Section 7-12-4204(1) to sell the Bonds at a price less than the principal amount thereof, but including interest thereon to the date of delivery, if this Council determines that such sale is in the best interests of the Districts and the City.

Section 2. Determinations of Public Interest in Allowing Bond Discount and Permitting Pooling of Bonds. Pursuant to the authority described in Section 1, this Council hereby determines that the issuance and sale of the Bonds in a pooled single offering for the following Special Improvement Districts in the respective principal amounts set forth below:

| <u>District No.</u> | <u>Principal Amount</u> |
|---------------------|-------------------------|
| 1375 | \$110,000.00 |
| <u>1377</u> | <u>58,000.00</u> |
| Total: | \$168,000.00 |

is in the best interest of each of the Districts and the City and will facilitate the sale of the Bonds because the size of the issue will attract more interest in the marketplace and thus help to lower interest rates on the Bonds and because a single issue will reduce the costs of issuance. This Council further determines to fix the minimum price for the Bonds at \$164,640 (98% of par). Such minimum bid will enable bidders to bid more efficiently for the Bonds by permitting them to submit their bids based on actual market conditions without adjusting the interest rates thereon to provide compensation for their purchase of the Bonds. This procedure will facilitate the sale of the Bonds at the lowest interest rates, which is in the best interests of each of the Districts and the City.

Section 3. Findings and Determination To Pledge the Revolving Fund. In the Resolutions of Intention To Create Special Improvement District Nos. 1375 and 1377, adopted on November 27, 2006, and January 22, 2007, respectively, this Council found it to be in the public interest, and in the best interest of the City and the Districts, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations were ratified and confirmed in the resolutions creating Special Improvement District Nos. 1375 and 1377, adopted by this Council on December 18, 2006 and February 12, 2007, respectively, and are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 4. Terms of the Bonds. This Council hereby authorizes the issuance and sale of Pooled Special Improvement District Bonds (Special Improvement District Nos. 1375 and 1377) of the City in the aggregate principal amount of \$168,000 (the "Bonds") for the

purpose of financing the Improvements. The Bonds shall be dated, as originally issued, as of September 20, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Council. If issued as serial bonds, the Bonds shall mature on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2008 | \$8,000 | 2016 | \$10,000 |
| 2009 | 10,000 | 2017 | 10,000 |
| 2010 | 10,000 | 2018 | 10,000 |
| 2011 | 10,000 | 2019 | 15,000 |
| 2012 | 10,000 | 2020 | 15,000 |
| 2013 | 10,000 | 2021 | 15,000 |
| 2014 | 10,000 | 2022 | 15,000 |
| 2015 | 10,000 | | |

Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities, except that one bond maturing in 2008 shall be in the denomination of \$8,000.

Bidders will have the option of combining the Bonds maturing on and after 2008 through and including 2015 and on and after 2016 through and including 2022 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts shown in the debt service schedule shown above.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk. The Bonds shall be secured by the Revolving Fund.

Section 5. Public Sale. The Bonds shall be sold at a public competitive sale, the sealed bids for which shall be submitted to the Financial Services Manager or bids for the purchase of the Bonds shall be received by the City by electronic transmission through Parity™, in either case until 12:00 noon, M.T., on August 27, 2007, at which time bids will be opened and tabulated by the Financial Services Manager. At a regular meeting of this Council on August 27, 2007, at 6:30 P.M., M.T, the City will consider the bids and, if a responsive and acceptable bid is received, award the sale of the Bonds. Award of sale will be made to the bidder with the lowest true interest cost (“TIC”) by the Council. The City will receive sealed bids or bids transmitted electronically through Parity™ for the Bonds and the Bonds will be sold in accordance with the Official Terms and Conditions attached hereto as Exhibit A (which is hereby incorporated and made a part hereof). The City Clerk is authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106, in *The Billings Times* once each week for two successive weeks preceding the week which

contains the date of sale. The notice of sale shall be published and mailed in substantially the form set forth as Exhibit B to this resolution and this Council hereby adopts the terms and conditions set forth in such notice of sale as the terms and conditions of the sale of the Bonds.

Section 6. Continuing Disclosure. Although bidders and other participating underwriters in the primary offering of the Bonds need not comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the “Rule”), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000, to enhance the marketability of the Bonds, the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information, if applicable, and notice of the occurrence of certain events, if material. The City, the Sinking Fund and the Revolving Fund are the only “obligated persons” in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds.

Section 7. Informational Materials. The Financial Services Manager and other officers of the City are hereby authorized and directed to prepare and distribute on behalf of the City an Offering Circular or summary of the transaction, to the extent deemed necessary or appropriate.

Passed by the City Council of the City of Billings, Montana, this 13th day of August, 2007.

Mayor

Attest: _____
City

Clerk

EXHIBIT A
TERMS AND CONDITIONS

**\$168,000 Pooled Special Improvement District Bonds
(Special Improvement District Nos. 1375 and 1377)**

CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City of Billings, Montana (the "City"), will sell to the lowest and best bidder for cash, as evidenced by sealed bids or bids transmitted electronically through Parity™, the above-described Bonds drawn against the funds of the following special improvement districts in the respective principal amounts set forth below:

| <u>District No.</u> | <u>Principal Amount</u> |
|---------------------|-------------------------|
| 1375 | \$110,000.00 |
| 1377 | <u>58,000.00</u> |
| Total: | \$168,000.00 |

Bids for the purchase of the Bonds may be submitted as written sealed bids or by electronic transmission through Parity™. Bids for the purchase of the Bonds will be received in the City Clerk's office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, until 12:00 noon, M.T., on Monday, August 27, 2007, at which time the bids will be opened or accessed and tabulated. The City Council of the City will meet at their regular meeting at 6:30 P.M., M.T., on the same day in the Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana, to consider the bids and to award the sale of the Bonds. The Council will award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

Bids may be submitted by facsimile to the City Clerk at (406) 657-8390 or to Springsted Incorporated at (651) 223-3046 until 12:00 noon, M.T., on Monday, August 27, 2007.

Purpose and Security

The Bonds will be issued for the purpose of financing a portion of the cost of construction of certain local improvements (the "Improvements") within or for the benefit of Special Improvement District Nos. 1375 and 1377 (collectively, the "Districts"), in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended. The Bonds will be special, limited obligations of the City and do not constitute general obligations of the City.

The Bonds are payable primarily from the collection of a special assessment which is a lien against the assessable real property within the respective Districts benefited by the Improvements to be undertaken therein or therefor. The special assessments are payable in substantially equal, semiannual installments over a 15-year term, with unpaid installments of the special assessments bearing interest at a rate equal, from time to time, to the sum of (i) the average rate of interest borne by the then outstanding Bonds, plus (ii) one-half of one percent

(0.50%) per annum. The Bonds are further secured by the Special Improvement District Revolving Fund of the City (the “Revolving Fund”). The City will agree to make a loan from the Revolving Fund to the Sinking Fund established for the Districts to make good any deficiency then existing in the principal and interest subaccounts therein and to provide funds for the Revolving Fund by levying a tax or making a loan from the City’s general fund to the extent authorized by law.

Date and Type

The Bonds will be dated, as originally issued, as of September 20, 2007, and will be issued as negotiable investment securities in registered form as to both principal and interest.

Maturities and Redemption

If issued as serial bonds, the Bonds shall mature, subject to redemption, on July 1 in the following years and amounts (unless combined into one or more term bonds):

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2008 | \$8,000 | 2016 | \$10,000 |
| 2009 | 10,000 | 2017 | 10,000 |
| 2010 | 10,000 | 2018 | 10,000 |
| 2011 | 10,000 | 2019 | 15,000 |
| 2012 | 10,000 | 2020 | 15,000 |
| 2013 | 10,000 | 2021 | 15,000 |
| 2014 | 10,000 | 2022 | 15,000 |
| 2015 | 10,000 | | |

Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities, except that one bond maturing in 2008 shall be in the denomination of \$8,000.

Bidders will have the option of combining the Bonds maturing on and after 2007 through and including 2015 and on and after 2016 through and including 2022 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts shown in the debt service schedule shown above.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk. The Bonds shall be secured by the Revolving Fund.

Book Entry

Unless otherwise requested by the underwriter (in which case, the balance of this paragraph will not apply), the Bonds will be issued by means of a book entry system with no

physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company (“DTC”), New York, New York, which will act as securities depository of the Bonds. Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof of a single maturity, through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The purchaser, as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

Redemption

Mandatory Redemption. If on any interest payment date there will be a balance in the Sinking Fund after payment of the principal and interest due on all Bonds drawn against it, either from the prepayment of special assessments levied in the Districts or from the transfer of surplus money from the Construction Subaccount to the Principal Subaccount, outstanding Bonds, or portions thereof, in an amount which, together with the interest thereon to the interest payment date, will equal the amount of such funds on deposit in the Sinking Fund on that date are subject to mandatory redemption on that interest payment date. The redemption price shall equal the amount of the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption.

Optional Redemption. The Bonds maturing on and after January 1, 2015 are subject to redemption, in whole or in part, at the option of the County from sources of funds available therefor other than those described under “Mandatory Redemption” on January 1, 2016 and any date thereafter from the proceeds of refunding rural special improvement district bonds or warrants. The redemption price shall equal the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption, without premium.

Selection of Bonds for Redemption. If less than all of the Bonds are to be redeemed, Bonds shall be redeemed in order of the stated maturities thereof. If less than all Bonds of a stated maturity are to be redeemed, the Bonds of such maturity shall be selected for redemption in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair.

Interest Payment Dates, Rates

Interest will be payable each January 1 and July 1, commencing January 1, 2008, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. All Bonds of the same stated maturity must bear interest from date of original issue until paid at a single, uniform rate. No interest rate may exceed 6.50% per annum, and the difference between the highest and lowest rate of interest may not exceed 3.50% per annum. Each rate

must be expressed in an integral multiple of 1/8 or 5/100 of 1%. No supplemental or "B" coupons or additional interest certificates are permitted. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Bond Registrar, Transfer Agent
and Paying Agent

The City shall select a bond registrar, transfer agent and paying agent (the "Registrar") in connection with the Bonds. The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The City will pay the charges of the Registrar for such services. The City reserves the right to remove the Registrar and to appoint a suitable bank or trust company as successor.

Delivery

Within 45 days after the sale, the City will deliver to the Registrar the printed Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the Bonds will be initially registered and the authorized denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and, if serial bonds, will be issued in denominations corresponding to the principal maturities of the Bonds. On the day of closing, the City will furnish to the purchaser the opinion of bond counsel hereinafter described, an arbitrage certification and a certificate verifying that no litigation in any manner questioning the validity of the Bonds is then pending or, to the knowledge of officers of the City, threatened. Payment for the Bonds must be received by the City in immediately available funds at its designated depository on the day of closing. As a condition of delivery, the purchaser must certify to the City in writing the initial reoffering prices of the Bonds.

Legal Opinion

An opinion as to the validity of the Bonds and the exclusion from gross income for federal income tax purposes and Montana individual income tax purposes of the interest thereon will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will be provided at closing. The legal opinion will state that the Bonds are valid and binding special obligations of the City enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights; however, Dorsey & Whitney LLP will not express an opinion as to the enforceability of the agreement of the City to make loans or advances from the Revolving Fund to the Sinking Fund as may be required to pay principal and interest on the Bonds.

Type of Bid and Good Faith Deposit

Bids transmitted electronically through Parity™ or sealed bids for not less than \$164,640 (98% of par) on the principal sum of \$168,000 must be mailed or delivered to the undersigned and must be received at the office of the City Clerk prior to the time stated above. Bidders must bid for all or none of the Bonds. Each bid must be unconditional. Bids may be transmitted electronically through Parity™ in accordance with these terms and conditions.

Except for a bid by or on behalf of the Board of Investments of the State of Montana, a good faith deposit (the “Deposit”) in the form of money, cashier’s check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the federal deposit insurance corporation or a financial surety bond in the sum of \$3,160 payable to the order of the City is required for a bid to be considered. If money, cashier’s check, certified check, bank money order, or bank draft is used, it must accompany the bid and be delivered to the City Clerk. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the Financial Services Manager prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the City in the form of a cashier’s check (or wire transfer such amount as instructed by the City) not later than 1:00 P.M., M.T., on the next business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the City as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on award of the Bonds to the purchaser or after rejection of all bids. Instructions for wiring the Deposit may be obtained from the City’s Financial Services Manager, Pat Weber, 210 North 27th Street, Billings, Montana 59101, telephone (406) 657-8209.

Award

Bids will be compared on the basis of true interest cost (TIC) and awarded to the responsive bidder whose bid reflects the lowest TIC. The TIC is the net present value of total interest on all Bonds from dated date to their maturities, less any premium or plus any discount. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. No oral bid will be considered. The Council will consider sealed bids or bids transmitted electronically through the Parity™ system. The City reserves the rights to reject any and all bids, to waive informalities in any bid and to adjourn the sale.

Electronic Transmission

To the extent any instructions or directions set forth in Parity™ conflict with this Terms and Conditions of Sale, the terms of this Terms and Conditions of Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3000 (Bond Services), or at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid

including facsimile transmission to the City Clerk, Cari Martin, at facsimile number (406) 657-8390 (phone (406) 657-8210).

Informational Materials.

The Financial Services Manager and other officers of the City will prepare and distribute on behalf of the City an Offering Circular or summary of the transaction, to the extent deemed necessary or appropriate.

Continuing Disclosure

Although bidders and other participating underwriters in the primary offering of the Bonds need not comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the “Rule”), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000, to enhance the marketability of the Bonds, the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information, if applicable, and notice of the occurrence of certain events, if material. The City, the Sinking Fund and the Revolving Fund are the only “obligated persons” in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds.

CUSIP Numbers

The City will assume no fee or obligation for the assignment or printing of CUSIP numbers on the Bonds or for the correctness of any numbers printed thereon, but will permit such numbers to be assigned and printed at the expense of the purchaser, if the original purchaser waives any delay in delivery occasioned thereby.

Dated: August 13, 2007.

BY ORDER OF THE CITY COUNCIL

City Clerk
City of Billings, Montana

EXHIBIT B
NOTICE OF BOND SALE
\$168,000 Pooled Special Improvement District Bonds
(Special Improvement District Nos. 1375 and 1377)

CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Billings, Montana (the "City"), will receive sealed bids for the purchase of \$168,000 Pooled Special Improvement District Bonds (Special Improvement District Nos. 1375 and 1377) (the "Bonds") in the City Clerk's office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, or bids transmitted electronically through Parity™ until 12:00 noon, M.T., on Monday, August 27, 2007, at which time the bids will be opened or accessed and tabulated. The City Council of the City will meet at their regular meeting at 6:30 P.M., M.T., on the same day in the Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana, to consider the bids and to award the sale of the Bonds. The Council will award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

The Bonds will be issued for the purpose of financing a portion of the cost of construction of certain local improvements (the "Improvements") within or for the benefit of Special Improvement District Nos. 1375 and 1377 (collectively, the "Districts"); and paying costs associated with the sale and issuance of the Bonds. The Bonds shall mature, subject to redemption, on July 1 in the following years and amounts (unless combined into one or more term bonds):

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2008 | \$8,000 | 2016 | \$10,000 |
| 2009 | 10,000 | 2017 | 10,000 |
| 2010 | 10,000 | 2018 | 10,000 |
| 2011 | 10,000 | 2019 | 15,000 |
| 2012 | 10,000 | 2020 | 15,000 |
| 2013 | 10,000 | 2021 | 15,000 |
| 2014 | 10,000 | 2022 | 15,000 |
| 2015 | 10,000 | | |

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk. The Bonds shall be secured by the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities, except that one bond maturing in 2008 shall be in the denomination of \$8,000. Bidders will have the option of combining the Bonds maturing on and after 2008 through and including 2015 and on and after 2016 through and including 2022 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption on each July 1, concluding no later than 2022, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and

payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the bonds would have matured if they were not included in a term bond.

The Bonds shall be dated, as originally issued, as of September 20, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Board. No interest rate may exceed 6.50% per annum, and the difference between the highest and lowest rate of interest may not exceed 3.50% per annum. No supplemental or "B" coupons or additional interest certificates are permitted and rates shall be expressed in integral multiples of 1/8 or 1/20 of one percent per annum. The Bonds with stated maturities on or after January 1, 2015 will be subject to redemption on January 1, 2016, and any date thereafter, at the option of the City, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. The Bonds are also subject to mandatory redemption on an interest payment date if the amounts in the Sinking Fund, either from prepayment of assessments or transfers from the Construction Account to the Principal Account, are sufficient to pay outstanding Bonds, or portions thereof, with interest thereon to that interest payment date.

The Bonds will be sold for not less than \$164,640 (98% of par) with accrued interest on the principal amount of the Bonds to the date of their delivery. The Board reserves the right to reject any and all bids, to waive any informality in any bid, and to adjourn the sale.

A good faith deposit in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of 2% of the aggregate principal amount of the Bonds (\$3,160) payable to the order of the City is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of a statement of the Official Terms and Conditions of Sale and additional information may be obtained from Springsted Incorporated, Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101-2887, (651) 223-3000. Prospective bidders should consult the Official Terms and Conditions of Sale and any other information material distributed by the City for a detailed description of the Bonds, the security therefore[, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as bond counsel]. To the extent any instructions or directions set forth in Parity™ conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3030 (Bond Services Division), or Parity™ at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Financial Services Manager, Pat Weber, at facsimile number (406) 247-8608 (phone (406) 657-8209) or to Springsted Incorporated at facsimile number (651) 223-3046 (phone (651) 223-3000).

Dated: August __, 2007.

BY ORDER OF THE CITY COUNCIL

Cari Martin, City Clerk
City of Billings, Montana

Publish: August 16, 2007
 August 23, 2007

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Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, Aug. 13, 2007

TITLE: Resolution—Temporary Suspension of the Camping Ordinance

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: The Big Sky Polka Club is seeking an exemption from the City's RV and camper parking ordinance for its annual Polka Festival, to be held Labor Day Weekend (August 31-September 2, 2007) at the Shrine Auditorium, 1125 Broadwater Ave.

BMCC 24-411. Parking for Camping Purposes. prohibits parking for camping in anything other than an authorized tourist park, except for a 10-hour rest period in a parking lot in which the owner permits it. The ordinance also provides, however, for a temporary suspension of the ordinance for a special event, as follows:

“Upon approval by resolution, the city council may temporarily suspend the requirements and restrictions imposed by section 24-411 in order to accommodate special events held within the city. The resolution of suspension shall become effective forty-eight (48) hours prior to the official start of the scheduled event and shall terminate forty-eight (48) hours after official conclusion of the event.”

ALTERNATIVES ANALYZED:

- Approve a resolution allowing RV and camper parking in the Shrine Auditorium for the Polka Festival. Such an exemption was granted in 2005 and 2006 for the same event.
- Do not approve the resolution.

FINANCIAL IMPACT: None anticipated.

RECOMMENDATION

Approve a resolution allowing RV and camper parking in the Shrine Auditorium parking lot for 48 hours on either side of the Big Sky Polka Club's Polka Festival, Aug. 31-Sept. 2, 2007.

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

Attachments:

- A. Resolution
- B. Letter from Polka Club

Attachment A

RESOLUTION 07-_____

**A RESOLUTION OF THE BILLINGS CITY COUNCIL
TEMPORARILY SUSPENDING BMCC 24-411 TO ALLOW
CAMPING IN THE SHRINE AUDITORIUM PARKING
LOT FOR THE 2007 BIG SKY POLKA FESTIVAL.**

WHEREAS, BMCC 24-411. Parking for Camping Purposes. prohibits parking for camping in the City of Billings in anything but authorized tourist parks, but allows a temporary suspension beginning 48 hours before and extending 48 hours after special events held within the City if a resolution is obtained from the City Council; and

WHEREAS, the Big Sky Polka Club, Inc., will hold its annual Big Sky Polka Festival from September 1 to September 3, 2007, at the Shrine Auditorium, 1125 Broadwater Avenue; and

WHEREAS, the owners of approximately 18 to 20 recreational vehicles and campers are expected to attend the event, and the Big Sky Polka Club has asked that they be allowed to park their vehicles at the event site from August 30 through September 3, 2007.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BILLINGS, MONTANA** that BMCC 24-411 is hereby temporarily suspended for the period a period of 48 hours on either side of September 1-3, 2007, at the Shrine Auditorium, 1125 Broadwater, for Big Sky Polka Festival.

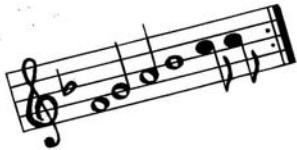
PASSED AND APPROVED by the City Council this 13th day of August, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK



Big Sky Polka Club, Inc.

372 Montclair Drive
Billings, MT 59102
(406) 656-7470



Billings City Council
Atten. Christina Volek
July 3rd, 2007
Subject: RV Parking
Big Sky Polka Festival

RECEIVED

JUL - 9 2007

City Administrator

Dear Christina,
On behalf of Big Sky Polka Club of Billings, I'm requesting, as in previous years, permission for RV parking being granted to us for our Polka Festival over Labor Day weekend, at the Shrine Auditorium. We are expecting 18-20 RV's this year and most of these city guests are Sr. citizens that do not pull a car behind them. Many of these guests travel here from several states and Canada. In many other states these folks park at the event locations at such as, private lots like Shrine Auditoriums, Elks, Moose or Eagle Lodges etc. These RV's are expected to begin arriving on Aug. 30th, and depart by Monday Sept. 3rd.

These folks eat at our local restaurants, shop here and fuel up in our city. Many of these folks are dance club leaders and promoters in other cities. We hope for the privilege of them parking at this event site. If privilege is granted, they will only be allowed to park at the rear of the Shrine lot, allowing ample parking space for local or visiting cars parking.

Tina what is necessary for this? Do we need to have representation at the City Council Meeting and when & where do we pay for the permit?
Thanks so much for your time.

Sincerely
L. Keith Kraft
L. Keith Kraft
Big Sky Polka Club..... President
Ph. 656-7470 or 255-2126

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R

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Zone Change #814, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a zone change request from Residential 9,600 (R-96) to Community Commercial (CC=5.52 acres), Neighborhood Commercial (NC=3.44 acres), Residential Professional (RP=2.29 acres), Residential Multi-family-Restricted (RMF-R=11.92 acres), Residential-6,000 (R-60=6.56 acres), Residential 7,000-Restricted (R-70-R=105 lots), and Public (P=park areas and trails) on a portion of a 288.38 acre parcel of land in the North ½ of Section 20 of Township 1 North, Range 26 East and C/S 1904. The property is owned by the State of Montana as school trust land and is located south of Wicks Lane, west of Governor's Boulevard and north of Constitution and Kootenai Avenues. The property is the proposed Skyview Ridge Subdivision. The City Council held a public hearing and approved the first reading of this zone change on July 23, 2007.

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 increase the City's tax base when the property is developed.

RECOMMENDATION

The Zoning Commission recommends by a 3-1 vote that the City Council approve Zone Change #814.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

A: Ordinance

ATTACHMENT A

Zone Change #814

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR A PORTION OF A 288.38 ACRE PARCEL OF LAND
IN THE NORTH ½ OF SECTION 20 OF TOWNSHIP 1
NORTH, RANGE 26 EAST AND C/S 1904.

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 a 288.38 acre parcel of land in the North ½ of Section 20 of Township 1 North, Range 26 East and C/S 1904 and is presently zoned Residential 9,600 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning on **a portion of a 288.38 acre parcel of land in the North ½ of Section 20 of Township 1 North, Range 26 East and C/S 1904** is hereby changed from **Residential 9,600** to **Community Commercial (5.52 acres), Neighborhood Commercial (3.44 acres), Residential Professional (2.29 acres), Residential Multi-family-Restricted (11.92 acres), Residential 6,000 (6.56 acres), Residential 7,000-Restricted (105 lots), and Public (park areas and trails)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial, Neighborhood Commercial, Residential Professional, Residential Multi-family-Restricted, Residential 6,000, Residential 7,000-Restricted and 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 July 23, 2007.

PASSED, ADOPTED AND APPROVED on second reading August 13, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
City Clerk

ZC#814 – State Lands in the North ½ of Section 20 of Township 1 North, Range 26 East
and C/S 1904

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

S

-AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Preliminary Major Plat of Skyview Ridge Subdivision, 1st Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On June 1, 2007, the subdivider applied for preliminary major plat approval for Skyview Ridge Subdivision, 1st Filing, which contains 15 lots on approximately 63.4 acres of land. The property is owned by the State of Montana Department of Natural Resources and Conservation as school trust land and is located south of Wicks Lane, west of Governor's Boulevard and north of Constitution and Kootenai Avenues in the Heights. This is the first filing of a master plan for the entire 284 acre parcel. A master plan has been submitted for this property and is referenced within the SIA. On July 24, 2006, the City Council annexed the property into the city and it was rezoned on July 23, 2007, from Residential 9600 (R-96) to R-96, Residential 7,000 Restricted (R-70R), Residential Multi-Family Restricted (RMF-R), Residential Professional (RP), Neighborhood Commercial (NC), Community Commercial (CC), and Public (P). On July 24, 2007, the Planning Board voted to recommend conditional approval of the subdivision to the City Council on a 7-0 vote.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 60 working days to act upon this preliminary major plat. The 60-working day review period for this subdivision will end on August 24, 2007. 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 60 day review period, the City Council is required to:

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

FINANCIAL IMPACT: Upon development of the property, additional tax revenue for the City may be provided.

RECOMMENDATION

The Planning Board recommends, on a 7-0 vote, to the City Council that the adjacent trail on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue be provided in lieu of sidewalks per Section 23-406(B)(14), conditional approval of the preliminary plat of Skyview Ridge Subdivision, 1st Filing and adoption of the Findings of Fact as presented in the staff report.

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

ATTACHMENTS

- A. Preliminary Plat
- B. Master Plan for Skyview Ridge
- C. Site Photographs
- D. Findings of Fact
- E. Mayor's Approval Letter

INTRODUCTION

On June 1, 2007, the subdivider applied for preliminary major plat approval for Skyview Ridge Subdivision, 1st Filing, which contains 15 lots on approximately 63.4 acres of land. The property is owned by the State of Montana Department of Natural Resources and Conservation as school trust land and is located south of Wicks Lane, west of Governor's Boulevard and north of Constitution and Kootenai Avenues in the Heights. This is the first filing of a master plan for the entire 284 acre parcel. A master plan has been submitted for this property and is referenced within the SIA.

The subject property is bordered on the north by Skyview High School, single-family residences, duplexes, multi-family, retail and commercial uses; on the south by Eagle Cliff Elementary School and single-family residences; on the east by Castle Rock Junior High School, multi-family and single-family residences; and on the west by vacant agricultural land.

PROCEDURAL HISTORY

- The subject property was annexed into the city on July 24, 2006.
- The original preliminary plat was approved by the City Council on November 28, 2005.
- The preliminary plat application was resubmitted to the Planning Department on July 3, 2006.
- A concurrent zone change request from R-96 to R-96, R-70, R-70R, RMF-R, RP, NC, CC, and P for the subject property was submitted and was heard by the Zoning Commission on August 1, 2006.
- The Planning Board reviewed the plat on August 8, 2006.
- The Zone Change Request (ZC#788) for the subject property was withdrawn on December 5, 2006, based on neighborhood concerns.
- On January 16, 2007, the preliminary plat was withdrawn after several time extension requests were granted.
- On February 7, 2007, a neighborhood meeting was conducted by the applicant and their representative to discuss a revised subdivision and zoning requests for the subject property.
- On March 8, 2007, a pre-application meeting was conducted between the applicant and city staff.
- On June, 1, 2007, the preliminary plat application was submitted to the Planning Department.
- On June 14, 2007, the Departmental review meeting was conducted between the applicant and city staff.
- On July 3, 2007, the Zoning Commission conducted the public hearing for revised zoning on the subject property. The proposed zoning is for R-96, R-70R, RMF-R, RP, NC, CC, and P.
- On July 10, 2007, the Planning Board reviewed the plat.
- On July 23, 2007, the City Council voted, on first reading, to approve the zone change.
- On July 24, 2007, the Planning Board conducted the public hearing for the proposed plat and recommended approval on a 7-0 vote, to City Council.

- On August 13, 2007, the City Council will vote to approve, conditionally approve or deny the preliminary plat of Skyview Ridge Subdivision, 1st Filing, based on the recommendation of the Planning Board. The second reading of the zone change will be approved at this meeting.

BACKGROUND

General location:

South of Wicks Lane, west of Governor's Boulevard and north of Constitution and Kootenai Avenues in the Heights

Legal Description:

Tracts 1 and 2, Certificate of Survey Number 3190 located in the NW $\frac{1}{4}$, Section 22, T1N, R26E

Subdivider:

State of Montana Department of Natural Resources and Conservation

Owner:

Same

Engineer and Surveyor:

Engineering Inc.

Existing Zoning:

R-96

Existing land use:

Vacant Land

Proposed land use:

Single-Family, Duplexes, Multi-Family, and Commercial

Gross area:

63.4 acres

Net area:

38.9 acres

Proposed number of lots:

15

Lot size:

Max: 13.07 acres
Min.: 29,545 square feet

Parkland requirements:

The subdivider is proposing to provide onsite parkland dedication.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments have reviewed this application

and provided input on effects and mitigation. The Planning Board develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

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 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*)
2. To minimize effects on local services, the applicant shall provide centralized delivery boxes with sufficient pullouts to accommodate a mailbox carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. (*Recommended by the United States Postal Service*)
3. To minimize affects to public health and safety, the following statements shall be added to the Conditions that Run with the Land section of the SIA (*Recommended by the Planning Department*):
 - There is a petroleum gas pipeline located through the subject property located within a dedicated park. Future lot owners should be aware that it may be necessary for the pipeline company to inspect, test, maintain, and possibly replace the pipeline at times.
 - There are two (2) electrical line easements across the property within dedicated parks. Future lot owners should be aware that it may be necessary for the electric company to inspect, test, maintain, and possibly replace these lines at times.
4. To minimize impacts to local services, additional information regarding water line pressure and sewer capacities shall be submitted for review and approval by the Public Utilities Department prior to final plat approval. (*Recommended by Public Utilities Department*)
5. To minimize impacts to local services, a 1-foot no access strip shall be depicted along the Wicks Lane Frontage of Lot 1 wrapping around the west side for 75 feet along Fantan Street. (*Recommended by the Engineering Division*)
6. To ensure the provision of trail corridors, as required by the Heritage Trail Plan, the trails shall be clearly delineated and labeled on the plat. (*Recommended by the Alternative Modes Coordinator*)

7. To ensure the provision and maintenance of the trail corridor on Swift Current Drive, Keno Street, and Targhee Avenue, the following is recommended by the Parks and Recreation Department and the Engineering Division:
 - The linear parks along these streets shall be removed from the face of the plat.
 - The rights-of-way in those areas with trails fronting residential lots shall be widened to 61-feet to allow for a 5-foot boulevard and a 10-foot trail. The opposite side of the street will maintain a 5-foot boulevard and 5-foot sidewalk.
 - An 11-foot "trail corridor" shall be depicted on the face of the plat (from property line to the inside edge of the 10-foot trail). The Subdivision Improvements Agreement (SIA) and Park Master Plan will describe responsibilities for operation and maintenance of the trail. The City Parks Department will maintain the trail within the corridor and, as with all boulevard sidewalks in the city, the homeowner will be required to maintain the boulevard area.
 - An asphalt trail is acceptable to the Engineering Division, provided that the entire portion of this trail within this filing is constructed at one time. The construction of this trail shall be specified within the SIA and the Park Master Plan.
 - Building setbacks will be reviewed and possibly modified and depicted on the plat and specified within the SIA in order to help mitigate potential issues with vehicles parked across the trail at access locations.
 - A statement shall be added to the *Conditions that Run with the Land* in the SIA that individual lot owners are responsible for maintenance of the boulevards adjacent to the trails on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue within the subdivision.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None

STAKEHOLDERS

Discussion at the Planning Board public hearing focused on the proposed trails located within the subdivision, as staff requested the Board to specifically discuss the adjacent trail on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue within the subdivision. These trails can be provided in lieu of sidewalks if the Planning Board recommends that the City Council waive the sidewalk requirement along these portions of street per Section 23-406(B)(14). The Planning Board was supportive of the provision of a trail on one side of these streets; however several members did question why the trail would not be constructed of concrete, like the adjacent sidewalks. One Board member

stated that he felt that the asphalt is being used because it is less expensive than concrete. The subdivider stated that a Park Master Plan will have to be completed prior to final plat approval and the trail could end up being concrete by that point depending on the price of materials. However, they would like to have the same flexibility as the city when constructing a trail, which would allow for an asphalt surface. It is the intent that the entire trail will be built independent of the home construction. The Board further questioned who would maintain the boulevard along these sections of trail. Staff stated that they would be the responsibility of the lot owners like all other boulevard sidewalks in the city. The Board requested that a statement be added to the *Conditions that Run with the Land* section of the SIA regarding the responsibility of the lot owners to maintain the boulevards (included in Condition #7).

Further discussion focused on the low water pressure in the subdivision, as it lies within two pressure zones. The subdivider's representative stated that residents on Constitution Avenue have relatively low water pressure. He stated that as the subdivision is built out, there should be opportunities to address the low pressure with booster stations and zone adjustments, which would require improvements outside of the subdivision. Condition #4 requires additional information regarding water line pressure and sewer capacities be submitted for review and approval by the Public Utilities Department prior to final plat approval.

There were no public comments at the Planning Board public hearing. A public hearing is not scheduled for the City Council meeting; however nearby property 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

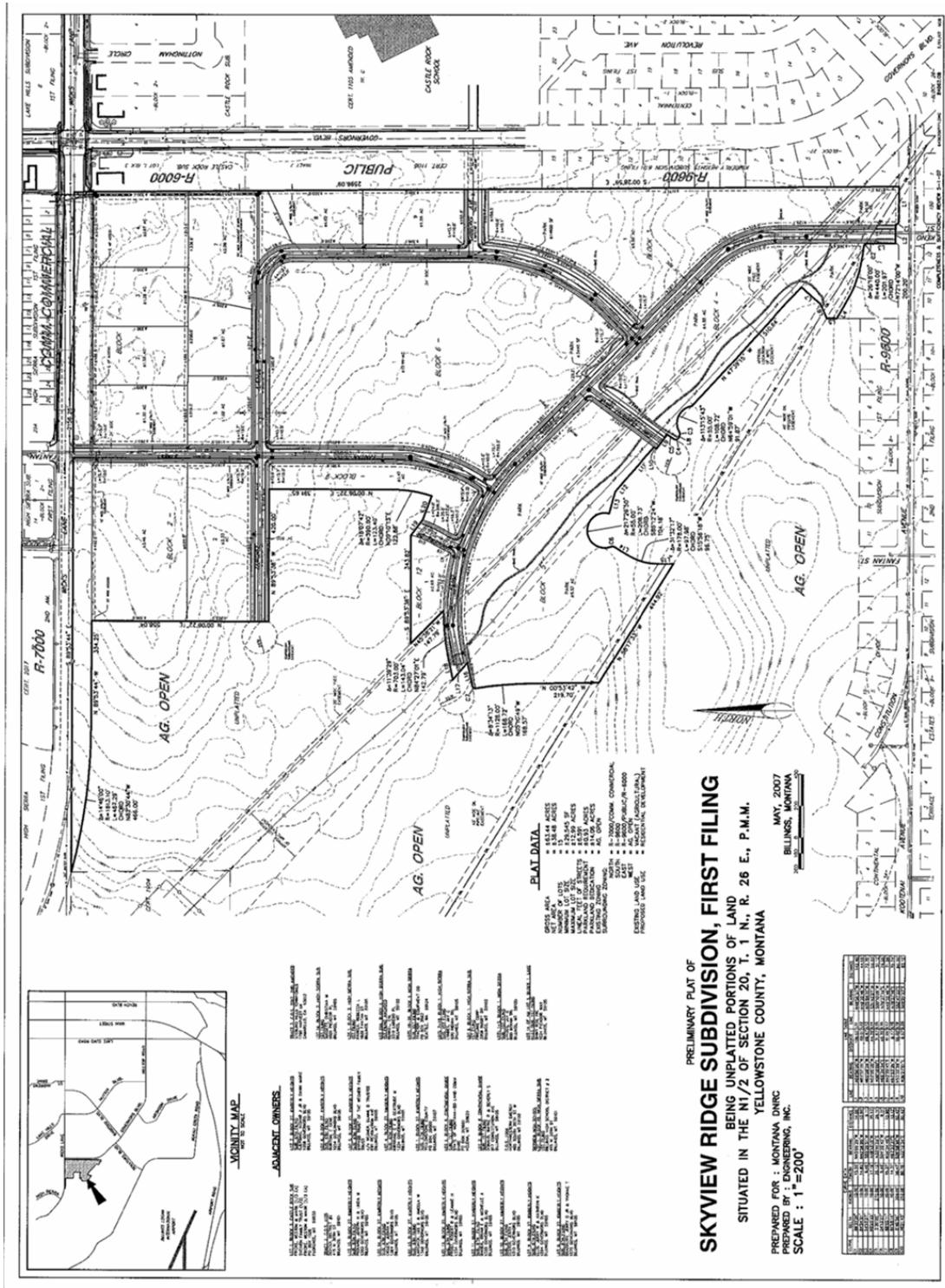
The Planning Board recommends, on a 7-0 vote, to the City Council that the adjacent trail on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue be provided in lieu of sidewalks per Section 23-406(B)(14), conditional approval of the preliminary plat of Skyview Ridge Subdivision, 1st Filing and adoption of the Findings of Fact as presented in the staff report.

ATTACHMENTS

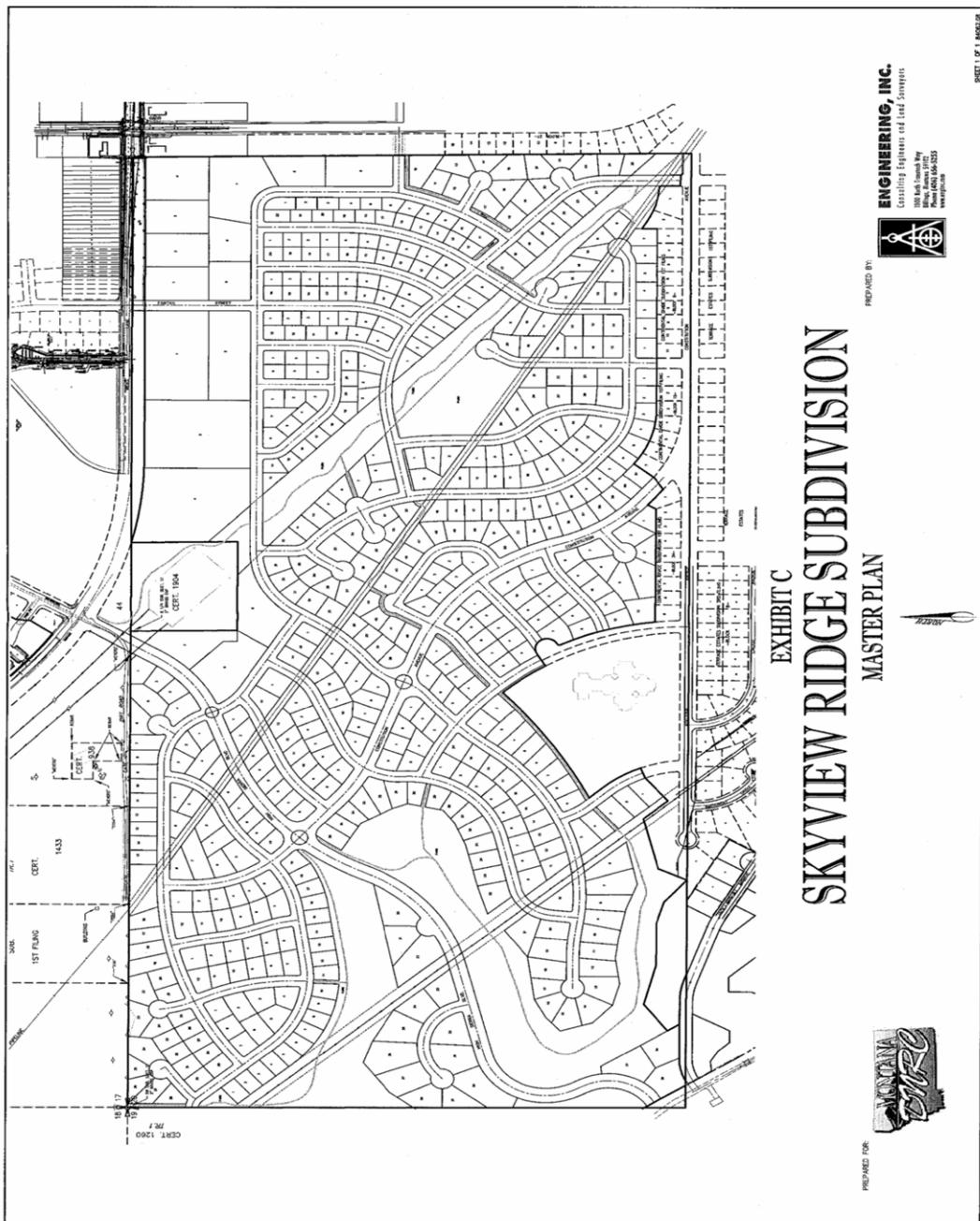
- A. Preliminary Plat
- B. Master Plan for Skyview Ridge
- C. Site Photographs
- D. Findings of Fact
- E. Mayor's Approval Letter

ATTACHMENT A

Preliminary Plat of Skyview Ridge, 1st Filing



ATTACHMENT B
Skyview Ridge Master Plan



ATTACHMENT C
Site Photographs



Figure 1: View northwest across the subject property from Constitution Avenue.



Figure 2: View Southwest across the subject property from Wicks Lane.



Figure 3: View south from Wicks Lane. The multi-family residential units on the right in the picture front on Governor's Boulevard.



Figure 4: View northwest across the subject property from the intersection of Constitution Avenue and Governor's Boulevard.

ATTACHMENT D

Findings of Fact

The Planning Board is forwarding the recommended Findings of Fact for Skyview Ridge Subdivision, 1st Filing 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 (Article 23-100, BMCC).

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

1. Effect on agriculture and agricultural water user facilities

The land to be subdivided has historically been utilized for pasture land. No irrigation ditches, laterals, or irrigation easements exist on the site.

2. Effect on local services

Utilities – Water and sanitary sewer will be extended to the subject property from main lines within Wicks Lane (north), Constitution Avenue (south), and Kootenai Avenue (south). The internal subdivision streets will contain 8 inch water and sewer mains to be extended to individual lots. The subdivision master plan lies within two pressure zones of the City's distribution system; therefore the system needs to be evaluated to determine the zone boundaries and necessary improvements to serve the subdivision. Condition #4 requires additional information regarding water line pressure and sewer capacities be submitted for review and approval by the Public Utilities Department prior to final plat approval.

- a. **Stormwater** –All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- c. **Streets** - Access to the proposed subdivision will be via internal roads from Wicks Lane, a principal arterial bordering the northern boundary of the property, and from Constitution Avenue, Kootenai Avenue, and Alkali Creek Road to the south. The subject property is to be developed in several filings, as part of the complete master plan. The Fire Department found that the proposed accesses are sufficient. However, the Engineering Department did express concerns regarding the access from Wicks Lane to proposed Lot 1, Block 1, and is recommending that a 1-foot no access strip be depicted along the Wicks Lane Frontage of Lot 1 wrapping around the west side for 75 feet along Fantan Street per Condition #5.

A Traffic Accessibility Study (TAS) update was submitted to the Engineering Department for review and approval. The TAS for the entire master plan determined that the following is required:

- A stop sign is required at the intersection of Wicks Lane and Skyview Ridge Drive, as well as at the northbound approach at the intersection of Wicks Lane and Fantan Street.
- A two way stop control shall be installed as an interim improvement at the intersection of Governors Boulevard for access to Castle Rock Middle School.
- Appropriate signing and striping should be provided at all locations, where the trail system intersects interior streets.
- All internal streets will be uncontrolled. The design section for the proposed streets will be reviewed and approved by the Engineering Department.

d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR).

e. **Schools** – The subdivision is located within School District #2. No comments were received from the School District; however the subdivision was submitted for review by the local schools that will be affected by this subdivision. Students from the proposed subdivision will attend Eagle Cliff Elementary School, Castle Rock Middle School and Skyview High School. No comments were received from the schools regarding this subdivision.

f. **Parks and Recreation** – As part of this major plat, the subdivider is required to provide 1.24 acres of dedicated parkland. The subdivider is proposing to dedicate 14.06 acres of parkland for this filing. The excess parkland is to be banked for future filings, as specified within the Park Master Plan to be approved by the Parks and recreation department. This information has been included in the SIA. The Park Master Plan will be submitted and approved by the City Council prior to final plat approval and a Park Maintenance District will be established for the maintenance of the parkland.

h. **Mail Delivery** - The United States Postal Service is requesting that the applicant provide centralized delivery for the proposed subdivision. The mailboxes should have adequate room for a mail carrier to pull off for mail distribution and access, as required by Condition #2. The location of the mail boxes shall be reviewed and approved by the post office.

3. Effect on the natural environment

A geotechnical report was submitted with the preliminary plat and has been reviewed and approved by the Building Official for this stage of development. Subsequent geotechnical

reports will be required with each additional major or subsequent minor subdivision on this property.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the General Conditions that Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is within a wildlife migratory route and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the property owner.

5. Effect on the public health, safety and welfare

There are two (2) conditions that exist on the subject property that may potentially create problems for future landowners.

- There is a petroleum gas pipeline located across the property within dedicated parks. Future lot owners should be aware that it may be necessary for the pipeline company to inspect, test, maintain, and possibly replace the pipeline at times. This statement shall be added to the SIA, as specified by Condition #3.
- There are two (2) electric line easements across the property within dedicated parks. Future lot owners should be aware that it may be necessary for the energy company to inspect, test, maintain, and possibly replace these lines at times. This statement shall be added to the SIA, as specified by Condition #3.

B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2003 Growth Policy

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

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

The proposed subdivision would provide for more housing and business choices within this portion of the city.

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

The subject property is within an urbanized portion of the City and is surrounded by residential, commercial and public uses.

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

The subject property is surrounded by the city on three (3) sides, recently annexed for the purpose of subdividing.

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

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

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

The subdivider has proposed a Heritage Trail easement throughout the subdivision within dedicated parkland and along streets.

2. Urban Area 2005 Transportation Plan Update

Wicks Lane (north) and Alkali Creek Road (southwest) are principle arterials. High Sierra Boulevard (across the western portion of the property) and Constitution Avenue (south) are collectors. Wicks Lane is the only affected street for this filing of the subdivision and will be constructed to an approved “urban” street section for the portion of the subdivision fronting Wicks Lane.

3. Heritage Trail Plan

Discussion at the Planning Board plat review focused on the proposed trails located within the subdivision, as staff requested the Board discuss the adjacent trail on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue within the subdivision. These trails can be provided in lieu of sidewalks if the Planning Board recommends that the City Council waive the sidewalk requirement along these portions of street per Section 23-406(B)(14).

Additional discussion focused on the timing of improvements for the trail and the mechanism for maintenance of the trail. The subdivider did state at the plat review that the trail along these portions of street would be constructed at one time in order to create continuity in the asphalt surface. There were three options discussed at the plat review for the maintenance of the trail along these portions of street. The first was that the trails be located within linear parks along the right-of-way. The Parks Department found this option unacceptable, as there would be a maintenance and liability issue with the grass boulevards on either side of the trail. The second

option was to have the trail located within the right-of-way and maintained by City Public Works. The subdivider expressed concerns with this option, stating that future property owners might be able to petition to eliminate the trail along these streets in the future based on maintenance of the boulevards. Upon a subsequent meeting with the Engineering Department, this concern was confirmed. The Engineering Department stated that enough resident complaints could merit removing the asphalt trail and replacing it with concrete sidewalks. The third option was to place the trail within an easement, where the trail would be maintained by parks and the boulevard would be the responsibility of the property owner.

Upon subsequent meetings by the Parks Department, Engineering Division, Planning staff and the subdivider have discussed the options for the location of the trail and have concluded the following:

1. The rights-of-way in those areas with trails fronting residential lots shall be widened to 61-feet to allow for a 5-foot boulevard and a 10-foot trail. The opposite side of the street will maintain a 5-foot boulevard and 5-foot sidewalk.
2. An 11-foot "trail corridor" shall be depicted on the face of the plat (from property line to the inside edge of the 10-foot trail). The Subdivision Improvements Agreement (SIA) and Park Master Plan will describe responsibilities for operation and maintenance of the trail. The City Parks Department will maintain the trail within the corridor and, as with all boulevard sidewalks in the city; the homeowner will be required to maintain the boulevard area.
3. An asphalt trail is acceptable to the Engineering Division, provided that the entire portion of this trail within this filing is constructed at one time.
4. Building setbacks will be reviewed and possibly modified and depicted on the plat and specified within the SIA in order to help mitigate potential issues with vehicles parked across the trail at access locations.

The above requirements, along with the removal of the linear parks for these trails on the plat are required by Condition #7.

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

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

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

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

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

The subdivider is proposing commercial zoning and multi-family zoning for the northeast area of the property; CC zoning is proposed at the intersection of Wicks Lane and four lots for a total of 5.52 acres. This zoning mirrors the CC zoning on the north side of Wicks Lane. West of these four lots is proposed for 3.44 acres of NC zoning. South of the NC zone is a proposed RP zone of 2.29 acres. West of the NC and RP zones is proposed for five lots of RMF-R for a total of 11.92 acres. There are five lots of proposed R-60 zoning south of the proposed CC zone. This zoning mirrors the R-60 zoning district on the south east corner of the intersection of Wicks Lane and Governor's Boulevard. The R-60 zone encompasses 6.56 acres and will have access through an interior residential street. The remainder of the proposed subdivision is R-96 and R-70-R and only allows single family dwelling units. The R-70-R zoning is south of the proposed commercial zones and is not adjacent to any existing single family zoning districts. The proposed 49 acres of Public zoning includes the electric substation on C/S 1904 and the proposed park areas for the subdivision. The parks include linear parks, areas of geographical interest and areas for additional developed parks. Upon approval of the proposed zone change, the subdivider will be required to comply with the requirements set forth by the Unified Zoning Regulations for commercial and residential development.

In addition, this is the first filing of a master plan for the entire 284 acres parcel. A master plan has been submitted for this property and is referenced within the SIA. All development shall be in general conformance with this master plan.

G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (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 #1 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? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Legal and physical access to the proposed subdivision will be provided through internal dedicated right-of-ways from Wicks Lane to the north and Constitution Avenue and Kootenai Avenue to the south.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Skyview Ridge Subdivision, 1st Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, August 13, 2007

Ron Tussing, Mayor

ATTACHMENT E
Mayor's Approval Letter

August 13, 2007

Montana DNRC
Attn: Jeff Bollman
Airport Business Park
1371 Rimtop Drive
Billings, MT 59105

Dear Mr. Bollman:

On August 13, 2007, the Billings City Council conditionally approved the preliminary plat of Grand Peaks Subdivision, subject to the following conditions of approval:

1. 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*)
2. To minimize effects on local services, the applicant shall provide centralized delivery boxes with sufficient pullouts to accommodate a mailbox carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. (*Recommended by the United States Postal Service*)
3. To minimize affects to public health and safety, the following statements shall be added to the Conditions that Run with the Land section of the SIA (*Recommended by the Planning Department*):
 - There is a petroleum gas pipeline located through the subject property located within a dedicated park. Future lot owners should be aware that it may be necessary for the pipeline company to inspect, test, maintain, and possibly replace the pipeline at times.
 - There are two (2) electrical line easements across the property within dedicated parks. Future lot owners should be aware that it may be necessary for the electric company to inspect, test, maintain, and possibly replace these lines at times.
4. To minimize impacts to local services, additional information regarding water line pressure and sewer capacities shall be submitted for review and approval by the Public Utilities Department prior to final plat approval. (*Recommended by Public Utilities Department*)
5. To minimize impacts to local services, a 1-foot no access strip shall be depicted along the Wicks Lane Frontage of Lot 1 wrapping around the west side for 75 feet along Fantan Street. (*Recommended by the Engineering Division*)

6. To ensure the provision of trail corridors, as required by the Heritage Trail Plan, the trails shall be clearly delineated and labeled on the plat. *(Recommended by the Alternative Modes Coordinator)*
7. To ensure the provision and maintenance of the trail corridor on Swift Current Drive, Keno Street, and Targhee Avenue, the following is recommended by the Parks and Recreation Department and the Engineering Division:
 - The linear parks along these streets shall be removed from the face of the plat.
 - The rights-of-way in those areas with trails fronting residential lots shall be widened to 61-feet to allow for a 5-foot boulevard and a 10-foot trail. The opposite side of the street will maintain a 5-foot boulevard and 5-foot sidewalk.
 - An 11-foot "trail corridor" shall be depicted on the face of the plat (from property line to the inside edge of the 10-foot trail). The Subdivision Improvements Agreement (SIA) and Park Master Plan will describe responsibilities for operation and maintenance of the trail. The City Parks Department will maintain the trail within the corridor and, as with all boulevard sidewalks in the city, the homeowner will be required to maintain the boulevard area.
 - An asphalt trail is acceptable to the Engineering Division, provided that the entire portion of this trail within this filing is constructed at one time. The construction of this trail shall be specified within the SIA and the Park Master Plan.
 - Building setbacks will be reviewed and possibly modified and depicted on the plat and specified within the SIA in order to help mitigate potential issues with vehicles parked across the trail at access locations.
 - A statement shall be added to the *Conditions that Run with the Land in the SIA* that individual lot owners are responsible for maintenance of the boulevards adjacent to the trails on the south side of Swift Current Drive, on the northeast side of Keno Street, and on the southeast side of Targhee Avenue within the subdivision.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

Ron Tussing, Mayor

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

T1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$2,129,136.43 have been audited and are presented for your approval for payment. A complete listing of the claims dated July 17, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

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

T2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,293,107.03 have been audited and are presented for your approval for payment. A complete listing of the claims dated July 20, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

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

T3



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$221,744.06 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 1, 2007 to May 31, 2007 is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

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

T4



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 13, 2007

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$183,732.61 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 1, 2007 to June 30, 2007 is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator _____ City Attorney _____

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

AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Public Hearing and Resolution Approving Council Contingency Appropriation for the City Website Renovation Project

DEPARTMENT: Administrative Services / IT Division

PRESENTED BY: Bruce McCandless, Asst. City Administrator
David Watterson, IT Manager

PROBLEM/ISSUE STATEMENT: The Council is being asked to appropriate Council Contingency funds. In support of City Council strategic goals for FY08, Information Technology (IT) and the IT Advisory Committee have developed an RFP and, with the assistance of Council Member Stevens, a vendor was selected for the City Website Renovation project. A presentation was given to the Council at the July 16th, 2007, work session that detailed the benefits of this project to the staff, the City Council, and to citizens. The FY08 expenses are \$33,800 with a proposed \$17,500 coming from Administration's budget, \$ 3,800 from IT, and the remaining \$12,500 from Council Contingency funds. Since the presentation, we have further negotiated the contract with CivicPlus to include the support of our intranet, an Auto PDF feature, unlimited licenses for the Request Tracker module, and a bulletin board/blog module. In order to expend Council Contingency, the Council must conduct a public hearing and adopt a resolution that appropriates the money for a specific purpose.

ALTERNATIVES ANALYZED: Several funding options were presented at the July 16th, 2007 Council work session. The funding option presented was endorsed by a majority of the council.

FINANCIAL IMPACT: The FY08 Council Contingency budget is \$75,000 and \$10,000 has been used during the year. If the requested resolution is approved, the Council Contingency budget would have a remaining balance of \$ 52,500.

RECOMMENDATION

Staff recommends that Council conduct a public hearing and adopt a resolution that appropriates \$12,500 for the City Website Renovation project.

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

ATTACHMENTS

A: Resolution

RESOLUTION NO. 07-_____

**A RESOLUTION TO ADJUST APPROPRIATIONS PER 7-6-4236
MCA AS AMENDED, AND PROVIDING AUTHORIZATION FOR
EXPENDITURES AS INDICATED BELOW.**

WHEREAS, the City Council of the City of Billings, upon proper resolution, duly passed at a regular meeting and entered into its Minutes, may authorize expenditure of funds; and

WHEREAS, it is necessary to authorize said expenditures.

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

That the following FY 2008 appropriation be approved as follows:

| | | |
|-------|--|----------|
| FROM: | Non-departmental / Council Contingency | \$12,500 |
| TO: | Information Technology | \$12,500 |

To pay for a portion of the City Website Renovation project

APPROVED by the Billings City Council this 13th day of August, 2007

CITY OF BILLINGS

By:_____
Ron Tussing, Mayor

ATTEST:

By:_____
Cari Martin, City Clerk

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

3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 13, 2007

TITLE: SID 1379 King Avenue West from S. 31st Street West to Shiloh Road
Resolution Creating the District and Resolution Authorizing Construction
Bids

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The Resolution of Intent for SID 1379 was approved at the July 23, 2007, City Council Meeting. The developers of the southeast corner of King Avenue West and Shiloh Road and the City of Billings have a desire to widen King Avenue West from South 31st Street West to Shiloh Road from a two-lane section to a five-lane section. These improvements generally consist of water, sewer, storm drain, street, sidewalk, drive approach and curb/gutter improvements to King Avenue West. The protest period for SID 1379 will end on August 10th. The protest count will be announced at the Council Meeting. In addition to the passage of the Resolution Creating SID 1379, it becomes necessary for the City Council to pass a resolution authorizing City staff to bid SID 1379. The passage of the Resolution Authorizing Construction Bids is contingent upon the passage of the Resolution Creating SID 1379.

ALTERNATIVES ANALYZED:

1. After holding a public hearing, approve Resolution Creating SID 1379 and approve the Resolution Authorizing Construction Bids; or
2. After holding a public hearing do not approve the Resolution Creating SID 1379 and therefore do not approve the Resolution Authorizing Construction Bids.

FINANCIAL IMPACT: The total estimated costs of the improvements are \$6,456,592.11 as shown below:

| | |
|------------------------------------|-----------------|
| City of Billings Cash Contribution | \$ 5,727,125.28 |
| SID Assessments | \$ 442,000.00 |
| Steve Corning Cash Contribution | \$ 117,198.36 |

| | |
|---|-----------------------|
| <u>Intersection Cash Contribution (Steve Corning)</u> | \$ 170,268.47 |
| Total | \$6,456,592.11 |

RECOMMENDATION

Staff recommends that Council approve the Resolution Creating SID 1379 and approve the Resolution Authorizing Construction Bids.

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

ATTACHMENTS

- A. Boundary of Proposed Special Improvement District (1 page)
- B. SID 1379 Resolution Creating District
- C. SID 1379 Resolution Authorizing Construction Bids

INTRODUCTION

The developers of the southeast corner of King Avenue West and Shiloh Road and the City of Billings have a desire to widen King Avenue West from South 31st Street West to Shiloh Road from a two-lane section to a five-lane section. These improvements generally consist of street, sidewalk, drive approach and curb/gutter improvements to King Avenue West. Also included in this project are utility improvements consisting of the installation of new water mains, sewer mains and storm drain mains.

PROCEDURAL HISTORY

- July 23, 2007 – Resolution of Intent to Create SID 1379.
- August 13, 2007 – Public Hearing and Resolution Creating SID 1379.
- August 13, 2007 – Resolution Authorizing for Construction Bids and Construction Contract Award.

BACKGROUND

Steve Corning, the developer of the lot on the southeast corner of King Avenue West and Shiloh Road, has paid for design of the surface and storm drain improvements in order to facilitate faster construction of King Avenue West from South 31st Street West to Shiloh Road. Originally, the City of Billings had plans to construct the water and sewer mains in that segment of King Avenue in 2008 and install the surface and storm drain improvements in 2013. As a result of Mr. Corning's desire to construct King Avenue sooner, the City of Billings decided to finance their portion of the construction costs from funds borrowed from the Solid Waste Division, which are to be paid back in 2013, with interest, when money is available in the CIP.

The public hearing will be held at the August 13, 2007, Council Meeting. If approved, it is anticipated that construction of SID 1379 will begin in early Fall 2007 and be completed by early Fall 2008.

RECOMMENDATION

Staff recommends that Council approve the Resolution Creating SID 1379 and approve the Resolution Authorizing Construction Bids.

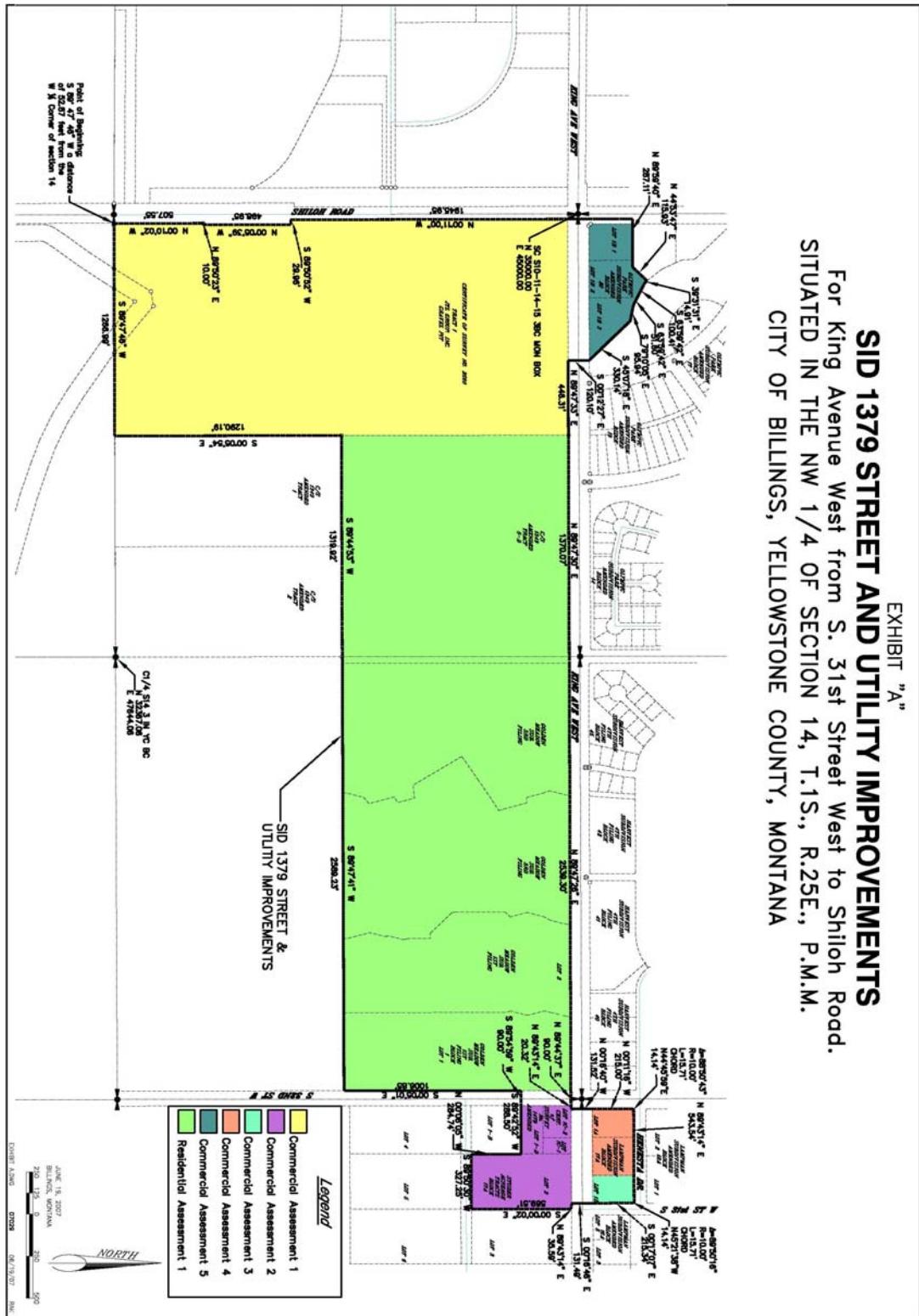
ATTACHMENTS

- A. Boundary of Proposed Special Improvement District (1 page)
- B. SID 1379 Resolution Creating District
- C. SID 1379 Resolution Authorizing Construction Bids

SID 1379 STREET AND UTILITY IMPROVEMENTS

For King Avenue West from S. 31st Street West to Shiloh Road.
SITUATED IN THE NW 1/4 OF SECTION 14, T.1S., R.25E., P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

EXHIBIT "A"



CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 07-_____, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1379**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on **August 13, 2007**, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: _____

voted against the same: _____;
abstained from voting thereon: _____;
or were absent: _____

WITNESS my hand officially this ____ day of _____.

Cari Martin CITY CLERK

RESOLUTION NO. 07-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1379**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on **July 23, 2007** adopted Resolution No. **07-18579** (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement district, designated as Special Improvement District No. **1379** of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creating and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with the law, and on **August 13, 2007**, this Council conducted a public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Council at which this resolution was adopted is the first regular meeting of the Council following the expiration of the period ended 15 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, _____ protest was filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for 100% of the total costs of the Improvements or representing 100% of the area of the District to be assessed for the cost of the Improvements. **The protest represents _____ % of the assessed cost.**

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution

of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The

findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2 (j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2 (f) (2) of the Regulations, or (iv) expenditures in a “de minimis” amount (as defined in Section 1.150-2 (f) (1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs for the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **\$442,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2 (d) (3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, the City of Billings plans to make a cash contribution in the amount of \$5,727,125.28. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City

maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,
this **13th Day of August, 2007.**

THE CITY OF BILLINGS:

BY _____
Ron Tussing
MAYOR

ATTEST:

BY _____
Cari Martin
CITY CLERK

RESOLUTION NO. 07-_____

**A RESOLUTION PROVIDING FOR THE RECEIVING OF BIDS AND THE
LETTING OF A CONTRACT FOR THE CONSTRUCTION OF
IMPROVEMENTS IN SPECIAL IMPROVEMENT DISTRICT NO. 1379.**

WHEREAS, Special Improvement District No. **1379** has been duly created; and

WHEREAS, it is necessary to provide for the receiving of bids and the letting of a contract for the construction of improvements within said Special Improvement District;

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

1. **IMPROVEMENTS.** The improvements generally consist of the following: construction of curb and gutter, sidewalks, drive approaches, sanitary sewer, water main and the necessary street and storm drain improvements fronting lots on King Avenue West from S. 31st Street West to Shiloh Road.

2. **BID REJECTION.** The City Council shall and does hereby reserve the right to reject any or all bids.

3. **NOTICE OF CALL FOR BIDS.** The City Clerk is hereby authorized and directed to publish notice inviting bids, stating the time and place said bids must be submitted to the City Clerk, and the time they will be publicly opened. Said notice shall be published in the Billings Times, a newspaper published and circulated in the City of Billings, MT.

4. **OWNERS' RIGHT TO DO WORK.** The owners of over 75% of the frontage of lots and lands within said District, liable to be assessed or their agents, may elect to take such work and enter into a written contract to do the whole work at a price at least 5% less than the price at which the same would be awarded, within (3) three days after the awarding of the contract in compliance with the statutes of the State of Montana.

5. **CONTRACT.** In the event the owners do not elect to do the work, then said successful bidder shall immediately make and execute with the City of Billings, a contract in accordance with the provisions of the notices, resolutions, plans and specifications concerning this Special Improvement District, and all ordinances of the City of Billings. Said contract on the part of the City of Billings shall be approved by the City Council, executed in the name of the City of Billings, by its Mayor and attested by the City Clerk.

6. **PERFORMANCE BOND.** Upon the execution and delivery of said contract, the successful bidder or contracting owners shall give to the City of Billings a good and sufficient bond in an amount not less than 100% of the amount of the contract, conditioned to the

effect that such contract or contractors shall well and truly perform all the terms, conditions and provisions of said contract. In addition, said contractor or contractors shall provide insurance to protect the City and shall be responsible to save the City of Billings harmless from negligent or willful acts of said contractor and contractors.

7. BID SECURITY. Each bid shall be accompanied by lawful money of the United States, a cashier's check, certified check, bank money order, bank draft drawn and issued by a national banking association situated in the State of Montana, or a bid bond or bonds executed by a surety company authorized to do business in the State of Montana. Said money, check or bid bond to be in an amount equal to 10% of the amount of the bid. If said bid is accepted and the bidder complies with the terms of this resolution as to making, executing and delivering to the City of Billings said contract and bonds as herein required, then said bid security shall be returned.

8. PAYMENTS. All payments for the construction of said improvements shall be made in warrants drawn on the fund of Special Improvement District **1379** after the bonds of said district have been sold on the estimate of the City Engineer and approved by the City Council; provided, however, that said contractor has paid for the labor performed and materials used on said improvements. Ten percent (10%) of the estimates shall be reserved until the final completion of said improvements, in a manner reasonably satisfactory to the City.

9. INCIDENTAL COSTS. Subsequent to the bond sale, the City Engineer shall cause to be paid such amounts as he shall estimate are necessary to cover the actual costs of engineering, inspection, legal expense, printing, preparation of assessment rolls and other incidental expenses properly a charge against the district, by an interfund transfer, and shall be drawn on the funds of the district, processed by the Finance Office and transferred to the appropriate fund of the City.

10. WORKMENS' COMPENSATION. Provisions shall be included in the contract to comply with the City's obligation of insuring payment of the premiums of the contractor to the State of Montana Workmens' Compensation Division and the provisions required in MCA, Title 18, Part 4.

PASSED BY THE CITY COUNCIL AND APPROVED this 13th day of August, 2007.

THE CITY OF BILLINGS

MAYOR

BY: _____
Ron Tussing

ATTEST:

BY: _____
Cari Martin CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Public Hearings and Resolutions to Create Light Maintenance Districts
SILMD 301 – Josephine Crossing Subdivision
SILMD 302 – Grand Avenue (8th – 12th)

DEPARTMENT: Public Works Department

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: On July 23, 2007, the City Council passed Resolutions of Intent to Create two new lighting districts and established public hearings on creation of the proposed districts for August 13, 2007. Legal notices and a letter explaining the districts and the protest procedure were mailed to each of the landowners in the proposed new districts on July 26th, 2007. Information on the number and percentage of property owner protests received will be presented at the public hearings. Full background information on the proposed Districts was included in the staff memo submitted with the Resolutions of Intent approved on July 23rd, 2007.

ALTERNATIVES ANALYZED:

1. Create the SILMDs to provide a source of funding for operation & maintenance of the street lights
2. Do not create the SILMDs and do not install lighting.

FINANCIAL IMPACT: All costs for these proposed light districts will be paid for by assessments against properties within the districts. City properties within the districts will be assessed their proportionate share of the costs for that particular district. City-owned properties within the proposed districts are parks within Josephine Crossing Subdivision (estimated annual assessment \$83.26).

RECOMMENDATION

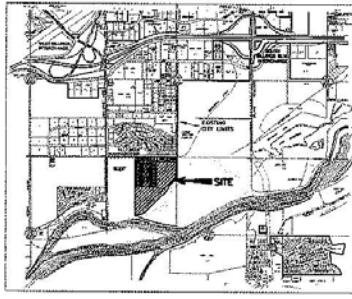
Staff recommends that Council pass Resolutions creating SILMDs 301 and 302.

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

ATTACHMENTS

- A. District Boundary Map SILMD 301
- B. District Boundary Map SILMD 302
- C. Resolution Creating SILMD 301
- D. Resolution Creating SILMD 302

STREET IMPROVEMENTS LIGHT MAINTENANCE DISTRICT 301
WITHIN
JOSEPHINE CROSSING SUBDIVISION
SITUATED IN THE NW1/4 OF SECTION 20, T.1S., R.26E., P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA



VICINITY MAP
NOT TO SCALE

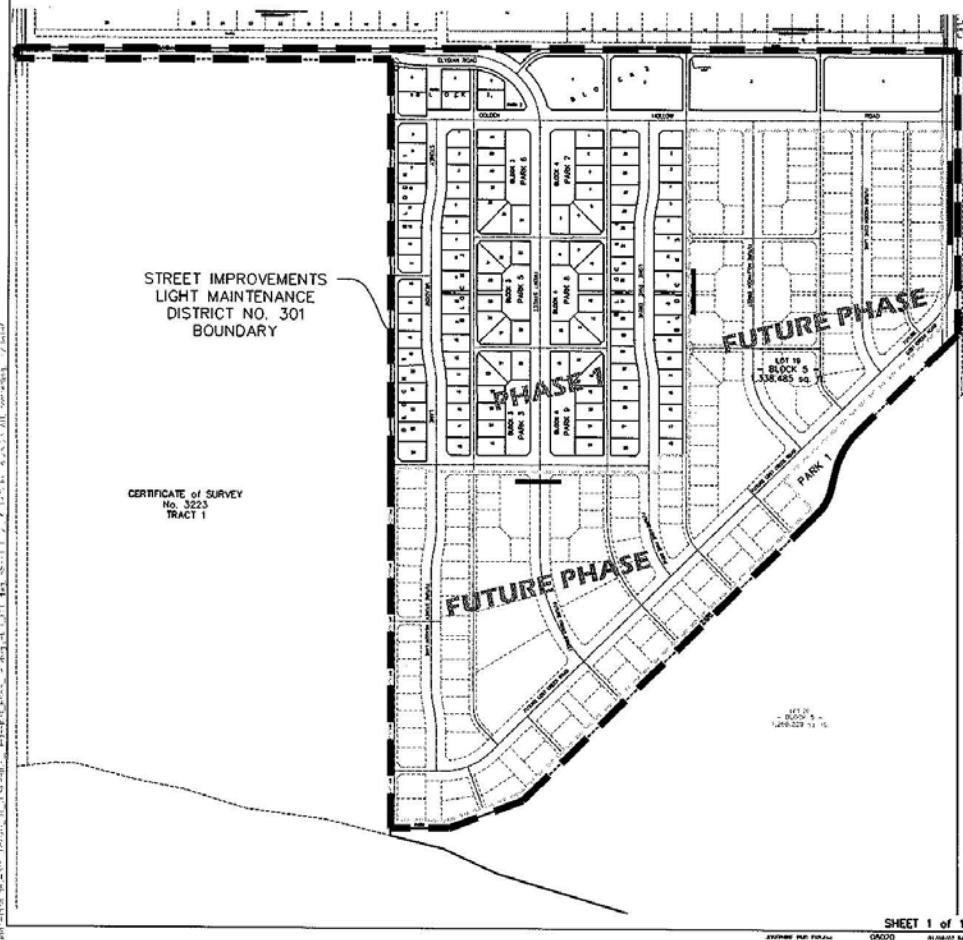


Exhibit "A"

S/LMD 302 DISSTR/CT BOUNDARY



RESOLUTION NO. 07-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 301 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW HIGH PRESSURE SODIUM VAPOR LIGHTS, SETTING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COSTS.

WHEREAS, the City Council of the City of Billings, Montana, on the 23rd day of July, 2007, passed Resolution 07-18580, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 301, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

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

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance District No. 301, hereinafter called the District, for the purpose of securing and providing energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 07-18580, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

SECTION 3:

That the City Council hereby finds and determines that each of the lots, blocks, pieces and parcels of land, situated within the boundaries of the District, are especially benefited and affected by said improvements, and each and all of the lots, blocks, pieces and parcels, more particularly described in the Resolution are hereby declared to be the property to be assessed for the cost and expense of the electrical energy for and maintenance of said District.

SECTION 4:

That the general character of the improvements to be made is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

The City of Billings intends to establish the approximate contract rate for installation & operation of this lighting as follows: \$3.62 per 100 watt unit, per month for supplying electrical energy; \$1.20 per unit, per month for maintenance; and \$26.59 per unit, per month for installation and ownership costs. These rates are in accordance with the applicable rate schedules approved by the

Montana Public Service Commission. NorthWestern Energy Company shall provide energy to all of the lights and shall at all times own the light fixtures, poles, cables, and other incidental equipment, and shall provide maintenance and repairs to said equipment as part of the monthly rate for these lights. Property owners within said district shall be assessed for the costs thereof.

SECTION 6:

That based upon the above figures, the estimate of the cost of the District for one year is the sum of \$23,252.97, and that the entire cost of said District shall be paid by the owners of property within said District. The estimated cost of the District per year for the property owners is on the basis of approximately \$0.03684357 per square foot per year. Due to the difference in the time the lighting service started and the time assessments can be levied, the first assessment will cover a period of operation of the District greater than one year and is estimated to total \$29,548.45 or approximately \$0.04681854 per square foot. All of such costs of said District shall be paid by the owners of the property within the District with each lot, parcel or piece of land within said District to be assessed for that portion of the whole cost which its assessable area bears to the assessable area of the entire District, exclusive of streets, avenues, alleys, and public places.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District. That all monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special Improvement Lighting Maintenance District No. 301 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining said lights and supplying electrical current therefore.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED by the City Council of the City of Billings, Montana and approved this 13th day of August, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

RESOLUTION NO. 07-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 302 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW HIGH PRESSURE SODIUM VAPOR LIGHTS, SETTING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COSTS.

WHEREAS, the City Council of the City of Billings, Montana, on the 23rd day of July, 2007, passed Resolution 07-18581, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 302, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

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

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance District No. 302, hereinafter called the District, for the purpose of securing and providing energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 07-18581, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

SECTION 3:

That the City Council hereby finds and determines that each of the lots, blocks, pieces and parcels of land, situated within the boundaries of the District, are especially benefited and affected by said improvements, and each and all of the lots, blocks, pieces and parcels, more particularly described in the Resolution are hereby declared to be the property to be assessed for the cost and expense of the electrical energy for and maintenance of said District.

SECTION 4:

That the general character of the improvements to be made is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

That the City of Billings intends to establish the approximate contract rate for supplying electrical energy as follows:

\$10.13 per 250 watt unit per month and \$15.58 per 400 watt unit per month in accordance with the rate schedule ELDS-1 approved by the Montana Public Services Commission.

That NorthWestern Energy shall provide energy to the lighting fixtures. The City shall provide normal maintenance to lighting fixtures, poles, cables and other incidental equipment, and at all times own said lighting fixtures, poles, cables and other incidental equipment. Property owners within said district shall be assessed for the costs thereof.

SECTION 6:

That based upon the above figures, the estimate of the cost of the District for one year is the sum of \$6,555.39, and that the entire cost of said District shall be paid by the owners of property within said District. The estimated cost of the District per year for the property owners is on the basis of approximately \$1.41188619 per lineal foot per year. Due to the difference in the time the lighting service started and the time assessments can be levied, the first assessment will cover a period of operation of the District greater than one year and is estimated to total \$7,569.34 or approximately \$1.63026884 per lineal foot. All of such costs of said District shall be paid by the owners of the property within the District with each lot, parcel or piece of land within said District to be assessed for that portion of the whole cost which its assessable area bears to the assessable area of the entire District, exclusive of streets, avenues, alleys, and public places.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District. That all monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special Improvement Lighting Maintenance District No. 302 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining said lights and supplying electrical current therefore.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED by the City Council of the City of Billings, Montana and approved this 13th day of August, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 13, 2007

TITLE: Public Hearing and Resolution to Vacate the Alley of Block 38, Town of Billings, Billings, MT

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Billings Food Bank, Inc. desires to construct a new facility for their operations over the current existing alley. Billings Food Bank, Inc. has submitted a petition to vacate the north/south alley located on Lots 1A-12A, Amended Plat of a Portion of Lots 1 through 12, Block 38 Town of Billings and Lots 13-24, Block 38, Town of Billings, Billings, MT.

ALTERNATIVES ANALYZED:

1. After holding a public hearing, approve to vacate the above-mentioned right-of-way.
2. After holding a public hearing, do not approve to vacate the above-mentioned right-of-way.

FINANCIAL IMPACT: The portion of alley being vacated is 6,000 square feet (20 feet wide by 300 feet long). An appraisal was conducted for the CTA alley vacation in 2004. The report uses \$3.50/sf to \$5/sf which would make the value of the right-of-way \$21,000 to \$30,000. Billings Food Bank, Inc. requests the City of Billings consider donating the value of the alley and consider such donation a contribution designated to expansion of the Food Bank property. The in-kind donation will then allow the Food Bank to use the value as matching funds in making grant applications. Public Works Engineering recommends the Billings Food Bank pay \$4.25/sf for the vacated right-of-way.

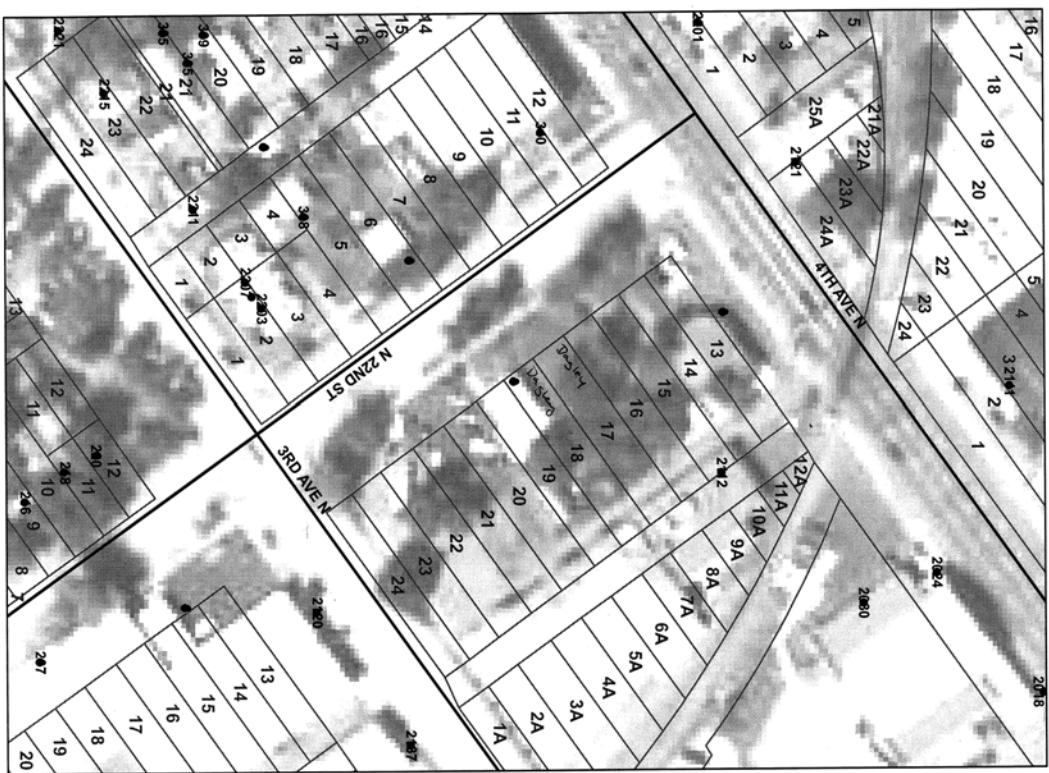
RECOMMENDATION

Staff recommends that Council, after holding a public hearing, approve the resolution vacating the Alley of Block 38, Town of Billings, Billings, MT at a cost of \$25,500.

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

ATTACHMENTS

- A. Map Depicting Area to be Vacated
- B. Resolution Vacating Alley of Block 38, Town of Billings, Billings, MT.



RESOLUTION NO. 07-

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING the north/south alley located in Block 38, Original Town of Billings.

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **the north/south alley located in Block 38, Original Town of Billings** as described hereinafter; and

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

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

1. DISCONTINUANCE AND VACATION. Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., the north/south alley located in Block 38, Original Town of Billings and more particularly described in ***Exhibit "A"*** attached, is/are hereby discontinued, abandoned and vacated.
2. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described the north/south alley located in Block 38, Original Town of Billings is in the best interest of the public and can be done without any public detriment. Ownership of the vacated area will revert to the adjacent owners – Billings Food Bank and Partnered Beverages LLC.

PASSED by the City Council and APPROVED this 13th day of August, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

(Back to Regular Agenda)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 13, 2007

TITLE: Public Hearing & 1st Reading. Ordinance Adopting International Fire Code (IFC), 2006 Edition, as the Billings Fire Code

DEPARTMENT: Fire Department

PRESENTED BY: Tina Volek, City Administrator
Marvin L. Jochems, Fire Chief
Frank Odermann, Fire Marshal

PROBLEM/ISSUE STATEMENT: In 2005, the previously adopted fire code discontinued publishing and Billings adopted a new fire code, the 2003 National Fire Protection Association (NFPA1/UFC) Fire Code. The NFPA1/UFC has proved to be difficult to correlate with the other codes adopted statewide which are primarily from another family of model codes, the International Codes. Because of the difficulties encountered in attempting to correlate NFPA1/UFC with a different family of model codes, Billings government and industry would be better served by a fire code which is in the same family of International Codes under which construction is governed.

ALTERNATIVES ANALYZED: There are two model fire codes in the United States from which to choose; the National Fire Protection Association/Uniform Fire Code (NFPA1/UFC) and the International Fire Code (IFC). Pros and cons to the adoption of either code have been analyzed and are presented under the 'Alternatives Analysis' heading of this document.

FINANCIAL IMPACT: The financial impact of adopting the IFC will be primarily in the cost of developing and printing new inspection forms and purchasing code materials. The cost is estimated at \$2,500.00.

RECOMMENDATION

Staff recommends that, in order to maintain code compatibility with the other International Codes already in effect statewide, as well as to provide the City of Billings with a reasonable level of

regulation to safeguard life and property from fire and other life-threatening conditions, the Billings City Council adopts the IFC 2006 Edition.

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

ATTACHMENTS

- A: Proposed Ordinance for adoption of 2006 IFC
- B: Letter from CTA Architects and Engineers

INTRODUCTION

The model codes are well into a new adoption cycle. Of nine (9) building construction codes used in Billings, six (6) have been adopted in 2006 editions.

Presently, the 2003 NFPA1/UFC is adopted by the City of Billings. To remain current with the construction codes, the Fire Code should be updated to a 2006 edition.

There are two model fire codes in the United States from which to choose; the NFPA1/UFC and the International Fire Code (IFC). Staff recommends that Council adopt the 2006 IFC.

BACKGROUND

- In June, 2005, the City adopted a new fire code because the previous code had discontinued publication. The City adopted the 2003 NFPA1/UFC Fire Code in 2005.
- Of nine (9) Codes which govern construction, six (6) are International Codes. The following is a list of those codes currently adopted in Billings:
 - International Building Code, 2006 edition
 - International Residential Code, 2006 edition
 - International Mechanical Code, 2006 edition
 - International Fuel Gas Code, 2006 edition
 - International Existing Building Code, 2006 edition
 - International Energy Conservation Code, 2006 edition
 - Uniform Plumbing Code, 2006 edition
 - National Electrical Code, 2005 edition
 - NFPA1/UFC Fire Code, 2003 edition
- The currently adopted Fire Code is not a companion code to the International Code family of model codes.
- Since the adoption of the NFPA1/UFC in 2005, the Fire Department, Building Department, Planning Department, architects, engineers, and other private industries have experienced difficulties in attempting to correlate the provisions of the adopted Fire Code with the provisions of the other non-companion codes which govern construction.
- Adoption of the International Fire Code will create a seamless correlation between the Fire Code and the other International Codes which are of the same family of model codes.
- Adoption of the 2006 IFC would ensure that this community is afforded the latest technological and philosophical advancements in fire and life safety protection.

ALTERNATIVES ANALYSIS

There are two model fire codes in the United States from which to choose; the NFPA1/UFC and the International Fire Code (IFC). Pros and cons to the adoption of either code have been analyzed and are discussed here under sub-headings ‘Alternative 1’ and ‘Alternative 2’.

Alternative 1, Adoption of IFC

Pros:

- The IFC is a ‘companion code’ and, therefore, directly and seamlessly correlates to the other currently adopted International Codes.
- Of the nine (9) Codes which govern construction statewide, six (6) are International Codes. Adoption of the International Fire Code will provide seamless correlation between a family of codes and alleviate major difficulties which have resulted from efforts to correlate the non-companion codes.
- Private industry, including architects and engineers, is in support of the adoption of the IFC.
- The City’s Building, Planning, and Engineering departments are in support of the adoption of the IFC.
- Kalispell has already adopted the IFC. Other municipal jurisdictions are in the process of doing so at this time.

Cons:

- Adoption of IFC will create non-conformity between Billings and other fire jurisdictions within the state which still use the NFPA1/UFC. However, this will have little negative impact on the code enforcement duties of the Billings Fire Department and the Fire Department is aware that there is a desire by other jurisdictions to adopt the International Fire Code.

Alternative 2, Retain Adoption of NFPA1/UFC

Pros:

- At this time, a majority of fire jurisdictions are still utilizing the NFPA1/UFC. However, indications reflect that more jurisdictions are looking toward adoption of the IFC.

Cons:

- NFPA1/UFC is not a ‘companion code’ to the International Codes which control construction in this State. This has proven to cause difficulties and increased workload for City agencies and private industry.

STAKEHOLDERS

Numerous representatives of private industry, as well as City departments have indicated the strong desire to be able to review projects under a family of model codes. Government and private industry will both benefit from the adoption of the IFC.

RECOMMENDATION

Staff recommends that, in order to maintain the ability to correlate Fire Codes with provisions of the other adopted construction codes, as well as to provide the City of Billings with a reasonable level

of regulation to safeguard life and property from fire and other life-threatening conditions, the Billings City Council adopts the IFC, 2006 edition.

In accordance with MCA 7-1-105, the 2006 IFC will be effective 30 days after second reading and final adoption.

From the date of second reading and final adoption until the effective date (30 days), industry may choose to have plans and premises reviewed under either the 2003 NFPA1 or under the 2006 IFC Fire Code. During this 30 day period, use of the 2006 IFC is recommended. However, the option to choose either code is available to the applicant.

ATTACHMENTS:

Attachment A: Proposed Ordinance for adoption of 2006 IFC

Attachment B: Letter from CTA Architects and Engineers

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING FOR THE REPEAL OF SECTION 14-301 AND REPLACING IT WITH A NEW SECTION 14-301; PROVIDING FOR THE ADOPTION OF THE 2006 EDITION OF THE INTERNATIONAL FIRE CODE AND CERTAIN AMENDMENTS

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

Section 1. That Section 14-301 of the Billings, Montana City Code entitled "Adoption by reference of the NFPA1/Uniform Fire Code and Administrative Rules," is hereby repealed and declared null and void and of no effect.

Section 2. That the Billings, Montana City Code be amended by adding a new section 14-301, to read as follows:

"Sec. 14-301. Adoption by reference of the 2006 edition of the International Fire Code

(a) The International Fire Code, 2006 edition, including Appendices B and C, as published by the International Code Council, is adopted by reference as the Fire Code of the City of Billings. It regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; provides for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Billings City Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out, with the additions, insertions, deletions and changes, if any, set by ordinance.

(b) The following sections of the Fire Code are revised as set out below:

Section 101.1. Insert: [City of Billings, Montana]

Section 109.3. Insert: [Misdemeanor, \$500.00, 6 months] so that such section shall read as follows:

"Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or by imprisonment not exceeding 6 months, or both such

fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 111.4. Insert: [not less than \$100 or more than \$500]

Section 906.1. Delete Exception to Section 906.1, #1.

“906.1 Where required.

Portable fire extinguishers shall be installed in the following locations.

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

~~Exception: In new and existing Group A, B and E occupancies equipped throughout with quick-response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~

2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.
5. Where required by the sections indicated in Table 906.1.”

Section 907.15.1. When required by the Fire Code Official, non-required fire alarm systems shall be monitored by an approved supervising station in accordance with NFPA 72.

(c) That the geographic limits referred to in certain sections of the 2006 *International Fire Code* are hereby established as follows:

Section 3204.3.1.1 LOCATION. Stationary containers shall be located in accordance with section 3203.6. Containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials.

Section 3404.2.9.5.1 Locations where above-ground tanks are prohibited.

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the City of Billings and Yellowstone County Unified Zoning Regulations.

Section 3406.2.4.4 Locations where above-ground tanks are prohibited.

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the City of Billings and Yellowstone County Unified Zoning Regulations.

Section 3804.2 Locations where the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas. Storage of liquefied petroleum gas in above-ground tanks outside of buildings is prohibited within the limits established by the City of Billings and Yellowstone County Unified Zoning

Regulations.

Section 3. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 4. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. PUBLICATION OF NOTICE OF INTENT TO ADOPT THE 2006 INTERNATIONAL FIRE CODE BY REFERENCE. Notice of the intent to adopt the 2006 International Fire Code by reference shall be published both before first reading and public hearing and after first reading and prior to final adoption of the code. At least one copy of the code shall be filed in the Office of the City Clerk and be kept there, available for public use, inspection, and examination, for a period of thirty (30) days prior to final adoption of the ordinance.

Section 7. Nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in *Section 1* of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

PASSED by the City Council on first reading this _____ day of _____, 2007.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2007.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk



July 24, 2007

Christina Volek, City Administrator
City of Billings
4048 Palisades Park Drive
Billings, MT 59106

Dear Christina,

On behalf of CTA Architects Engineers, we are writing to request your support of the City's adoption of the 2006 IFC. As design professionals, we are working with the building codes and the fire codes on a daily basis. The International Building Code and NFPA 1 are not compatible codes. Because of this, we are often faced with code overlaps and gaps that need to be dealt with. It would be far better for us as design professionals and the code officials we interact with to have a fire code that is a true companion to the International Building Code.

Sincerely,

CTA ARCHITECTS ENGINEERS

Michael Radke Associate, IBC Plans Examiner
Jeff Hidle, Associate PE – Electrical Engineer
Rick Demarinis, Associate PE – Fire Protection Engineer

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