

# CITY OF BILLINGS

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

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## AGENDA

COUNCIL CHAMBERS

June 11, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing  
PLEDGE OF ALLEGIANCE – Mayor Tussing  
INVOCATION – Councilmember Larry Brewster  
ROLL CALL  
MINUTES – May 29, 2007  
COURTESIES  
PROCLAMATIONS  
ADMINISTRATOR REPORTS – Tina Volek

### **PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: 1 and 9 ONLY.**

**Speaker sign-in required.** (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

### **CONSENT AGENDA:**

#### **1. A. Mayor's appointments:**

Mayor Tussing recommends that Council confirm the following appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Mayor's Committee on Homelessness	06/11/07	12/31/08

1. Unexpired term of Tim Smith (Homeless)  
[\(Corresponding Staff Memo A1\)](#)

**B. Bid Awards:**

**(1) Current Model Year Fire Apparatus.** (Opened 5/29/07)  
Recommend Sutphen Corporation, \$285,936.28.

[\(Corresponding Staff Memo B1\)](#)

**(2) W.O. 07-01 Water and Sewer Replacement Projects.** (Opened 5/29/07) **Schedule I:** Recommend COP Construction, \$2,088,981.40.  
**Schedule II:** Recommend delay of award until 6/25/07.

[\(Corresponding Staff Memo B2\)](#)

**(3) SID 1375 Claremont Road Improvements** (Opened 6/5/07)  
Recommend delay of award until 6/25/07.

[\(Corresponding Staff Memo B3\)](#)

**(4) SID 1377 Greenbriar Road Improvements** (Opened 6/5/07)  
Recommend delay of award until 6/25/07.

[\(Corresponding Staff Memo B4\)](#)

**C. Approval** of securities pledged by Sterling Savings Bank and US Bank as collateral for certificates of deposits, MIA, and repurchase accounts.

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

**D. Contract** with Ace Electric for replacement of the Park 3 Garage control equipment, \$59,075.00.

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

**E. Contract Amendment** with Firefighters Local 521 IAFF for a 2007-2008 COLA of 3% - \$234,047.25 per year.

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

**F. Resolution** closing Special Improvement/Sidewalk Bond Debt Funds to SID Revolving Fund - \$8,844.28.

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

**G. Acceptance** of Vehicle Lease Agreement with Underriner Motors for six (6) vehicles for the City County Special Investigations Unit.

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

**H. Acceptance** of Federal Aviation Administration Airport Improvement Program Grant 33.

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

**I. Memorandum of Understanding (MOU)** between the City of Billings and Billings Public Schools for two (2) middle school resource officers (7/1/07 - 6/30/08).

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

**J. Memorandum of Understanding (MOU)** between the City of Billings and Billings Public Schools for three (3) high school resource officers. (7/1/07 – 6/30/08).

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

**K. Right-of-Way Easement** with Rimrock Credit Union for Lot 4, Flanagan Subdivision.

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

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

(1) Parcel 21: Portions of Tracts 1 and 2 of Third Amended Plat of Certificate of Survey 239 (Siewert Acres), Jerry T. Klundt and Karen L. Klundt, \$17,912.00.

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

(2) Parcel 45: Portion of Tract 1-A, Amended Tract 1 of Certificate of Survey 332, Brad C. Hudson and Darlene A. Hudson, \$10,150.00.

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

(3) Parcel 52: Portion of Lot 22, Block 2 of Broadmoor Subdivision, Tasneem F. Khaleel and Shafiq A. Khaleel, \$8,000.00.

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

(4) Parcel 54: Portion of Lot 24, Block 2, of Broadmoor Subdivision, Tasneem F. Khaleel and Shafiq A. Khaleel, \$9,050.00.

[\(Corresponding Staff Memo L4\)](#)

**M. Subordination of Rental Rehabilitation Loan** for Diane Miller, dba Bad Osprey, Inc., \$26,855.85.

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

**N. Street Closure:** Yellowstone Health Partnership Fun Run/Walk: 8:00 a.m., June 23, 2007 – Start at S. 26<sup>th</sup> Street and 2nd Ave. S, right on S. 25<sup>th</sup> Street, right on 6<sup>th</sup> Ave. S., right on S. 37<sup>th</sup> St., right on 2<sup>nd</sup> Avenue S., right on S. 28<sup>th</sup> St., right on 9<sup>th</sup> Ave. S., right on S. 31<sup>st</sup> St. into South Park.

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

**O. Grant Application Request** to submit 2007 Commercial Equipment Direct Assistance Program (CEDAP) application and accept award, \$5,432.00.

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

**P. Grant Application Request** to submit 2007 Justice Assistance Grant (JAG) application and accept award, \$82,370.00.

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

**Q. Second/Final reading ordinance for Zone Change #806:** A zone change from Residential 15000 (R-150) and Residential Manufactured Home (RMH) to Entryway General Commercial (EGC) generally located on the southwest corner of King Avenue East and Orchard Lane.

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

**R. Second/Final reading ordinance for Zone Change #804:** A zone change from Residential Professional (RP) to Residential Multi-Family Restricted (RMF-R) on the southern 3.93 acres of Tract 1A, Certificate of Survey 2991, and located on the

southeast corner of the intersection of Central Avenue and Brookshire Boulevard and addressed as 2810 Central Avenue. CBE Properties, LLC, owner.

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

**S. Preliminary Subsequent Minor Plat** of Central West Subdivision generally located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and addressed as 2810 Central Avenue, conditional approval of the plat and adoption of the Findings of Fact.

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

**T. Preliminary Plat** of Riverfront Pointe Subdivision, Amended, generally located on the east side of Muldowney Lane, south of Frontier Drive, conditional approval of the plat and adoption of the Findings of Fact.

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

**U. Cancellation** of checks and warrants, \$26,285.04.

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

**V. Bills and payroll.**

(1) May 11, 2007

[\(Corresponding Staff Memo V1\)](#)

(2) May 18, 2007

[\(Corresponding Staff Memo V2\)](#)

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

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION** approving and adopting the FY 2007-2008 Budget. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo RA2\)](#)

**3. PUBLIC HEARING AND RESOLUTION** setting FY 2008 mill levy rates for the Transit Operating Fund, Library Operating Fund, and Public Safety I Fund. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo RA3\)](#)

**4. PUBLIC HEARING AND RESOLUTIONS** setting annual FY 2008 assessments for the Business Improvement District; Park Maintenance Districts; Light Maintenance Districts; Fire Hydrant Maintenance; Street Maintenance; Residential/Commercial Collection, Disposal, and Landfill Fees; Storm Sewer; and Arterial Construction. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo RA4\)](#)

5. **PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE(S) #CC07-02:** (1) a variance from the Site Development Ordinance Section 6-1208(h)(2) allowing driveway widths greater than 24 feet in a multifamily-zoned district; and (2) a variance from the Site Development Ordinance Section 6-1208(j)(2) allowing curb cuts serving the same property to be separated by less than 25 feet of full height curb. Regal Land Development, Inc., developer. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo RA5](#))
6. **PUBLIC HEARING AND RESOLUTION** vacating an undeveloped portion of Moose Hollow Lane located in Aspen Gateway Subdivision, 2<sup>nd</sup> Filing, at no cost to the developer. Lloyd Detienne, developer/owner. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo RA6](#))
7. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annex #07-08: an approximate 4.27 acre parcel legally described as Tract 3, Certificate of Survey 2298, located in Section 4, Township 1S, Range 25E. Hope Evangelical Church, owner. Benjamin Gonzales, agent. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo RA7](#))
8. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward I to include recently annexed property in Annex #07-09: an approximate 14.08 acre parcel located at the southeast intersection of King Avenue East and Calhoun Lane. Miller Trois, LLC, owner. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo RA8](#))
9. **SALE OF BONDS** totaling \$12,500,000 for the purpose of paying the costs of designing, constructing, and equipping the new baseball stadium relating to previously approved \$10,700,000 General Obligation Bonds Series 2007A and \$1,800,000 General Obligation Bonds Series 2007B. (Opened 6/11/07) Recommendation to be made at meeting.  
([Corresponding Staff Memo RA9](#))



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, JUNE 11, 2007**

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**TITLE:** Boards & Commissions –Appointment  
**DEPARTMENT:** City Administrator’s Office  
**PRESENTED BY:** wynnette Maddox, Administration

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**PROBLEM/ISSUE STATEMENT:** Confirmation of the appointment for the Board and Commission position that is vacant due to a resignation.

**FINANCIAL IMPACT:** No financial impact involved.

**RECOMMENDATION**

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Mayor’s Committee on Homelessness	06/11/07	12/31/08

2. Unexpired term of Tim Smith (Homeless)

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

Attachments

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## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 11, 2007

TITLE: Bid Award – Current Model Year Fire Apparatus  
DEPARTMENT: Fire  
PRESENTED BY: Marvin L. Jochems, Fire Chief

**PROBLEM/ISSUE STATEMENT:** The call for sealed bids notice was published on May 17 and 24, 2007. Bid packets were either mailed or picked up by fire apparatus vendors between May 17, 2007 and May 25, 2007. Bid opening was May 29, 2007.

**ALTERNATIVES ANALYZED:** None

**FINANCIAL IMPACT:** The FY2008 Capital Replacement Fund contains the budget for replacement of the Fire Department's existing 1991 E-One Fire Truck (Unit #4090). However, an accident on March 27, 2007 involving the 1993 3D Fire Truck (Unit #4066) makes it necessary to adjust the Fire Department's portion of the Equipment Replacement Plan. During our effort to obtain bids for the repair of the 3D Fire Truck, we discovered that parts are no longer available. Therefore we are asking to replace the 'sister' 3D Fire Truck, early and in place of the E-One Fire Truck (Unit #4090). This was discussed at a meeting of the Equipment Replacement Committee which agreed with the adjustments.

Five (5) vendors responded to our call for sealed bids. They were Montana Fire Works LLC (E-One Fire Apparatus); Hughes Fire Equipment, Inc. (Pierce Fire Apparatus); American LaFrance (American LaFrance Fire Apparatus); Sutphen Corporation (Sutphen Fire Apparatus) and Northern Focus Fire Apparatus (KME Fire Apparatus). Of the five vendors responding both Hughes Fire Equipment and Northern Focus Fire Apparatus chose not to bid on this truck. The proposal from American LaFrance was removed from consideration because they failed to submit a bid bond. Of the two remaining proposals received, Sutphen Corporation was the low bidder with their bid of \$285,936.28.

Montana Fire Works LLC (E-One)	\$369,449.00
Hughes Fire Equipment (Pierce)	No Bid
American LaFrance (American LaFrance)	\$266,538.00*
*(did not submit a bid bond)	

Sutphen Corporation (Sutphen)  
Northern Focus Fire Apparatus (KME)

\$285,936.28  
No Bid

**RECOMMENDATION**

Staff recommendation is award the bid to Sutphen Corporation for their bid of \$285,936.28.

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

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## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 11, 2007

TITLE: W.O. 07-01 Water and Sewer Replacement Projects, Contract Award  
DEPARTMENT: Public Works - Engineering  
PRESENTED BY: David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** Sewer main, water main, and related improvements will either be replaced or rehabilitated by this project. Sewer main work will generally occur in five (5) work zones in various geographical locations within the City as identified by Public Works Department staff. Work Zones A-D and F of project Schedules 1 and 2 contain approximately 12,700 linear feet of sewer main to be replaced and rehabilitated.

Water main replacement will generally occur in the area bound east/west by 28<sup>th</sup> Street West and 30<sup>th</sup> Street West and north/south by Grand Avenue and Lewis Avenue. Zone E of project Schedule 2 contains approximately 4,500 linear feet of water main that will be replaced.

**FINANCIAL IMPACT:** Bids were opened on May 29, 2007 for W.O. 07-01 with the results listed below:

#### SCHEDULE 1 – Sanitary Sewer Replacement

	Base Bid + Trenchless Technology Alternate				
	Engineer's Estimate	Niebur Golf	Chief	Western Municipal	COP
Zone A	\$242,002.50	\$275,382.00	\$328,682.00	\$417,592.00	\$317,326.00
Zone B	\$370,904.42	\$483,981.00	\$474,787.00	\$618,866.00	\$466,813.00
Zone C	\$194,614.25	\$226,105.00	\$268,187.80	\$289,031.00	\$234,751.00
Zone D	\$897,826.81	\$886,335.00	\$949,143.00	\$1,114,556.80	\$880,184.00
Total	\$1,705,347.98	\$1,871,803.00	\$2,020,799.80	\$2,440,045.80	\$1,899,074.00

	Base Bid + Open Cut Alternate				
	Engineer's	Niebur Golf	Chief	Western	COP



AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
Monday, June 11, 2007

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TITLE: SID 1375 Claremont Road Bid Award  
DEPARTMENT: Public Works/Engineering  
PRESENTED BY: David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** SID 1375 Claremont Road was bid on Tuesday, June 5, 2007. This project will construct water, sanitary sewer, storm drain, curb and gutter, and street improvements to Claremont Road between Gleneagles Boulevard and Lake Hills Drive.

**ALTERNATIVES ANALYZED:**

1. Delay award of SID 1375 until June 25, 2007, City Council Meeting to allow staff to review the bids.

**FINANCIAL IMPACT:** The total estimated costs of the Improvements are \$424,476.45. The costs of the Improvements are to be paid from the following sources: (1) \$110,000.00 of Special Improvement District bonds to be assessed to 4 properties with equal assessments; and (2) \$314,476.45 of cash contribution by Jeff Engel Construction, Inc., owner of 13 of the 17 lots in the District.

**RECOMMENDATION**

Staff recommends that Council delay award of SID 1375 until the June 25, 2007, City Council Meeting.

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

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AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 11, 2007

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TITLE: SID 1377 Greenbriar Road Bid Award  
DEPARTMENT: Public Works/Engineering  
PRESENTED BY: David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** SID 1377 Greenbriar Road was bid on Tuesday, June 5, 2007. This project will construct water, sanitary sewer, storm drain, curb and gutter, and street improvements to Greenbriar Road between Hillcrest Drive and Lake Hills Drive.

**ALTERNATIVES ANALYZED:**

1. Delay award of SID 1375 until June 25, 2007, City Council Meeting to allow staff to review the bids.

**FINANCIAL IMPACT:** The total estimated costs of the Improvements are \$158,449.80. The costs of the Improvements are to be paid from the following sources: (1) \$58,000.00 of Special Improvement District to be assessed to 3 properties; and (2) \$100,449.80 of cash contribution by Ron Hill, owner of 5 of the 8 lots in the District.

**RECOMMENDATION**

Staff recommends that Council delay award of SID 1377 until the June 25, 2007, City Council Meeting.

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

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## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

**TITLE:** Quarterly Report for Pledged Collateral for Sterling Bank Certificate of Deposit, US Bank Municipal Investor Account, US Bank Repurchase Account, and US Bank Certificate of Deposit

**DEPARTMENT:** Administration-Finance Division

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

**PROBLEM/ISSUE STATEMENT:** Deposit type securities (i.e., certificates of deposit) shall be collateralized according to Montana Code Annotated Section 7-6-207.

On March 31, 2006, the City had \$1,000,000 in a certificate of deposit at Sterling Savings Bank, Billings; \$5,338,436.00 invested in the U.S. Bank Municipal Investor Account; and \$2,919,918.84 in the US Bank Repurchase Account. The City also has \$1,100,000 in a non compensating certificate of deposit at US Bank, Billings. The earning credits from this CD are applied to our bank charges.

Because Sterling Savings Bank's net worth ratio to total assets ratio is over 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. Sterling Savings Bank has collateralized the City's deposits with 106% in pledged securities.

Because US Bank's net worth ratio to total assets ratio is in excess of 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. US Bank has collateralized the City's Municipal Investor Account and non compensating certificate of deposit with 165% in pledged securities and collateralized the Repurchase Account with 102 % in pledged securities.

**RECOMMENDATION**

Staff recommends that Council approve securities pledged by Sterling Savings Bank and US Bank as collateral for their respective certificates of deposits, MIA, and repurchase accounts.

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

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Replacement of Parking Garage Control Equipment  
**DEPARTMENT:** Administrative Services – Parking Division  
**PRESENTED BY:** Chris Mallow, Parking Supervisor

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**PROBLEM/ISSUE STATEMENT:** Replacement of garage control equipment has been completed in the Park 4 and Park 1 garages with Federal APD, Inc. equipment. Replacement has now been slated for the garage control equipment (ticket, gate, card and PC equipment) in the Park 3 garage per the Technology Replacement Plan (TRP). Replacement is needed due to the equipment's age, inoperability and unavailability of replacement parts.

Ace Electric, Inc. is the only authorized dealer of Federal APD, Inc. equipment in Montana, northern Wyoming, Idaho and North Dakota; and, Federal APD, Inc. equipment is needed to maintain the established network with the central Parking server for efficient operation of all parking garages. Therefore, staff requested a quote from only Ace Electric. The City's Purchasing Policy, adopted on February 1, 2006, as well as Montana State law, MCA 18-4-306, allows for a contract to be awarded for a supply or service item without competition when there is only one practical source for the supply or service item. This bidding exception may only apply when the department head or designee determines in writing that there is only one source for the required supply or service item (memo attached).

- 1) Ace Electric, Inc. - \$59,075

**ALTERNATIVES ANALYZED:**

- Approve a contract to complete the replacement of the garage control equipment for the Park 3 Parking Garage.
- Continue to use and maintain the existing equipment until complete failure. This could be very time-consuming for the maintenance staff, as well as frustrating for the customers.
- Competitively bid this equipment with the understanding that the equipment will not have the ability to communicate and share information between parking garages.

**FINANCIAL IMPACT:** \$49,800 has been budgeted for this project. The difference is due to the required purchase of additional equipment and software to maintain the established network with the central parking server. The difference in cost will be made up in savings from other areas of the budget.

**RECOMMENDATION**

Staff recommends that Council award the contract to replace the garage control equipment for the Park 3 garage to Ace Electric, Inc. in the total amount of \$59,075.

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

**ATTACHMENTS**

- A.     Sole Source Justification Memo
- B.     Agreement with Ace Electric, Inc.



City of Billings  
**Parking Division**  
P.O. Box 1178  
Billings, MT 59103  
(406) 657-8412 FAX (406) 247-8608  
email: [mallowc@ci.billings.mt.us](mailto:mallowc@ci.billings.mt.us)

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## MEMORANDUM

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DATE: APRIL 24, 2006  
TO: LIZ KAMPA, PURCHASING AGENT  
FROM: CHRIS MALLOW, PARKING SUPERVISOR  
SUBJECT: PARK 3 PARKING CONTROL EQUIPMENT AGREEMENT

This memo is written to ask an agreement with Ace Electric, Inc., be authorized without going through a competitive bid process. Ace Electric is the only authorized dealer of Federal APD equipment in Montana, northern Wyoming, Idaho, and North Dakota. We need to buy Federal APD equipment and software to maintain the established network with the central parking server. This network allows for efficient operation of all parking garages.

If the competitive bid process were to be done for this project, other electrical contractors would have to order the equipment from Ace Electric. This would not allow the other contractors to provide a competitive bid. Previous attempts to solicit quotes from other electrical contractors resulted in only one quote, from Ace Electric; the other contractors chose not to submit a quote as they cannot compete with Ace Electric on projects involving Federal APD equipment.

Given the reasons stated above I ask that this contract be approved with the only authorized dealer in the area that can do the work requested.

Thank you!

Chris Mallow



## **AGREEMENT**

### **Parking Control System Replacement for the City of Billings Park 3 Garage**

**THIS AGREEMENT** is made and entered into this 4<sup>th</sup> day of May, 2007, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "City," and Ace Electric, Inc., P.O. Box 520, Laurel, MT 59044, hereinafter referred to as "Contractor."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to hire Contractor as an independent contractor to perform the services as outlined in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.

2. **Effective Date:** This Agreement is effective upon the date of its execution and will terminate 120 calendar days from execution. The parties may extend this agreement in writing prior to its termination.

3. **Scope of Work:** The Contractor shall perform the services outlined in Exhibit A. In performing these services, the Contractor shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

4. **Payment:** City agrees to pay Contractor Fifty-Nine Thousand Seventy-Five Dollars (\$59,075.00) for the work described in the Scope of Services. Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

5. **Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation insurance coverage for all members and employees of Contractor's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

Contractor shall furnish City with copies showing one of the following: (1) proof of registration as a registered contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent contractors.

**6. Indemnity and Insurance:** Contractor agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or its agents or employees. For this purpose, Contractor shall provide City with proof of Contractor's liability insurance issued by a reliable company or companies for personal injury and property damage, \$750,000 per claim, and in an amount not less than \$1.5 million per occurrence and naming the City as primary additional insured. The insurance must be in a form suitable to City.

**7. Warranty:** Contractor warrants that all services and work will be performed in a good workman-like manner. Contractor acknowledges that it will be liable for any breach of this warranty for the lesser for a period of one (1) year from the time services are completed or any warranty described in the Scope of Services.

**8. Compliance with Laws:** Contractor agrees to comply with all federal, state, and local laws, ordinances, rules and regulations. Contractor agrees to purchase a City business license.

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with Title 18, Chapter 2, Part 4, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, each contractor shall ensure that at least 50% of the Contractor's workers performing labor on a construction project are bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with sections 18-2-401 and 18-2-402, MCA.

**9. Contractors' Gross Receipts Tax:** Contractor understands that all contractors or subcontractors working on a publicly funded construction project are required to pay or have withheld from earnings one percent (1%) of the gross contract price if the gross contract price is Five Thousand Dollars (\$5,000) or more.

**10. Nondiscrimination:** Contractor agrees that all hiring by Contractor of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

**11. Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**12. Liaison:** City's designated liaison with Contractor is Chris Mallow, Parking Supervisor, and Contractor's designated liaison with City is Dwight Fisher.

**13. Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

**14. Severability:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**15. Successors and Assigns:** Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.

**16. Ownership of Documents:** All documents, data, drawings, specifications, software applications and other products or materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if the documents, products and materials prepared by the Contractor are used for purposes other than those intended by the Agreement, the City does so at its sole risk and agrees to hold the Contractor harmless for such use. All or any portions of materials, products and documents produced under this Agreement may be used by the Contractor upon confirmation from the City that they are subject to disclosure under the Public Disclosure Act. All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City. Any information relating to the services will not be released without the written permission of the City. The Contractor shall preserve the confidentiality of all City documents and data accessed for use in Contractor's work product.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

\_\_\_\_\_  
**CONTRACTOR (Print Name Above)**

By \_\_\_\_\_  
**Ron Tussing, Mayor**

By \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
**BRENT BROOKS, City Attorney**

## **EXHIBIT A**

### **Parking Control System Replacement for the City of Billings Park 1 Garage**

### **REQUEST FOR QUOTES (RFQ) For Parking Control System Park 3**

### **Billings Parking Division**

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#### **SECTION 1 – GENERAL INFORMATION**

The services shall include furnishing all materials, equipment, labor and supervision to install in place a fully operating Parking Control System, as specified herein. Included shall be supply, delivery, unloading, setting, anchoring, and control and power wiring installation and wiring termination, and start up of and training on all parking, revenue control, and access control equipment.

#### **SECTION 2 – SCOPE OF WORK**

##### **2.1 PROJECT SCOPE**

- A. This project will replace all components (except cash register) of the Parking Garage Control System for the Park 3 parking garage for the City of Billings. The project site is 210 North 27<sup>th</sup> Street, in downtown Billings.
- B. The project will require close coordination with city officials, staff, customers **and** departments.

#### **SECTION 3 - SYSTEM DESCRIPTION**

##### **3.1 GENERAL**

- A. The Park 3 parking facility consists of five levels of parking with 204 parking stalls, and is used by both transient and monthly parkers. Monthly parkers prepay on a monthly basis determined by the City, while transient parkers pay while exiting the facility. Monthly parkers activate the entrance and exit lane gates utilizing an on-line card reader. Transient parkers activate the entrance lane gate by taking a ticket from a dispenser and will exit upon payment to the cashier using an Auditor PowerPad cash register (not being replaced). The parking equipment is on-line with a parking control computer. In the Park 3 facility, there is one (1) main entrance lane, one (1) entrance/exit lane, and one (1) main exit lane, one of which also serves

as the cashier lane. All three (3) lanes are to be set up to utilize an on-line card reader.

- B. The parking equipment will be on-line with a parking control computer.

### **3.2 DEDICATED ENTRANCE LANES**

- A. During regular operating hours, the presence of the vehicle over the detector loop adjacent to the ticket dispenser shall activate the push button on the ticket dispenser. Upon depressing the push button the ticket dispenser will issue a date and time stamped ticket. A buzzer shall sound until the patron has removed the ticket from the chute. The gate shall open automatically with removal of the ticket from the ticket dispenser.
- B. The monthly parker shall bypass the ticket dispenser and proceed to the card reader. The pass of a valid card in the card reader shall activate the ticket dispenser by-pass. The entrance lane gate shall automatically open by the pass of a valid card in the card reader.
- C. The entrance lane gate shall close automatically after the vehicle has passed over the closing detector loop. The circuitry shall be such that the entrance cycle of a vehicle shall be completed before the system will accept the entry of another vehicle through the same lane.
- D. The access control card reader shall only accept properly coded cards meeting anti-passback criteria as specified. If the card passes all validity and anti-passback checks the gate shall open. If the card fails validity or anti-passback checks an alarm signal shall be triggered in the parking control office (Park 4 – 515 North 31<sup>st</sup> Street), the central controller shall print an "invalid attempt" statement indicating card reader location, user I.D. number, and type of invalid access (English text), and the gate shall open (soft anti-passback) or remain closed (hard anti-passback) at the City's option. Communication with the invalid card user may take place using the intercom system specified in this section.

### **3.3 DEDICATED EXIT LANES**

- A. During regular garage operating hours the transient parker shall proceed to the cashier booth. The presence of the vehicle over the vehicle detector loop adjacent to the cashier's booth shall send a signal to allow for one operation of the fee computer. The entrance time on the ticket shall be keyed in by the cashier and the parking fee shall be computed automatically by the fee computer. The "out" time, date, and fee shall be printed on the ticket and the fee displayed on the fee indicator. The transient parker then gives the cashier money to pay the parking fee. The amount of money received is entered into the fee computer and the amount of change is automatically calculated and displayed on the fee computer display and

the fee indicator. The exit lane gate shall automatically open upon completion of the cash transaction.

- B. The monthly parkers shall proceed to the exit lane card reader located in either the monthly exit lane or in the transient lane in front of the cashier's booth. The exit lane gate shall automatically open by the pass of a valid card in the card reader. The pass of the card in the card reader shall deactivate the fee computer, not allowing operation of the electric cash drawer.
- C. The exit lane shall close automatically after the vehicle has passed over the closing detector loop. The circuitry shall be such that the exit cycle of a vehicle shall be completed before the system will accept the exit of another vehicle through the same lane.
- D. During special event parking situations the exit lane gates may be kept in the up position. Patrons paying upon entry shall "free flow" through exit lanes without stopping at the cashier's booth or alternately shall present their prepaid entry ticket to the cashier for validation and to raise the gate.

### **3.4 COUNT/CONTROL SYSTEM**

- A. A count/control system will be located in the parking control office (Park 4 – 515 North 31<sup>st</sup> Street). The count system shall maintain both differential and total counts (by lane) of transient parkers, monthly parkers, and facility totals, as well as special event differential and total counts of vehicles passing through the lane with the gate located in the up position. Differential and total counts of illegal entries shall also be maintained. The entrance and exit lane parking equipment shall be monitored to identify the status of the equipment such as gates and ticket dispensers.

## **SECTION 4 - QUALITY CONTROL**

### **4.1 GENERAL**

- A. Manufacturer of Parking Control System shall provide an experienced field representative to meet with Electrical Subcontractor, before any rough-in work begins, to review building plans as they relate to Parking Control Equipment, to explain details or precautions necessary to assure that all parking and revenue control equipment, and in particular, detector loops will work properly and to determine that all required conduits and wiring are properly laid out.

- B. Installer shall have previously worked successfully with the equipment Manufacturer.
- C. Installers shall be approved in writing by the parking control system Manufacturer.
- D. Installer shall service and maintain the parking control system and have an approved equipment service center located to provide service within 24 hours.
- E. Provide equipment service and maintenance as follows:
  - 1. Use experienced, Manufacturer trained personnel.
  - 2. Assume total responsibility for proper installation and operation of all components within the system.
- F. Provide the City with two final copies of each:
  - 1. Maintenance Manual
  - 2. Operating Manual
  - 3. Equipment electrical circuitry diagram
  - 4. As-built equipment wiring diagram
- G. Provide the City with two sets of keys for each piece of equipment with locks and two sets of master keys. Each equipment type shall be master keyed including but not limited to:
  - 1. Cabinets for gates
  - 2. Card readers
  - 3. Ticket dispensers
  - 4. Booths

NOTE: Keys shall be Federal APD standard keys; they shall fit other equipment in the other City facilities.

#### **4.2 TRANSPORTATION AND HANDLING**

- A. Deliver equipment to the site packaged to prevent damage and marked for easy identification.
- B. Store equipment in a clean, dry location protected from damage. Replace damaged materials at no cost to the City.
- C. Deliver items required to be built into the concrete promptly to the site so they may be built in as the work progresses.

#### **4.3 OPERATING CONDITIONS**



- A. Equipment shall be designed, fabricated, and installed to operate effectively under the climate and exposure conditions to which the equipment will be exposed. All equipment is for exterior, exposed to weather use.
- B. If parking and revenue control systems self contained heating and cooling devices do not operate to the City's satisfaction within the warranty period, they shall be repaired and/or replaced by the Manufacturer.
- C. It is recognized that certain solid state and computer type parking and revenue control equipment may require special electrical power and grounding considerations. If required by the parking and revenue control equipment, the Manufacturer of the parking control system should:
  - 1. Include in the quote amount, the cost to provide and install voltage stabilization modules or devices to protect each component from normal voltage variations.
  - 2. Advise the City in writing of any special electrical power and grounding requirements.

#### **4.4 WARRANTY**

- A. Provide Manufacturers Warranty:
  - 1. Warranty shall be for one year covering all labor and materials.
  - 2. Warranty shall commence when equipment is 100 percent operational and acceptable to the City, as approved in writing by the City.
  - 3. Maintain equipment operational during the warranty period such that, if defective, equipment will be serviced and made operational by the completion of the next business day following notification by the City.
  - 4. Warranty shall cover all equipment furnished - both manufacture and installation, but excluding misuse or vandalism.

### **SECTION 5 - PRODUCTS**

#### **5.1 GENERAL**

- A. All equipment colors shall be standard yellow except where specifically noted.
- B. All parking control equipment must be compatible with the current electrical system and the garage control equipment installed at the Park 3 parking garage, located at 210 North 27<sup>th</sup> Street, in downtown Billings.

#### **5.2 EQUIPMENT LIST**

- A. The following equipment list consists of basic system components. Provide auxiliary items required for the proper functioning of the system, whether mentioned or not, including but not limited to, heaters, coolers, wiring, transformers, relays, pedestals, etc. It is the **SOLE RESPONSIBILITY** of the Parking Control Equipment vendor to provide every component necessary for a complete functioning system.
- B. Locate equipment to replace existing equipment, unless otherwise specified herein.
- C. Provide Parking Control Equipment for each lane as indicated:
1. Lane Types:
 

Lane A (by booth)	Monthly and Transient Exit Lane
Lane B (in center)	Monthly and Transient Entrance and Exit Lane
Lane C (easternmost by booth)	Monthly and Transient Entrance Lane
  2. Equipment List:

Item	A	B	C		Total Required
a Gate with automatic safety reverse and gate arm	1	2	1		4
b Digital self-tuning vehicle detector	1	2	1		4
c Detector loop - sawcut	2	4	2		8
d Card Reader	1	2	1		4
e Ticket Dispenser	1	1			2
i "Full" sign	1				1
j SCAN-Net Central Management System Console					3 (for booth, meter shop, and supervisor's office)
k NetPort					1 (in booth)
l On-line Printer					1 (in booth)

3. Office Equipment
  - Park 3:
    - a. Scan Net Additional Console.
    - b. NetPort.
    - c. On-line printer for card reader messages.
  - Supervisor's Office:
    - a. Scan Net Additional Console.
  - Meter Shop:
    - a. Scan Net Additional Console.

## 5.3 GATES

- A. The parking gate shall provide an effective barrier to one-way vehicles in the entrance and exit lanes. The barrier arm shall retract quickly in a vertical plane on a command signal from the ticket dispenser, fee computer, card reader, or detector loop depending on location, and return to the lower position upon a signal from a detector beyond the gate location. The parking gate shall be installed as currently located and shall incorporate in one housing all necessary components for the functioning of this unit. The assembly shall operate satisfactorily in the environmental conditions stated elsewhere in this specification.
- B. The gate arm shall be a 10 foot arm of wood construction. The barrier arm shall be a break-away design that can be easily and inexpensively replaced when broken. The height of the gate arm or the extended portion of folding arms shall be approximately 36 inches from drive level in DOWN position.
- C. The gate arm shall have a down strike safety feature. This feature provides that should any object be struck by the gate arm during its descent, the arm shall immediately reverse and return to the UP position without damage, and remain up from 2 to 60 seconds, until automatically reset by variable control. The sensory function shall be initiated by sensing the internal mechanical action. The external mounting of tubes, wiring, and electrical devices on the gate arm shall not be acceptable.
- D. External key switches shall be provided at each gate to lock the gate into the UP position for special event conditions in addition to the ability using SCAN to raise and lock the gates in the up position.
- E. Gates shall be on-line to the Auto Park computer located in the parking control office (Park 4 – 515 North 31<sup>st</sup> Street) using SCAN Count Software.
- F. All gates shall be approved by Underwriters Laboratories, Inc. (UL)
- G. Acceptable products are:
  - 1. **Federal APD, Model CD-90 Barrier Gate.**

#### **5.4 EMBEDDED LOOPS AND VEHICLE DETECTORS**

- A. The parking equipment detector loops shall be sawcut into the slab-on-grade.
- B. Wiring must be #14 AWG XHHW, four (4) turns per loop.
- C. 3M Detector Loop Sealant 5000 must be used.
- D. Directional logic detection shall be provided by a count system. Provide loops as required for directional detection and counting.

- E. Detectors shall be installed with the CD-90 Barrier Gates.

## 5.5 ON-LINE CARD READER SYSTEM

- A. The on-line access control card readers shall be located at the entrance and exit lanes where indicated.
- B. The type of cards (Federal APD Standard Proximity Technology Type) to be used for access to the parking facility. **The cards need to have a unique facility code (a facility code unlike any used at other City of Billings parking garages) programmed into them.**
- C. System Capabilities
  - 1. The access control system shall be an on-line system. If the central controller is not functional, the card reader stations shall function off-line. Card validity checks shall be made, but not anti-passback checks when the central controller is down.
  - 2. System shall be able to add cards to memory with the ability to define where and when the card holder may use the card. On a gate-by-gate basis, valid access times shall be definable.
  - 3. System shall be able to delete cards from memory as well as modify access control privileges of individual cards. One thousand (1,000) cards shall be provided in quote.
  - 4. System shall be able to select card controlled areas that are to operate in an antipassback (APB) mode and select whether contact closure (e.g. gate up) is required to change antipassback status. APB shall include forgive command which resets the sequence control to a neutral state. The antipassback status shall be restored within the card system when the card is next used in either entrance or exit reader. SOFT APB (printer lists the illegal use but autogate still opens) and HARD APB (printer lists the illegal use and autogate does not open) shall be selectively programmable.
  - 5. All system activity messages to the operator shall be printed in plain language English text including card holder name.
  - 6. The card system shall be capable of automatically scanning the card and sending the card number to the card controller to verify current status. Reading rejects shall not exceed one percent of card presentations.
  - 7. For use in a combined monthly/transient entrance/exit lane, actuation of the card reader shall lock out the transient ticket dispenser until after the vehicle has passed through the gate.
  - 8. Card reader height and location shall be such that the card reader shall be within easy reach of seated driver. Standoff ring to be provided where required.
  - 9. Both housing and stand shall be treated for corrosion resistance and finished externally with two coats of acrylic enamel in same color as other equipment as selected by the City.

10. Card Readers shall be on-line with an Auto Park computer to be located at the parking control office (Park 4 – 515 North 31<sup>st</sup> Street) using Federal APD SCAN Access Software or equivalent.
11. Access by card reader can only be gained when a car is over the detector loop at a card reader.
12. A compatible on-line printer will be located in the booth to provide card reader messages.

D. Acceptable products are:

1. Federal APD Passport plus with Standard Proximity Technology.

## **5.6 TICKET DISPENSER**

- A. The ticket dispensers shall be installed at their current locations and in accordance with the Manufacturer's recommendations. The unit shall have a minimum capacity of 4,000 tickets. The dispenser shall be capable of operating independent of the remainder of the system with a supply of power only. The vend of a ticket shall be controlled by push button. It shall dispense only one ticket per vehicle and shall not dispense without a vehicle over the detector loop.
- B. The unit shall be provided with heating, cooling, thermostats, etc., as required and of adequate size and tested by the Manufacturer, to ensure satisfactory operation in the environmental conditions specified in this section.
- C. Acceptable products are:
  - 1. Federal APD, POD500.

## **5.7 FULL SIGNS AND COUNT/CONTROL SYSTEM**

- A. Provide a pedestal mounted exterior exposure "FULL" indicator sign at entrance lanes. The "FULL" sign shall be controlled by the count system computer. The sign shall be "LED" letters, four inch minimum height, and shall be visible in bright sunlight.
- B. The count/control system monitors alarm conditions and lane activity. The count/control system also maintains both differential and total counts (by lane), of transient parkers, monthly parkers, and facility totals, as well as differential and total counts of special event parkers, illegal entries and gate overrides (vehicles passing through the lane with the gate locked in the open position).
- C. Control of "FULL" sign is automatically controlled by count status. Sign can be turned on and off through software.
- D. Input Device Monitoring: The Count/Control System shall monitor the following input signals:
  - 1. Entrance Lanes
    - a. Transient Gate Vend (Ticket Pull)
    - b. Card Access Gate Vend (Card Vend)
    - c. Gate Up Cam (Auxiliary Switch)
    - d. Gate Loop N.O. (Detector Output)
    - e. Low Ticket Switch (Auxiliary Switch)
    - f. Ticket Out Alert

- g. Gate Manual Switch (Double Pole Switch)
- h. Arming Loop Fail Alert
- i. Ticket Issue Loop Fail Alert
- j. Gate Reset Loop Fail Alert

2. Exit Lanes

- a. Card Access Gate Vend (Card Vend)
- b. Fee Computer Vend (Transaction Processed)
- c. Gate Up Cam (Auxiliary Switch)
- d. Gate Loop N.O. (Detector Output)
- e. Gate Manual Switch (Double Pole Switch)
- f. Arming Loop Fail Alert
- g. Gate Reset Loop Fail Alert

E. Output Control Signals: The Count/Control System shall provide the following output signals:

1. Entrance Lanes

- a. Full Sign On/Off
- b. Gate Vend (Manual Open)
- c. Gate Override (Continuous Up)
- d. Gate Reset (Gate Down)
- e. Lane Closed (Dispenser On/Off/"Closed" Signs from Section 10440)

2. Exit Lanes

- a. Gate Vend (Manual Open)
- b. Gate Override (Continuous Up)
- c. Gate Reset (Gate Down)
- d. Lane Closed ("Closed" Signs from Section 10440)

F. The Count/Control System shall provide the following counts

- 1. Transient Differential Count (with holdback)  
Note: Turns on Facility Full Signs
- 2. Facility Total Differential Count
- 3. Monthly Differential Count (Card Access)
- 4. Transient Entrance and Exit Count Non-resettable (By Lane)
- 5. Monthly Entrance and Exit Count Non-resettable (By Lane)
- 6. Total Vehicle Entrance and Exit Count Non-resettable (By Lane)
- 7. Number of Vehicle through Entrance or Exit with Gate Locked in the Up Position, Non-resettable (By Lane)
- 8. Event Mode Entrance Total Count by Lane

G. The Count/Control System shall provide the following displays and miscellaneous functions on CRT screen:

1. Current Time
2. Count System Status
3. Entrance and Exit Lane Status

H. Hard Copy Functions

1. The Count/Control System shall output the following information to a system event log printer:
  - a. Alarm Conditions
  - b. Lane Control Functions
  - c. Hourly Count Status of all Counters
  - d. Interim Report of All Counters
2. If the event log printer is disconnected, the count control system shall buffer the above information for a minimum of 24 hours. Beyond 24 hours, stored information shall be deleted on a first-in-first-out basis. With or without the printer connected, all functions of the count control system shall continue to operate.
3. Cashier Tour of Duty Report shall be printed each time a cashier signs off the fee computer.
4. Special Event Reports shall print out a detailed accounting of all lane activity, as well as exceptional activity that occurs during a special event.

I. Lane Status and Count System

1. The computer shall monitor each entry and exit lane for proper operation of equipment. The computer shall provide an audio alarm and display such failures as:
  - a. Ticket Jam in Ticket Dispenser
  - b. Entry Gate Stuck
  - c. Detector Fail
  - d. Exit Gate Stuck
  - e. Low Ticket
  - f. Lane Open/Closed
  - g. Ramp Full
2. The computer shall continually display total counts for transient, monthly, and total lane from each entry and exit lane.
3. The computer shall continually display differential counts of transient, monthly and total facility and control the lock-out of the Ticket Dispensers by lane and lighting of Full signs.



- J. The count/control system shall include Federal APD Net Port with Software to interface between the on-line devices and the SCAN Net Console computer located in Park 3 Booth. The NetPort is to be located in the Park 3 control booth and shall interface with the Auto Park SCAN computer and Parking Count Software also located in Park 3 over the city's supplied network terminated in Park 3 Booth. Provide set up of interface with the SCAN computer for a complete operating system.

## **5.8 SCANNET SOFTWARE**

- A. ScanNet Central Management System is currently installed in the workstation at the parking control office (Park 4 – 515 North 31<sup>st</sup> Street), with an additional consoles to be located in the booth at Park 3, the Meter Shop, and at the Parking Supervisor's office. ScanNet will need to be version 6.0.2.

## **SECTION 6 – EXECUTION**

### **6.1 INSPECTION**

- A. Inspect setting surfaces, power wiring and conduit installation for booths and equipment and report immediately in writing to the City, as required in the General Conditions, any conditions of Related Work which are unsuitable for proper execution of this Work.

### **6.2 INSTALLATION**

- A. Install parking control system in accordance with Manufacturer's recommendations.
- B. Installation shall be by factory trained mechanics experienced in installation of equipment of this type.
- C. Provide and pull control wiring and make final connections of all wiring.

### **6.3 ADJUSTMENT AND SYSTEM START-UP**

- A. Adjust and tune the system as required to assure proper operation. After installation, test all functions of the Parking and Revenue Control Systems.
- B. Demonstrate the satisfactory electrical and functional performance of the entire parking control system by the following operations:
  - 1. Ticket issuance and fee calculation by fee computer terminal.

2. The successful use of a monthly parker card to enter and exit the facility with all information recorded.
  3. The successful transfer of card access data from the on-line equipment to the card access controller.
  4. The generation of proper end of shift and daily audit and utilization reports.
  5. The proper operation of the count control system, including directional counting feature.
  6. The proper operation of parking control equipment and "FULL" signs during simulated facility "FULL" conditions.
  7. The proper operation of parking control equipment to control illuminated signage.
  8. The proper operation of the intercoms.
  9. Proper operation of the gate opening switches.
- C. Provide 16 total hours of on-site instructions to City's personnel, to be held on four days at four hours each. Instructions shall include but not be limited to, programming of card readers, use of fee computer, use and operations of count system and differential counter, use and operation of ticket dispenser and gates, use of Scan Net software and method of controlling revenue and auditing tickets available with the system specified. Schedule to be coordinated with the City.
- D. The parking and revenue control systems will be considered acceptable after being 100 percent operational and after having performed satisfactorily for thirty (30) continuous business days with no down time.

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Firefighters Local 521 IAFF Contract Wage Settlement  
**DEPARTMENT:** Administration  
**PRESENTED BY:** Bruce McCandless and Karla Stanton

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**PROBLEM/ISSUE STATEMENT:** The current firefighter/Local 521 contract has a term of July 1, 2005 – June 30, 2008. When the contract was settled in late 2005, both parties agreed to a wage only contract reopener for the last year of the contract. The reopener was advantageous because many economic conditions were uncertain at that time. The City and firefighters met twice in early May and have tentatively agreed to a 3% cost of living adjustment (COLA) for 2007-2008. The contract amendment cannot be finalized until the Council votes to approve it.

**ALTERNATIVES ANALYZED:** The City Council may:

- Approve the contract wage adjustment of 3% COLA.
- Disapprove the contract wage adjustment. If the tentative agreement is rejected, the parties may reopen negotiations and attempt a different settlement. Firefighters in Montana may not strike but have binding interest arbitration.

**FINANCIAL IMPACT:** The estimated cost of the COLA is \$234,047.25 for the year. The Fire Department budget is in the Public Safety Fund.

**RECOMMENDATION**

Staff recommends that Council approve the Firefighters Local 521 IAFF contract amendment for a 2007-2008 COLA of 3%.

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

## **INTRODUCTION**

The firefighter and City contract has a 3<sup>rd</sup> (final) year wage reopener. Staff and fire union representatives met and tentatively agreed to a 3% COLA. The contract amendment must be approved by the Council before it becomes effective.

## **BACKGROUND**

At the present time, all three of the City's labor union contracts have three year terms. When the firefighters contract was negotiated in 2005, the City's primary issue was to end the potential future cost of wage litigation that the firefighters initiated in 2000. Firefighters were offered either hourly wages for all hours worked or a continuation of the salaries that they have been paid since at least 1969, with annual adjustments to the salaries. The firefighters chose hourly wages, which amounted to a 9% wage increase. Firefighters wanted and were eventually granted the increase in the first year of the contract but had to forego two years of cost of living adjustments. Because of the uncertainty about the impact of hourly wages, the hours lawsuit, the inflation rate and other factors, the parties agreed that the contract would be for three years but the wages would be settled for two years and a third year wage reopener would be part of the contract.

For the past several years the City has used the consumer price index (CPI) as the COLA for most employees. The current police contract broke that tradition slightly by containing a wage increase ceiling and a floor. The ceiling was desirable because the CPI was over 4% when the contract settled. The floor was established at 3%. The December 2006 CPI was 2.6% but because the police contract floor is 3%, police officers will receive a 3% COLA on July 1, 2007. The firefighters are aware of the police contract provisions and while they initially asked for 2% more than the CPI, they tentatively agreed to the police contract 3% COLA.

As with all contracts, both parties must approve it before it takes effect. The firefighters conducted a vote on the contract amendment and it passed. If the Council approves the contract amendment, it will go into effect on July 1, 2007, for one year.

## **RECOMMENDATION**

Staff recommends that Council approve the Firefighters Local 521 IAFF contract amendment for a 2007-2008 COLA of 3%.

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




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, JUNE 11, 2007**

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

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** State law requires closing SID/Sidewalk debt service funds once the debt has been satisfied. Any excess/deficit cash balances upon completion of the Bond obligations are transferred to the SID Revolving Fund. Funds 856 and 857 will be closed and project 621313 will be closed in fund 820.

**FINANCIAL IMPACT:** The revolving fund will receive cash of \$8,844.28 for some Special Improvement Districts and Sidewalk Improvements in Funds 820, 856 and 857. Cash was loaned to Special Improvement Districts in funds 856 and 857 to pay bond principal and interest. The loans in the amount of \$22,251.72 are a result of district delinquencies and are uncollectible. The loans will be written off in the SID revolving fund. The properties will show delinquent assessments at the County. The City may recover some of these delinquencies if a property changes ownership or is sold at tax sale.

**RECOMMENDATION**

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

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

**ATTACHMENTS**

- A- Resolution to Close the Special Improvement District Debt Funds & Sidewalk Special Assessment Debt Funds to the Special Improvement District Revolving Fund
- B- Location of SIDs & Sidewalks
- C- Detailed Amounts Closed to the Revolving Fund

RESOLUTION \_\_\_\_\_

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

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

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

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

That the Special Improvement/Sidewalk Funds be closed to the SID Revolving Fund effective June 11, 2007:

PASSED AND APPROVED by the City Council, this 11<sup>th</sup> day of June 2007

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

**ATTACHMENT B**

SID 820 - Non-Pooled Series

SID 1313      Gorham Park Sub      Storm Drain/Alley Paving at Block 14 (4 Lots)

SID 856 - 1990 A Pooled Sidewalk Series

SID 9102	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9103	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9197	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9198	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9304	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9401	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9499	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk

SID 857 - 1991 Pooled Sidewalk Series

SID 9201	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9299	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk
SID 9406	Sidewalk Work	Miscellaneous Curb, Gutter & Sidewalk

**ATTACHMENT C**

**SID 820**      Street & Storm drain at 14th St. W. and Wyoming

PROJECT	ISSUE	ISSUE	ACCRUED	ACCTS	FUND	
NUMBER	DATE	AMOUNT	CASH	INTEREST	REC	BALANCE
1313	1990	<u>40,000.00</u>	<u>15,071.39</u>	<u>(35.23)</u>	<u>-</u>	<u>15,036.16</u>
TOTALS		40,000.00	15,071.39	(35.23)	-	15,036.16

**SID 856**      1990 A Pooled Sidewalk Series

PROJECT	ISSUE	ISSUE	ACCRUED	ACCTS	FUND	
NUMBER	DATE	AMOUNT	CASH	INTEREST	REC	BALANCE
901	1990	628.00	-	-	-	-
9102	1990	203,922.00	(4,923.71)	(6.23)	-	(4,929.94)
9103	1990	52,696.00	8,071.43	77.35	-	8,148.78
9197	1990	2,933.00	(245.34)	(0.08)	-	(245.42)
9198	1990	61,911.00	(63.73)	(5.26)	-	(68.99)
9304	1990	22,065.00	2,829.97	35.81	-	2,865.78
9401	1990	45,082.00	4,735.92	69.85	-	4,805.77
9499	1990	<u>3,763.00</u>	<u>387.29</u>	<u>5.60</u>	<u>-</u>	<u>392.89</u>
TOTALS		393,000.00	10,791.83	177.04	-	10,968.87

**SID 857**      1991 Pooled Sidewalk Series

PROJECT	ISSUE	ISSUE	ACCRUED	ACCTS	FUND	
NUMBER	DATE	AMOUNT	CASH	INTEREST	REC	BALANCE
910	1990	7,907.00	-	(0.02)	-	(0.02)
9201	1990	404,992.00	(14,053.63)	0.45		(14,053.18)
9299	1990	14,151.00	(1,631.66)	1.28	-	(1,630.38)
9406	1990	<u>52,950.00</u>	<u>(1,333.65)</u>	<u>11.70</u>	<u>-</u>	<u>(1,321.95)</u>
TOTALS		480,000.00	(17,018.94)	13.41	-	(17,005.53)
GRAND TOTAL			8,844.28	155.22	-	8,999.50



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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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

**DEPARTMENT:** Police Department

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

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

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

**FINANCIAL IMPACT:** The cost of leasing 6 vehicles will be \$25,200 (\$350 per vehicle per month) and the dollars have been budgeted in the drug forfeiture fund for FY 08.

**RECOMMENDATION**

Staff recommends Council approval of the attached agreement between Underriner Motors and the City of Billings to lease six (6) vehicles for the City contingent of the City County Special Investigations Unit (CCSIU) from July 1, 2007, to June 30, 2008, in the amount of \$25,200.

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

**ATTACHMENT**

A - Lease Agreement with Underriner Motors – 5 pages

# **AUTOMOBILE LEASE AGREEMENT**

This AGREEMENT made June 11, 2007, by and between **UNDERRINER MOTORS** with its principal place of business at 523 North 29th Street, Billings, Montana (the LESSOR), and **THE BILLINGS MONTANA POLICE DEPARTMENT**, P. O. Box 1554, Billings, MT 59103 (the LESSEE), for the lease of six (6) vehicles.

The terms of this agreement is for a period of 12 months from July 1, 2007 to June 30, 2008, subject to the terms and conditions set forth below:

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

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

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

4) **INSURANCE:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Upon default, the balance of the installments of rent, to the end of this lease or any existing extension of it, shall, without notice or demand by the LESSEE, at once become due and payable; and in addition thereto, the LESSEE hereby authorizes and empowers the LESSOR to enter its premises or any other place where the leased vehicle(s) may be found, forcibly if necessary, to take possession and carry away and remove such vehicle(s), with or without legal process and thereby terminate the LESSEE'S right to retention and use of such vehicle(s). In the event any legal proceedings shall be instituted by LESSOR against LESSEE to recover any sums due or to become due hereunder and/or for the repossession of the vehicle(s) leased hereunder, LESSEE shall pay to LESSOR reasonable attorneys' fees sand costs of repossession.

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

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

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

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

LESSEE:  
CITY OF BILLINGS

BY \_\_\_\_\_  
RON TUSSING, MAYOR

LESSOR:  
UNDERRINER MOTORS

BY \_\_\_\_\_  
BILL UNDERRINER  
ITS: OWNER

ATTEST BY:

\_\_\_\_\_  
CARI MARTIN, CITY CLERK  
APPROVED AS TO FORM:

\_\_\_\_\_  
BRENT BROOKS, CITY ATTORNEY

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# H

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Acceptance of Federal Aviation Administration Airport Improvement Program Grant 33

**DEPARTMENT:** Aviation and Transit

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

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**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 33 once it has been received from the FAA. Grant 33 contains this year's entitlement and discretionary funding that will be used to undertake engineering, planning, and construction projects at the Airport. As required by the FAA, the grant offer is based on the actual amounts awarded for construction and engineering for these projects. The City Council recently approved this year's projects, which include pavement replacement on Runway 7/25, drainage and pavement upgrades on taxiway A, and the removal of the decommissioned air traffic control tower.

**FINANCIAL IMPACT:** The total costs of the construction, engineering and planning services associated with this grant are \$3,638,785.00. The grant will fund 95% of this cost (\$3,456,845.75), and the City will be required to provide a 5% match (\$181,939.25). The source of the City's match is the Department's Capital fund.

**RECOMMENDATION**

Staff recommends that the City Council approve the acceptance of this grant and authorize the Mayor to execute the FAA AIP Grant 33.

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

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**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**SUBJECT:** Memorandum of Understanding for 2 Middle School Resource Officers  
**DEPARTMENT:** Police Department  
**PRESENTED BY:** Rich St. John, Chief of Police

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**PROBLEM/ISSUE STATEMENT:** Pursuant to City Council approval, the Billings Police Department and the Billings Public Schools have developed a School Resource Officer (SRO) program which places two officers in the middle schools. The attached Memorandum of Understanding (MOU) makes provisions for program objectives and guidelines, officer selection processes, financial consideration and effective date and provisions for termination of the agreement. The MOU is for a period of one year, from July 1, 2007, to June 30, 2008 and has been approved by the School Board at its May 21, 2007 meeting. The School Resource Officer Program is a collaborative effort by certified law enforcement officers, educators, students, parents, and the community to officer a liaison program in the schools in an effort to reduce crime, drug abuse, violence, and provide a safe school environment. City Council is being asked to approve this MOU and authorize the Mayor to sign.

**FINANCIAL IMPACT:** The total cost of the 2 officers in the SRO positions is \$126,826.03. The Billings Public Schools will provide a \$50,000 payment to the City of Billings to defray some of the salary and benefit costs of the 2 officers. The officers do report back to the Police Department during the summer months and help the department accomplish various tasks during those months.

**RECOMMENDATION**

Staff recommends that City Council approve the attached Memorandum of Understanding between the City of Billings and the Billings Public Schools effective July 1, 2007 to June 30, 2008.

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

**ATTACHMENT**

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

**SCHOOL RESOURCE OFFICER PROGRAM  
AT BILLINGS MIDDLE SCHOOLS**

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

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

The purpose of this document is to facilitate a clear understanding of roles, duties, and responsibilities. This Memorandum of Understanding (MOU) is being set forth on this \_\_\_\_\_ day of \_\_\_\_\_, 2007 with full recognition that the agreement and document must be a living document to allow for program evolution and provide for some City of Billings and Billings School District variances, needs, and future changes. It is recognized that the School Resource Officer Program has enjoyed an twelve (12) year history within the City of Billings, since a limited pilot project at Billings West High School was implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. This MOU is being set forth to provide universal clarification of expectations, to minimize confusion, and to provide for consistency between officers, schools, principals, and directors.

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

## **MISSION STATEMENT - BILLINGS POLICE DEPARTMENT**

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

## **MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM**

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

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

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

It should be recognized that School Resource Officers:

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

◆ are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department. As such, their primary responsibilities are to investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, to recover stolen property and bring perpetrators to justice;

◆ are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant;

◆ are expected to attend all training, meetings and appointments assigned by the Police Department. It is recognized that some of these will conflict with officer availability at the school during normal school hours. These conflicts will be minimized as much as possible but the potential exists that such requirements will take precedence over school presence. The officer shall strive to keep the school principal or his representative informed about his/her absences and/or activities as appropriate on a need to know basis;

◆ are governed and covered by the current Collective Labor Agreement between City of Billings and the Montana Public Employees Association-Billings Police Unit;

◆ are considered by the City of Billings as “non-exempt” employees covered by the Fair Labor Standards Act and subject to it and the Police Union Contract for compensation and pay; Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SRO's may also be required to work regular police duty assignments, at other times when school is not in session, when so directed by the Police Operations Commander;

◆ are not security guards provided to the school district by the Billings Police Department. They should not be viewed by school officials as a replacement for security, although it is recognized that police presence has a crime prevention impact. If security is needed, the school district is encouraged to employ its own or to contract with a private security provider;

◆ are police officers and not school teachers, school administrators, nor school counselors. The officers will assist teachers with classroom presentations on relative topics when requested and able. They will also work with families, individual students and other school staff members with counseling and guidance efforts when requested and appropriate. We, the undersigned, encourage team work, partnerships, cooperation and coordination between the officers, their supervisors and the school administrators and their staff, as well as with the surrounding neighborhood;

◆ should not be relied upon or scheduled to serve as bus stop monitors, hallway monitors, nor lunch room monitors. Although, time permitting, SROs should assist school officials

who are regularly assigned in these capacities since they provide excellent opportunities to achieve program objectives, including professional and friendly contact with youth, positive relationships and crime prevention.

- ◆ SROs, School Administration for the respective middle and/or high schools and the assigned Police Supervisor will meet at the beginning of each school year to determine the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly, in an effort to determine the effectiveness of the SRO program. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.

- ◆ are not intended to substitute for or relieve the building administrators of their primary responsibility for maintenance of discipline and good order in the school.

### **SELECTION AND FINANCIAL CONSIDERATION**

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

In return for services provided by the two officers, the Billings School District will pay to the City of Billings the sum of Fifty Thousand Dollars (\$50,000) by July 30, 2007

### **PROGRAM ASSESSMENT**

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

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

♦ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

Each officer's effectiveness in the program will be evaluated at the end of each school term. The Principal will provide input into the evaluation. This may include a recommendation to the Chief that the officer not be assigned to that school the following year. The Chief will seriously consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer is within the sole discretion of the Police Chief.

## **EFFECTIVE DATE**

This Memorandum of Understanding is effective July 1, 2007, and shall remain in effect through June 30, 2008 unless renewed by agreement of both parties or terminated as provided herein.

## **TERMINATION OF AGREEMENT**

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by School District #2, then the full balance of the Fifty Thousand Dollars (\$50,000) will be retained by the City of Billings in order to maintain the middle school SRO program. If the agreement is terminated by the City of Billings, then the pro-rated balance of the Fifty Thousand Dollars (\$50,000) will be refunded to School District #2. The pro-rated balance will be based on the total number of school days for the 2007/2008 school year and the number of school days remaining after the date of termination of the agreement.

## **NOTICES**

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

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

or to School District #2 at:

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

## **MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED**

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

Executed this \_\_\_\_ day of \_\_\_\_\_, 2007.

**SCHOOL DISTRICT #2**

Attest:

_____	By: _____
LEO HUDETZ	JACK COPPS
Clerk	Superintendent

**CITY OF BILLINGS**

Attest:

_____	By: _____
City Clerk	Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

061A.MOU with School District middle schools

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



J

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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

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**PROBLEM/ISSUE STATEMENT:** Pursuant to City Council approval, the Billings Police Department and the Billings Public Schools have developed a School Resource Officer (SRO) program which places one officer in each of the three public high schools. The attached Memorandum of Understanding (MOU) makes provisions for program objectives and guidelines, officer selection processes, financial consideration and effective date and provisions for termination of the agreement. The MOU is for a period of one year, from July 1, 2007 to June 30, 2008, and was approved by the School Board at its May 21, 2007, meeting. The School Resource Officer Program is a collaborative effort by certified law enforcement officers, educators, students, parents, and the community to offer a liaison program in the schools in an effort to reduce crime, drug abuse, violence, and provide a safe school environment. City Council is being asked to approve this MOU and authorize the Mayor to sign.

**FINANCIAL IMPACT** The total cost of the 3 officers in the SRO positions is \$189,407.56. The Billings Public Schools will provide a \$60,000 payment to the City of Billings to defray some of the salary and benefit costs. At one time, the City had a grant to help fund these positions, but the grant has ended and the officers are now funded by the public safety fund. The officers do report back to the Police Department during the summer months and help the department accomplish various tasks during those months.

**RECOMMENDATION**

Staff recommends that City Council approve the attached Memorandum of Understanding between the City of Billings and the Billings Public Schools effective July 1, 2007 to June 30, 2008.

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

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

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

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

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

The purpose of this document is to facilitate a clear understanding of roles, duties, and responsibilities. This Memorandum of Understanding (MOU) is being set forth on this \_\_\_\_\_ day of \_\_\_\_\_, 2007 with full recognition that the agreement and document must be a living document to allow for program evolution and provide for some City of Billings and Billings School District variances, needs, and future changes. It is recognized that the School Resource Officer Program has enjoyed an twelve (12) year history within the City of Billings, since a limited pilot project at Billings West High School was implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. This MOU is being set forth to provide universal clarification of expectations, to minimize confusion, and to provide for consistency between officers, schools, principals, and directors.

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

## **MISSION STATEMENT - BILLINGS POLICE DEPARTMENT**

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

## **MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM**

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

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

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

It should be recognized that School Resource Officers:

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

◆ are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department. As such, their primary responsibilities are to investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, to recover stolen property and bring perpetrators to justice;

◆ are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant;

◆ are expected to attend all training, meetings and appointments assigned by the Police Department. It is recognized that some of these will conflict with officer availability at the school during normal school hours. These conflicts will be minimized as much as possible but the potential exists that such requirements will take precedence over school presence. The officer shall strive to keep the school principal or his representative informed about his/her absences and/or activities as appropriate on a need to know basis;

◆ are governed and covered by the current Collective Labor Agreement between City of Billings and the Montana Public Employees Association-Billings Police Unit;

◆ are considered by the City of Billings as “non-exempt” employees covered by the Fair Labor Standards Act and subject to it and the Police Union Contract for compensation and pay; Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SRO's may also be required to work regular police duty assignments, at other times when school is not in session, when so directed by the Police Operations Commander;

◆ are not security guards provided to the school district by the Billings Police Department. They should not be viewed by school officials as a replacement for security, although it is recognized that police presence has a crime prevention impact. If security is needed, the school district is encouraged to employ its own or to contract with a private security provider;

◆ are police officers and not school teachers, school administrators, nor school counselors. The officers will assist teachers with classroom presentations on relative topics when requested and able. They will also work with families, individual students and other school staff members with counseling and guidance efforts when requested and appropriate. We, the undersigned, encourage team work, partnerships, cooperation and coordination between the officers, their supervisors and the school administrators and their staff, as well as with the surrounding neighborhood;

◆ should not be relied upon or scheduled to serve as bus stop monitors, hallway monitors, nor lunch room monitors. Although, time permitting, SROs should assist school officials

who are regularly assigned in these capacities since they provide excellent opportunities to achieve program objectives, including professional and friendly contact with youth, positive relationships and crime prevention.

- ◆ SROs, School Administration for the respective middle and/or high schools and the assigned Police Supervisor will meet at the beginning of each school year to determine the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly, in an effort to determine the effectiveness of the SRO program. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.

- ◆ are not intended to substitute for or relieve the building administrators of their primary responsibility for maintenance of discipline and good order in the school.

## **SELECTION AND FINANCIAL CONSIDERATION**

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

In return for services provided by the three officers, the Billings School District will pay to the City of Billings the sum of Sixty Thousand Dollars (\$60,000) by July 30, 2007.

## **PROGRAM ASSESSMENT**

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

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

♦ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

Each officer's effectiveness in the program will be evaluated at the end of each school term. The Principal will provide input into the evaluation. This may include a recommendation to the Chief that the officer not be assigned to that school the following year. The Chief will seriously consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer is within the sole discretion of the Police Chief.

## **EFFECTIVE DATE**

This Memorandum of Understanding is effective July 1, 2007, and shall remain in effect through June 30, 2008, unless renewed by agreement of both parties or terminated as provided herein.

## **TERMINATION OF AGREEMENT**

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by School District #2, then the full balance of the Sixty Thousand Dollars (\$60,000) will be retained by the City of Billings in order to maintain the high school SRO program. If the agreement is terminated by the City of Billings, then the pro-rated balance of the Sixty Thousand Dollars (\$60,000) will be refunded to School District #2. The pro-rated balance will be based on the total number of school days for the 2007/2008 school year and the number of school days remaining after the date of termination of the agreement.

## **NOTICES**

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

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

or to School District #2 at:

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

## **MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED**

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

Executed this \_\_\_\_ day of \_\_\_\_\_, 2007.

**SCHOOL DISTRICT #2**

Attest:

_____	By: _____
Leo Hudetz	JACK COPPS
Clerk	Superintendent

**CITY OF BILLINGS**

Attest:

_____	By: _____
City Clerk	Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

061.MOU with School District.High Schools

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K

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Acceptance of Easement on Lot 4, Flanagan Subdivision – Rimrock Credit Union, Owners

**DEPARTMENT:** Public Works Department – Engineering Division

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

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**PROBLEM/ISSUE STATEMENT:** With construction of the Rimrock Credit Union located at 952 Central Avenue, the design and proposed site development shows a curvilinear sidewalk to be constructed on private property and away from the street frontage along Central Avenue. The property owner as part of the site improvements will complete the construction of the new sidewalk. The owners of the Rimrock Credit Union have agreed to grant the City of Billings a sidewalk easement for the construction of the new curvilinear sidewalk with the development of the new facility.

**FINANCIAL IMPACT:** There is no financial impact with acceptance of this sidewalk easement.

**RECOMMENDATION**

Staff recommends that Council accept the easement from Rimrock Credit Union, owner of the property at 952 Central Avenue on a portion of Lot 4, Flanagan Subdivision.

Approved By:

City Administrator \_\_\_\_\_

City Attorney \_\_\_\_\_

**ATTACHMENT**

- A. Sidewalk Easement
- B. Site Plan



RETURN TO  
City Clerk  
City of Billings  
P.O. Box 1178  
Billings, MT 59103

### BOULEVARD SIDEWALK EASEMENT

THIS INDENTURE, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the following:

Rimrock Credit Union  
952 Central Avenue  
Billings, Montana 59102,  
hereinafter referred to as GRANTOR

and

CITY OF BILLINGS, a Municipal Corporation  
City Hall – 210 North 27th Street  
PO Box 1178  
Billings, Montana 59103-1178,  
hereinafter referred to as GRANTEE

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant and convey unto the GRANTEE, a perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve sidewalks and accessibility ramps and necessary fixtures and appurtenances over, across and through the real property described as follows:

A tract 10.0 feet in width being situated in the NE1/4 of Section 8, T.1S., R.26E., P.M.M., City of Billings, Yellowstone County, Montana, the centerline of said tract (with the sidelines being lengthened or shortened as necessary to intersect property lines) being more particularly described as follows:

Beginning at a point on the west right-of-way line of Pricket Lane, said point being situated 2.50 feet from the northeast corner of Lot 4 in Flanagan Subdivision; thence N89°55'16"W a distance of 2.90 feet; thence along a curve to the left with a central angle of 19°53'39" and a radius of 56.53 feet a distance of 19.53 feet; thence along a reversing curve to the right with a central angle of 35°32'58" and a radius of 61.76 feet a distance of 38.32 feet; thence along a reversing curve to the left with a central angle of 31°45'40" and a radius of 100.99 feet a distance of 55.98 feet; thence along a reversing curve to the right with a central angle of 16°06'21" and a radius of 131.77 feet a distance of 37.04 feet; thence N 89°55'16" W a distance of 39.26 feet; thence along a curve to the right with a central angle of 18°25'04" and a radius of 64.52 feet a distance of 20.74 feet; thence along a reversing curve to the left with a central angle of 25°08'54" and a radius of 96.14 feet a distance of 42.20 feet; thence along a reversing curve to the right with a central angle of 31°35'37" and a radius of 59.34 feet a distance of 32.72 feet to a point on the south right-of-way line of Central Avenue and the point of terminus, said point being situated 15.57 feet from the northwest corner of Lot 4 in Flanagan Subdivision; said tract containing an area of 2,800 square feet, more or less.

As shown and described on attached EXHIBIT A as "BOULEVARD SIDEWALK EASEMENT".

TO HAVE AND TO HOLD unto GRANTEE and to its successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR warrants that they have good right to convey, free and clear of all encumbrances, the above-described interests in the real estate described and have hereunto set their hand.

Rimrock Credit Union

BY Scott J. Forstner President

PRINTED  
NAME: Scott J. Forstner

ITS: \_\_\_\_\_

STATE OF MONTANA )  
County of Yellowstone )

On this 15 day of May, 2007, before me, a Notary Public in and for the State of Montana, personally appeared Scott J. Forstner, known to me to be the President of Rimrock Credit Union whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Paula Raddock  
Notary Public in and for the State of Montana  
Printed Name: Paula Raddock  
Residing at Billings, MT  
My commission expires 11.25.2008

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

\_\_\_\_\_  
Mayor, City of Billings

ATTEST:

\_\_\_\_\_  
City Clerk

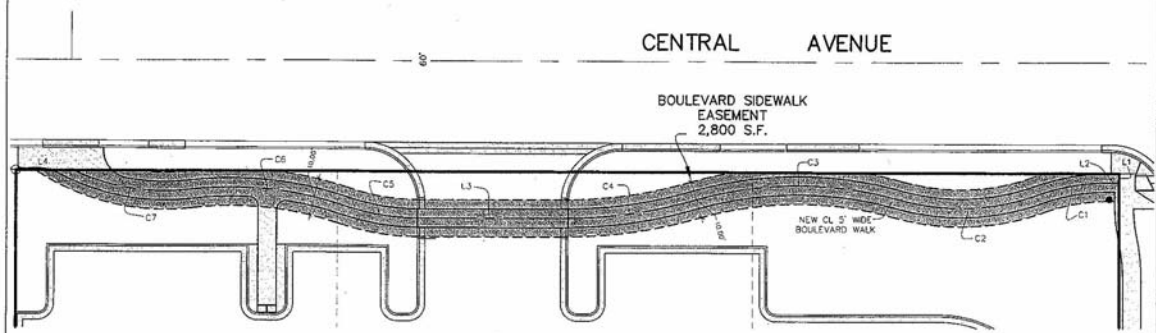
STATE OF MONTANA )  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared RON TUSING and \_\_\_\_\_, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

# EXHIBIT "B"

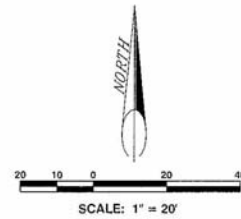
## BOULEVARD SIDEWALK EASEMENT



LINE TABLE		
LINE	LENGTH	BEARING
L1 - TR	2.50'	N00°02'24"E
L2	2.00'	N88°55'15"W
L3	39.26'	N88°55'15"W
L4 - TR	15.57'	N88°55'15"W

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	18.63'	56.53'	19°53'38"
C2	38.32'	81.25'	30°32'58"
C3	55.98'	105.03'	31°45'40"
C4	33.04'	131.77'	18°06'21"
C5	20.74'	64.52'	18°25'04"
C6	42.20'	95.14'	25°00'54"
C7	32.72'	56.34'	31°35'37"

PREPARED FOR: RIMROCK CREDIT UNION  
PREPARED BY: ENGINEERING, INC.



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## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 11, 2007

**TITLE:** W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement, Warranty Deed and Right-of-Way Easement for Parcel #21, Portions of Tracts 1 and 2, of Third Amended Plat of Certificate of Survey No. 239 (Siewert Acres) with Jerry T. Klundt and Karen L. Klundt

**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 #21 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 perpetual right-of-way easement, the right-of-way land acquisition, any appurtenant features, and the construction permit at a value of \$17,912.00. A copy of the right-of-way agreement; warranty deed; easement; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk. A perpetual easement for right-of-way purposes has the same value as a fee simple right-of-way acquisition. A combination of acquisition and easement were negotiated for this parcel because the property owner did not want the new property boundary to be within approximately eight (8) feet from an existing mobile home, as would have been the case in a solely land acquisition deal. A copy of the right-of-way agreement; warranty deed; right-of-way easement; 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 \$17,912.00. The cost of this acquisition and easement is equal to the sum of the appraised value of the perpetual right-of-way

easement, the right-of-way land acquisition, 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, Warranty Deed, and Right-of-Way Easement for right-of-way and easement acquisition for Parcel #21, Portions of Tracts 1 and 2, of Third Amended Plat of Certificate of Survey No. 239 (Siewert Acres) with Jerry T. Klundt and Karen L. Klundt in the amount of \$17,912.00, and authorize the Mayor to execute these documents.

### **ATTACHMENT**

A. Draft Right-of-Way Agreement (2 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 ( <b>this memo</b> )
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition ( <b>this memo</b> )
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, Warranty Deed, and Right-of-Way Easement for right-of-way and easement acquisition for Parcel #21, Portions of Tracts 1 and 2, of Third Amended Plat of Certificate of Survey No. 239 (Siewert Acres) with Jerry T. Klundt and Karen L. Klundt in the amount of \$17,912.00, and authorize the Mayor to execute these documents.

## ATTACHMENT

A. Draft Right-of-Way Agreement (2 pages)

## CITY OF BILLINGS

(hereinafter referred to as City)

### RIGHT-OF-WAY AGREEMENT

Lake Elmo Road Hilltop Road to Wicks Lane  
DESIGNATION

Work Order: 04-33  
Project No. 05153

Yellowstone  
COUNTY

Parcel No.	Parcel Description	Section	Township	Range
21	Tracts 1 & 2, Siewert Acres, 3rd Amended COS No. 239 (Siewert Acres)	22	1N	26E

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

JERRY T. KLUNDT and KAREN L. KLUNDT  
1032 LAKE ELMO DRIVE  
BILLINGS, MT 59105  
252-3341

- 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 an easement and other documents required by the City for all real property agreed to be conveyed by this agreement.
- COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

3,693 square feet by easement	\$10,156.00
4,924 square feet by deed	\$ 862.00
Improvements (Trees, fencing, gravel parking, sod)	\$ 3,687.00
- OTHER COMPENSATION:

1,231 square feet Temporary Construction Permit	\$ 339.00
---	-----------
- TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$17,912.00.
- IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$17,912.00, to be made payable to JERRY T. KLUNDT and KAREN L. KLUNDT and mailed to 1032 LAKE ELMO DRIVE, BILLINGS, MT 59105
- 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.
- The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Easement, and made for the period of the street improvements construction project plus the one-year warranty period.
- 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
- 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).

Signature: JERRY T. KLUNDT \_\_\_\_\_ (Date) \_\_\_\_\_ Tax ID No. \_\_\_\_\_

Signature: KAREN L. KLUNDT \_\_\_\_\_ (Date) \_\_\_\_\_ Tax ID No. \_\_\_\_\_

Signature: \_\_\_\_\_ (Date) \_\_\_\_\_ Tax ID No. \_\_\_\_\_

RECOMMENDED FOR APPROVAL:

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

N/A

Ronald E. Olson, Olson Land Services \_\_\_\_\_ (Date) Mayor, City of Billings \_\_\_\_\_ (Date)

ATTEST:

City of Billings, Public Works Department \_\_\_\_\_ (Date) City Clerk \_\_\_\_\_ (Date)

LER-Parcel 21-Klunt

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

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

#### CITY OF BILLINGS, MONTANA

#### Monday, June 11, 2007

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**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 #45, a Portion of Tract 1-A, Amended Tract 1 of Certificate of Survey 332 with Brad C. Hudson and Darlene A. Hudson

**DEPARTMENT:** Public Works

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

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**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 #45 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 \$10,150.00. 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 \$10,150.00. 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 #45, a Portion of Tract 1-A, Amended Tract 1 of Certificate of Survey 332 with Brad C. Hudson and Darlene A. Hudson in the amount of \$10,150.00, 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 ( <b>this memo</b> )
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition ( <b>this memo</b> )
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 #45, a Portion of Tract 1-A, Amended Tract 1 of Certificate of Survey 332 with Brad C. Hudson and Darlene A. Hudson in the amount of \$10,150.00, 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

Lake Elmo Road Hilltop Road to Wicks Lane  
DESIGNATION

Work Order: 04-33  
Project No. 05153

Yellowstone  
COUNTY

Parcel No.	Parcel Description	Section	Township	Range
45	Tract 1-A, Amended Tract 1, COS 332	22	1N	26E

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

BRAD C. HUDSON AND DARLENE A. HUDSON  
1247 LAKE ELMO DRIVE  
BILLINGS, MT. 59105  
861-2156

- 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.
- COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

1,200 square feet by deed	\$5,100.00
Improvements (Fence, asphalt, concrete, trees, sod)	\$4,460.00
1,600 square feet by deed (perpetual easement area)	\$340.00
- OTHER COMPENSATION:

536 square feet Temporary Construction Permit	\$ 228.00
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- TOTAL COMPENSATION (rounded)(includes all damages to the remainder): \$10,150.00.
- IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$10,150.00, to be made payable to BRAD C. HUDSON AND DARLENE A. HUDSON and mailed to 1247 LAKE ELMO DRIVE, BILLINGS, MT. 59105
- 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.
- 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.
- 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
- 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 affected by project.

\* *Repair or Relocate Private Manhole at no cost to Owner MB*

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). We certify that failing to comply may subject us to civil and criminal penalties. We certify that we have provided our correct taxpayer identification number(s).

Brad C. Hudson 5/11/07  
Signature: BRAD C. HUDSON (Date)

Darlene A. Hudson 5/11/07  
Signature: DARLENE A. HUDSON (Date)

Signature: \_\_\_\_\_ (Date)

Tax ID No. \_\_\_\_\_

RECOMMENDED FOR APPROVAL:

N/A  
Ronald E. Olson, Olson Land Services (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

\_\_\_\_\_  
Mayor, City of Billings (Date)

ATTEST:

Michael B. Bailey 5/22/07  
City of Billings, Public Works Department (Date)

\_\_\_\_\_  
City Clerk (Date)

LER-045.200 Hudson

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

Project No. W.O. 04-33 Parcel No. 45 County of YELLOWSTONE  
Designation LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

### WARRANTY DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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:

BRAD C. HUDSON AND DARLENE A. HUDSON  
1247 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. 45 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-A, of Amended Tract 1, Certificate of Survey No. 332, on file under Document No. 3017007, situated in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 22, Township 1 North, Range 26 East, P.M.M., Yellowstone County, Montana, as shown by the shaded areas on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 2,800 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 Exhibit A, containing an area of 536 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. 45

Designation : LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

Brad C Hudson 5/11/07 Darlene A Hudson 5/11/07

State of Montana )

County of Yellowstone )

This instrument was acknowledged before me on 11 May, 2007  
(date)

by Brad C. Hudson, Darlene A. Hudson  
(names)



Shyla Marie Henry  
Notary Signature Line

Shyla Marie Henry  
Notary Printed Name

Notary Public for State of Montana

Residing at: Billings

My Commission Expires: April 4, 2011

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

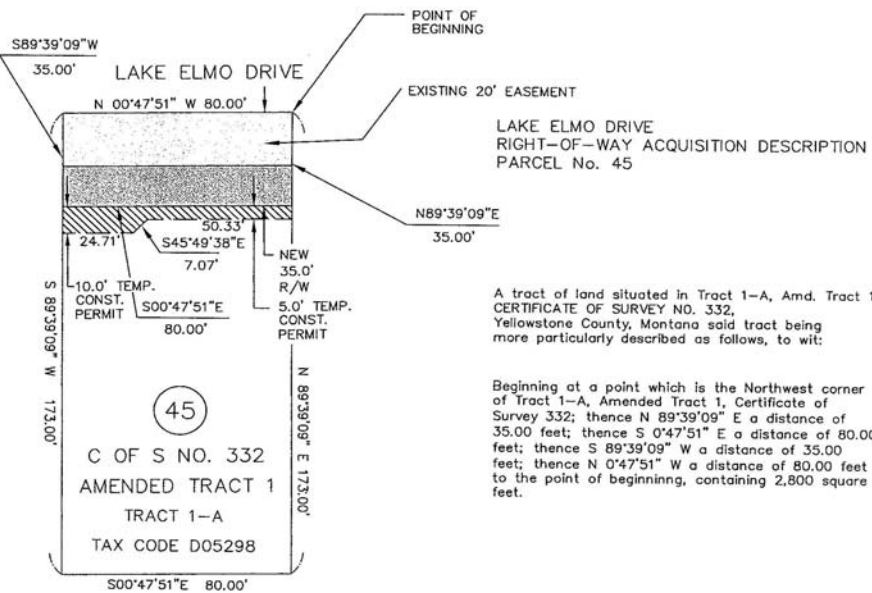
STATE OF MONTANA )  
:ss  
County of Yellowstone )

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 \_\_\_\_\_

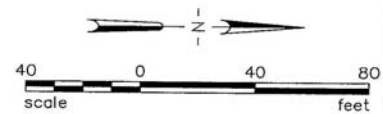
\_\_\_\_\_  
Print Name

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



A tract of land situated in Tract 1-A, Amd. Tract 1, Certificate of Survey No. 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-A, Amended Tract 1, Certificate of Survey 332; thence N 89°39'09" E a distance of 35.00 feet; thence S 0°47'51" E a distance of 80.00 feet; thence S 89°39'09" W a distance of 35.00 feet; thence N 0°47'51" W a distance of 80.00 feet to the point of beginning, containing 2,800 square feet.



AREA OF EXISTING EASEMENT: 1,600 S.F.  
AREA TO BE ACQUIRED: 2,800 S.F.  
AREA OF TEMPORARY CONSTRUCTION PERMIT: 536 S.F.

## LEGEND

- RIGHT-OF-WAY ACQUISITION
- CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA  
RIGHT-OF-WAY EXHIBIT

CITY 04-33 PARCEL 45

THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA  
RIGHT-OF-WAY PLAN.

UPDATED: 5/13/07 NB PARCEL 45.DWG

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

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

#### CITY OF BILLINGS, MONTANA

#### Monday, June 11, 2007

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**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 #52, a Portion of Lot 22, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel

**DEPARTMENT:** Public Works

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

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**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 #52 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 \$8,000.00. 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 \$8,000.00. 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 #52, a Portion of Lot 22, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel in the amount of \$8,000.00, 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 ( <b>this memo</b> )
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition ( <b>this memo</b> )
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 #52, a Portion of Lot 22, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel in the amount of \$8,000.00, 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**

Lake Elmo Road Hilltop Road to Wicks Lane  
DESIGNATION

Work Order: 04-33  
Project No. 05153

Yellowstone  
COUNTY

Parcel No.	Parcel Description	Section	Township	Range
52	Lot 22, Block 2 of Broadmoor Subdivision	22	1N	26E

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

TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL  
1349 LAKE ELMO DRIVE  
BILLINGS, MT. 59105  
252-2040

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.)

900 square feet by deed	\$5,850.00
Improvements (Fence, trees, sod)	\$1,919.00
3. OTHER COMPENSATION:

300 square feet Temporary Construction Permit	\$ 195.00
---	-----------
4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$8,000.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$8,000.00, to be made payable to TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL and mailed to 1349 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.
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.

R/W Project: Lake Elmo Road Hilltop Road to Wicks Lane

Parcel No.: 52

(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).

Shafiq A. Khaleel 4/21/07  
Signature: SHAFIQ A. KHALEEL (Date)

Tasneem F. Khaleel 4/21/07  
Signature: TASNEEM F. KHALEEL (Date)

Signature: \_\_\_\_\_ (Date)

Tax ID No. \_\_\_\_\_

RECOMMENDED FOR APPROVAL:

Ronald E. Olson 4-21-07  
Ronald E. Olson, Olson Land Services (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

\_\_\_\_\_  
Mayor, City of Billings (Date)

ATTEST:

Nicholas F. Bailey 5/15/07  
City of Billings, Public Works Department (Date)

\_\_\_\_\_  
City Clerk (Date)

LER-052.200 Khaleel

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

Project No. W.O. 04-33 Parcel No. 52 County of YELLOWSTONE  
Designation LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

### WARRANTY DEED

THIS INDENTURE, made this 21st day of April, 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:

TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL  
1349 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. 52 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 22, Block 2 of Broadmoor Subdivision, in the City of Billings, 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 900 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 300 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. 52

Designation : LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

Shafiq A Khaleel

Tasneem F. Khaleel

State of Montana )

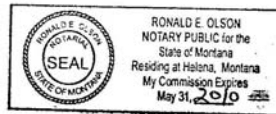
County of Yellowstone )

This instrument was acknowledged before me on April 21, 2007

(date)

by Shafiq A. Khaleel and Tasneem F. Khaleel

(names)



Ronald E. Olson

Notary Signature Line

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 )

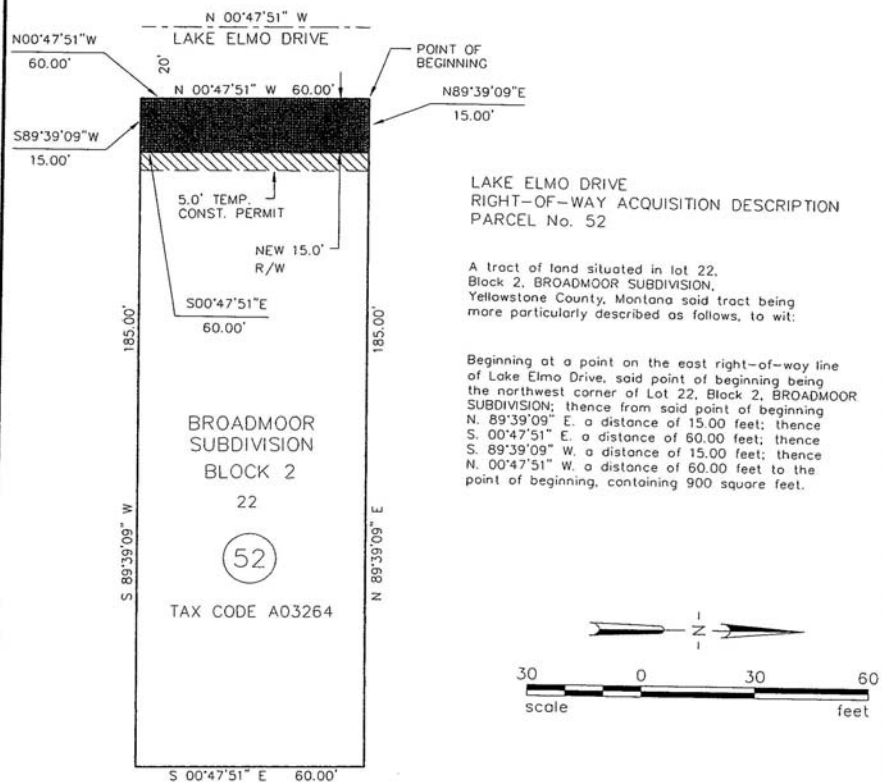
On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_ as Mayor and \_\_\_\_\_ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. 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 LOT 22, BLOCK 2, BROADMOOR SUBDIVISION, YELLOWSTONE COUNTY, MONTANA



**ENGINEERING, INC.**  
Consulting Engineers and Land Surveyors

1300 North Tenth Street  
Billings, Montana 59102  
Phone (406) 456-5255  
www.eiginc.com

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

AGENDA ITEM:



## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, June 11, 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 #54, a Portion of Lot 24, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel

**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 #54 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 \$9,050.00. 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 \$9,050.00. 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 #54, a Portion of Lot 24, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel in the amount of \$9,050.00, 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 ( <b>this memo</b> )
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition ( <b>this memo</b> )
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 #54, a Portion of Lot 24, Block 2 of Broadmoor Subdivision with Tasneem F. Khaleel and Shafiq A. Khaleel in the amount of \$9,050.00, 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**

Lake Elmo Road Hilltop Road to Wicks Lane  
DESIGNATION

Work Order: 04-33  
Project No. 05153

Yellowstone  
COUNTY

Parcel No.	Parcel Description	Section	Township	Range
54	Lot 24, Block 2 of Broadmoor Subdivision	22	1N	26E

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

TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL  
1349 LAKE ELMO DRIVE  
BILLINGS, MT. 59105  
252-2040

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.)

885 square feet by deed	\$5,753.00
Improvements (Asphalt, trees, sod)	\$2,883.00
3. OTHER COMPENSATION:

590 square feet Temporary Construction Permit	\$ 384.00
---	-----------
4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$9,050.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$9,050.00, to be made payable to TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL and mailed to 1349 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.
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.

R/W Project: Lake Elmo Road Hilltop Road to Wicks Lane

Parcel No.: 54

(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 correct taxpayer identification number(s).

Billings  
our  
2

Shafiq A. Khaleel 4/21/07  
Signature: SHAFIQ A. KHALEEL (Date)

Tasneem F. Khaleel 4/21/07  
Signature: TASNEEM F. KHALEEL (Date) Tax ID No.

Signature: (Date) Tax ID No.

RECOMMENDED FOR APPROVAL:

Ronald E. Olson 4-21-07  
Ronald E. Olson, Olson Land Services (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

\_\_\_\_\_  
Mayor, City of Billings (Date)

ATTEST:

Richard D. Bailey 5/15/07  
City of Billings, Public Works Department (Date)

\_\_\_\_\_  
City Clerk (Date)

LER-054.200 Khaleel

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

Project No. W.O. 04-33 Parcel No. 54 County of YELLOWSTONE  
Designation LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

### WARRANTY DEED

THIS INDENTURE, made this 21st day of April, 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:

TASNEEM F. KHALEEL AND SHAFIQ A. KHALEEL  
1349 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. 54 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 24, Block 2 of Broadmoor Subdivision, in the City of Billings, 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 885 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 590 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.

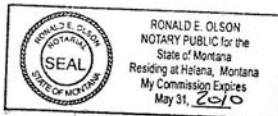
TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the CITY OF BILLINGS, and to its successors and assigns forever. IN WITNESSTH WHEREOF, the undersigned have executed these premises the day and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

Project No. : W.O. 04-33

Parcel No. 54

Designation : LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

Shafiq A Khaleel  
Tasneem F. Khaleel  
State of MONTANA )  
County of Yellowstone )  
This instrument was acknowledged before me on April 21, 2007  
(date)  
by Shafiq A. Khaleel and Tasneem F. Khaleel  
(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

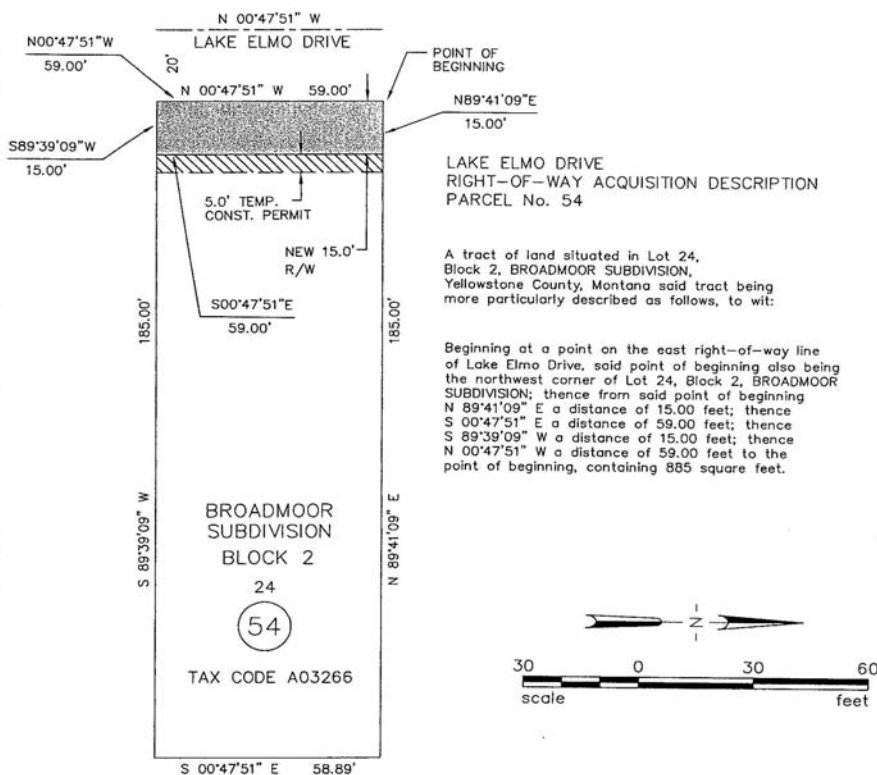
STATE OF MONTANA )  
:ss  
County of Yellowstone )

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 LOT 24, BLOCK 2, BROADMOOR SUBDIVISION, YELLOWSTONE COUNTY, MONTANA



AREA TO BE ACQUIRED: 885 S.F.  
AREA OF TEMPORARY CONSTRUCTION  
PERMIT: 295 S.F.

LEGEND

RIGHT-OF-WAY ACQUISITION

CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA  
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 54  
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA  
RIGHT-OF-WAY PLAN.

UPDATED: 3/5/97 BY PARCEL 54/50

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

# M

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

#### CITY OF BILLINGS, MONTANA

#### Monday, June 11, 2007

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TITLE: Subordination of Rental Rehabilitation Loan

DEPARTMENT: Planning and Community Services

PRESENTED BY: Brenda Beckett, Community Services Manager

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**PROBLEM/ISSUE STATEMENT:** Diane Miller, dba Bad Osprey, Inc, a landlord who participated in the City of Billings Rental Rehabilitation Program has requested that the City of Billings subordinate the zero percent deferred loan given to her, in order to refinance and consolidate her first mortgage loans on her rental properties. This is the second time in a year, the City has been requested to subordinate a Rental Rehab project loan.

**ALTERNATIVES ANALYZED:** (1) To approve the loan, keeping the housing units affordable. (2) To deny the subordination request requiring Bad Osprey, Inc to pay back the funds loaned to her and lose 8 affordable rental units in the downtown area.

**FINANCIAL IMPACT:** CDBG funds were provided to Bad Osprey for a rental property located at 2520 2<sup>nd</sup> Ave. North during 2005 for assistance with minor repairs. The amount loaned was \$26,855.85 and is zero percent interest and is typically held in second position behind the mortgage. This loan is deferred for an initial 5 year period, with an additional 5 years provided the recipient complies with rent and income restrictions imposed by program guidelines. Ms Miller is applying for a loan consolidation which will consolidate her first and second mortgage into one loan. She is not receiving any cash back. The sole purpose of the loan is to allow the borrower to obtain a loan at a lower interest rate lowering the monthly payment for her mortgage. Staff has reviewed the market value of the property and the preliminary HUD-1 settlement statement and has determined that subordinating the loan to a new consolidated mortgage loan and remaining in second position will not jeopardize the City's investments or create greater risk.

**RECOMMENDATION**

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

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

**ATTACHMENT(S)**

A.        Subordination Agreements



# SUBORDINATION AGREEMENT

Comes Now, The City of Billings, a Municipal Corporation, organized under the laws of the State of Montana, represents that it is the secured party under the provisions of a certain Trust Indenture dated May 28, 2004 executed by Bad Osprey, Inc. and the City Attorney, Brent Brooks, as Trustee, recorded October 28, 2004 under Document 3309754 in the records of the Clerk and Recorder for Yellowstone County, Montana.

DO HEREBY SUBORDINATE the lien of said Trust Indenture to the lien and obligation of a Trust Indenture wherein Western Security Bank is named as Beneficiary, Bad Osprey, Inc. is Grantor, and Robert Edd Lee is named as Trustee, dated \_\_\_\_\_, recorded in book \_\_\_\_\_, page \_\_\_\_\_, under document number \_\_\_\_\_, Yellowstone County Montana.

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

***Lot 13 of Block 90 of the Billings Original Town, to the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, Montana.***

IN WITNESS WHEREOF, this instrument has been executed this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

CITY OF BILLINGS

By: \_\_\_\_\_, Mayor

ATTEST: \_\_\_\_\_, City Clerk

## ACKNOWLEDGEMENT

STATE OF MONTANA )  
 : ss.  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, a Notary Public for the State of Montana, personally appeared RON TUSSING and CARI MARTIN, known to be to be the Mayor and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

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

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Yellowstone Health Partnership Fun Run/Walk Street Closure  
**DEPARTMENT:** Parks, Recreation and Public Lands  
**PRESENTED BY:** Mike Whitaker, Parks, Recreation and Public Lands Director

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**PROBLEM/ISSUE STATEMENT:**

The Yellowstone Health Partnership requests temporary street closures as outlined in the attached event route map on Saturday, June 23, 2007, from 8:00 am to 10:00 am for the Fun Run/Walk. Course map attached to brochure.

Recommended conditions of approval include that the Yellowstone Rimrunners:

1. Have no alcohol consumption in the public right of way
2. Clean 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 and install adequate traffic barricades and signs directing motorists around closure
5. Provide a certificate of insurance naming the City of Billings as additional insured

**ALTERNATIVES ANALYZED:**

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

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

**RECOMMENDATION**

Staff recommends that Council approval the temporary closure of the streets named above.

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

**ATTACHMENTS**

- A. Letter from Yellowstone Health Partnership (1 page)
- B. Right of Way Special Activity Permit (2 pages)
- C. Brochure Describing Event & Course Map (2 pages)
- D. Certificate of insurance (1 pages)



Phone: (406) 651-6510 • Fax: (406) 247-3202  
123 S. 27th Street • P.O. Box 1562 • Billings, MT 59103

May 21, 2007

City of Billings  
Director of Parks, Recreation and Public Lands  
390 North 23<sup>rd</sup> Street  
Billings, MT 59101

Dear Director:

The Montana Family Medicine Residency (MFMR), a program of the Yellowstone City County Health Department will be holding a 5K Fun Run/Walk event on June 23, 2007. All proceeds from the Fun Run/Walk will benefit MFMR. MFMR provides education and experience to prepare graduates to confidently practice medicine in rural communities and to provide health care for underserved populations in Montana. The event will start at 8:00am at the Yellowstone City-County Health Department and will end at South Park. Please see map included in brochure for route.

Sincerely,

Kim Kaiser, Executive Director  
Yellowstone Health Partnership  
123 South 27<sup>th</sup> Street  
Billings, MT 59101  
406-651-6510  
Kimk@ycchd.org



**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 Kim Kaiser DATE 5/21/07

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: \_\_\_\_\_

<b>COPIES TO:</b> CITY ADMINISTRATOR ASSISTANT CITY ADMINISTRATOR DEPUTY CITY ADMINISTRATOR POLICE CHIEF FIRE CHIEF FIRE MARSHALL MET MANAGER STREET/TRAFFIC SUPERINTENDANT TRAFFIC ENGINEER PRPL DIRECTOR PARKING SUPERVISOR
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## Montana Family Medicine Residency Program (MFMR)

### MISSION STATEMENT

The Montana Family Medicine Residency provides the education and experience to prepare graduates to confidently practice medicine in rural communities and to provide health care for underserved populations in Montana.

### THE PROGRAM

The program was established in 1995 to meet the need of a shortage of family physicians in Montana. We were the 49th state to have a family medicine residency program. Over 65% of our graduates practice in state, many caring for previously underserved Montanans. Our educational mission incorporates the value of providing comprehensive care for all members of our community.

Our physicians and providers offer access to high quality and comprehensive health care to patients through our primary care practice at many sites including the Deering Community Health Center, Healthcare for the Homeless clinics, both local hospitals, and regional nursing homes. Our mission to service focuses on providing access to medical care for all.

The Sports Medicine Fellowship, in its fourth year, provides additional education for family physicians to provide care to student and adult athletes, as well as to promote healthy lifestyle and exercise habits in people to prevent and treat chronic diseases.

Proceeds from the Fun Run/Walk provide support for the Sports Medicine Fellowship.

## THANK YOU TO OUR SPONSORS



**Montana Family  
Medicine Residency**

**5K**

**Fun Run/Walk**

**Saturday  
June 23, 2007**

**Join the FUN!!**

Montana Family Medicine Residency is a Program of:



ATTACHMENT C

MFMR Annual Fun Run  
P.O. Box 1562  
Billings, MT 59103

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Birth Date: \_\_\_\_\_

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

e-mail \_\_\_\_\_

Free water bottle to the first 100 registered participants!!

**Free water bottle to the first 100 registered participants!**

<p><b>ENTRY FEE</b> (nonrefundable)</p> <ul style="list-style-type: none"> <li>\$15 Adults</li> <li>\$10 Youth (18 years and under)</li> <li>\$15 Sponsor a participant</li> </ul> <p>I would like to donate an additional amount for the MFMR program (Optional)</p>	<p><b>TOTAL:</b></p>
---	----------------------

<p><u>Mail Entry Form and payment to</u></p> <p>Montana Family Medicine Residency PO Box 1562 Billings, MT 59103 Phone: 247-3306</p>	<p>Make checks payable to: <b>MFMR</b></p>
--	--

**Waiver:** I know that running a race is a potentially hazardous activity. I should not enter and run unless I am medically able and properly trained. I understand all risks associated with running in the event, including but not limited to falls, contact with other participant, the effects of the weather, including heat and humidity, traffic and conditions of the road. All such risks being known and appreciated by me. Having read this waiver and knowing these facts, for myself, and anyone entitled to act on my behalf, waive and release the Montano Family Medicine, Inc., and all the sponsor and volunteers, their representatives and successors from all claims, or liabilities of any kind arising out of my participation in this event.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Required for all participants. Parent or guardian must sign for participants under 18 years old.

**5K Fun Run/Walk**  
**Saturday, June 23, 2007**

## Race Day Schedule

Saturday, June 23, 2007  
Registration: 7:30 am -8:00 am  
Run/Walk start: 8:00 am

**Refreshments, Awards & Prizes**  
following the run/walk at South Park

## Entry Fee

**Adult entry fee - \$15, Youth under 18 - \$10**

## Packet Pick up

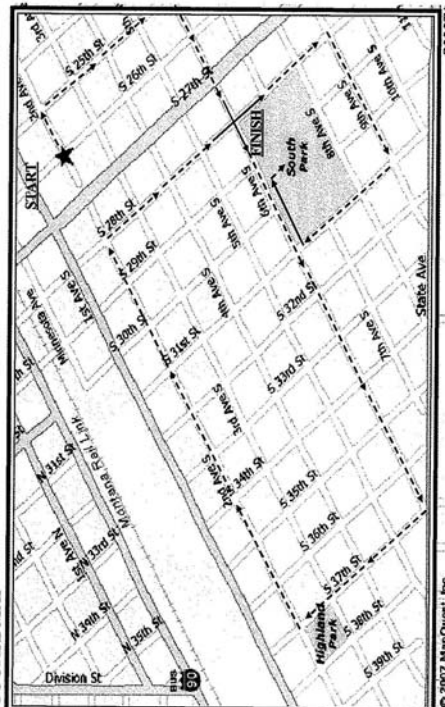
Montana Family Medicine Residency  
123 South 27th Street  
2nd floor - administrative entrance (north of  
Deering Clinic entrance)  
Packets available after June 18th, 8am - 5pm  
Day of event pick up between 7:30am - 8:00am

## Sponsor a Participant

**Unable to participate? You can still join the fun by sponsoring a participant for \$15.**

**For more information contact:**  
**Montana Family Medicine Residency**  
**247-3306**

## COURSE MAP





Client#: 200

CITYOFBI

ACORD <sup>TM</sup> CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 05/29/07
<b>PRODUCER</b> Holness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>
<b>INSURED</b> City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		
<b>INSURERS AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A: Penn-American Insurance Co.		
INSURER B:		
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.

INSURANCE LTR. NO.	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE \$2,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000	
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$5,000	
	<input checked="" type="checkbox"/> PD Ded:250				PERSONAL & ADV INJURY \$2,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE \$2,000,000	
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC				PRODUCTS - COM/POP AGG \$2,000,000	
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$	
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$	
<input type="checkbox"/> HIRED AUTOS	AUTO ONLY - EA ACCIDENT \$					
<input type="checkbox"/> NON-OWNED AUTOS	OTHER THAN EA ACC \$					
GARAGE LIABILITY					AGG \$	
<input type="checkbox"/> ANY AUTO						
EXCESS/UMBRELLA LIABILITY					EACH OCCURRENCE \$	
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE					AGGREGATE \$	
<input type="checkbox"/> DEDUCTIBLE					\$	
<input type="checkbox"/> RETENTION \$					\$	
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATU- TORY LIMITS \$	
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?					OTH- ER \$	
If yes, describe under SPECIAL PROVISIONS below					E.L. EACH ACCIDENT \$	
OTHER					E.L. DISEASE - EA EMPLOYEE \$	
					E.L. DISEASE - POLICY LIMIT \$	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
Applicant is listed as Additional Insured on the policy for Montana Family Medicine Residency 5K Fun Run/Walk on 6/23/07. Start at Deering Clinic and end at South Park, Billings, MT.

## CERTIFICATE HOLDER

Yellowstone Health Partnership  
PO Box 1562  
123 South 27th Street  
Billings, MT 59101

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 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

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**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, June 11, 2007**

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**TITLE:** Request to submit 2007 Commercial Equipment Direct Assistance Program (CEDAP) Application and Accept Award

**DEPARTMENT:** Billings Police Department

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

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**PROBLEM/ISSUE STATEMENT:** The application period is now open to make application for various equipment available through the Commercial Equipment Direct Assistance Program (CEDAP), U. S. Department of Homeland Security. This Program offers various equipment to assist emergency responders in improving their capabilities. The Tactical Team (SWAT) has chosen to apply for Monocular Night Vision equipment, valued at \$5,432. Staff is requesting Council approval for submittal of the application, acceptance of the grant award, and authorize City staff to finalize the grant process.

**FINANCIAL IMPACT:** There will be no cost to the City, except the cost of batteries for the night vision equipment.

**RECOMMENDATION**

Staff recommends council approve the CEDAP application submittal, acceptance of the grant award, and authorize City staff to finalize the grant process.

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

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Request to Submit 2007 Justice Assistance Grant (JAG) Application and Accept Award - \$82,370

**DEPARTMENT:** Billings Police Department

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

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**PROBLEM/ISSUE STATEMENT:** On May 2, 2007 we were notified that funding for the 2007 JAG grant was posted on line. This grant is a joint application between the Billings Police Department and Yellowstone County Sheriff's Office, with the Billings Police Department acting as administrator of the grant. The Police Department was awarded \$58,905 which will be used to purchase L.E.D. light bars, miscellaneous supplies and installation for 24 police vehicles. The Sheriff's Department was awarded \$23,465. They will continue with the P25 compliance of their portable radios which will allow them to have digital capabilities. This funding will allow them to purchase 6 additional portable radios. The Interlocal Agreement has been approved by the County Commissioners and is attached for the Mayor to approve. This document will need to be part of the application submittal. Staff is requesting Council approval for submission of the application, acceptance of the grant award, and authorize the Mayor to sign the award documents when they are received.

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

**RECOMMENDATION**

Staff recommends that Council approve the 2007 JAG application submission, acceptance of the grant award, and authorize the Mayor to sign the award documents when they are received.

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

**ATTACHMENT**

A – Interlocal Agreement (2 pages)

GMS APPLICATION NUMBER 2007 - F2699-MT-DJ

THE STATE OF MONTANA, COUNTY OF YELLOWSTONE  
INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF BILLINGS, AND YELLOWSTONE COUNTY  
2007 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD  
\$82,370.00

This Agreement is made and entered into this 11th day of June, 2007 between the City of Billings (City), acting through its Mayor, and Yellowstone County (County) acting through its Chairman of the Board of County Commissioners.

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party, and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interest of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the City agrees to provide the County \$23,465 from the JAG award, and

WHEREAS, the City and the County believe it to be in their best interests and the best interests of both of them to reallocate the JAG funds in this matter so as to continue to qualify for future JAG awards and in order to maximize the benefit from this 2007 JAG award.

NOW THEREFORE, the CITY and COUNTY agree as follows:

The purpose of this agreement is to provide a binding promise by the City of Billings to share the proceeds of an \$82,370 JAG award with the County of Yellowstone.

This agreement shall commence on the date the Justice Assistance Grant (JAG) is funded by the U.S. Department of Justice, and the funds are received by the City, and it shall terminate on September 30, 2011, unless the parties mutually agree, in writing, to an earlier termination date. This cooperative undertaking shall be financed exclusively from the JAG proceeds. CITY agrees to pay the COUNTY a total of \$23,465 of JAG funds. The COUNTY agrees to use \$23,465 for the program between the date of this agreement and September 30, 2011, the last day on which these funds may be spent, according to the terms of the JAG.

Nothing in the performance of this Agreement shall impose any liability for claims against the CITY or COUNTY. Each party to this agreement will be responsible for its own actions in providing services under this Agreement and will save the other party harmless from and defend and indemnify them for any claims that arise due to or on account of any activities that are funded in whole or in part by JAG proceeds, and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party. The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement. No separate legal entity shall be created by this contract. The accounting for funds received by each of the local governing bodies shall be done by the City of Billings Finance Department and the County of Yellowstone Sheriff's Office, respectively. The City of Billings Financial Services Manager shall administer the disbursement of JAG proceeds in cooperation with the County of Yellowstone Sheriff's Office. No personnel costs will be funded from these proceeds by either party so neither party will be required to file reports or make payments of retirement system contributions pursuant to §19-2-506, MCA.

In the event that any payment that is expected to be made pursuant to this JAG is not received by the City of Billings, or in the event that either party violates the terms of this Interlocal Agreement, either party may terminate this agreement by giving written notice to the mayor (for notice to the City) or to the commission chair (for notice to the County) of the manner in which the other party has violated the provisions hereof. If a party so notified does not remedy the default within fifteen (15) days of receipt of the notice of the violation, then the


party giving notice of the violation is released and discharged from any further obligation under this agreement and the agreement is of no further legal effect.

By entering into the Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

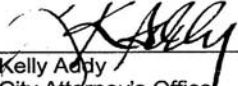
City of Billings, Montana

\_\_\_\_\_  
Ron Tussing, Mayor

County of Yellowstone

  
\_\_\_\_\_  
John Ostlund, Chairman, James E. Reno  
Yellowstone County Commissioners

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kelly Ady  
City Attorney's Office

  
\_\_\_\_\_  
Mark English  
Yellowstone County Attorney's Office

JAG07 Interlocal Agreement

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

Q

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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TITLE: Zone Change #806, 2<sup>nd</sup> Reading of Ordinance  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: David Green, Planner I

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**PROBLEM/ISSUE STATEMENT:** The applicant is requesting to rezone E1/2 NE1/4 NW1/4, less Certificate of Survey (COS) 3153 and W1/2 NE1/4 NW1/4, less highway and less Miller Crossing Subdivision, Section 16, T.1S, R.26E, and COS 3153 from Residential 15000 (R-150) and Residential Manufactured Home (RMH) to Entryway General Commercial (EGC). The subject property is generally located on the southwest corner of King Avenue East and Orchard Lane and is currently vacant agricultural land. There is an annexation request in the process for half of this property, which was heard by the Billings City Council on May 29, 2007. The City Council held a public hearing and approved the first reading of the zone change on May 29, 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 could have an effect on the City's tax base once the property is developed.

**RECOMMENDATION**

The Zoning Commission forwards a recommendation of approval to the City Council for Zone Change #806.

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

**ATTACHMENTS:**

A:     Ordinance

**ORDINANCE NO. 07-**  
AN ORDINANCE AMENDING THE ZONE CLASSIFICATION  
FOR the E1/2 NE1/4 NW1/4, less Certificate of Survey  
(COS) 3153 and W1/2 NE1/4 NW1/4, less highway and less  
Miller Crossing Subdivision, Section 16, T.1S, R.26E, and  
COS 3153

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 described as the E1/2 NE1/4 NW1/4, less Certificate of Survey (COS) 3153 and W1/2 NE1/4 NW1/4, less highway and less Miller Crossing Subdivision, Section 16, T.1S, R.26E, and COS 3153 and is presently zoned Residential 15000 and Residential Manufactured Home and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 15000 and Residential Manufactured Home** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Entryway General Commercial** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading May 29, 2007.

PASSED, ADOPTED AND APPROVED on second reading June 11, 2007.



CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY:  
Cari Martin, City Clerk

ZC #806

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

R

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Tuesday, May 29, 2007**

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**TITLE:** Zone Change #804 Public Hearing and 1<sup>st</sup> Reading of Ordinance  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** The applicant is requesting to rezone the southern 3.93 acres of Lot 1A, Certificate of Survey 2991 from Residential Professional (RP) to Residential Multi-Family Restricted (RMF-R). The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue. The owners are CBE Properties, LLC and the Engineer is HKM Engineering, Inc. A 2-lot subsequent minor subdivision on this property was submitted May 1, 2007, and will be on the Council Agenda June 11, 2007. The Zoning Commission conducted a public hearing on May 1, 2007, and forwarded a recommendation of approval on a 5-0 vote.

**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:** Upon development, the proposed zone change should increase the City's tax base.

**RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #804 and adoption of the 12 Zoning Commission Determinations on a 5-0 vote.

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

**ATTACHMENTS:**

- A: Site Photographs
- B: Zoning Exhibit
- C: Ordinance

## **INTRODUCTION**

The applicant is requesting to rezone the southern 3.93 acres of Lot 1A, Certificate of Survey 2991 from Residential Professional (RP) to Residential Multi-Family Restricted (RMF-R). The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue.

## **PROCEDURAL HISTORY**

- On March 1, 2007, a pre-application meeting was conducted for proposed subsequent minor plat.
- On April 2, 2007, the rezone application was submitted to the Planning Department.
- On May 1, 2007, the City Zoning Commission conducted a public hearing for the proposed zone change and forwarded a recommendation of approval to the City Council on a 5-0 vote.
- On May 1, 2007, an application for a preliminary subsequent minor subdivision was submitted to the Planning Department.
- On May 29, 2007, the City Council will conduct the public hearing and 1<sup>st</sup> reading of the proposed zone change.
- On June 11, 2007, if approved on the first reading, the City Council will conduct the second reading of the proposed zone change. The subsequent minor preliminary plat will be on the consent agenda at this meeting.

## **BACKGROUND**

The applicant is requesting to rezone the southern 3.93 acres of Lot 1A, Certificate of Survey 2991 from Residential Professional (RP) to Residential Multi-Family Restricted (RMF-R). The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue. It is the property owner's intent to subdivide Tract 1A into two lots to separate the southern 3.93 acres proposed for the zone change from the northern RP zoned property. If rezoned, the applicant is proposing to construct approximately 40 residential units on the property. During the first phases of construction, the units will be utilized as rental apartments and in the future as condominium units.

The Zoning Commission is forwarding a recommendation of approval for this application and has based this recommendation on the 12 criteria for zone changes discussed below.

## **ALTERNATIVES ANALYSIS**

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

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

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

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 5)*

This property is in an area of West Billings that is experiencing rapid commercial and residential growth. The rezoning of this parcel will focus new growth in a developing and expanding population center.

- *New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites. (Land Use Element Goal, page 6)*

The proposed zoning will be compatible with the multi-family residential uses located to the south and will provide a transitional zone between the commercial uses along Central Avenue and the single-family residences and duplexes located to the southwest of the subject property.

- *More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)*

The proposed zoning will permit multi-family residential uses, which will provide for more housing choices in this neighborhood.

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

The proposed zoning is expected to generate more traffic than the current vacant use. During the subdivision review, the Engineering Department will determine if any improvements are necessary to the intersection of Brookshire Boulevard and Central Avenue based on the increased traffic generation anticipated for the proposed multi-family use.

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

Brookshire Boulevard along the western border of the property is an existing private street that provides access to the property. The Fire Department reviewed the proposal at the subdivision pre-application meeting and determined that access is sufficient.

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

The proposed zoning will permit multi-family uses. The Unified Zoning Regulations specify minimum setbacks and lot coverage requirements, as well as height restrictions for the proposed zoning district.

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

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

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

The proposed zoning, as well as all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures. This requirement will help prevent overcrowding of land.

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

The proposed density for the subject property is approximately 40 residential units. This will not cause an undue concentration of population, as there is surrounding residentially developed properties.

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

*Transportation:* Any improvements identified by the City Engineering Department will be required with the subdivision approval.

*Water and Sewer:* Water and sewer lines are located within Central Avenue and will be extended through Brookshire Boulevard.

*Schools and Parks:* The proposed zoning could result in an overcrowding of West High School which is currently over capacity. The middle and elementary schools that serve this property have capacity for additional students. Further review of the parks and schools will be completed with the subdivision.

*Fire and Police:* The subject property is currently served by the City of Billings fire and police departments. Provisions for adequate emergency service will be further reviewed with the subdivision.

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

The proposed zoning will be similar in character with the adjacent multi-family residential uses and duplexes to the south.

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

The subject property is suitable for the requested zoning district.

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

The applicant has proposed the RMF-R south of the commercial properties fronting Central Avenue, which provides for a transition zone between the commercial uses and the single-family residential uses and duplexes located to the southwest of the property.

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

The proposed zoning will permit multi-family residential uses, which are compatible with the surrounding commercial and residential uses.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

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

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on May 1, 2007, and forwarded a recommendation of approval to the City Council on a 5-0 vote. Kevin Katzenberger with HKM Engineering, Inc. was present to discuss the proposed zone change. There was no public comment received at the hearing. Planning staff did receive a call from a property owner within the condominiums to the south who had concerns whether the units would be apartment rentals or condominiums. Staff explained that during the first phases of construction, the units will be utilized as rental apartments and in the future as condominium units.

**RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #804 and adoption of the 12 Zoning Commission Determinations on a 5-0 vote.

**ATTACHMENTS:**

- A: Site Photographs
- B: Zoning Exhibit
- C: Stewart Park Condominiums Site Plan
- D: Ordinance

**ATTACHMENT A**  
Site Photos – Zone Change #804



Figure 1: View east along Central Avenue along the northern boundary of Tract 1A toward Stewart Park.





Figure 2: View south from Central Avenue toward the existing office park located on the northern portion of the subject property.



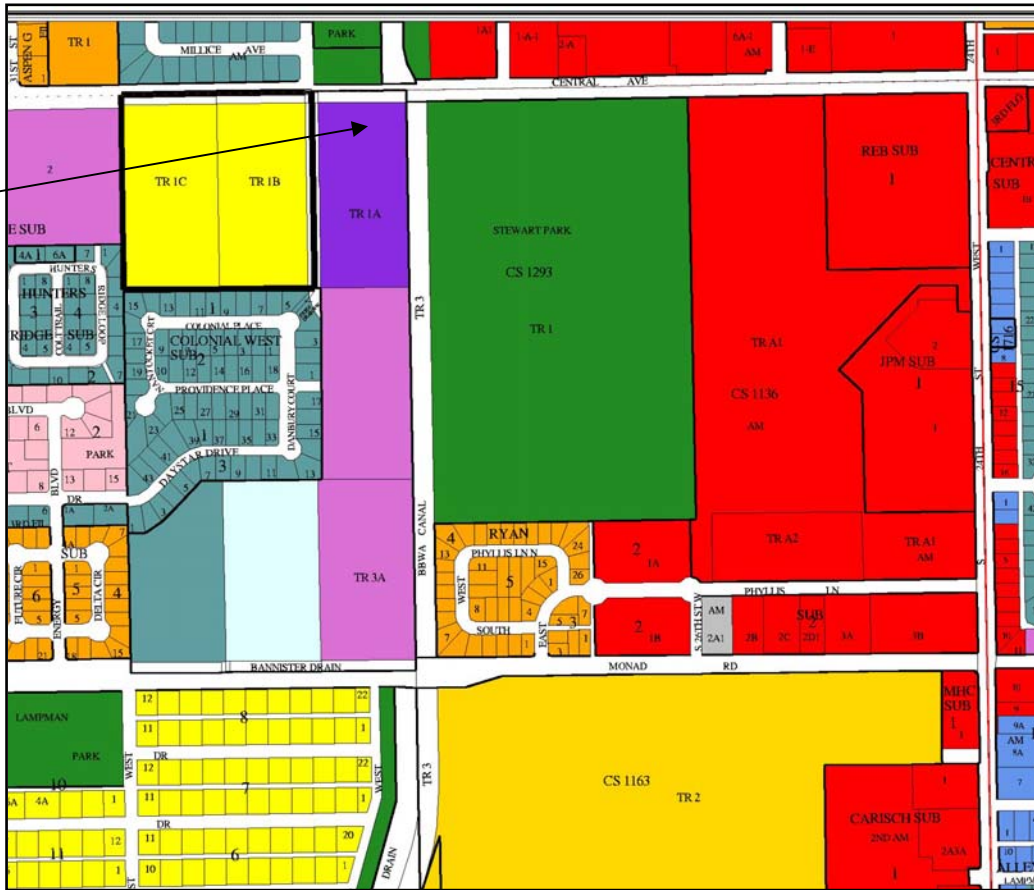
Figure 3: View west along Central Avenue along the northern boundary of the subject property.



Figure 4: View north from Central Avenue toward Millice Park.

**ATTACHMENT B**  
Zoning Map – Zone Change #804

Subject  
Property

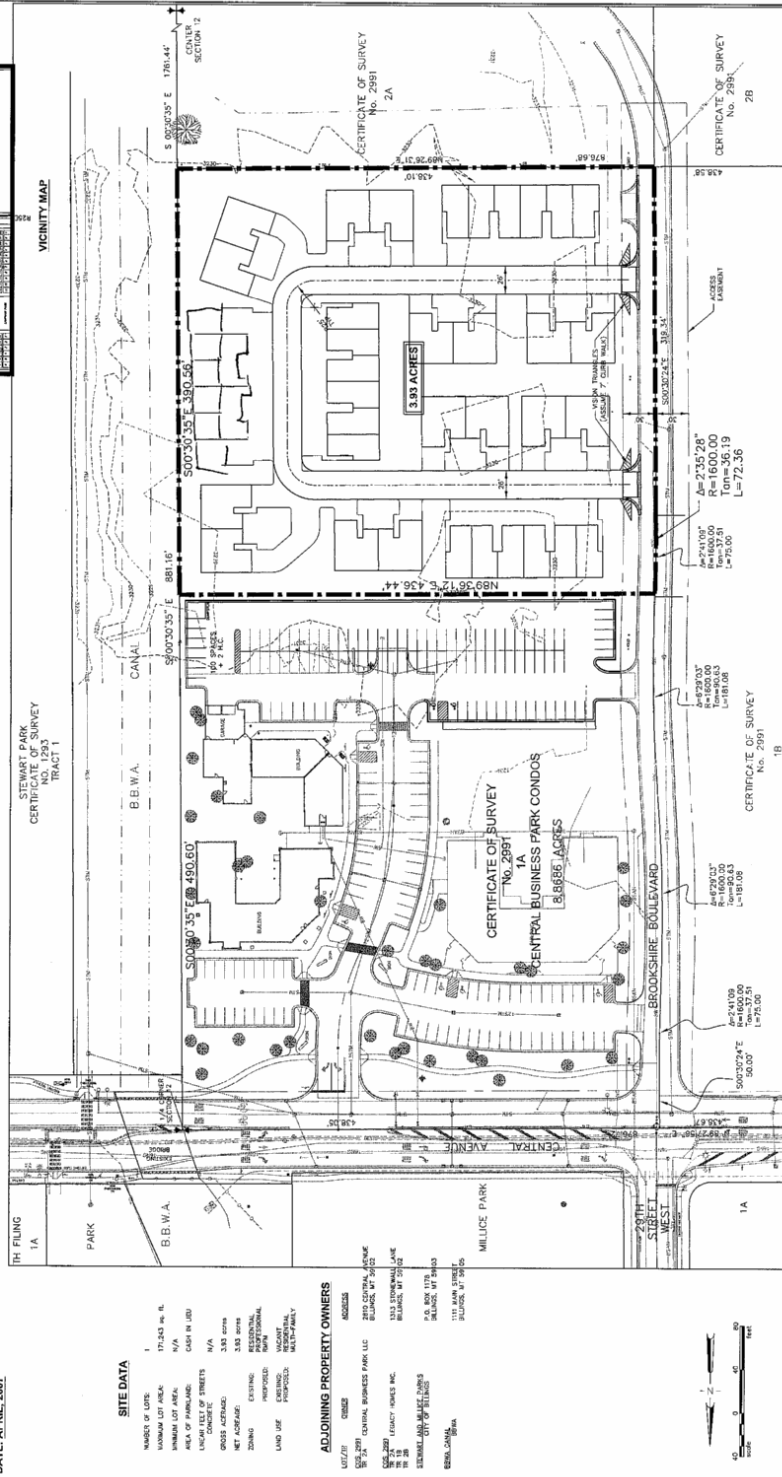


**ATTACHMENT C**

Zone Change #804 - Stewart Park Condominiums Site Plan

BEING A PORTION OF TRACT 1A CERTIFICATE OF SURVEY NO. 2991  
SAID TRACT OF LAND IS SITUATED IN THE NW 1/4 OF SECTION 12, T. 1 S., R. 25 E., P.M.M.,  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

DATE: APRIL, 2007



Copyright © 2007 KVM Engineering Inc.. All Rights Reserved

**ORDINANCE NO. 07-**  
AN ORDINANCE AMENDING THE ZONE CLASSIFICATION  
FOR the south 3.93 acres of Tract 1A, Certificate of Survey  
2991 located in the NW1/4, Section 12, Township 1S, Range  
25E

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 described as the south 3.93 acres of Tract 1A, Certificate of Survey 2991 located in the NW1/4, Section 12, Township 1S, Range 25E and is presently zoned Residential Professional and is shown on the official zoning maps within this zone.

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

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

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

PASSED by the City Council on first reading May 29, 2007.

PASSED, ADOPTED AND APPROVED on second reading June 11, 2007.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY:  
City Clerk

ZC #804

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Tuesday, June 11, 2007**

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**TITLE:** Preliminary Subsequent Minor Plat of Central West Subdivision  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** On May 1, 2007, the subdivider applied for preliminary subsequent minor plat approval of Central West Subdivision, which contains two lots on approximately 8.87 acres for residential and commercial development. The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue. The owners are Design Builders, Inc. and the Engineer is HKM Engineering, Inc. The Central Business Park commercial office structure exists on the northern portion of the property along Central Avenue and is zoned Residential Professional (RP). The southern 3.93 acres is being proposed for a zone change to Residential Multi-Family Restricted (RMF-R) and will be heard by the Council on May 29, 2007.

**ALTERNATIVES ANALYZED:** In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on June 19, 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 35 day review period, the City Council is required to:

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



**FINANCIAL IMPACT:** Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

**RECOMMENDATION**

Staff recommends conditional approval of the preliminary subsequent minor plat of Central West Subdivision and adoption of the Findings of Fact as presented in the staff report to the City Council.

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

**ATTACHMENTS**

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

## **INTRODUCTION**

On May 1, 2007, the subdivider applied for preliminary subsequent minor plat approval of Central West Subdivision, which contains two lots on approximately 8.87 acres for residential and commercial development. The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue. The subject property is bordered on the north across Central Avenue by Millice Park; on the south by multi-family condominium units; on the east by Stewart Park and the BBWA Ditch; and on the west by vacant and developing properties.

## **PROCEDURAL HISTORY**

- On March 1, 2007, a pre-application meeting was conducted for proposed subsequent minor plat.
- On April 2, 2007, the rezone application was submitted to the Planning Department.
- On May 1, 2007, the City Zoning Commission conducted a public hearing for the proposed zone change and forwarded a recommendation of approval to the City Council on a 5-0 vote.
- On May 1, 2007, an application for a preliminary subsequent minor subdivision was submitted to the Planning Department.
- On May 29, 2007, the City Council will conduct the public hearing and 1<sup>st</sup> reading of the proposed zone change.
- On June 11, 2007, if approved on the first reading, the City Council will conduct the second reading of the proposed zone change. The subsequent minor preliminary plat will be on the consent agenda at this meeting.

## **BACKGROUND**

General location:	Southeast corner of the intersection of Central Avenue and Brookshire Boulevard; addressed as 2810 Central Avenue		
Legal Description:	Lot 1A, Certificate of Survey 2991		
Subdivider/Owner:	Central Business Park, LLC		
Engineer and Surveyor:	HKM Engineering, Inc.		
Existing Zoning:	RP and proposed RMF-R		
Existing land use:	Offices and Vacant		
Proposed land use:	Offices	and Multi-Family	Residential Condominiums
Gross area:	8.87 acres		

Net area:	Same
Proposed number of lots:	2
Lot size:	Max: 4.93 acres Min.: 3.93 acres
Parkland requirements:	18,730 square feet to be provided in a cash-in-lieu payment.

### **ALTERNATIVES ANALYSIS**

One of the purposes of the City's subdivision review process is to identify potential negative effects of the 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 Department 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 mail carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. *(Recommended by the United States Postal Service)*
3. 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.

4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

#### **VARIANCES REQUESTED**

None

#### **STAKEHOLDERS**

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

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

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

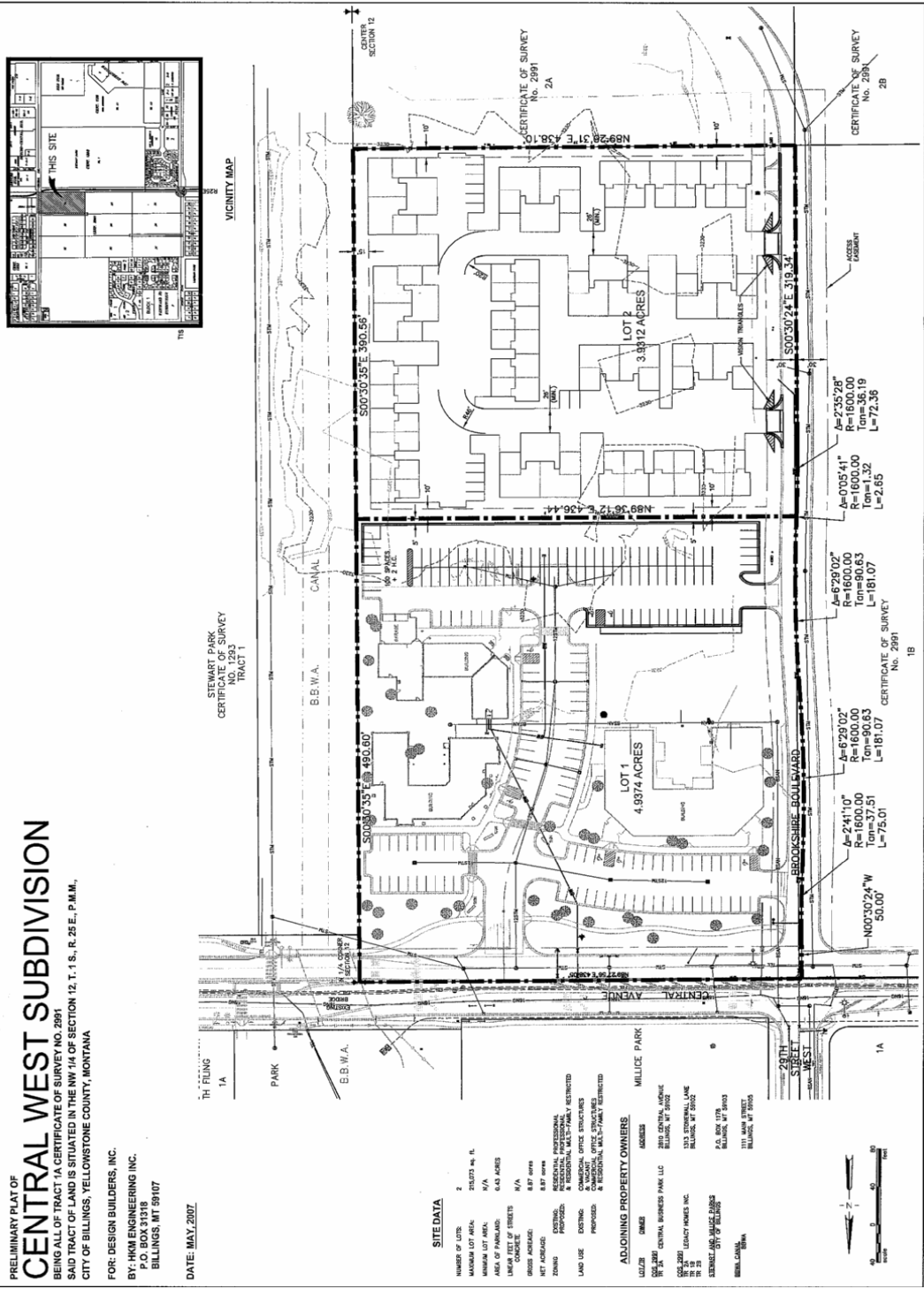
#### **RECOMMENDATION**

Staff recommends conditional approval of the preliminary subsequent minor plat of Central West Subdivision and adoption of the Findings of Fact as presented in the staff report to the City Council.

#### **ATTACHMENTS**

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

# **ATTACHMENT A** Preliminary Plat of Central West Subdivision



**PRELIMINARY PLAT OF  
CENTRAL WEST SUBDIVISION**  
BEING ALL OF TRACT 1A, CERTIFICATE OF SURVEY NO. 2991  
SAID TRACT OF LAND IS SITUATED IN THE NW 1/4 OF SECTION 12, T. 1 S., R. 25 E., P. M.M.,  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

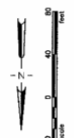
FOR: DESIGN BUILDERS, INC.  
BY: HMM ENGINEERING INC.  
BILLINGS, MT 59107

DATE: MAY, 2007

**SITE DATA**

NUMBER OF LOTS: 2  
MAXIMUM LOT AREA: 21,600.00 S.F.  
AREA OF LOTS: 21,600.00 S.F.  
AREA OF TRACT: 43,200.00 S.F.  
LENGTH OF TRACT: 1,200.00 FEET  
WIDTH OF TRACT: 360.00 FEET  
NET ACRES: 8.87 ACRES  
GROSS ACRES: 8.87 ACRES  
LAND USE: COMMERCIAL, OFFICE, STRUCTURES  
PROPOSED: COMMERCIAL, OFFICE, STRUCTURES  
EXISTING: COMMERCIAL, OFFICE, STRUCTURES  
ADJOINING PROPERTY OWNERS:  
NORTH: CENTRAL BUSINESS PARK LLC  
EAST: LEASCO HOMES INC.  
SOUTH: CENTRAL BUSINESS PARK LLC  
WEST: CENTRAL BUSINESS PARK LLC

ADJOINING PROPERTY OWNERS:  
NORTH: CENTRAL BUSINESS PARK LLC  
EAST: LEASCO HOMES INC.  
SOUTH: CENTRAL BUSINESS PARK LLC  
WEST: CENTRAL BUSINESS PARK LLC



**ATTACHMENT B**  
Site Photographs



Figure 1: View east along Central Avenue along the northern boundary of Tract 1A toward Stewart Park.



Figure 2: View west along Central Avenue along the northern boundary of the subject property.

## **ATTACHMENT C**

### **Findings of Fact**

Staff is forwarding the recommended Findings of Fact for the preliminary subsequent minor plat of Central West Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

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

**1. Effect on agriculture and agricultural water user facilities**

The proposed subdivision should have no effect on agriculture or agricultural water user facilities. The subject property is not currently used for agriculture and no irrigation facilities are located on the subject property. The BBWA canal is located along the eastern boundary of the subdivision and is protected within an existing 100-foot wide easement. No portion of the canal or easement exists on the subject property.

**2. Effect on local services**

- a. **Utilities** – Water and sewer to the subject property will be extended from Central Avenue within Brookshire Boulevard, a private street located along the western border of the subdivision. The water and sewer services will be private from the intersection with Central Avenue and Brookshire Boulevard. Lot 1 is already serviced by private water and sewer and an agreement between the two property owners to utilize the existing private system will be included with the final plat, as specified by the SIA.
- b. **Stormwater** – There is an existing 18-inch storm drain line within Brookshire Boulevard, which will be utilized for drainage. As specified in the submitted SIA, onsite storm drainage shall comply with the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the proposed lots will be via Brookshire Boulevard, an existing private road that serves the existing structures on proposed Lot 1. An extension of Brookshire Boulevard south to Lot 2 will occur at the time of site development.
- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24<sup>th</sup> Street West (Station #5).



- f. **Schools** - The subdivision is located within School District #2. Meadowlark Elementary, Riverside Middle School and West High School will serve the children in this subdivision. A response was received from Riverside Elementary School indicating that they have room for additional students and that the proposed subdivision is located on a bus route. Responses from the other schools were not received at the time this report was written.
- g. **Parks and Recreation** – Pursuant to Section 23-1002.B.1, BMCC, subdivisions that provide for multi-family and condominium developments shall provide 11% of the net area of land to be subdivided into parcels ½ acre or smaller as a parkland dedication. In this subdivision 3.93 acres are proposed for condominium development, therefore a parkland dedication of 0.43 acres (18,730 square feet) is required. As specified in the SIA, a cash-in-lieu will be provided for the parkland dedication.
- 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 study was submitted with this application and has been determined sufficient by the Building Official.

### **4. Effect on wildlife and wildlife habitat**

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property. However, a statement has been added to the SIA, that lot owners should be aware that interactions with wildlife could occur and that any damage to property is the lot owner's responsibility.

### **5. Effect on the public health, safety and welfare**

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

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

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

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

### **1. Yellowstone County-City of Billings 2003 Growth Policy**

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

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, Page 5)

*The proposed subdivision is consistent with the surrounding multi-family and commercial uses.*

- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element Goal, Page 6)

*The subject property is compatible with the condominium development located to the south.*

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

*The property is located within an existing subdivision in an urbanized portion of the city and is considered infill development.*

## **2. Urban Area 2005 Transportation Plan Update**

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

## **3. Heritage Trail Plan**

A Heritage Trail corridor is not identified within this subdivision.

### **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 property will be served by private water and sewer services to be installed in Brookshire Boulevard.

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

The subject property shall comply with the standards set forth in Section 27-308, BMCC for the RP and RMF-R zoning districts.

**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)**

Access to the lots will be via Brookshire Boulevard, a private road bordering the west side of the property.

**CONCLUSIONS OF FINDING OF FACT**

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

Approved by the Billings City Council, June 11, 2007

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Ron Tussing, Mayor

**ATTACHMENT D**  
Mayor's Approval Letter

June 11, 2007

Central Business Park, LLC  
2810 Central Avenue, Unit C  
Billings, MT 59102

Dear Applicant:

On June 11, 2007, the Billings City Council conditionally approved the preliminary plat of Central West 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 mail carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. *(Recommended by the United States Postal Service)*
3. 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.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

5.

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,

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Ron Tussing, Mayor

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

T

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Preliminary Plat of Riverfront Pointe Subdivision, Amended  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Juliet Spalding, AICP, Planner II

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**PROBLEM/ISSUE STATEMENT:** On May 1, 2007, the owner of the subject property applied for preliminary plat approval of Riverfront Pointe Subdivision, Amended. The proposed subdivision aggregates 41 lots within the original subdivision, to create 31 larger lots. The property is located on the east side of Mallowney Lane, south of Frontier Drive. This amended plat is being reviewed as a minor subdivision, in accordance with Section 23-306, BMCC. The City Council will review the preliminary plat and approve, conditionally approve, or deny the proposed subdivision at the June 11, 2007 meeting. The owner is Regal Land Development, Inc., the subdivider is Skyline Builders Montana, Inc., and the representing agent is Engineering, Inc.

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

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

**RECOMMENDATION**

The Planning Board recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, Amended and adoption of the Findings of Fact as presented in the staff report to the City Council.

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

## **ATTACHMENTS**

- E. Preliminary Plat
- F. Site Photographs
- G. Findings of Fact
- H. Mayor's Approval Letter

## **INTRODUCTION**

On May 1, 2007, the owner of the subject property applied for preliminary plat approval of Riverfront Pointe Subdivision, Amended which contains 31 lots on 10.37 acres. The proposed subdivision aggregates 41 lots within the original subdivision, to create 31 larger lots. Because no additional lots are being created, but 6 or more lots are being rearranged, this subdivision must be reviewed as an 'amended plat' in accordance with Section 23-306, BMCC. The amended plat review follows the minor plat review procedure.

## **PROCEDURAL HISTORY**

- March 30, 2006, the final plat for the original Riverfront Pointe Subdivision was recorded with the Clerk and Recorder.
- February 8, 2007, a pre-application meeting was held to discuss amending several of the northern lots within Riverfront Pointe Subdivision.
- The preliminary plat application for Riverfront Pointe Subdivision, Amended was submitted to the Planning Division on May 1, 2007.
- The City Council will consider the preliminary plat on June 11, 2007.

## **BACKGROUND**

The subject property is located on the east side of Mallowney Lane, south of Frontier Drive. The original subdivision was platted approximately a year ago and developed 74 acres into 175 commercial, single-family, and multi-family residential lots. The owner, Regal Land Development, Inc. has entered into an agreement with the subdivider, John Pratt of Skyline Builders Montana, Inc. to reorganize the northern 41 lots of the subdivision into slightly larger lots. It is the intention of the subdivider to develop the new lots for four-plex and duplex residential units in two or more phases. The property is zoned Highway Commercial (HC).

General location:	South of the West Billings Interchange; on the east side of Mallowney Lane to South 12 <sup>th</sup> Street West; south of Frontier Drive
Legal Description:	Riverfront Pointe Subdivision, Lots 4-23, Block 2; Lots 1-14, Block 4; Lots 1-5, Block 8; and Lots 1 and 2, Block 9
Subdivider:	Skyline Builders Montana, Inc.



Owner:	Regal Land Development, Inc.
Engineer and Surveyor:	Engineering Inc.
Existing Zoning:	Highway Commercial
Existing land use:	vacant
Proposed land use:	Residential Uses
Gross area:	10.37 acres
Net area:	10.37 acres
Proposed number of lots:	31
Lot size:	Max: 35,490 square feet Min.: 7,260 square feet
Parkland requirements:	Parkland dedication was met under the previous plat.

### **ALTERNATIVES ANALYSIS**

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments 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:

5. In order to conform to the zoning requirements, clear vision triangles, as required by Section 27-618, BMCC, shall be depicted on the face of the final plat.
6. 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.
7. To ensure the provision of local services, the SIA shall be amended as follows:

- Section III. Transportation. A. Streets 1.(b) – delete second paragraph
  - Section III. Transportation. A. Streets 1. – add subsection (c) stating “In order to lift the restrictions on transfers and conveyances that exist on the subject lots, the remaining Mullowney Lane improvements shall be completed as specified in the original Riverfront Pointe Subdivision SIA with the first phase of this subdivision”
  - Section III. Transportation. A. 4. Sidewalks. – Second sentence shall be changed to indicate that 5-foot boulevard walk shall be constructed on South 12<sup>th</sup> Street West adjacent to the subdivision.
  - Section IV. Utilities. A. 1. Water – replace the existing paragraph with the following paragraph:  
 “The Subdivision will be served by extension of water mains located in Riverfront Pointe Subdivision. Phase I will extend water main in Frontier Drive from the existing water main at Frontier Drive and Mullowney Lane to Frontier Drive and Chesapeake Lane, then south in Chesapeake Lane to the existing water main near the north property line of Lot 26, Block 2. Water main will also be installed in Boundary Waters Circle. Said mains and services will be approved by the City Engineer and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality.  
 Fire hydrant locations and spacing shall be reviewed and approved by the Fire Department. The hydrants shall be spaced at every intersection and at least every 500 feet for residential development and spaced every 300 feet for commercial development.”
  - Section IV. Utilities. A. 2. Sanitary Sewer – replace the existing paragraph with the following paragraph:  
 “Sewer improvements will include extension of interior sewer mains in Riverfront Pointe Subdivision. Phase I will extend sewer main in Frontier Drive from Lot 3, Block 2, to Frontier Drive and Chesapeake Lane, then south in Chesapeake Lane to the existing sewer main near the north property line of Lot 26, Block 2. Sewer main will also be installed in Boundary Waters Circle. Said mains and services will be approved by the City Engineer and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality.”
  - Section VI. Phasing of Improvements. A. 1. (c) – add in improvement of remainder of Mullowney Lane frontage for Phase I.
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 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**

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

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

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

**RECOMMENDATION**

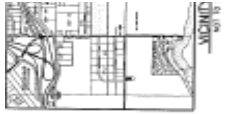
The Planning Board recommends conditional approval of the preliminary plat of Riverfront Pointe Subdivision, Amended and adoption of the Findings of Fact as presented in the staff report to the City Council.

**ATTACHMENTS**

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

# ATTACHMENT A

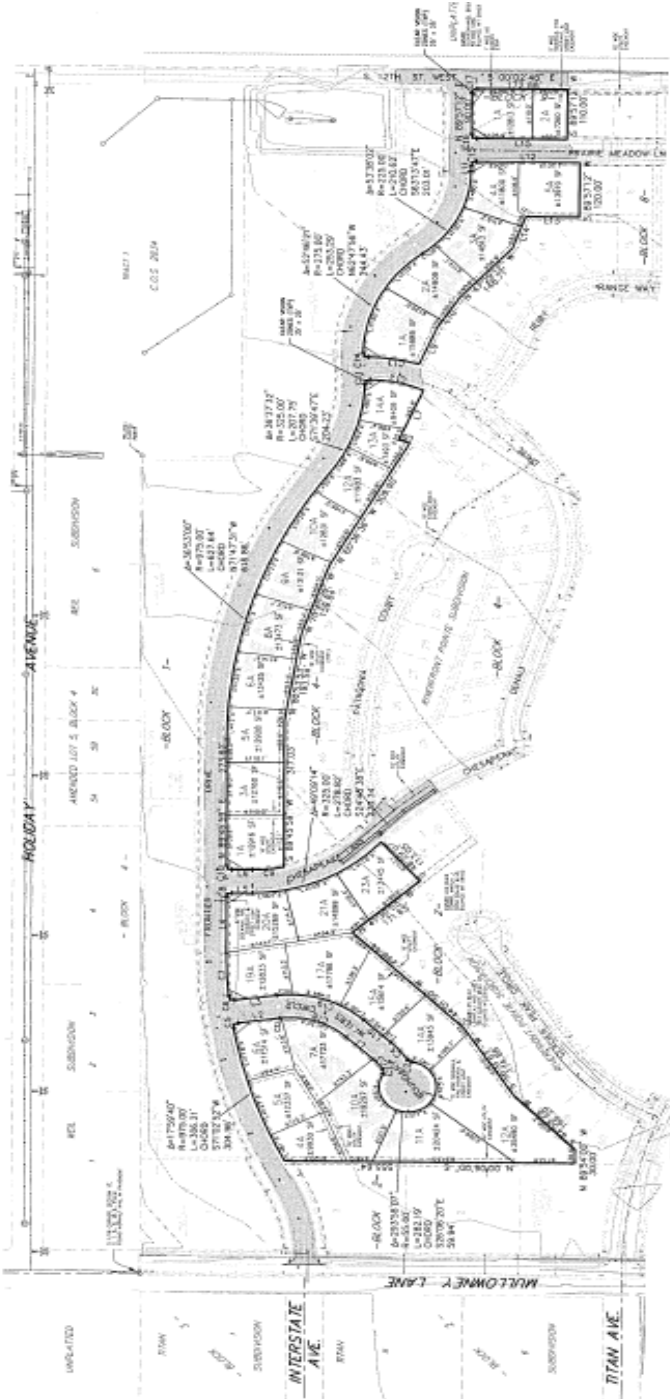
## Preliminary Plat of Riverfront Pointe Subdivision, Amended



PRELIMINARY PLAT OF  
**RIVERFRONT POINTE SUBDIVISION, AMENDED**  
 AMENDING LOTS 4-23, BLOCK 2, LOTS 1-14, BLOCK 4, LOTS 1-5, BLOCK 8 AND LOTS 1 & 2, BLOCK 9  
 SITUATED IN THE SW1/4 OF SECTION 17, T. 1 S., R. 26 E., P.M.M.  
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SKYLINE BUILDERS MONTANA, INC.  
 PREPARED BY : ENGINEERING, INC.  
 SCALE : 1"=100'

APRIL, 2007  
 BILLINGS, MONTANA



LINE	LENGTH	CHAINS
1	11.14	253.54
2	11.14	253.54
3	11.14	253.54
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CHAIN	AREA	CHAIN	AREA	CHAIN	AREA
1	11.14	253.54	2	11.14	253.54
3	11.14	253.54	4	11.14	253.54
5	11.14	253.54	6	11.14	253.54
7	11.14	253.54	8	11.14	253.54
9	11.14	253.54	10	11.14	253.54
11	11.14	253.54	12	11.14	253.54
13	11.14	253.54	14	11.14	253.54
15	11.14	253.54	16	11.14	253.54
17	11.14	253.54	18	11.14	253.54
19	11.14	253.54	20	11.14	253.54
21	11.14	253.54	22	11.14	253.54
23	11.14	253.54	24	11.14	253.54
25	11.14	253.54	26	11.14	253.54
27	11.14	253.54	28	11.14	253.54
29	11.14	253.54	30	11.14	253.54
31	11.14	253.54	32	11.14	253.54
33	11.14	253.54	34	11.14	253.54
35	11.14	253.54	36	11.14	253.54
37	11.14	253.54	38	11.14	253.54
39	11.14	253.54	40	11.14	253.54
41	11.14	253.54	42	11.14	253.54
43	11.14	253.54	44	11.14	253.54
45	11.14	253.54	46	11.14	253.54
47	11.14	253.54	48	11.14	253.54
49	11.14	253.54	50	11.14	253.54
51	11.14	253.54	52	11.14	253.54
53	11.14	253.54	54	11.14	253.54
55	11.14	253.54	56	11.14	253.54
57	11.14	253.54	58	11.14	253.54
59	11.14	253.54	60	11.14	253.54
61	11.14	253.54	62	11.14	253.54
63	11.14	253.54	64	11.14	253.54
65	11.14	253.54	66	11.14	253.54
67	11.14	253.54	68	11.14	253.54
69	11.14	253.54	70	11.14	253.54
71	11.14	253.54	72	11.14	253.54
73	11.14	253.54	74	11.14	253.54
75	11.14	253.54	76	11.14	253.54
77	11.14	253.54	78	11.14	253.54
79	11.14	253.54	80	11.14	253.54
81	11.14	253.54	82	11.14	253.54
83	11.14	253.54	84	11.14	253.54
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### PLAT DATA

- GRASS AREA = 433.37 AC
- NET AREA = 433.37 AC
- NUMBER OF LOTS = 31 (AGGREGATION OF EXISTING LOTS)
- MINIMUM LOT SIZE = 4.7260 SF
- MAXIMUM LOT SIZE = 2.5640 SF
- UNIMPROVED LOTS = 31
- PAYLAND REQUIREMENT = PREVIOUSLY MET
- EXISTING ZONING = HIGHWAY COMMERCIAL
- PROPOSED ZONING = HIGHWAY COMMERCIAL
- ADJACENT ZONING = HIGHWAY COMMERCIAL
- ADJACENT DEVELOPMENT = AC OPEN
- EXISTING LAND USE = HIGHWAY COMMERCIAL
- PROPOSED LAND USE = RESIDENTIAL / COMMERCIAL DEVELOPMENT

### OF RIVERFRONT POINTE SUBDIVISION

- LOT 1-4 BLOCK 1
- LOT 1-2 BLOCK 2
- LOT 1-2 BLOCK 3
- LOT 1-2 BLOCK 4
- LOT 1-2 BLOCK 5
- LOT 1-2 BLOCK 6
- LOT 1-2 BLOCK 7
- LOT 1-2 BLOCK 8
- LOT 1-2 BLOCK 9
- LOT 1-2 BLOCK 10
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- LOT 1-2 BLOCK 98
- LOT 1-2 BLOCK 99
- LOT 1-2 BLOCK 100

## **ATTACHMENT B**

### **Site Photographs**



Figure 1: View looking north up Muldowney Lane. Frontier Drive will be constructed on the right, located near the end of the existing curb and gutter.



Figure 2: Looking northeast at subject property and properties north from Muldowney Lane and location of proposed "Frontier Drive".



Figure 3: Looking northwest from “Glacier Peak Circle” which is located in lots to the south of this amended plat.

## **ATTACHMENT C**

### **Findings of Fact**

The Planning Board is forwarding the recommended Findings of Fact for Riverfront Pointe Subdivision, Amended 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 (23-303(H)(2), BMCC).

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

**1. Effect on agriculture and agricultural water user facilities**

The subject property is currently platted for urban density residential and commercial development. The proposed amended lots would accommodate duplex and four-plex housing. With the previous platting the property was removed from a future of agricultural use. Additionally, any concerns with irrigation facilities were previously addressed with the original subdivision. Therefore, this amended plat should have minimal impacts on agriculture and agricultural water user facilities.

**2. Effect on local services**

- a. **Utilities** – Water to the subject property will be extended from the existing water mains in South 12<sup>th</sup> Street West, Holiday Avenue and Mullowney Lane. Extensions of mains will be phased in accordance with the phasing plan in the Subdivision Improvements Agreement (SIA). Sewer services for the subdivision will be provided through the extension of interior sewer mains in Frontier Drive. Extensions of sewer mains will also be phased in accordance with the plan in the SIA. The City Public Utilities Collection and Distribution Division have requested that the language in the draft SIA be amended to clarify the extension of services. These changes are as recommended in Condition of Approval #3.

Private utilities will be extended to this property via a combination of easements on front and rear lot lines. The subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements (Condition #2).

- b. **Stormwater** – As specified in the SIA, stormwater will be retained onsite through a combination of surface drainage and curbs and gutters that drain to underground storage. Phase I of the development will utilize an interim detention pond located on Lots 24 and 25, Block 2, of Riverfront Pointe Subdivision until an outfall for stormwater has been approved and constructed. A stormwater easement document will be filed with the final plat to ensure the use of this off-site detention pond, and the lots on which the pond is

located are restricted from transfer and use for anything other than a pond until alternative stormwater mitigation is approved and constructed.

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to the proposed subdivision will be via Mullooney Lane and South 12<sup>th</sup> Street West, which are existing City right-of-ways bordering the subject property on the east and west. Improvements to Mullooney Lane, which include standard curb, gutter and paving to the 26-foot half-width (center point) of the street, are being required at this time. With the original subdivision, the north portion of Mullooney were delayed, due to the phasing plan. In order to lift the restrictions on transfers and conveyances that exist on the subject lots, the remaining Mullooney Lane improvements need to be completed. Language to this effect shall be added to the SIA (Condition #3). Improvements to South 12<sup>th</sup> Street West will include curb, gutter, and asphalt to a half width. A 5-foot wide boulevard sidewalk is to be installed with the improvements along the east side of Mullooney Lane and the on the west side of South 12<sup>th</sup> Street West at the time of lot development.

All of the lots will be accessed utilizing interior streets, which will be constructed with standard curb and gutter and 37-feet of pavement from back of curb to back of curb, with the exception of Frontier Drive. This street will begin with a 49-foot pavement width at Mullooney Lane and transition to a 37-foot pavement width near Lot 4A, Block 4. Internal sidewalks will include 4-foot wide boulevard walks on each side of the street, to be built at the time of lot development.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24<sup>th</sup> Street West (Station #5). Fire Department staff has requested a minor wording clarification to the SIA in regard to hydrant spacing (Condition #3). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – The subdivision is located within the Elysian School District for elementary and middle school and within School District #2 (Senior) for high school. The Elysian School principal responded by stating that the bus route can be expanded to serve this subdivision. Additionally, their elementary enrollment levels are quickly approaching capacity (with 97 students enrolled and 124 maximum) which will greatly impact the school and expansion will be necessary and costly. The middle school enrollment does not seem to be of urgent concern at this time. Comments were received from Senior High's principal as well. It was noted that the number of students presently enrolled is 1850 and the maximum enrollment for this facility is 1650.
- g. **Parks and Recreation** – Parkland dedication requirements for this subdivision were met previously. No new parkland is proposed or required at this time.



### **3. Effect on the natural environment**

There should be minimal effects on the natural environment with the development of this subdivision. The subdivision is located in an area that is relatively level and has been used for crop production. There is commercial development to the north of this property, as well as residential development to the west.

The Soil Survey of Yellowstone County indicates that the soils in this area consist of predominately silty clays, which with the high water table in this area have a potential for flooding, shrinking, and swelling. The movement of these layers can cause shifting in footings and structural damage to foundations if not properly designed. A note has been added to the SIA regarding the presence of these soils and a geotechnical study was completed to analyze mitigation measures in August 2006.

### **4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. As indicated within the General Conditions the Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is in close proximity to prime deer, antelope and wild turkey habitat and it is likely that homeowners will experience damage to landscaping.

### **5. Effect on the public health, safety and welfare**

There are no known health or safety hazards on the property. This property is not within a mapped floodway or flood zone.

#### **B. Was an Environmental Assessment required? (76-3-210, 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 Urban Area 2000 Transportation Plan and the Heritage Trail Plan? (23-301, BMCC)**

##### **1. Yellowstone County-City of Billings 2003 Growth Policy**

- d. **Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns (p. 5).**

*The proposed subdivision is consistent with the surrounding residential and commercial uses.*

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

*The proposed subdivision would provide for more housing choices within this portion of the city through the proposed mixture of multi-family and duplexes.*

f. **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.*

g. **A well maintained network of safe and interconnected sidewalks (p. 10).**

*As part of this subdivision, the subdivider will be providing internal sidewalks for the development, as well as external sidewalks along Mullowney Lane and South 12<sup>th</sup> Street West.*

## **2. Urban Area 2000 Transportation Plan**

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

## **3. Heritage Trail Plan**

The Alternative Modes Coordinator has indicated that Mullowney Lane is depicted within the Heritage Trail as a Primary On-Street Bikeway and should eventually be striped with a bike lane.

### **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 subject property is located within the Highway Commercial (HC) zoning district. Section 27-310(e)(1), BMCC, specifies that dwelling units within commercial and industrial zoning districts shall satisfy the standards set forth within the Residential Multi-Family Restricted (RMF-R) zoning district. Any commercial development will be required to satisfy the standards set forth for the Highway Commercial (HC) zoning district, including setbacks, buffer areas, and lot coverages.

**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)**

As required by Condition #2, utility easements shall be provided on the final plat as agreed upon by City Engineering and the private utility companies.

**H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)**

Legal and physical access to the proposed subdivision will be provided through dedicated right-of-ways off of Mullaney Lane and South 12<sup>th</sup> Street West.

**CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of Riverfront Pointe Subdivision, Amended 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, June 11, 2007.

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Ron Tussing, Mayor

**ATTACHMENT D**  
Mayor's Approval Letter

June 11, 2007

Regal Land Development, Inc.  
P.O. Box 80445  
Billings, Montana

Dear Sirs:

On June 11, 2007, the Billings City Council conditionally approved the preliminary plat of Riverfront Pointe Subdivision, Amended. The conditions of approval are as follows:

1. In order to conform to the zoning requirements, clear vision triangles, as required by Section 27-618, BMCC, shall be depicted on the face of the final plat.
2. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat.
3. To ensure the provision of local services, the SIA shall be amended as follows:
  - Section III. Transportation. A. Streets 1.(b) – delete second paragraph
  - Section III. Transportation. A. Streets 1. – add subsection (c) stating “In order to lift the restrictions on transfers and conveyances that exist on the subject lots, the remaining Mullowney Lane improvements shall be completed as specified in the original Riverfront Pointe Subdivision SIA with the first phase of this subdivision”
  - Section III. Transportation. A. 4. Sidewalks. – Second sentence shall be changed to indicate that 5-foot boulevard walk shall be constructed on South 12<sup>th</sup> Street West adjacent to the subdivision.
  - Section IV. Utilities. A. 1. Water – replace the existing paragraph with the following paragraph:

“The Subdivision will be served by extension of water mains located in Riverfront Pointe Subdivision. Phase I will extend water main in Frontier Drive from the existing water main at Frontier Drive and Mullowney Lane to Frontier Drive and Chesapeake Lane, then south in Chesapeake Lane to the existing water main near the north property line of Lot 26, Block 2. Water main will also be installed in Boundary Waters Circle. Said mains and services will be approved by the City Engineer and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality.

Fire hydrant locations and spacing shall be reviewed and approved by the Fire Department. The hydrants shall be spaced at every intersection and at least every 500 feet for residential development and spaced every 300 feet for commercial development.”

- Section IV. Utilities. A. 2. Sanitary Sewer – replace the existing paragraph with the following paragraph:  
“Sewer improvements will include extension of interior sewer mains in Riverfront Pointe Subdivision. Phase I will extend sewer main in Frontier Drive from Lot3, Block 2, to Frontier Drive and Chesapeake Lane, then south in Chesapeake Lane to the existing sewer main near the north property line of Lot 26, Block 2. Sewer main will also be installed in Boundary Waters Circle. Said mains and services will be approved by the City Engineer and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality.”
  - Section VI. Phasing of Improvements. A. 1. (c) – add in improvement of remainder of Muldowney Lane frontage for Phase I.
4. 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.
  5. The final plat shall comply with all requirements of the City 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 Juliet Spalding with the Planning Department at 247-8684 or by email at [spaldingj@ci.billings.mt.us](mailto:spaldingj@ci.billings.mt.us).

Sincerely,

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Ron Tussing, Mayor

Pc: John Pratt, Skyline Builders Montana, Inc.  
Kjersten Olson, Engineering, Inc.

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, JUNE 11, 2007**

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**SUBJECT:** Cancellation of Checks and Warrants  
**DEPARTMENT:** Administration-Finance Division  
**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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

**FINANCIAL IMPACT:** The \$26,285.04 will be reverted back to affected funds. Employees were notified and given the opportunity pay the stop payment fee and have the check reissued. Employees are still responding so checks that are re-issued will not be cancelled.

**RECOMMENDATION**

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

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

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V1

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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TITLE: Payment of Claims  
DEPARTMENT: Administration – Finance Division  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,279,606.47 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 11, 2007, is on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

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

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# V2

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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TITLE: Payment of Claims  
DEPARTMENT: Administration – Finance Division  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$925,924.70 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 18, 2007, is on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

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

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# RA2



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## **CITY COUNCIL AGENDA ITEM**

### **CITY OF BILLINGS, MONTANA**

### **Monday, JUNE 11, 2007**

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**SUBJECT:** Public Hearing and Approval of the Resolution Approving and Adopting the Budget for FY 2008

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** This resolution provides for the formal adoption of the budget. The proposed budget has been available for review since May 2, 2007. Five (5) public presentations have been made regarding the proposed budget. Section 2 of this resolution allows the City Administrator to amend this budget for Debt Service Funds, Federal and State Grants Special Assessment and donations accepted and approved by the City Council. The City Council authorizes issuing debt, acceptance of grants and donations, with the possible exception of donations which are handled per administrative order, which means that also needing to approve budget amendments to allow the expenditures is redundant. This delegation of authority is allowed by State Statutes.

### **RECOMMENDATION**

Staff recommends that City Council conduct a public hearing and approve the resolution approving and adopting the Budget for the City of Billings for fiscal year 2007-2008.

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

### **ATTACHMENTS:**

A-Resolution Approving & Adopting the Budget for the City of Billings, MT for FY 2007-2008  
Includes Exhibit A-City of Billings Expenditure Budget for Fiscal Year 2007-2008

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING AND ADOPTING THE BUDGET FOR  
THE CITY OF BILLINGS, MONTANA FOR FISCAL YEAR 2007-2008**

WHEREAS, the City Administrator of the City of Billings has regularly and lawfully submitted to the City Council of the City of Billings, Montana, the budget for Fiscal Year 2007-2008; and

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

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

Section 1: That the Revenue Budget for Fiscal year 2007-2008, as detailed in the Budget Report, and as amended by the City Council, and the Expenditure Budget for Fiscal year 2007-2008 as detailed in the budget report and as amended by the City Council and further detailed on EXHIBIT "A", be, and the same is hereby finally determined, approved, and adopted.

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

PASSED AND APPROVED by the City Council this 11th day of June, 2007.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin City Clerk

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# RA3

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Public Hearing and Resolution Setting Mill Levy Rates  
**DEPARTMENT:** Administration – Finance Division  
**PRESENTED BY:** Patrick Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** This resolution establishes the city property tax mill levy rates for General, Transit, Library, and Public Safety I for fiscal year 2008. These mill levy rates have remained the same since 2001.

The mill levy rates for general obligation debt service funds for PRPL and Streets, Ballpark, and Public Safety II will be established when the City has received the certified taxable valuation information from the Montana Department of Revenue.

**RECOMMENDATION**

Staff recommends that the City Council approve the resolution setting the mill levy rates for fiscal year 2008.

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

**ATTACHMENT**

A- A Resolution Making the Annual All-Purpose Mill Levy and Mill Levies for Library Operating, Transit Operating, Public Safety Funds for the Fiscal Year 2007-2008.

RESOLUTION NO.07 \_\_\_\_\_

A RESOLUTION MAKING THE ANNUAL ALL-PURPOSE MILL LEVY AND MILL LEVIES FOR LIBRARY OPERATING, TRANSIT OPERATING, AND PUBLIC SAFETY FUNDS FOR THE FISCAL YEAR 2007-2008.

WHEREAS, pursuant to law, the City of Billings is required to make annual mill levies.

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

1. That an All-Purpose Annual Mill Levy in the amount of 69.50 Mills is hereby imposed on all taxable property within the City of Billings, Montana, for the Fiscal Year **July 1 2007 through June 30 2008.**

**2. That additional Mill Levies in the amounts stated are hereby imposed on all taxable property within the City of Billings, Montana, to provide payment for the following:**

- A. 10.00 Transit Operating Fund
- B. 9.50 Library Operating Fund
- C. 20.00 Public Safety Fund

3. That upon passage of this Resolution, the City Clerk shall certify that same to the County Treasurer of Yellowstone County, Montana, who shall collect said taxes in the manner as provided by law.

4. That this Resolution shall be in full force and effect from and after its passage and approval.

**PASSED AND APPROVED by the City Council this 11<sup>th</sup> day of June, 2007.**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk

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# RA4



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, June 11, 2007

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SUBJECT: Public Hearing and Resolutions Setting Annual Assessments for Fiscal Year 2008

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

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

Park Maintenance District  
Fire Hydrant Maintenance  
Storm Sewer  
Business Improvement District

Light Maintenance District  
Street Maintenance  
Arterial Construction  
Solid Waste

Park maintenance districts and light maintenance districts rates are calculated by estimating the expenses for maintenance and recovering actual expenditures. Street maintenance and Storm rates are increasing by 7%. Arterial construction rates remain the same as FY07. The fire hydrant maintenance rate will remain the same.

### **RECOMMENDATION**

Staff recommends that a public hearing be held and that the City Council approve the resolutions on June 11, 2007.

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

### **ATTACHMENTS**

A-Park Maintenance Annual Assessment Resolution  
B-Light Maintenance District Annual Assessment Resolution and Exhibit A  
C-Fire Hydrant Maintenance Annual Assessment Resolution  
D-Street Maintenance Annual Assessment Resolution  
E-Storm Sewer Annual Assessment Resolution and Exhibit A  
F-Arterial Construction and Exhibit A  
G-Business Improvement District Annual Assessment and Exhibit A  
H-Solid Waste Annual Assessment and Exhibit A

RESOLUTION 07 \_\_\_\_\_

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

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

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

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

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

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

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

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

4. **COST OF MAINTENANCE.** The City Council estimates that the cost of maintenance for the fiscal year 2008 for the following Park Maintenance Districts is:

		FY 08 ASSM'T
PARK MAINT. DISTRICT	NUMBER	RATE
HARVEST PARK	PMD 4001	\$ 0.030379 / sq ft
OLYMPIC PARK	PMD 4002	\$ 0.018803 / sq ft
PARKLAND WEST	PMD 4003	\$ 0.005213 / sq ft
GREGORY HILLS	PMD 4004	\$ 0.011006 /sq ft
HIGH SIERRA	PMD 4005	\$ 0.004069 / sq ft
FOREST PARK	PMD 4006	\$ 0.003485/ sq ft
WOODLAND COMMERCE	PMD 4007	\$ 0.007064 / sq ft
TERRA WEST SUB'D	PMD 4008	\$ 0.010886 / sq ft
ASPEN GROVE SUB.	PMD 4009	\$ 0.016925 / sq ft
LAKEVIEW SUBD	PMD 4010	\$ 0.002505 / sq ft
MT AVE PMD	PMD 4011	\$ 0.037077 / sq ft
CIRCLE 50 PMD	PMD 4012	\$ 0.005241 / sq ft
N BROADWAY	PMD 4013	\$ 0.023750 / sq ft
RUSH SUB	PMD 4014	\$ 0.006559 / sq ft
HOWARD HEIGHTS	PMD 4015	\$ 0.002556 / sq ft
MISSIONS UNITED	PMD 4016	\$ 0.001950 / sq ft
SOUTHGATE	PMD 4017	\$ 0.005594 / sq ft
FRANCES' PARK	PMD 4018	\$ 65.22 / lot
ROLLINGS HILLS	PMD 4019	\$ 187.88 / lot
DOKKEN PARK	PMD4020	\$ 285.71 / lot
LUTHERAN PARK	PMD 4022	\$ 116.67 / lot
RIMROCK WEST PARK	PMD 4023	\$ 99.19 / lot
WALDEN GROVE PARK	PMD 4024	\$ 0.013454 / sq ft
REHBERG ESTATE SUB	PMD 4025	\$ 0.009337 / sq ft
UINTA PARK SUB.	PMD 4026	\$ 105.67 / lot
IRONWOOD SUB 1ST, 2ND, 3RD FIL	PMD 4027	\$ 0.004060 / sq ft
VINTAGE ESTATES	PMD 4028	\$ 36.47 / lot
COTTONWOOD GROVE SUB	PMD 4029	\$ 0.002391 / sq ft
KINGS GREEN SUB	PMD 4030	\$ 280.00 / lot
COPPER RIDGE SUB	PMD 4031	\$ 314.10 / lot
RIVERFRONT POINTE SUB	PMD 4032	\$ 29.73 / lot
FALCON RIDGE SUB	PMD 4033	\$ 212.50 / lot
JOSEPHINE CROSSING SUB	PMD 4034	\$ 0.014454 / sq ft

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

6. **NOTICE OF HEARING.** On Monday, June 11, 2007 at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is

hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Billings Times.

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

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

The foregoing Resolution No. - \_\_\_\_\_ was ADOPTED by the City Council and APPROVED on the 11th day of June, 2007.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK



***Attachment B***

RESOLUTION 07 \_\_\_\_\_

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

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

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

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

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

1.     DISTRICTS AND ASSESSMENTS. The lighting maintenance districts and assessments to  
defray one hundred percent (100%) of all the costs of maintenance and lighting are hereby levied and  
assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made  
a part hereof.

2.     PERIOD OF ASSESSMENT. That said assessment is to defray costs for the fiscal year  
2008.

3.     DISPOSITION OF COLLECTIONS. That the assessments as collected shall be placed  
in the respective lighting maintenance funds and shall be used to defray the costs of maintenance and  
lighting as provided by law.

4.     NOTICE OF HEARING. On Monday, June 11, 2007, at 6:30 o'clock p.m., or as soon  
thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings,  
Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby  
directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Billings Times.

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

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

The foregoing Resolution No. \_\_\_\_\_ was ADOPTED by the City Council and APPROVED on the 11th day of June 2007.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

***Exhibit A***

District Number	FY 08 Assessment
8	6,900
9	5,400
10	18,700
13	225,000
14	82,500
17	13,600
18	2,810
95	7,085
97	147,000
99	21,500
100	32,700
107	23,400
109	55,000
113	6,200
114	12,400
115	2,900
116	7,300
117	36,200
118	2,600
119	1,700
121	32,200
122	2,200
123	4,300
124	12,100
125	5,000
126	2,300
127	9,100
128	6,500
129	4,200
130	1,700
131	11,000
133	2,700
134	7,100
135	6,400
136	5,500
137	5,400
138	9,600
139	3,100
143	7,400
144	300
145	6,000
146	4,300

147	5,800
149	27,700
150	9,700
151	8,000
152	49,000
153	7,000
154	15,900
155	6,400
157	12,200
158	10,300
159	13,800
160	8,500
161	14,000
162	700
163	16,875
164	4,900
165	11,300
167	3,000
171	7,300
172	6,900
173	16,000
174	13,000
175	3,900
176	530
178	3,400
179	6,700
180	4,550
181	22,000
182	7,800
183	15,500
184	4,600
185	1,700
186	9,300
187	2,700
188	3,600
189	2,900
190	16,000
191	5,700
192	3,900
193	10,000
194	5,060
195	5,055
196	2,700
197	1,150
198	1,600

200	1,950
201	6,500
202	17,200
203	275
204	8,100
205	400
206	4,400
207	4,900
208	12,000
209	7,200
210	2,175
211	1,010
212	1,010
213	765
214	5,900
216	1,800
217	9,000
220	7,000
221	100
222	2,000
223	2,200
224	23,400
225	10,125
226	4,770
227	10,125
228	10,800
229	5,800
230	12,600
231	7,700
232	34,700
233	18,900
234	8,640
235	10,125
236	4,320
237	5,700
238	200
239	1,300
240	6,300
241	8,400
242	1,100
244	1,500
245	1,100
246	4,500
247	15,600
248	31,200

249	37,100
250	3,300
251	48,500
252	7,500
253	23,500
254	5,550
255	4,050
257	17,200
258	31,500
259	26,250
261	6,600
262	34,100
263	15,000
264	3,500
265	3,700
266	700
269	800
270	12,250
271	9,500
272	26,500
273	2,200
274	1,470
276	8,050
277	8,900
278	5,650
279	900
280	16,000
281	3,200
283	8,500
285	3,500
286	2,700
287	3,000
288	6,000
289	4,000
290	1,400
292	7,050
293	2,750
294	5,900
295	1,300
296	13,000
297	2,450
298	2,200
299	3,800
300	3,800
320	2,250

RESOLUTION 07- \_\_\_\_\_

A RESOLUTION LEVYING AND ASSESSING PROPERTIES  
WITHIN THE CITY OF BILLINGS THE PROPERTY SAFETY  
WATER SUPPLY SERVICE CHARGE, PROVIDING FOR  
NOTICE, HEARING AND ADOPTION.

WHEREAS, Billings, Montana City Code provides for assessment for property safety water supply service charge annually; and

WHEREAS, said Billings, Montana City Code provides that the City Council shall fix, levy, and assess said charge on or before the second Monday in August.

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

1. SERVICE CHARGE FOR FISCAL YEAR 2008. The Property Safety Water Supply Service Charge for the fiscal year 2008 is hereby fixed, levied and assessed against each and every parcel of real and personal property within the City. Each parcel shall pay to the City that portion of the total Property Safety Water Supply Service Charge imposed annually as hereinafter provided, as the total taxable value of each parcel bears to the total taxable value within the City.

The assessment is **\$0.0127104** per taxable value dollar, provided, however:

- (a) Parcels of real property which have no taxable value shall pay an annual charge of \$20.00 per parcel.
- (b) All parcels having taxable value shall pay at least a minimum annual charge of \$1.00 per parcel.

2. NOTICE OF HEARING. On Monday, June 11<sup>th</sup>, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on May 24<sup>th</sup> and May 31<sup>st</sup> 2007, in the Billings Times.

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

4. EFFECTIVE DATE. This resolution shall be effective upon adoption.  
ADOPTED and APPROVED by the City Council on the 11<sup>th</sup> day of June, 2007.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

RESOLUTION 07-\_\_\_\_\_

***A RESOLUTION DETERMINING AND FIXING THE METHODS OF ASSESSMENT IN EACH DISTRICT, FIXING THE RATE OF ASSESSMENT FOR COSTS OF STREET MAINTENANCE WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND ADOPTION***

.

WHEREAS, the City, by Resolution, has defined the boundaries and established street maintenance districts as provided by State Law, and

WHEREAS, it is necessary to determine, levy and assess the properties within the districts.

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

1.     METHOD OF ASSESSMENT.     The City hereby determines that each lot or parcel of land within both Street Maintenance Districts One (1) and Two (2) shall be assessed for that portion of the whole cost which each lot or parcel of land in the respective district bears to the total area of the respective district exclusive of streets, avenues, alleys and public places.

2.     ASSESSMENT DISTRICT ONE (1).     Each lot or parcel within portions of the Central Business District, being District One (1), is hereby assessed **\$0.038892** per square foot of area for fiscal year 2008 .

3.     ASSESSMENT DISTRICT TWO (2).     Each lot or parcel within the balance of the City, being District Two (2), is hereby assessed **\$0.006393** per square foot of area for fiscal year 2008.

4.     MAXIMUM ANNUAL CHARGE.     The maximum annual charge for any tract, parcel or lot which is undeveloped and unimproved shall be Nine Hundred Seventy Four Dollars (\$974.00).

5.     LOTS AND PARCELS ASSESSED.     A list which describes each lot or parcel of land assessed within the respective district, with the name of the owner thereof, and the amount levied thereon set is available as a printed document in the office of Public Works at the Parmly Billings Library Building, Billings, Montana.

6.     EXCLUDED PROPERTIES.     All properties, currently within the 12-year assessment term, 1988 through 1999, originally assessed for previous sidewalk, curb and gutter improvements, shall be



excluded from the curb and gutter repair portion of this additional Street Maintenance District assessment during this 12-year term. The curb and gutter repair portion of the new additional Street Maintenance Districts assessment is \$0.000625 per square foot of area. The exemption will include properties within a current assessment term who have previously paid their assessment off. Any party who would have been included in one of these City programs but elected to have their repairs done privately may make special application for an exclusion to the City Engineer's Office.

7. EXEMPTION. Street Maintenance District assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund or MET Transit Fund

8. COLLECTION OF ASSESSMENTS. Said special assessments shall be placed upon the assessment rolls and collected in the same manner as other taxes.

(NOTE: THE FOLLOWING PARAGRAPH WAS ADDED PER COUNCIL REQUEST.)

9. CURB AND GUTTER POLICY. **The portions of the City Council's Proposed Curb, Gutter and Sidewalk Policy that applies to curb and gutter replacement/repair ONLY are incorporated herein:**

**"All curb and gutter repair and replacement is paid by the city curb and gutter program. Improvements to existing streets including the widening of those streets and the installation of curbs and gutters would have a cap placed on property owner assessments. The cap on assessments is based on the appraised value of the property (as follows:) (1) if the assessment is less than 5% of the property value, then the homeowner is responsible for the entire assessment; (2) if the assessment is more than 5% of the property value but less than 10%, the city curb and gutter program pays one-half of the assessment amount in excess of 5%; and (3) if the assessment is more than 10% of the property value, then the curb and gutter program pays one-half of the amount of the assessment between 5 and 10% and all of the assessment in excess of 10%."**

**"Home/property owners currently paying assessments will be exempt from paying fees to the annual curb and gutter program, until they have paid their assessment. Upon full payment of their assessment, they will be entered into the city-wide assessment program. Those owners who elected to pay assessments in full or contract to perform repairs without involvement in the city program, will need to submit proof of payment to the City Finance Office and will receive the same exemption."**

10. NOTICE OF HEARING. On Monday, **June 11, 2007**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk is



RESOLUTION 07 \_\_\_\_\_

A RESOLUTION LEVYING AND ASSESSING STORM SEWER FEES  
FOR PROPERTIES WITHIN THE CITY OF BILLINGS, PROVIDING FOR  
NOTICE, HEARING AND FINAL ADOPTION

WHEREAS, the Billings, Montana City Code did establish the rate table for Storm Sewer assessments; and

WHEREAS, extension of these charges have been made on individual properties to be assessed annually.

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

1. ANNUAL STORM SEWER FEE FOR FISCAL YEAR 2008. That for the purpose of defraying the cost of upgrading, repairing and maintaining the City Storm Sewer System an annual storm sewer fee is imposed for the fiscal year 2008, upon all lots or portions of lots as identified in the city's property tax record files. Rates are hereby levied and assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. EXEMPTION. Storm Sewer Fee assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund, or MET Transit Fund.

3. DISPOSITIONS OF COLLECTIONS. Monies collected from assessments shall be paid into the Storm Sewer Fund, of Billings, Montana.

4. NOTICE OF HEARING. On Monday, **June 11, 2007**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice on May 24, 2007 and May 31, 2007, in the Billings Times.

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

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

ADOPTED and APPROVED by the City Council on the 11<sup>th</sup> day of **June, 2007**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

***Exhibit A***

	<b>Storm Sewer Fee</b>		
	<b>ZONE</b>	<b>RATE</b>	
	<b>VACANT</b>	977.00	Cap
	<b>AT RATE</b>	0.00124	
	<b>P</b>	0.00210	
	<b>R-96</b>	0.00367	
	<b>R-80</b>	0.00399	
	<b>R-70</b>	0.00421	
	<b>R-70R</b>	0.00421	
	<b>RMH</b>	0.00472	
	<b>R-50</b>	0.00506	
	<b>PD</b>	0.00578	
	<b>R-60</b>	0.00631	
	<b>R-60R</b>	0.00631	
	<b>RP</b>	0.00684	
	<b>RMF-R</b>	0.00714	
	<b>RMF</b>	0.00739	
	<b>NC</b>	0.00814	
	<b>ELC</b>	0.00814	
	<b>MCPZD</b>	0.00840	
	<b>CC</b>	0.00869	
	<b>EGC</b>	0.00892	
	<b>PZD</b>	0.00882	
	<b>HC</b>	0.00892	
	<b>CI</b>	0.00949	
	<b>HI</b>	0.01056	
	<b>CBD</b>	0.01264	
	<b>ELI</b>	0.00892	
	<b>EMU</b>	0.00869	

RESOLUTION 07 - \_\_\_\_\_

A RESOLUTION LEVYING AND ASSESSING ARTERIAL  
CONSTRUCTION FEES FOR PROPERTIES WITHIN THE CITY OF  
BILLINGS, PROVIDING FOR NOTICE, HEARING AND FINAL ADOPTION

WHEREAS, the Billings, Montana City Code did establish the rate table for Arterial Construction Fee assessments; and

WHEREAS, extension of these charges have been made on individual properties to be assessed annually.

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

1. ANNUAL ARTERIAL CONSTRUCTION FEE FOR FISCAL YEAR 2008. That for the purpose of paying the cost of construction and/or reconstruction of arterial roadways and depreciation and replacement of arterial roadways to provide safe facilities on which citizens and visitors may travel, including the principal and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee assessment is imposed for the fiscal year 2008, upon all lots or portions of lots as identified in the city's property tax record files. Rates are hereby levied and assessed as listed and described on EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. EXEMPTION. Arterial Construction Fee assessments shall not be paid by the City General Fund, Public Safety Fund, Library Fund, or MET Transit Fund.

3. DISPOSITIONS OF COLLECTIONS. Monies collected from taxes shall be paid into the Municipal Arterial Construction System Fund, of Billings, Montana.

4. NOTICE OF HEARING. On Monday, **June 11, 2007**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings,

Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on May 24 and May 31, 2007, in the Billings Times.

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

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

ADOPTED and APPROVED by the City Council on the 11<sup>th</sup> day of **June, 2007**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

*Exhibit A*

**Arterial Construction Fee**

<b>ZONE</b>	<b>RATE</b>	
<b>VACANT</b>	988.00	Cap
<b>AT RATE</b>	0.00125	
<b>P</b>	0.00212	
<b>R-96</b>	0.00371	
<b>R-80</b>	0.00404	
<b>R-70</b>	0.00425	
<b>R-70R</b>	0.00425	
<b>RMH</b>	0.00477	
<b>R-50</b>	0.00512	
<b>PD</b>	0.00585	
<b>R-60</b>	0.00638	
<b>R-60R</b>	0.00638	
<b>RP</b>	0.00692	
<b>RMF-R</b>	0.00721	
<b>RMF</b>	0.00748	
<b>NC</b>	0.00824	
<b>ELC</b>	0.00824	
<b>MCPZD</b>	0.00850	
<b>CC</b>	0.00879	
<b>EGC</b>	0.00902	
<b>PZD</b>	0.00892	
<b>HC</b>	0.00902	
<b>CI</b>	0.00960	
<b>HI</b>	0.01068	
<b>CBD</b>	0.01279	
<b>ELI</b>	0.00902	
<b>EMU</b>	0.00879	



RESOLUTION 07 \_\_\_\_\_

A RESOLUTION LEVYING AND ASSESSING PROPERTIES FOR THE  
PURPOSE OF PROVIDING AND MAINTAINING THE COMMON AREA  
IMPROVEMENTS MADE IN DOWNTOWN, CITY OF BILLINGS, PROVIDING  
FOR NOTICE, HEARING AND ADOPTION.

WHEREAS, Billings, Montana City Code provides for assessment for public improvements and maintenance, including but not limited to public sidewalk sweeping, security, public sidewalk snow removal, litter control, graffiti removal, and abatement of other services that are requested by the downtown property owners.

WHEREAS, said Billings, Montana City Code provides that the City Council shall fix, levy, and assess said charge on or before the second Monday in August.

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

1. SERVICE CHARGE FOR FISCAL YEAR 2008. The Business Improvement District assessment for the fiscal year 2008 is hereby fixed, levied and assessed against each and every parcel of real property within the B.I. D. Each parcel shall pay to the City that portion of the total Business Improvement District assessment imposed annually. The assessment is a calculation based on square footage, taxable market value, and building square footage. See Exhibit A

2. NOTICE OF HEARING. On Monday, **June 11, 2007**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on May 24<sup>th</sup> and May 31<sup>st</sup> 2007, in the Billings Times.

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

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

ADOPTED and APPROVED by the City Council on the 11<sup>th</sup> day of **June, 2007**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

Business  
Improvement  
District

*Exhibit A*

TaxCode	<b>TOTAL ASSESSMENT</b>
A00258	\$553.15
A00260	\$365.10
A00261	\$1,473.97
A00262	\$1,845.14
A00263	\$785.32
A00264	\$4,412.21
A00269	\$811.27
A00270	\$156.61
A00271	\$9,250.59
A00351	\$1,757.35
A00352	\$3,286.46
A00360	\$3,285.23
A00362	\$242.65
A00363	\$455.03
A00364	\$1,496.79
A00365	\$1,076.40
A00366	\$3,018.52
A00367	\$390.34
A00367A	\$197.12
A00367B	\$189.39
A00367C	\$1,056.42
A00368	\$3,017.04
A00372	\$1,505.11
A00373	\$477.13
A00374	\$482.12
A00375	\$2,087.63
A00376	\$886.15
A00611	\$763.85
A00612	\$358.58
A00613	\$358.58
A00614	\$358.58
A00615	\$358.58
A00616	\$324.80

A00617	\$181.60
A00618	\$391.96
A00620	\$4,551.09
A00624	\$5,124.60
A00630	\$2,433.14
A00630A	\$367.05
A00631	\$211.07
A00632	\$186.97
A00633	\$369.45
A00634	\$477.42
A00635	\$578.05
A00636	\$629.65
A00636A	\$1,264.95
A00637	\$1,148.65
A00638	\$517.02
A00639	\$493.99
A00640A	\$112.96
A00640B	\$55.20
A00640C	\$79.71
A00640D	\$114.79
A00640E	\$61.53
A00640F	\$510.40
A00640H	\$84.23
A00640I	\$74.57
A00640J	\$74.49
A00640K	\$70.17
A00640L	\$48.90
A00640N	\$103.10
A00640O	\$73.23
A00640P	\$61.57
A00640Q	\$57.13
A00640R	\$51.88
A00640S	\$64.79
A00640T	\$51.71
A00640U	\$42.01
A00640V	\$63.20
A00641	\$575.39
A00642	\$1,660.59
A00643	\$857.03
A00644	\$719.94
A00645	\$1,099.17
A00647	\$811.70
A00648	\$376.59
A00648A	\$362.18

A00649	\$426.83
A00650	\$523.12
A00651	\$1,045.91
A00762	\$607.02
A00763	\$264.84
A00765	\$407.31
A00766	\$494.78
A00768	\$197.68
A00769	\$179.87
A00770	\$330.13
A00774	\$781.04
A00775	\$434.52
A00776	\$636.30
A00777	\$456.06
A00778	\$693.42
A00780	\$335.63
A00781	\$698.43
A00782	\$339.15
A00783	\$1,017.83
A00786	\$468.40
A00787	\$4,052.78
A00788	\$370.36
A00789	\$1,428.46
A00791	\$246.15
A00792	\$429.31
A00794	\$2,494.16
A00795	\$3,969.97
A00796A	\$413.81
A00796B	\$291.70
A00796C	\$122.77
A00796D	\$220.16
A00796E	\$124.32
A00796F	\$204.04
A00796G	\$141.54
A00796H	\$63.60
A00796I	\$61.61
A00796J	\$64.04
A00796K	\$41.73
A00796L	\$57.63
A00796N	\$56.31
A00796O	\$63.60
A00796P	\$61.61
A00796Q	\$64.04
A00796R	\$41.73

A00796S	\$57.63
A00796T	\$56.31
A00801A	\$144.26
A00804	\$9,182.10
A00806	\$800.15
A00807	\$218.15
A00808	\$199.34
A00809	\$202.78
A00810	\$891.93
A00811	\$335.48
A00812	\$252.28
A00813	\$436.98
A00814	\$636.86
A00815	\$637.29
A00816	\$1,316.66
A00817	\$967.69
A00818	\$270.00
A00819	\$257.83
A00819A	\$354.02
A00820	\$353.35
A00821	\$257.87
A00822	\$301.33
A00823	\$407.94
A00824	\$597.79
A00825	\$314.68
A00826	\$1,033.43
A00827	\$234.88
A00828	\$514.29
A00830	\$338.24
A00831	\$261.54
A00832	\$647.18
A00832A	\$362.67
A00833	\$842.73
A00834	\$618.39
A00835	\$1,109.35
A00836	\$1,040.94
A00838	\$767.58
A00839	\$2,537.55
A00840	\$1,112.93
A29916	\$1,079.67
A29917	\$1,827.13
I00064	\$832.12
I00078B	\$80.94
I00140	\$66.36

I00140A	<b>\$9.20</b>
I00153	<b>\$174.24</b>
I00154	<b>\$808.80</b>
I00648	<b>\$122.91</b>
I00649	<b>\$109.73</b>
I00650	<b>\$148.87</b>
I00651	<b>\$57.32</b>
I00797	<b>\$5,312.65</b>
I00808	<b>\$21.28</b>
I00841	<b>\$267.10</b>
Total	<b>\$141,542.51</b>

**RESOLUTION 07-\_\_\_\_\_**

**A RESOLUTION LEVYING AND ASSESSING RESIDENTIAL AND  
COMMERCIAL COLLECTION AND DISPOSAL FEES AND LANDFILL  
USE FEES IN ACCORDANCE WITH RESOLUTION NO. 86-15491**

WHEREAS, it has become necessary in the operation of City services to assess the fees for collection and disposal of refuse, and

WHEREAS, said fees are established and should apply until changed by subsequent resolution.

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

1. **RESIDENTIAL AND MOBILE HOME COLLECTION AND DISPOSAL FEES.** Residential fees are hereby assessed at \$79.00 per annum for unit occupied by one family. Residential fees for a mobile home located in a mobile park are hereby assessed at \$73.00 per annum for unit occupied by one family. Residential carry out service, where available, will be assessed at \$158.00 per annum. Residential landfill fees for newly annexed property not yet receiving City collection service are hereby assessed at \$18.50 per annum for unit occupied by one family.

2. **LANDFILL FEES.** Landfill use fees that are not covered by other agreements or assessments are hereby assessed as follows. All fees will be based on net weight, unless the landfill scale is inoperable then volume fees will apply: A minimum charge of \$4.00 will apply to all transactions.

**A. Pickup/Small Trailer**

Pickups or equivalent sized trailers hauling any material except those with special fees shall be assessed minimum fees as follows:

Pickup truck/small trailer	\$4.00
----------------------------	--------

Vehicles with *side boards* over one (1) foot high or loaded with heavier materials will be charged at the per ton rate in Paragraph B unless the landfill scales are inoperable, then the vehicle will be charged by the cubic yard rated on the capacity of the vehicle.

**B. Compactible Material**



Compactible material such as demolition, wood, household debris, tree removal refuse, and all other refuse not covered by special fees or special use agreements shall be charged at the following rates:

Per Ton Charge	\$11.50	
Loose Garbage	\$1.45	per cubic yard of rated capacity
Compacted Garbage	\$3.75	per cubic yard of rated capacity

**C. Non-Compactible Material**

Asphalt, rocks, concrete, dirt, gravel, timbers, and other non-Compactible material will be charged at \$11.50 per ton or \$16.00 per cubic yard based on the rated capacity of the vehicle.

**D. Special Waste**

Special Waste such as contaminated soil, sludges, and treated timbers will be accepted on a case-by-case basis dependent upon testing and approval. If accepted, landfill fees will be \$23.00 per ton or \$32.00 per cubic yard based on the capacity of the vehicle.

**E. Special Fees**

1. Dead animals such as sheep, cows, and horses will be charged at the following rates:

Horse	\$75.00/each	
Cow	\$50.00/each	
Colt, Sheep, Pig, etc.		\$20.00/each
Large quantities	\$75.00/ton	

2. Whole tires will be charged at the following rates:

Car or Light Truck (up to 17")	\$2.00/each
Large Truck (17" to 24")	\$5.00/each
Equipment Tire (grader size)	\$17.50/each
Large Amounts	\$75.00/ton or \$17.50 per cubic yard
Cut tires	\$11.50/ton or \$1.45/per cubic yard

3. Asbestos will be charged at \$60.00 per ton or \$30.00 per yard or \$7.50 per bag. The minimum charge shall be \$90.00.

4. Barrels with one end off will be charged at \$5.00. If both ends are cut off, they will be assessed per paragraph A or B above. All barrels that contained pesticides or herbicides must be triple rinsed.
5. Residential refrigeration units will be subject to a \$10.00 Freon recovery fee unless accompanied by written certification that the Freon has been recovered. Commercial units must have certification that the Freon has been removed.

F. City of Billings *residents hauling non-business waste* in a vehicle no larger than a 3/4 ton pickup truck, or equivalent sized trailer, will not be charged. All commercial waste not charged through other assessments will be charged per the above paragraphs.

3. COMMERCIAL COLLECTION AND DISPOSAL FEES PER ANNUM. Commercial collection service is available subject to Solid Waste Division approval of container type, size, placement, and serviceability. Commercial collection and disposal fees are hereby assessed as follows:

Container Size	K. City Owned Container PER WEEK FREQUENCY OF COLLECTION						
	1	2	3	4	5	6	Saturday*
2 Yards	\$509	\$838	\$1,167	\$1,496	\$1,825	\$2,220	\$658
3 Yards	\$555	\$930	\$1,305	\$1,680	\$2,055	\$2,505	\$750
4 Yards	\$602	\$1,024	\$1,446	\$1,868	\$2,290	\$2,796	\$844
6 Yards	\$753	\$1,266	\$1,779	\$2,292	\$2,805	\$3,421	\$1,026
8 Yards	\$845	\$1,450	\$2,055	\$2,660	\$3,265	\$3,991	\$1,210

Container Size	L. Customer Owned Container PER WEEK FREQUENCY OF COLLECTION						
	1	2	3	4	5	6	Saturday*
1 Yard	\$283	\$566	\$849	\$1,132	\$1,415	\$1,755	\$566
2 Yards	\$329	\$658	\$987	\$1,316	\$1,645	\$2,040	\$658
3 Yards	\$375	\$750	\$1,125	\$1,500	\$1,875	\$2,325	\$750
4 Yards	\$422	\$844	\$1,266	\$1,688	\$2,110	\$2,616	\$844
6 Yards	\$513	\$1,026	\$1,539	\$2,052	\$2,565	\$3,181	\$1,026
8 Yards	\$605	\$1,210	\$1,815	\$2,420	\$3,025	\$3,751	\$1,210
30 Gal Can Ea	\$61	\$122	\$183	\$244	\$305	\$378	\$122
Compactor containers will be assessed at 2.5 times the above rates.							
Above fees are for customer-owned containers.							
* Saturday service without 6 times per week pick-up will be assessed double the 1 time per week rate.							

90 Gallon Barrel	\$156
300 Gallon Barrel	\$346

\* The above include use of the City of Billings' container with one pickup per week only. This service not available in all areas.

Hand Load/Loose - Special Service - In addition to can or container service.  
\$242.00 per annum for each minute of special service per pick-up.

Commercial customers will be provided 2 courtesy pickups over and above their current scheduled service each fiscal year. Any additional service will be billed at the actual hourly rates as follows (minimum 1 hour):

Compacter truck, 1 Man	\$75.00	Compacter truck, 2 Men	\$105.00.
------------------------	---------	------------------------	-----------

Tax supported funds, which will include the General Fund, Public Safety, Library and Transit Funds, will not be charged for garbage.

Drop Box/Roll Off

Customer-owned Container                      \$93.00 per pull plus disposal:

Non-Compacted	\$11.50/ton or \$1.45 per cubic yard rated capacity
Compacted	\$11.50/ton or \$3.75 per cubic yard rated capacity

City-owned Container – \$93.00 per pull plus disposal plus lease fee if applicable.

30 cubic yards – cash only / one time	\$165.00
---------------------------------------	----------

Commercial landfill fees for newly annexed property not receiving City collection service will be assessed at the current disposal rate times the size and frequency of their service.

PASSED by the City Council and APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

CITY OF BILLINGS

By: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk

## Garbage Collection Rates

City	Residential Per year	Commercial 3yd 1/wk	Landfill Fee	Ton or Cubic Yard	Comments
<b>Billings</b>	\$ 79.00	\$ 555.00	\$ 11.50	Ton	Container provided (3 yard)
<b>Bozeman</b>	\$ 131.50-215.25	\$ 936.36	\$ 36.77	Ton	Residential based on container size; Container provided (3 yard)
<b>Casper</b>	\$ 144.00	\$ 756.00	\$ 38.00	Ton	Container provided (3 yard)
<b>Great Falls</b>	\$ 93.00-111.00	\$ 583.20	\$ 27.75	Ton	Container provided (3 yard)-Senior rate 77.40. Residential based on size
<b>Helena</b>	\$ 157.08	\$ 963.00	\$ 51.35	Ton	Container provided (3 yard)
<b>Spokane</b>	\$ 284.16-384.24	\$ 2,575.45	\$ 98.00	Ton	Container provided (3 yard)
<b>Missoula</b>	\$ 220.20	\$ 1,019.40	\$ 12.30	Cubic Yard	Container provided (3 yard),BFI Recycle
<b>Rapid City</b>	\$ 159.12-177.84	private	\$ 45.00	Ton	Residential based on container size
<b>Boise</b>	120.00-144.00	private	\$ 3.00-6.00	Cubic Yard	\$1.00/mo recycle discount, add'l mo. charge for wheeled residential container: Commercial container provided
<b>Cheyenne</b>	142.80-189.60	\$ 780.00	\$ 40.00	Ton	Residential depends on manual or automated collection;Container provided (3 yard)

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

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 11, 2007

TITLE: Public Hearing & Site Development Ordinance Variance(s) #CC07-02  
DEPARTMENT: Public Works/Engineering  
PRESENTED BY: Dave Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** The Developer, Regal Land Development, Inc., is wishing to construct 4-plex developments within Riverfront Pointe Subdivision. The developments would include 4-plex units on Lots 3-7 & 18-20, Block 2, Lots 1-14, Block 4, Lots 1-5, Block 8 and Lots 1 & 2, Block 9 Riverfront Point Subdivision, as shown in Attachment A; which is currently under review for amendment as shown in Attachment B. The Developer is requesting a variance from Site Development Ordinance, Section 6-1208(h)(2) requiring a maximum driveway width of 24-feet instead of the proposed 30-foot drive approach, and Section 6-1208(j)(2) requiring the distance between drive approaches serving the same lot to be separated by 25-feet of full height curb.

#### ALTERNATIVES ANALYZED:

1. a. Approve the variance from Section 6-1208(h)(2) allowing driveway widths greater than 24 feet in a multifamily-zoned district.  
b. Do not approve the variance from Section 6-1208(h)(2) allowing driveway widths greater than 24 feet in a multifamily-zoned district.
2. a. Approve the variance from Section 6-1208(j)(2) allowing curb cuts serving the same property to be separated by less than 25 feet of full height curb.  
b. Do not approve the variance from Section 6-1208(j)(2) allowing curb cuts serving the same property to be separated by less than 25 feet of full height curb.

**FINANCIAL IMPACT:** There is no financial impact associated with these variances.

## **RECOMMENDATION**

Staff recommends that Council approve both of the variances because the functionality of the curbs, gutters, sidewalks, streets, and traffic flow will not be affected if this variance is granted.

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

## **ATTACHMENTS**

- A. Variance Application (2 pages)
- B. Amended Plat (Preliminary) (1 page)
- C. Original Plat (1 page)

## **INTRODUCTION**

The Developer is requesting variances from the Site Development Ordinance, Section 6-1208(h)(2), and Section 6-1208(j)(2). Section 6-1208(h)(2) pertains to the maximum driveway width in a multifamily-zoned district, and Section 6-1208(j)(2) pertains to the distance separating drive approaches serving the same property.

As the site layout shown in Attachment B, the Developer is proposing to install 30-foot drive approaches instead of the allowed 24-foot drive approaches with a full curb height separation between drive approaches of less than the allowed 25 feet.

## **BACKGROUND**

The first variance the Developer is seeking concerns the maximum driveway width allowed for a lot in a multifamily-zoned district. The Site Development Ordinance reads as follows:

*Section 6-1208(h)(2)*

In any multifamily and professional zoned districts, the maximum driveway width shall not exceed twenty-four (24) feet and shall be located in accordance with city specifications or drawings. The minimum distance between curb cuts shall be twenty-five (25) feet.

The second variance the Developer is seeking concerns the distance that separates drive approaches from each other. The Site Development Ordinance is as follows:

*Section 1208(j)(2)*

Two (2) or more curb cuts serving the same property must be separated by islands with full height curb not less than twenty-five (25) feet long.

## **ALTERNATIVES ANALYSIS**

1. a. Approve the variance allowing a drive approach width of 30 feet instead of the standard 24 feet. Approval of this variance will allow for the developers of the lots to place their 4-plexes closer to the front property line and may reduce vehicle backing movements from the garages to the street.
- b. Do not approve the variance allowing a drive approach width of 30 feet instead of the standard 24 feet. Denying this variance will require the developer to build their 4-plexes farther from the front property line and may increase vehicle backing movements from the garages to the street.
2. a. Approve the variance allowing curb cuts serving the same property to be separated by less than 25 feet of full height curb. Approval of this variance will allow the drive approaches to be closer together than what the City Ordinance allows, which will reduce the amount of on-street parking available.

- b. Do not approve the variance allowing curb cuts serving the same property to be separated by less than 25 feet of full height curb. Denying this variance will require the developers to comply with City standards for drive approach separation and maintain an adequate amount of on-street parking.

## **RECOMMENDATION**

Staff recommends that Council approve both of the variances because the functionality of the curbs, gutters, sidewalks, streets, and traffic flow will not be affected if this variance is granted.

## **ATTACHMENTS**

- A. Variance Application (2 pages)
- B. Amended Plat (Preliminary) (1 page)
- C. Original Plat (1 page)



Attachment A

## APPLICATION FORM

### CITY VARIANCE

The undersigned as owner(s), contract purchaser(s) or agent(s) of the following described property hereby request a Variance from the terms of the City of Billings-Yellowstone County Unified Zoning Regulations.

Legal Description of Property: Riverfront Pointe Subdivision: Lots 3-7 & 18-20, Block 2; Lots 1-14, Block 4; Lots 1-5, Block 8

Address or General Location (If unknown, contact City Engineering): East of the intersection of Muldowney Lane and Frontier Drive

Zoning Classification: Highway Commercial

Size of Parcel (Area & Dimensions): Approx. 6.60 acres

Covenants or Deed Restrictions on Property: Yes x No       
If yes, please attach to application.

Variance Requested: Section 6-1208 (h)(2) and Section 6-1208 (j)(2)  
Requesting reduction in the minimum distance between curb cuts from 25-feet to 10-feet and for two (2) or more curb cuts serving the same property, a reduction in full height curb from not less than 25-feet long to not less than 10-feet long.

Facts of Hardship: The proposed 4-plex construction allowed in the zoning makes it difficult to maintain the required distance between curb cuts. Under the proposed layout the maximum number of approaches serving each property is two, and in some cases all four units share one approach.

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Regal Land Development, Inc.  
(Recorded Owner)

P.O. Box 80445, Billings, MT 59108  
(Address)

(406) 656-1301  
(Phone Number)

Subdivider(s): Skyline Builders Montana, Inc.  
(Recorded Owner)

6065 Sandalwood Drive, Billings, MT 59106  
(Address)

(406) 855-7902  
(Phone Number)

Agent(s): Engineering, Inc.  
(Name)

1300 North Transtech Way, Billings, MT 59102  
(Address)

(04/27/06)j

(406) 656-5255  
(Phone Number)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature:

David W. Wells  
(Recorded Owner)

Date:

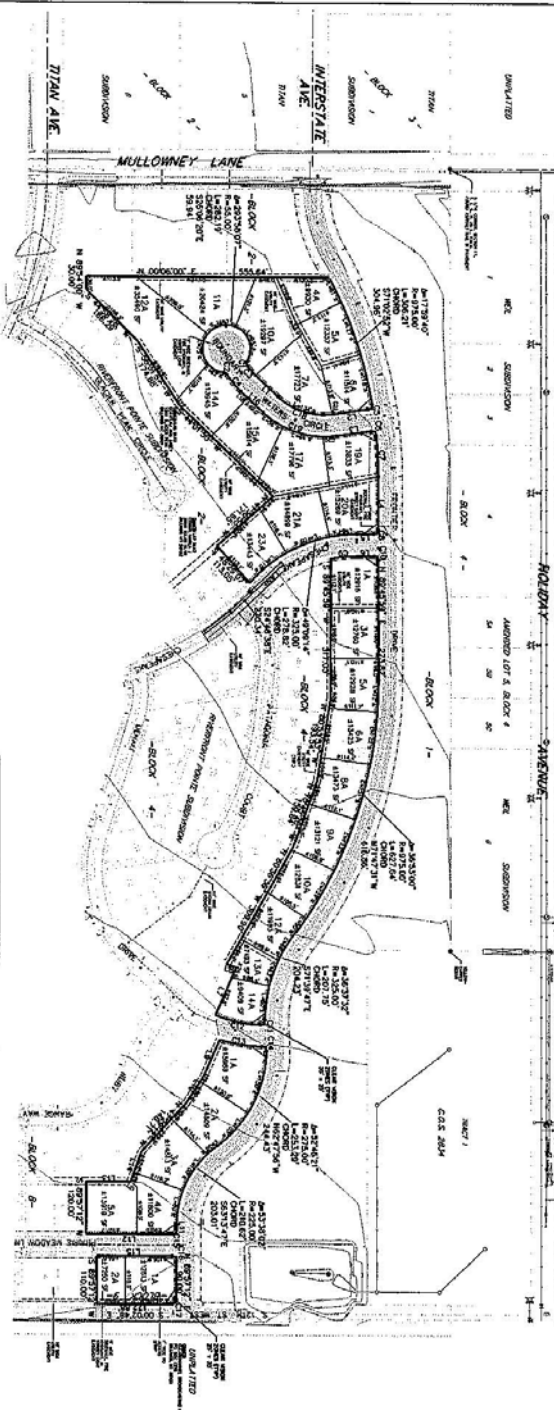
1-May-07

(04/27/06)j

PRELIMINARY PLAT OF  
**RIVERFRONT POINTE SUBDIVISION, AMENDED**  
AMENDING LOTS 4-23, BLOCK 2, LOTS 1-14, BLOCK 4, LOTS 1-5, BLOCK 8 AND LOTS 1 & 2, BLOCK 9  
SITUATED IN THE SW 1/4 OF SECTION 17, T. 1 S., R. 26 E., P.1.M.M.  
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SKYLINE BUILDERS MONTANA, INC.  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1"=100'

APRIL, 2007  
JINGS. MONTANA

PLAT DATA

ROBERT GEMELIS,  
BROKER, ROSSZELL AND  
SONS, INC.,  
3716 HARRY COOPER PL.,  
BILIMONT, MT 59108  
PINEVIEW PONTIC, LLC  
PO BOX 802143  
BILIMONT MT 59108

LOT 1-4, BLOCK 2  
LOT 5-8, BLOCK 2  
LOT 9-12, BLOCK 2  
LOT 13-16, BLOCK 2  
LOT 17-20, BLOCK 2  
LOT 21-24, BLOCK 2  
LOT 25-28, BLOCK 2  
LOT 29-32, BLOCK 2  
LOT 33-36, BLOCK 2  
LOT 37-40, BLOCK 2  
LOT 41-44, BLOCK 2  
LOT 45-48, BLOCK 2  
LOT 49-52, BLOCK 2  
LOT 53-56, BLOCK 2  
LOT 57-60, BLOCK 2  
LOT 61-64, BLOCK 2  
LOT 65-68, BLOCK 2  
LOT 69-72, BLOCK 2  
LOT 73-76, BLOCK 2  
LOT 77-80, BLOCK 2  
LOT 81-84, BLOCK 2  
LOT 85-88, BLOCK 2  
LOT 89-92, BLOCK 2  
LOT 93-96, BLOCK 2  
LOT 97-100, BLOCK 2  
LOT 101-104, BLOCK 2  
LOT 105-108, BLOCK 2  
LOT 109-112, BLOCK 2  
LOT 113-116, BLOCK 2  
LOT 117-120, BLOCK 2  
LOT 121-124, BLOCK 2  
LOT 125-128, BLOCK 2  
LOT 129-132, BLOCK 2  
LOT 133-136, BLOCK 2  
LOT 137-140, BLOCK 2  
LOT 141-144, BLOCK 2  
LOT 145-148, BLOCK 2  
LOT 149-152, BLOCK 2  
LOT 153-156, BLOCK 2  
LOT 157-160, BLOCK 2  
LOT 161-164, BLOCK 2  
LOT 165-168, BLOCK 2  
LOT 169-172, BLOCK 2  
LOT 173-176, BLOCK 2  
LOT 177-180, BLOCK 2  
LOT 181-184, BLOCK 2  
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LOT 249-252, BLOCK 2  
LOT 253-256, BLOCK 2  
LOT 257-260, BLOCK 2  
LOT 261-264, BLOCK 2  
LOT 265-268, BLOCK 2  
LOT 269-272, BLOCK 2  
LOT 273-276, BLOCK 2  
LOT 277-280, BLOCK 2  
LOT 281-284, BLOCK 2  
LOT 285-288, BLOCK 2  
LOT 289-292, BLOCK 2  
LOT 293-296, BLOCK 2  
LOT 297-300, BLOCK 2  
LOT 301-304, BLOCK 2  
LOT 305-308, BLOCK 2  
LOT 309-312, BLOCK 2  
LOT 313-316, BLOCK 2  
LOT 317-320, BLOCK 2  
LOT 321-324, BLOCK 2  
LOT 325-328, BLOCK 2  
LOT 329-332, BLOCK 2  
LOT 333-336, BLOCK 2  
LOT 337-340, BLOCK 2  
LOT 341-344, BLOCK 2  
LOT 345-348, BLOCK 2  
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AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Public Hearing and Resolution to Vacate a Portion of Moose Hollow Lane  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** Lloyd Detienne, property owner in Aspen Gateway Subdivision 2<sup>nd</sup> Filing, has petitioned to vacate a portion of Moose Hollow Lane. Mr. Detienne owns all of the property abutting the proposed right-of-way and is proposing to resubdivide Aspen Gateway Subdivision 2<sup>nd</sup> Filing as attached. Moose Hollow Lane has not been constructed, and Mr. Detienne is the original subdivider that dedicated the right of way for Moose Hollow Lane.

**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:** Mr. Detienne is the original developer of Aspen Gateway 2<sup>nd</sup> Filing, which dedicated the right of way for Moose Hollow Lane. Moose Hollow Lane is undeveloped. It has been determined in the past that the original developer can vacate right of way at no cost.

**RECOMMENDATION**

Staff recommends that Council, after holding a public hearing, approve the resolution vacating a portion of Moose Hollow Lane.

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

**ATTACHMENT**

- A. Map Depicting Area to be Vacated
- B. Resolution Vacating a Portion of Moose Hollow Lane



RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,  
DISCONTINUING AND VACATING a portion of Moose Hollow Lane.

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 a portion of Moose Hollow Lane 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., a portion of Moose Hollow Lane more particularly described as follows:

Point of beginning is the Northerly end of L4

From the Point of Beginning S 0°31'26" E a distance of 6.48 feet;  
Thence along a curve to the right having a Radius of 212.50 feet, a Delta of 75°20'45" and a Length of 279.44 feet (said curve subtended by an Chord bearing S 37°08'56" W a distance of 259.74 feet); Thence S 74°49'19" W a distance of 199.88 feet; Thence N 0°00'00" E a distance of 10.31 feet; Thence along a curve to the right having a Radius of 215.00 feet, A Delta of 57°08'40" and a Length of 214.43 feet (said curve subtended by a Chord bearing N 59°06'23" a distance of 205.65 feet);  
Thence along a curve to the left having a Radius of 10.00 feet, a Delta of 45°09'36", and a Length of 7.88 feet (said curve subtended by a Chord bearing N 53°06'51" W a distance of 7.68 feet); Thence along a curve to the right having a Radius of 55.00 feet, a Delta of 21°50'53" and a length of 20.97 feet (said curve subtended by a Chord bearing N 64°46'13" W a distance of 20.85 feet); Thence S 89°28'34" W a distance of 98.53 feet; Thence N 0°00'00" E a distance of 40.00 feet;  
Thence N 89°28'34" E a distance of 76.17 feet; Thence along a non-tangential curve to the right having a Radius of 55.00 feet; a Delta of 212°16'20" and a length of 203.77 feet (said curve subtended by a Chord bearing S 78°40'26" E a distance of 105.67 feet); Thence along a curve to the left having a Radius of 10.00 feet, a Delta of 61°34'02" and

a Length of 10.75 (said curve subtended by a Chord bearing S 3°19'17" E a distance of 10.24 feet) Thence along a curve to the left having a Radius of 155.00 feet, a Delta of 71°04'23" and a Length of 192.27 feet (said Curve subtended by a chord bearing S 69°38'29" E a distance of 180.18 feet)  
Thence N 74°49'19 E a distance of 139.00 feet; Thence along a curve to the right having a Radius of 157.50 feet, a Delta of 75°20'45" and a Length of 207.12 feet (said curve subtended by a Chord bearing N 37°08'56" E a distance of 192.51 feet);  
Thence N 89°28'34" E a distance of 50.00 feet to the Point of Beginning.

Is hereby discontinued, abandoned and vacated.

2. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described **a portion of Moose Hollow Lane** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 11<sup>th</sup> day of June 2007.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing MAYOR

ATTEST:

BY: \_\_\_\_\_  
CITY CLERK

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



# RA7

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**TITLE:** Public Hearing and First Reading of an Ordinance Expanding Ward V  
(Annexation #07-08)

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** David Green, Planner I

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**PROBLEM/ISSUE STATEMENT:** On May 29, 2007, the City Council approved the annexation of an approximate 4.27 acre parcel legally described as Tract 3, Certificate of Survey 2298, located in Section 4, Township 1S, Range 25E. (Annexations #07-08) The request for annexation was submitted by Hope Evangelical Church, the owner of the property, with Benjamin Gonzales as agent. Upon annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward V will be conducted at this meeting. The second reading of the ordinance will be conducted on June 25, 2007.

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

**RECOMMENDATION**

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

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

**ATTACHMENT**

**A.** Ward Ordinance and Exhibit A

**ORDINANCE NO. 07-\_\_\_\_\_**

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

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

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

Tract 3, of Certificate of Survey 2298, Recorded January 9, 1985, Under Document No. 1336053, Records of Yellowstone County, Montana; including all adjacent right-of-way of Grand Avenue and 56<sup>th</sup> Street West.

Containing 5.619 gross and 4.269 net acres.

(# 07-08 Exhibit "A" Attached)

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

PASSED by the City Council on the first reading this 11th day of June, 2007.

PASSED by the City Council on the second reading this 25th day of June, 2007.

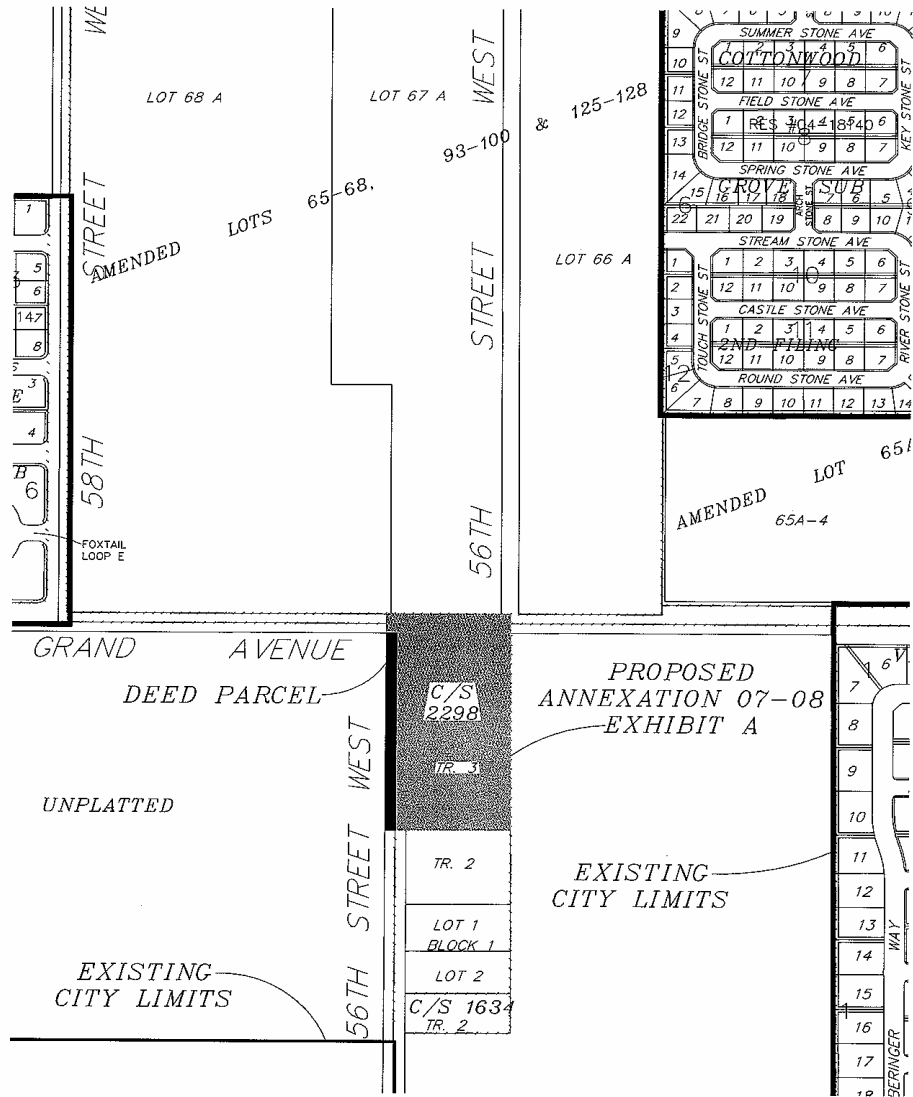
THE CITY OF BILLINGS:

\_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY:\_\_\_\_\_  
Cari Martin, CITY CLERK

*EXHIBIT A*



(Back to Regular Agenda)

# RA8

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, June 11, 2007

**TITLE:** Public Hearing and First Reading of an Ordinance Expanding Ward I  
(Annexation #07-09)

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** David Green, Planner I

**PROBLEM/ISSUE STATEMENT:** On May 29, 2007, the City Council approved the annexation of an approximate 14.08 acre parcel generally located at the southeast intersection of King Avenue East and Calhoun Lane, legally described as; being a portion of the NE1/4 NW1/4 of said Section 16, wholly surrounded by Tract 1, Certificate of Survey No. 2350, Recorded November 18, 1985, Under Document No. 1372518, Records of Yellowstone County to the north; King Avenue East right-of-way and the E1/2 NE1/4 NW1/4 of said Section 16 less Certificate of Survey 3153 to the east; Interstate Highway 90 to the south; and Tract 1, Certificate of Survey No. 2655, Recorded December 10, 1991, Under Document No. 1617045, Records of Yellowstone County, Lot 2A of Amended Plat of Lots 2, 3, 4, and 5, Block 1, Miller Crossing Subdivision Recorded May 28, 2003, Under Document No. 3232279, Records of Yellowstone County and King Avenue East right-of-way to the west.

Including all adjacent Right-Of-Way of King Avenue East, Parcel 7 of Montana Highway Project No. IR 90-8(120)447, Recorded June 14, 1991, Book 1361, Page 2150, Under Document No. 1598191, Records of Yellowstone County, and Parcel 12 of Montana Highway Project No. IR 90-8(120)447, Recorded December 15, 1992 Book 1387, Page 4193, Under Document No. 1664260, Records of Yellowstone County. (Annexation #07-09) The request for annexation was submitted by Miller Trois LLC, the owner of property. Upon annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward I will be conducted at this meeting. The second reading of the ordinance will be conducted on June 25, 2007.

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

**RECOMMENDATION**

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

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

**ATTACHMENT**

**B.** Ward Ordinance and Exhibit A

**ORDINANCE NO. 07-\_\_\_\_\_**

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

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

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

Being a portion of the NE1/4 NW1/4 of said Section 16, wholly surrounded by Tract 1, Certificate of Survey No. 2350, Recorded November 18, 1985, Under Document No. 1372518, Records of Yellowstone County to the north; King Avenue East right-of-way and the E1/2 NE1/4 NW1/4 of said Section 16 less Certificate of Survey 3153 to the east; Interstate Highway 90 to the south; and Tract 1, Certificate of Survey No. 2655, Recorded December 10, 1991, Under Document No. 1617045, Records of Yellowstone County, Lot 2A of Amended Plat of Lots 2, 3, 4, and 5, Block 1, Miller Crossing Subdivision Recorded May 28, 2003, Under Document No. 3232279, Records of Yellowstone County and King Avenue East right-of-way to the west.

Including all adjacent Right-Of-Way of King Avenue East, Parcel 7 of Montana Highway Project No. IR 90-8(120)447, Recorded June 14, 1991, Book 1361, Page 2150, Under Document No. 1598191, Records of Yellowstone County, and Parcel 12 of Montana Highway Project No. IR 90-8(120)447, Recorded December 15, 1992 Book 1387, Page 4193, Under Document No. 1664260, Records of Yellowstone County.

Containing 24.889 gross acres and 14.838 net acres, more or less.

(# 07-09 Exhibit "A" Attached)

4. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.

3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 11th day of June, 2007.

PASSED by the City Council on the second reading this 25th day of June, 2007.

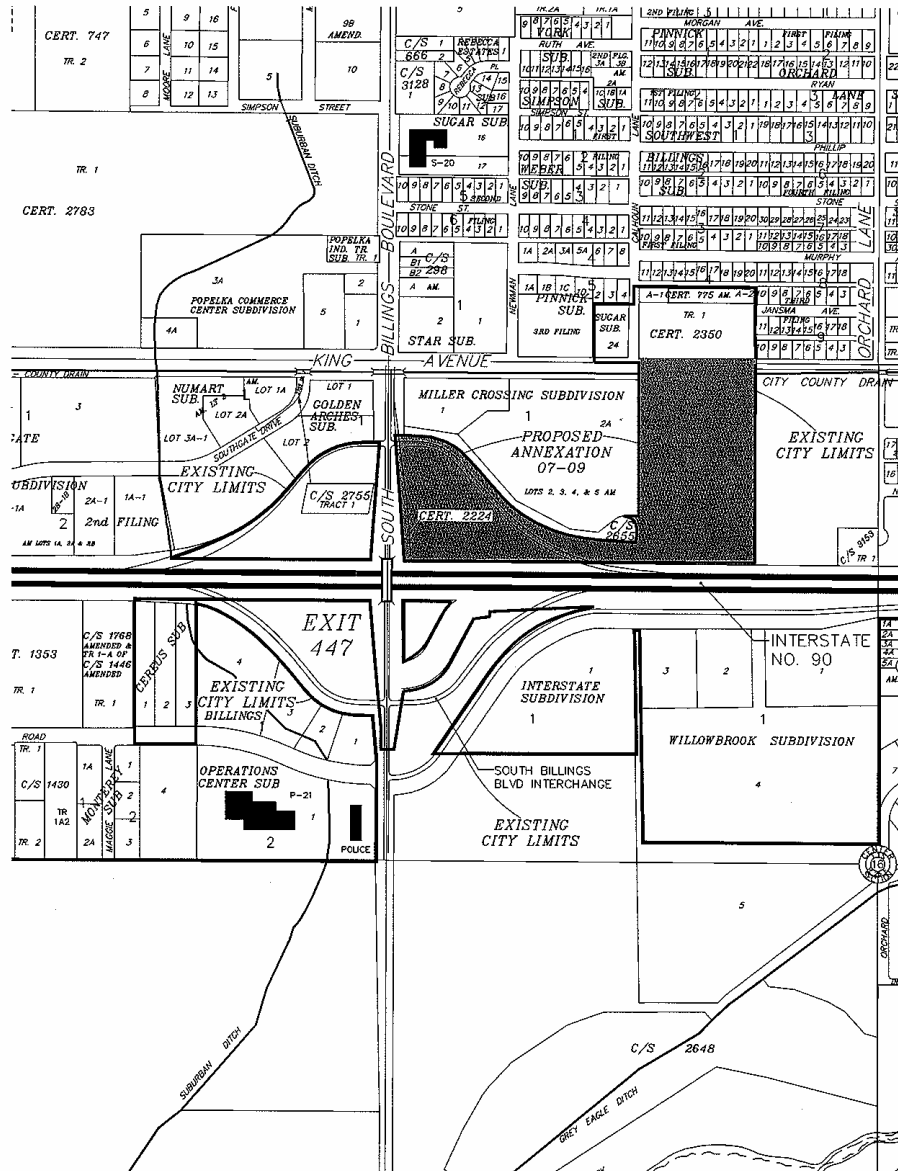
THE CITY OF BILLINGS:

\_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY:\_\_\_\_\_  
Cari Martin, CITY CLERK

# EXHIBIT A



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



# RA9



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, June 11, 2007**

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**SUBJECT:** Awarding Sale of Bonds Relating to \$10,700,000 General Obligation Bonds Series 2007A and \$1,800,000 General Obligation Bonds Series 2007B

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** The City Council has previously approved the authorization for sale of bonds relating to General Obligation Bonds Series 2007A for \$10,700,000 to be paid by general obligation mills and 2007B for \$1,800,000 to be paid by donations. This staff memo recommends award of the sale of the bonds totaling \$12,500,000 for the purpose of paying the costs of designing, constructing, and equipping a new baseball stadium.

**BACKGROUND INFORMATION:** Bids will be received on June 11, 2007

**RECOMMENDATION**

A recommendation will be made at the June 11<sup>th</sup> council meeting.

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

**ATTACHMENT**

Resolution

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$10,700,000 GENERAL OBLIGATION BONDS, SERIES 2007A AND \$1,800,000 GENERAL OBLIGATION BONDS, SERIES 2007B; AWARDING THE SALE THEREOF AND APPROVING THE OFFICIAL STATEMENT RELATING THERETO" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on June 11, 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 June, 2007.

(SEAL)

\_\_\_\_\_  
City

\_\_\_\_\_  
Clerk

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RELATING TO \$10,700,000 GENERAL OBLIGATION BONDS, SERIES 2007A AND \$1,800,000 GENERAL OBLIGATION BONDS, SERIES 2007B; AWARDING THE SALE THEREOF AND APPROVING THE OFFICIAL STATEMENT RELATING THERETO

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

1. This Council on April 23, 2007, adopted a resolution providing for the public sale of \$10,700,000 General Obligation Bonds, Series 2007A (the "Series 2007A Bonds") and \$1,800,000 General Obligation Bonds, Series 2007B (the "Series 2007B Bonds") (the Series 2007A Bonds and the Series 2007B Bonds, collectively, the "Bonds") to finance the costs of a Project described therein. Notice of the sale has been duly published in accordance with Montana Code Annotated, Sections 7-7-4252 and 17-5-106. Pursuant to the notice of sale, \_\_\_\_\_ (\_\_\_) electronic bids transmitted through Parity™ and sealed bids for the purchase of the Series 2007A Bonds were received at or before the time specified for receipt of bids; and \_\_\_\_\_ (\_\_\_) electronic bids transmitted through Parity™ and sealed bids for the purchase of the Series 2007B Bonds were received at or before the time specified for receipt of bids. The bids have been opened and publicly read and considered, and the purchase price, interest rates and true interest cost under the terms of each bid have been determined.

2. The bid of \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_ (the "2007A Purchaser"), attached as Exhibit A, to purchase the Series 2007A Bonds is hereby determined to comply with the notice of sale and to be the most favorable bid received for the purchase of the Series 2007A Bonds. The bid of the 2007A Purchaser is hereby accepted and the sale of the Series 2007A Bonds is hereby awarded to the 2007A Purchaser. The bid security of the 2007A Purchaser shall be retained pending payment for the Series 2007A Bonds and the bid security of all other bidders shall be returned forthwith.

3. The bid of \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_ (the "2007B Purchaser"), attached as Exhibit B, to purchase the Series 2007B Bonds is hereby determined to comply with the notice of sale and to be the most favorable bid received for the purchase of the Series 2007B Bonds. The bid of the 2007B Purchaser is hereby accepted and the sale of the Series 2007B Bonds is hereby awarded to the 2007B Purchaser. The bid security of the 2007B Purchaser shall be retained pending payment for the Series 2007B Bonds and the bid security of all other bidders shall be returned forthwith.

3. The Mayor, the City Administrator and the City Clerk are hereby authorized and directed to execute on behalf of the City a contract for the sale of the Bonds with the 2007A Purchaser and 2007B Purchaser (together, the "Purchasers").

4. The Preliminary Official Statement relating to the Bonds, dated \_\_\_\_\_, 2007, is hereby approved. The officers of the City are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement and to deliver to the Purchaser) within seven business days after the date of adoption of this resolution copies of the Official Statement in accordance with the Notice of Sale, supplemented so as to contain the terms of the Bonds as set forth in this resolution and the reoffering and other information provided by the Purchasers for inclusion in the Official Statement.

5. This Council shall prescribe the form and security for the Bonds in a subsequent resolution.

PASSED by the City Council of the City of Billings, Montana, this 11th day of June, 2007.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City

Clerk

(SEAL)

## EXHIBIT A

[Attach

Signed

Winning

Bid]

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