

NOTE: SUPPORTING DOCUMENTS FOLLOW AGENDA

CITY OF BILLINGS

CITY OF BILLINGS' VISION STATEMENT:

***"THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE
PEOPLE FLOURISH AND BUSINESS THRIVES"***

AGENDA

COUNCIL CHAMBERS

March 9, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Astle

ROLL CALL

MINUTES – February 23, 2009

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2b, 3, and 4.

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

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

CONSENT AGENDA:

1. A. Bid Awards:

(1) Fire/Technical Rescue Unit. (Opened 2/24/09) Recommend delay of award.

(2) Chemicals–Chlorine for Water Treatment Plant. (Opened 2/24/09) Recommend DPC Industries, Inc., \$598 per one-ton cylinder and \$150 per 150-lb cylinder.

B. Change Order #3, W.O. 07-16, Shiloh Road Corridor Water and Sanitary Sewer System Improvements, Cop Construction, \$111,680 increase, and increase in City Administrator's change order authority by an additional \$100,000 above what has been approved for Change Orders 1-3, to a total contract amount of \$2,726,986.

C. Amendment #4 to Scheduled Airline Operating Agreement and Terminal Building Lease with United Airlines, decrease of leasehold by 972 square feet and annual decrease of \$43,448.40.

D. Scheduled Airline Operating Agreement and Terminal Building Lease with Great Lakes Aviation, February 1, 2009-June 30, 2009, \$45,013 approximate annual revenue.

E. Approval of Advertising Agreement with Billings Gazette, two-year term, approximately \$46,698 per year, to be reviewed annually.

F. Grant Agreement with Department of Housing and Urban Development (HUD) to offset construction costs for Dehler Park, \$328,300.

G. Approval of Quitclaim Deeds from The Village Subdivision and Certificate of Survey 3125, Amended Tract 2, for necessary improvements on King Avenue West for The Village Subdivision, at no cost to the City.

H. Approval of State Revolving Loan Fund Application for W.O. 08-01, 2008 and 2009 Water and Sewer Replacement Projects, \$3,500,000 for water, and \$7,844,801 for wastewater.

I. Lockwood Transportation Study.

J. Street Closure: Shrine Circus "Elephants on Broadway", March 31, 2009, 4:00 p.m. to 9:00 p.m., 2700 and 2800 blocks of 2nd Avenue North and 100 and 200 blocks of 28th Street North.

K. Acceptance of Donations to the Ballpark Construction Fund and Maintenance Fund, \$81,000 total.

L. Acceptance of Donation to Billings Animal Shelter from Pet Smart Charities, \$591.

M. Memorandum of Understanding with the County Water District of Billings Heights covering the resale water rate and **Resolution** adopting the revised rates.

N. Appointment of Councilmembers to various Council Member Committees.

O. Preliminary Plat of Morledge Family Medical Village Subdivision, 2.8 acres located on the northwest corner of Poly Drive and 17th Street West, conditional approval of the preliminary plat and adoption of the Findings of Fact.

P. Preliminary Subsequent Minor Plat of Amended Lot 2, Block 1, Appleby Subdivision, approximately .66 acres located at 428 Milton Road, conditional approval of the preliminary subsequent minor plat and adoption of the Findings of Fact.

Q. Final Plats:

- (1) Lot 1, Block 1, Billings Clinic Subdivision.
- (2) E.D. King Subdivision, 3rd Filing
- (3) Amended Lot 3, Block 3, Weil Subdivision

R. Bills and Payroll

- (1) February 6, 2009
- (2) February 13, 2009
- (3) December 1, 2008 – January 31, 2009, Municipal Court

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **(a) PUBLIC HEARING AND FIRST READING ORDINANCE FOR REVISIONS TO THE ANIMAL ORDINANCE.** Changes to the existing ordinance by the Animal Control Board due to the contract entered into between the City of Billings and Yellowstone Valley Animal Shelter. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)
(b) RESOLUTION ADJUSTING FEES CHARGED AT ANIMAL SHELTER. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)
3. **RESOLUTION TO ADOPT SAHARA PARK MASTER PLAN.** Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)
4. **2008-2010 IAFF LOCAL 521 COLLECTIVE BARGAINING AGREEMENT.** Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

5. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

Council Initiatives

ADJOURN

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

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

A1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 9, 2009

TITLE: Bid Award – Fire/Technical Rescue Unit
DEPARTMENT: Fire
PRESENTED BY: Paul A. Dextras, Fire Chief

PROBLEM/ISSUE STATEMENT: Specifications were developed by the Fire Chief and the Department's Internal Equipment Committee. The call for sealed bids notice was published on February 5 and 12, 2009. Twelve bid packets were mailed, emailed or picked up by fire apparatus vendors between February 6 and February 20, 2009. Bid opening was February 24, 2009. Three vendors submitted bids. There were Heiman, Inc. Lyons, SD; Precision Fire Apparatus, Camdenton, MO; and Unruh Fire Inc. Sedgwick, KS.

ALTERNATIVES ANALYZED: To award or not award the bid.

FINANCIAL IMPACT: The approved FY2009 Vehicle Replacement Fund contains the funds earmarked for the replacement of the Fire Department's existing rescue truck, unit #4072 also known as 'Rescue2'.

RECOMMENDATION

Staff recommendation is to postpone bid award pending review of bids received by the Fire Chief and Internal Apparatus & Equipment Committee.

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

A2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 9, 2009

TITLE: Chemicals – Chlorine for Water Treatment Plant

DEPARTMENT: Public Works

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Water Treatment Facility uses chlorine to disinfect our public water supply. Lesser amounts of chlorine are used by the Public Works, Wastewater Treatment Facility and Department of Parks and Recreation. All three users are supplied by the same contractor under one contract. The current contract for this chemical expires at the end of March 2009. Bids have been received to establish a new supplier. This staff report provides the results of the bids received and recommends approval of a new supplier. If approved, a contract will be established with the recommended supplier. The contract will be for one year with the possibility of yearly extensions, up to a total contract term of three years if prices for chlorine remain agreeable to the City and the Contractor.

FINANCIAL IMPACT: Adequate funding for this agreement is available in the Water and Wastewater Operations and Maintenance Accounts. Bids were received on February 24, 2009. One supplier responded to the request for bid. The bidding result is as follows:

Supplier	Unit Bid (\$/1-ton cylinder)	Unit bid (\$/150-lb cylinder)
DPC Industries	\$598.00	\$150.00

Assuming (100) one-ton cylinders and (125) 150-lb cylinders per year, the total expense for chlorine would be \$78,550.00.

RECOMMENDATION

Staff recommends that Council accept the bid from DPC Industries, Inc. to supply the City with chlorine for at least one year with the initial price of \$598.00 per one-ton cylinder and \$150.00 per 150-lb cylinder.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: W.O. 07-16, Shiloh Road Corridor Water and Sanitary Sewer System Improvements, Change Order No. 3

DEPARTMENT: Public Works - Engineering

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

PROBLEM/ISSUE STATEMENT: Our contract with COP Construction, LLC for the Shiloh Road Corridor Water and Sewer System Improvements project requires amendment. Work to be performed under Change Order No. 3 consists of the following items:

- Revert to Contractor construction of Segment B. At project award, it was decided to have City crews complete this work. Upon further review of the Contractor's work means and methods, it has been determined to be in the City's best interests to have the Contractor perform the work. Due to material price increases since the bid date and a necessary 2008 Prevailing Wage Rate adjustment (2007 rates were inadvertently incorporated into the bid documents), the cost of this work has increased from the original bid amount of \$97,170.00 by about 4% (*\$101,410.00 increase*).
- Assure the integrity of the new water main at the Broadwater Avenue / Shiloh Road intersection by installing a new 16-inch valve to facilitate construction, flushing, and pressure testing. Labor to install the valve is paid by the Contractor (*\$3,020 increase*).
- Add a hydrant extension to meet fire protection requirements (*\$7,250 increase*).

Work to relocate a light pole, remove a tree, and adjust for current prevailing wage rates under Change Order No. 1 increased the contract price by \$22,096.00. Work necessary to replace eight existing nonfunctioning 24-inch valves in Shiloh Road and to make other necessary system improvements under Change Order No. 2 increased the contract price by \$441,700.00.

Due to the substantial unforeseen contract price increase under Change Order No. 2, staff is requesting that Council grant the City Administrator extra change order authority. This project has an aggressive construction schedule and additional minor work changes may be anticipated. Decisions and approvals for change orders that sometimes involve relatively small cost increases often need to happen the same day that problems are identified; therefore, in addition to staff's request to approve the above change in work, staff is also requesting that Council increase the City Administrator's change order authority by \$100,000 above what would be approved for Change Orders 1-3 to a total contract amount of \$2,726,986.00.

FINANCIAL IMPACT: The net result of Change Order No. 3 is an estimated \$111,680.00 *increase* to the contract price. The contract price would be *increased* from \$2,515,306.00 to \$2,626,986.00. Sufficient FY09 water funds are available for Change Order No. 3.

RECOMMENDATION

Staff recommends that Council approve Change Order No. 3 for W.O. 07-16 in the amount of \$111,680.00. Sufficient water funds are available for these important water system improvements in the Shiloh Road Corridor.

Staff also recommends that Council extend City Administrator authority to approve change orders by an additional \$100,000 above what has been approved for Change Orders 1-3 to a total contract amount of \$2,726,986.00.

Approved By: _____ City Administrator _____ City Attorney _____

ATTACHMENT

A. Change Order No. 3 (4 copies, 4 pages each)

PROJECT: City of Billings W.O. 07-16 Shiloh Road Corridor	DATE OF ISSUANCE: February 10, 2009
OWNER: City of Billings 2224 Montana Avenue Billings, MT 59101	OWNER PROJ. NO. W.O. 07-16
CONTRACTOR: COP Construction LLC P.O. Box 20913 Billings, MT 59104	ENGINEER: ENGINEERING, INC. ENGINEER PROJ. NO. 07104.01
CONTRACT FOR: Water and Sewer System Improvements for Shiloh Road from Pierce Parkway to Rimrock Road, Billings, Montana	

You are directed to make the following changes in the Contract Documents.

Explanation of Items. Adding Schedule II (Segment B) back into the Contract and additional work necessary to complete project.

Attachments: COP Construction Segment B Unit Price Adjustment letter dated February 2, 2009

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price <u>\$2,051,510.00</u>	Original Contract Time <u>217</u> <u>days or date</u>
Previous Change Order No. 1, 2 <u>\$463,796.00</u>	Net change from previous Change Orders <u>24</u> <u>days</u>
Contract Price prior to this Change Order <u>\$2,515,306.00</u>	Contract Time prior to this Change Order <u>241</u> <u>days or date</u>
Net INCREASE of this Change Order <u>\$111,680.00</u>	Net INCREASE of this Change Order <u>0</u> <u>days</u>
Contract Price with all approved Change Orders <u>\$2,626,986.00</u>	Contract Time with all approved Change Orders <u>241</u> <u>days or date</u>

RECOMMENDED:
by: J. M. M. 2/11/09
Engineering, Inc. Date

ACCEPTED:
by: D. D. 2/11/09
COP Construction LLC Date

APPROVED:

by: _____
City of Billings Date

by: _____
City Administrator Date

PROJECT: City of Billings W.O. 07-16
Shiloh Road Corridor

DATE OF ISSUANCE:

February 10, 2009

Bid Item	Description	Unit	Price	Quantity Increase / Decrease	Dollar Amount Increase / Decrease
CHANGE ORDER NO. THREE					
CO3-1	Adding Schedule II (Segment B) back in the Contract				
201	Mobilization and Insurance	LS \$	9,000.00	1.00	\$ 9,000.00 \$ -
202	Storm Water Management and Erosion Control	LS \$	800.00	1.00	\$ 800.00 \$ -
203	Traffic Control During Construction	LS \$	2,300.00	1.00	\$ 2,300.00 \$ -
204	24x12-inch Tapping Cross with 12-inch Valve	EA \$	7,750.00	3.00	\$ 23,250.00 \$ -
205	12-inch Water Main	LF \$	70.00	440.00	\$ 30,800.00 \$ -
206	12-inch 45° Vertical Bend	LF \$	940.00	4.00	\$ 3,760.00 \$ -
207	12-inch 11.5° Vertical Bend	LF \$	925.00	4.00	\$ 3,700.00 \$ -
208	12-inch Gate Valve	EA \$	2,360.00	6.00	\$ 14,160.00 \$ -
209	12-inch Plug and Thrust Block	EA \$	500.00	6.00	\$ 3,000.00 \$ -
210	Asphalt Removal	LS \$	600.00	1.00	\$ 600.00 \$ -
211	Asphalt Restoration	LS \$	6,600.00	1.00	\$ 6,600.00 \$ -
212	Exploratory Excavation	HR \$	193.00	3.00	\$ 579.00 \$ -
213	Underground Utility Crossing	EA \$	299.00	9.00	\$ 2,691.00 \$ -
CO3-2	Wage Rate Adjustment for Segment B				
		LS \$	170.00	1.00	\$ 170.00 \$ -
Schedule II (Segment B) Total					<u>\$ 101,410.00</u>

PROJECT: City of Billings W.O. 07-16
Shiloh Road Corridor

DATE OF ISSUANCE:

February 10, 2009

Bid Item	Description	Unit	Price	Quantity Increase / Decrease	Dollar Amount Increase / Decrease
CO3-3	16-inch Valve (Owner Supplied /Contractor Installed	LS	\$ 3,020.00	1.00	\$ 3,020.00 \$ -
CO3-4	Additional Hydrant for Schedule V (Segment F) at STA 2+50				
510	16x16x6-inch Tee	EA	\$ 1,800.00	1.00	\$ 1,800.00 \$ -
514	Fire Hydrant Assembly	EA	\$ 4,400.00	1.00	\$ 4,400.00 \$ -
CO3-5	Fire Hydrant Extension (3-Foot)	EA	\$ 1,050.00	1.00	\$ 1,050.00 \$ -
CO3-4 Total					<u>\$ 10,270.00</u>
TOTAL NET INCREASE					<u>\$ 111,680.00</u>



February 2, 2009

Mr. Tim Pirtz, PE
Engineering, Inc.
1300 North Transtech Way
Billings, MT 59102

**RE: Segment B Unit Price Adjustments
Shiloh Road Corridor, W.O. 07-16
COP Project No. 08127**

Dear Tim:

COP Construction LLC is responding to the city's request to add by change order the segment B work not awarded at bid time. We need to provide new bid item pricing in Segment B for items 204, 206, 207 and 208 due to material price escalation. The new bid item pricing is as follows:

Bid Item	Description	Quantity	Bid Price	Bid Total
204	24x12 Tapping Cross with 12 inch Valve	3	\$7,750.00	\$23,250.00
206	12 inch 45 Vertical Bend	4	\$940.00	\$3,760.00
207	12 inch 11.5 vertical Bend	4	\$925.00	\$3,700.00
208	12 inch Gate Valve	6	\$2,360.00	\$14,160.00

COP would also like to provide a price for the wage rate adjustment in Segment B of \$170.00. The total of these unit prices and lump sum changes is \$4,240.00.

All other pricing at the time of the original bid will hold except for the exceptions listed above. Please provide a Change Order to COP for the items discussed, and feel free to contact us with questions on the above pricing.

Sincerely,

COP Construction LLC

A handwritten signature in black ink, appearing to read 'Chris Reed'.

Chris Reed
Project Engineer

cc: Correspondence File #08127

HEAVY, HIGHWAY, MUNICIPAL-UTILITIES SINCE 1947

An Equal Employment Opportunity Employer



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Amendment 4 to the Scheduled Airline Operating Agreement and Terminal Building Lease with United Airlines

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: On January 28, 2008, the City Council approved Amendment 2 to the Scheduled Airline Operating Agreements and Terminal Building Leases with the four signatory airlines, Horizon Air, Northwest Airlines, SkyWest Airlines and United Airlines. The Signatory Agreement contract language has been used since the Terminal remodel in 1990, and has been renewed numerous times. The contract language provides a rate making formula for airline Terminal rentals and landing fees. Ordinance 90-4838 was established in 1990, basically following the current language in the Signatory Agreement, and providing for the revenue generating capability needed for the Airport's bonding requirements and capital needs, regardless of whether an airline entered into a contract with the City. Ordinance 90-4838 was replaced by Ordinance 90-4850, mirroring the previous ordinance, except that a financial incentive for the airlines was incorporated into the language giving those that entered into the Signatory Agreement a lower landing fee rate than those airlines that chose not to enter into a contract with the City. Amendment 2 extended the expiration date of the Operating Agreement until June 30, 2009. On February 25, 2008, the City Council approved Amendment 3, which increased United's leased space in the Terminal Building, by adding 242 square feet of office space on the second floor of the Terminal. United Airlines has now opted to decrease its leased space in the Terminal by relinquishing 972 square feet of storage and cargo/baggage service office space. A separate amendment, Amendment 4, was prepared for this change in space, since only United Airlines would be affected by the change.

FINANCIAL IMPACT: This Amendment reduces United Airlines leasehold by 972 square feet for an annual rental reduction of \$43,448.40.

RECOMMENDATION

Staff recommends that Council approve Amendment 4 to the Airline Scheduled Operating Agreement and Terminal Building Lease with United Airlines; decreasing the Airline's leasehold by 972 square feet, effective April 1, 2009.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Scheduled Airline Operating Agreement and Terminal Building Lease with Great Lakes Aviation, Ltd.

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Great Lakes Aviation, Ltd. (Great Lakes) began daily service to five (5) Montana communities from Billings Logan International Airport on February 1, 2009. The airline wishes to participate in the City's Scheduled Airline Operating Agreement and Terminal Building Lease (Signatory Agreement). Great Lakes was awarded the Essential Air Service (EAS) contract by the Department of Transportation after Big Sky Airlines suspended its EAS service, left the Airport, and subsequently went out of business. Great Lakes has resumed round trip EAS flights to Sidney, Glendive, Havre, Glasgow, and Wolf Point from Billings. The Signatory Agreement contract language has been used since the Terminal remodel in 1990, and has been renewed numerous times. The contract language provides a rate making formula for airline Terminal rentals and landing fees. In 1990, Ordinance 90-4838 was established basically following the current language in the Signatory Agreement, and providing for the revenue generating capability needed for the Airport's bonding requirements and capital needs, regardless of whether an airline entered into a contract with the City. In late 1990, Ordinance 90-4838 was replaced with Ordinance 90-4850, which basically mirrored the previous ordinance, except that a financial incentive for the airlines was incorporated into the language giving those that entered into the Signatory Agreement a lower landing fee rate than those airlines that chose not to enter into a contract with the City.

Presently, SkyWest, Northwest, Horizon and United Airlines operate under the Signatory Agreement, which expires June 30, 2009; Frontier and Allegiant do not operate under the Signatory Agreement. The difference in the landing rate fee between a signatory airline and a non-signatory airline is currently \$0.29 per 1,000 pounds of landed weight. By participating in the Signatory Agreement, Great Lakes will be able to take advantage of lower landing fees.

FINANCIAL IMPACT: This Signatory Agreement provides Great Lakes with 1,007 square feet of exclusive use space for ticketing and offices, and 3,049 square feet of operational space. Based on the current rate schedule, the Lease would generate approximately \$45,013 in annual rentals for the exclusive use space. The operational space will generate additional revenue,

based on the number of enplanements Great Lakes has at the Airport. Landing fees are estimated at approximately \$15,912 per year.

RECOMMENDATION

Staff recommends that Council approve the Scheduled Airline Operating Agreement and Terminal Building Lease with Great Lakes Aviation, Ltd. for a term beginning February 1, 2009, and expiring on June 30, 2009.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Approval of Advertising Agreement

DEPARTMENT: Administrative Services - Finance

PRESENTED BY: Liz Kampa-Weatherwax, Purchasing Agent

PROBLEM/ISSUE STATEMENT: The City of Billings regularly advertises with the Billings Gazette for help wanted and public notice display ads. This agreement combines all expenditures into one and allows for the best possible pricing structure for the City - 40% discount off of open rate. The current agreement expires March 31, 2009. Additionally, City staff has determined it has been beneficial to take advantage of the Billings Gazette's on-line advertising. The Billings Gazette has increased the City's percentage discount to 42% with the addition of on-line advertising to the agreement.

ALTERNATIVES ANALYZED:

- Approve new two-year agreement with the Billings Gazette, which includes on-line advertising and links to the City's website. Readership = 86% of community.
- Approve new two-year agreement with the Billings Gazette without on-line advertising. Readership = 60% of community.
- Pay for advertising on an as-needed basis.

FINANCIAL IMPACT: The City spends approx. \$40,000/year in advertising. These expenditures are budgeted in various departmental budgets. By combining the classified advertising with on-line display advertising, the City receives the best pricing structure from the Billings Gazette. The addition of on-line advertising will increase the annual cost by approx. \$4,698/year to approx. \$46,698/year, which is an increase of \$1,098 from the previous contract.

RECOMMENDATION

Staff recommends that Council approve the agreement with the Billings Gazette for both print and on-line advertising for a two-year period. The pricing structure will be reviewed each year to keep current with the City's advertising needs.

Approved By: City Administrator City Attorney

ATTACHMENTS:

A. **Billings Gazette Advertising Agreement**

Billings Gazette
P.O. Box 36300, Billings, MT 59107-6300
ADVERTISING AGREEMENT

Account Number
60001620

TERM The term of this Agreement will begin on THE FIRST DAY OF April 2009 and end on THE LAST DAY OF

March 2012 This Agreement may not be terminated or cancelled by the Advertiser prior to the end of its term except for the reasons specified in Sections 1 and 12 on the reverse side of this Agreement.

VOLUME AGREEMENT The Advertiser will purchase at least \$44,698 of total advertising before the end of the term.

* Retail Display	\$40,000	Frequency		Daily pci \$34.86
* Classified	\$	Frequency		Saturday pci \$36.59
* Preprinted Inserts	\$	Frequency		Sunday pci \$39.04
* On-line Products	\$4,698.00	Frequency		Placement premiums per current rate card
* Employment	\$	Frequency		Color rates per current rate card
* Other Packages	\$	Frequency		Rates subject to change in April 2010 according to current rate card

All advertising dollars invested in the Publisher's advertising products, including Retail and Classified advertising, Preprinted inserts, On-line products, and other packages apply toward fulfillment of this volume agreement by Advertiser. Commercial printing and subscriptions are excluded.

OTHER TERMS AND CONDITIONS to include those outlined on page 2 of this agreement and in current rate card.
ADDENDUMS. See Attachment(s)

Publisher and Advertiser have read and agree to the terms and conditions of this Agreement including those outlined on the reverse side.

ADVERTISER	LEE ENTERPRISES, INCORPORATED	ADVERTISING AGENCY (if applicable) (Jointly & severally responsible see Sections 5 & 7)
By	By <u>Dave Worstell</u> Retail Ad Manager	By
<u>City of Billings</u> Company Name	<u>Billings Gazette</u> Division Name	Company Name
<u>Ron Tussing, Mayor</u> Print Name/Title	<u>Dave Worstell/Advertising Manager</u> Print Name/Title	Print Name/Title
Billing Address	Address	
<u>P.O. Box 1178</u> <u>Billings, MT 59103</u>	<u>401 N Broadway</u> <u>Billings, MT 59101</u>	
Local Address	Salesperson New Renew X	
<u>210 N. 27th St.</u> <u>Billings, MT 59101</u>	Salesperson <u>R21 - Lyssa Massey</u> New Renew <u>X</u>	

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Accepting Grant Agreement between the Department of Housing and Urban Development (HUD) and the City of Billings

DEPARTMENT: Park, Recreation, and Public Lands

PRESENTED BY: Michael Whitaker, Director

PROBLEM/ISSUE STATEMENT:

The City of Billings Park, Recreation, and Public Lands Department applied for and received a grant from the Department of Housing and Urban Development (HUD) in the amount of \$328,300.00. This grant is intended to offset construction costs in building the new baseball and multi-use stadium at the former Athletic Park, now named Dehler Park. See attachment A, "Grant Agreement".

ALTERNATIVES ANALYZED:

- Decline the grant.
- Accept the grant.

FINANCIAL IMPACT:

This grant will benefit the City by covering outstanding construction costs incurred building Dehler Park.

RECOMMENDATION

Staff recommends that Council accept this grant from HUD.

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

ATTACHMENTS:

- A. Grant Agreement

FY 2008 EDI-SPECIAL PROJECT NO. B-08-SP-MT-0510

**GRANT AGREEMENT
(Includes Sub-Grantee)**

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Billings (the Grantee) is made pursuant to the authority of Public Law 110-161 (Consolidated Appropriations Act, 2008) and a listing of certain specific Economic Development Initiative Special Projects specified in the Congressional Record of December 17, 2007. The amount shown below is 98.00% of the amount specified in the Congressional Record of December 17, 2007, because of a 2.00% reduction mandated by the Act. The Grantee's application, as may be amended by the provisions of this Grant Agreement, is hereby incorporated into this Agreement.

In reliance upon and in consideration of the mutual representations and obligations hereunder, HUD and the Grantee agree as follows:

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of \$328,300 available to the Grantee.

The Grantee agrees to abide by the following:

ARTICLE I. HUD Requirements.

The Grantee agrees to comply with the following requirements for which HUD has enforcement responsibility.

A. The grant funds will only be used for activities described in the application, which is incorporated by reference and made part of this Agreement as may be modified by Article VIII (A) of this Grant Agreement.

B. EQUAL OPPORTUNITY REQUIREMENTS

The grant funds must be made available in accordance with the following:

1. For projects involving housing, the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107.
2. The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.
3. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.

2. All applicable equal opportunity requirements set forth in Article I, Section B of this Grant Agreement.
3. Anti-lobbying requirements in 24 CFR Part 87, including the requirement to provide certain certifications and/or disclosures to the Grantee.
4. The administrative requirements of 24 CFR Part 84 or Part 85 as appropriate and Treasury Circular 1075, that grants funds shall not be requested or disbursed by the Grantee until needed and shall be the minimum amount necessary. Additional requirements for draw downs are in Articles III and IV.
5. The cost charges to the grant must be allowable (including the "reasonable and necessary" standard) and allocable as specified in OMB Circular A-87, A-122 or A-21 as appropriate.
6. The Uniform Relocation Act as implemented by regulations at 49 CFR Part 24.
7. The Grantee will comply with all accessibility requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, where applicable.
8. Restrictions on participation by ineligible, debarred or suspended persons or entities as described in Executive Order 12549 and at CFR 24 Part 5.105(c).

ARTICLE III. Conditions Precedent to Draw Down.

The Grantee may not draw down grant funds until the following actions have taken place:

- A. The Grantee and each Sub-Grantee have executed a contract as required by Article II.
- B. The Grantee has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying and by 24 CFR 24.510(b) regarding ineligibility, suspension and debarment.
- C. Any other conditions listed in Article VIII (C) of this Grant Agreement.

ARTICLE IV. Draw Downs.

- A. A request by the Grantee to draw down grant funds under the Voice Response Access system or any other payment system constitutes a representation by the Grantee that it and all participating parties are complying with the terms of this Grant Agreement.
- B. The Grantee will be paid on an advance basis provided that the Grantee minimizes the time elapsing between transfer of the grant funds and disbursement for project

- C. Before the Grant Agreement is signed, the Grantee may incur cost for activities which are exempt from environmental review under 24 CFR Part 58 and may charge the costs to the grant.

ARTICLE V. Progress Reports.

- A. The Grantee shall submit to the Grant Officer a progress report every six-months after the effective date of the Grant Agreement. Progress reports shall consist of (1) a one-page narrative of work accomplished during the reporting period and (2) a completed Financial Status Report - Form 269 A. HUD may require additional information or increased frequency of reporting as described in article VIII C.
- B. The performance reports must contain the information required under 24 CFR Part 85.40(b) (2) or 24 CFR Part 84.51(a), as applicable including a comparison of actual accomplishment to the objectives indicated in the approved application, the reasons for slippage if established objectives were not met, and additional pertinent information including explanation of significant cost overruns.
- C. No grant drawdowns will be approved for projects with overdue progress reports.

ARTICLE VI. Project Close-out.

- A. The grantee shall submit to the Grant Officer a written request to close-out the grant 30 days after the grantee has drawn down all funds and completed the activities described in the application, as may be amended. The final report shall consist of (1) a narrative of all work accomplished during the project period and (2) a completed Financial Status Report - Form 269 A covering the entire project period.

HUD will then send the Close-out Agreement and Close-out Certification to the Grantee. At HUD's option, the Grantee may delay initiation of project close-out until the resolution of any HUD monitoring findings. If HUD exercises this option the Grantee must promptly resolve the findings.

- B. The Grantee recognizes that the close-out process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any review in any way possible, including making available records requested by HUD and the project for on-site, HUD inspection.
- C. The Grantee shall provide to HUD the following documentation:
 1. A Certificate of Project Close-out.
 2. A Grant Close-out Agreement.

3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of OMB Circular A-122, A-87 or A-21 as applicable, including the “necessary and reasonable” standard); a certification of the costs, and the amounts and sources of other project funds.
4. A final performance report providing a comparison of actual accomplishment with each of the project commitments and objectives indicated in the approved application, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.

D. The Grantee agrees that the grant funds are allowable only to the extent that the project costs, meeting the standard of OMB Circular A-122, A-87, or A-21 as applicable, equal the grant amount plus other sources of projects funds provided.

E. When HUD has determined that the grant funds are allowable, the activities were completed as described by the Grant Agreement, and all Federal requirements were satisfied, HUD and the Grantee will sign the Close-out Agreement and Close-out Certificate.

ARTICLE VII. Default.

A default under this Grant Agreement shall consist of using grant funds for a purpose other than as authorized by this Agreement, any noncompliance with legislative, regulatory, or other requirements applicable to the Agreement, any other material breach of this Agreement, or any material misrepresentation in the application submissions.

ARTICLE VIII. Additional Provisions.

A. Project Description. The project is as described in the application with the following changes:

B. Changes or Clarification to the Application Related to Participating Parties:
The grantee may elect to sub-grant all or a portion of this grant to:

Big Sky Economic Development Authority

The Administrative Agent if any:

C. Special Conditions:

The Consolidated Appropriations Act, 2008 provides that no funds made available under the Act may be used to support any Federal, State or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For purposes of this provision, public use shall not be construed to include economic development that primarily benefits private entities.

U.S. Department of Housing
and Urban Development

City of Billings
Mr. Michael Whitaker

Authorized Signature

Otto V. Banks
Deputy Assistant Secretary
for Economic Development

Date

Authorized Signature

Title

Date

Assistance Award/Amendment**U.S. Department of Housing
and Urban Development**

Office of Administration

1. Assistance Instrument Cooperative Agreement	2. Type of Action <input checked="" type="checkbox"/> Award	Amendment										
3. Instrument Number B-08-SP-MT-0510	4. Amendment Number	5. Effective Date of this Action										
7. Name and Address of Recipient City of Billings 210 North 27th Street Billings, MT 59101-1938 EIN: 81-6001237		8. HUD Administering Office CPD, EDI Special Project Division 451 7th Street, SW, Rm 7146 Washington, DC 20410-7000										
10. Recipient Project Manager Michael Whitaker		8a. Name of Administrator 8b. Telephone Number										
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price	12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse	9. HUD Government Technical Representative Angela Dyer 202-708-3773, Extension: 7111										
14. Assistance Amount <table border="1"> <tr><td>Previous HUD Amount</td><td></td></tr> <tr><td>HUD Amount this Action</td><td>\$328,300.00</td></tr> <tr><td>Total HUD Amount</td><td>\$328,300.00</td></tr> <tr><td>Recipient Amount</td><td></td></tr> <tr><td>Total Instrument Amount</td><td>\$328,300.00</td></tr> </table>		Previous HUD Amount		HUD Amount this Action	\$328,300.00	Total HUD Amount	\$328,300.00	Recipient Amount		Total Instrument Amount	\$328,300.00	13. HUD Payment Office Chief Financial Officer
Previous HUD Amount												
HUD Amount this Action	\$328,300.00											
Total HUD Amount	\$328,300.00											
Recipient Amount												
Total Instrument Amount	\$328,300.00											
16. Description City of Billings, MT, Big Sky Economic Development Authority for historic preservation of the Cobb Field facility		15. HUD Accounting and Appropriation Data <table border="1"> <tr><td>15a. Appropriation Number</td><td>15b. Reservation Number EID 08</td></tr> <tr><td>Amount Previously Obligated</td><td>\$328,300.00</td></tr> <tr><td>Obligation by this Action</td><td>\$328,300.00</td></tr> <tr><td>Total Obligation</td><td>\$328,300.00</td></tr> </table>	15a. Appropriation Number	15b. Reservation Number EID 08	Amount Previously Obligated	\$328,300.00	Obligation by this Action	\$328,300.00	Total Obligation	\$328,300.00		
15a. Appropriation Number	15b. Reservation Number EID 08											
Amount Previously Obligated	\$328,300.00											
Obligation by this Action	\$328,300.00											
Total Obligation	\$328,300.00											
<p>This Award consists of the following items which are appended to and hereby made part of this Award:</p> <p>(A) Cover Page - HUD 1044 (B) Grant Agreement</p> <p>Special Conditions: Please contact David Rigirossi - HUD Area Environmental Officer at 303-672-5016, David_W._Rigirossi@hud.gov concerning environmental review. NO FUNDS may be committed to the project or drawn down prior to environmental release of funds approval.</p>												
17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office.	18. <input type="checkbox"/> Recipient is not required to sign this document.											
19. Recipient (By Name): Mr. Michael Whitaker Signature & Title: Parks and Recreation Director	20. HUD (By Name): Otto V. Banks Signature and Title: DAS for Economic Development											

Previous Editions are Obsolete

Form HUD-1044 (8/90)
Ref. Handbook 2210.17

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, March 9, 2009**

TITLE: Approval and Acceptance of the Quitclaim Deeds from The Village Subdivision and Certificate of Survey 3125, Amended Tract 2

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The developers of The Village Subdivision are currently constructing King Avenue West to a five lane section west of Shiloh Road. In order to construct the necessary improvements on King Avenue West for The Village Subdivision, it becomes necessary for the subdivision to create a street tract. It also becomes necessary for the a street tract to be developed out of the property to the west of The Village Subdivision, Certificate of Survey 3125, Amended Tract 2. Both of these properties are located north of King Avenue West just west of Shiloh Road.

ALTERNATIVES ANALYZED:

1. Approve quitclaim deeds from The Village Subdivision and Certificate of Survey 3125, Amended Tract 2.
2. Do not approve quitclaim deeds from The Village Subdivision and Certificate of Survey 3125, Amended Tract 2.

FINANCIAL IMPACT: There is no financial impact to the City with acceptance of these quitclaim deeds.

RECOMMENDATION

Staff recommends that Council approve the quitclaim deeds of the street tracts from The Village Subdivision and Certificate of Survey 3125, Amended Tract 2.

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

ATTACHMENTS

- A. Quitclaim Deeds
- B. Exhibit of The Village Subdivision

C. Exhibit of Certificate of Survey 3125, Amended Tract 2

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned, MICHELE AMEN whose address is 4249 King Avenue West, Billings, MT 59106, does hereby remise, release, and quitclaim unto THE CITY OF BILLINGS, a municipal corporation, whose address is P.O. Box 1178, Billings, MT 59101, all right, title, and interest in and to certain real property situated in the SE 1/4 of Section 10, T. 1 S., R. 25 E., P.M.M., County of Yellowstone, State of Montana, being more particularly described as follows, to-wit:

Tract 2B of Amended Tract 2, Certificate of Survey No. 3125, as recorded in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. _____.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 12 day of February, 2009.

Michele Amen

Michele Amen

STATE OF MONTANA)
:ss
County of Yellowstone)

On this 12th day of February, 2009, before me, the undersigned Notary Public for the State of Montana, personally appeared Michele Amen, known to me to be the person who signed the forgoing instrument and who acknowledged to me that she executed the same. Witness my hand and seal the day and year herein above written.

Peter B. Knapp

Notary Public in and for the State of Montana
Printed Name Peter B. Knapp
Residing at Billings, Montana
My commission expires November 8, 2010

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b) /76-3-207(3), M.C.A.

Tax Codes: _____

Date: _____

Yellowstone County Treasurer

By: _____
Deputy

**ACKNOWLEDGMENT AND ACCEPTANCE OF
CONVEYANCE**

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

Mayor, City of Billings

ATTEST: _____
City Clerk

STATE OF MONTANA)
:ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at Billings, Montana
My commission expires: _____

AS SUBMITTED
W/ MYLARS

Return to:
THE CITY OF BILLINGS
P.O. Box 1178
Billings, MT 59101

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned, SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC., whose address is 1233 N. 30th St., Billings, MT 59101, does hereby remise, release, and quitclaim unto THE CITY OF BILLINGS, a municipal corporation, whose address is P.O. Box 1178, Billings, MT 59101, all right, title, and interest in and to certain real property situated in the SE 1/4 of Section 10, T. 1 S., R. 25 E., P.M.M., County of Yellowstone, State of Montana, being more particularly described as follows, to-wit:

Lot 1B and Lot 8B of Amended Plat of Lot 8, Block 1 and Lot 1, Block 2 of The Village Subdivision, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. _____.

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20____.

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.

William M. Murray
William M. Murray, President

By: James T. Paquette
James T. Paquette, CEO of St. Vincent
Healthcare, Attorney-in-Fact

STATE OF MONTANA)
:ss
County of Yellowstone)

On this 1st day of January, 2009, before me, the undersigned Notary Public for the State of Montana, personally appeared James T. Paquette, CEO of St. Vincent Healthcare, known to me to be the person whose name is subscribed to the forgoing instrument as ATTORNEY-IN-FACT for William M. Murray, President of the Sisters of Charity of Leavenworth Health System, Inc. and who acknowledged to me that he subscribed the name of William M. Murray thereto as principal and her own name as attorney-in-fact. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana
Printed Name Tony Ondracek
Residing at Billings
My commission expires June 17, 2012

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

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 _____ and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at Billings, Montana
My commission expires: _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per
76-3-611(1)(b) /76-3-207(3), M.C.A.

Tax Codes: _____

Date: _____

Yellowstone County Treasurer

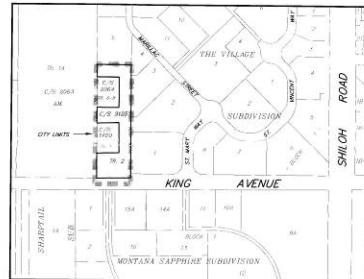
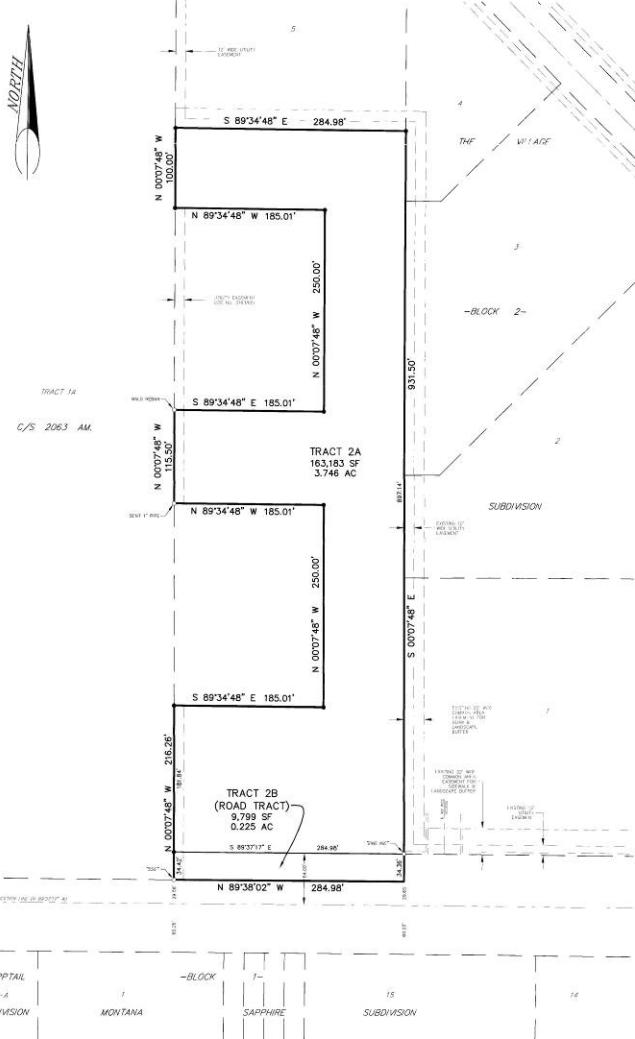
By: _____
Deputy

AMENDED TRACT 2 OF
CERTIFICATE OF SURVEY No. 3125
 SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M.,
 YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : JACK L. AMEN IRREVOCABLE SURVOR'S TRUST
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1"=60'

SEPTEMBER, 2008
 BILLINGS, MONTANA

60 30 0 60 120



VICINITY MAP
 NOT TO SCALE

BASIS OF BEARING: CERTIFICATE OF SURVEY No. 3125

- FOUND SURVEY MONUMENT, AS NOTED
- SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"

PURPOSE OF SURVEY - CREATE A PUBLIC ROAD TRACT

The undersigned owner hereby certifies that the purpose of this survey is to create Tract 2B as a public road tract for the purpose of public road purposes.

Therefore, this division of land is exempt from review as a subdivision pursuant to Section 76-3-207(1)(a), for a parcel that "is created for rights-of-way or utility sites".

Furthermore, Tract 2B is not subject to review by the State Department of Environmental Quality pursuant to Section 76-4-125(2)(c), M.C.A. or the State Department of Environmental Quality pursuant to Section 76-4-125(2)(d), M.C.A. or the State Department of Environmental Quality pursuant to Section 76-4-125(2)(e), M.C.A. for "a parcel that has no existing facilities for water supply, wastewater disposal, or solid waste disposal other than those previously approved by the reviewing authority".

JACK L. AMEN IRREVOCABLE SURVOR'S TRUST

Michelle Amen, Trustee

STATE OF MONTANA)
 County of Yellowstone :ss

On this _____ day of _____, 20____, before me, the undersigned Notary Public for the State of Montana, personally appeared Michelle Amen, known to me or to the person who signed the foregoing instrument as Trustee of JACK L. AMEN IRREVOCABLE SURVOR'S TRUST, and acknowledged to me that the foregoing instrument was executed by her in her capacity as Trustee of the above-named entity and executed the same. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana
 Printed name _____
 Reading of _____
 My commission expires _____

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
 County of Yellowstone :ss

The undersigned, a Montana Registered Land Surveyor, being first duly sworn, deposes and says, during the month of September, 2008, a survey was performed under his supervision of a tract of land situated in the SE1/4 of Section 10, T. 1 S., R. 25 E., in Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Tract 2 of Certificate of Survey No. 3125, as recorded in the Office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3186400, contains a total area of 9,789 square feet or 0.225 acres.

That the monuments found and set are of the character and occupy the positions shown herein, that said survey and the plot hereon shows true and correct dimensions and that the plot conforms with the work on the ground.

ENGINEERING, INC.

By: _____

Montana Registration No. _____

Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this _____ day of _____, 20____.

Notary Public in and for the State of Montana
 Printed name _____
 Reading of _____
 My commission expires _____

CERTIFICATE OF COUNTY ATTORNEY

This document has been reviewed by the County Attorney's office and is acceptable as to form.

Date: _____

Reviewed by: _____

CERTIFICATE OF CITY/COUNTY HEALTH DEPARTMENT

This Certificate of Survey has been reviewed and approved by the Yellowstone City/County Health Department.

Health Officer or Authorized Representative
 Yellowstone City/County Health Department

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/76-3-207(3), M.C.A.

Date: _____

Yellowstone County Treasurer

By: _____

QUIT CLAIM DEED

Document No. _____

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, March 9, 2009**

TITLE: W.O. 08-01 – 2008 and 2009 Water and Sewer Replacement Projects,
State Revolving Fund (SRF) Backed Loan Application

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The cost of the FY 2009 water and wastewater Capital Improvement Program (CIP) exceeds the amount of immediate funding available, thus a loan or revenue bond sale will be required to finance part of the water and wastewater CIP. The State Revolving Fund (SRF) Loan Program was established by the legislature to make at or below market interest rate loans to eligible Montana entities for water and wastewater improvement projects. The SRF programs are funded with capitalization grants from the U.S. Environmental Protection Agency and are matched by 20% with State issued general obligation bonds. Combined, these two sources of funds create the State Revolving Fund from which loans are made and borrower repayments revolve to provide loans for infrastructure projects. Public Works considered obtaining financing for the King Avenue West water and sanitary sewer extension in FY 2008 and the Shiloh Road Corridor Utility Improvements in FY 2009, but these projects do not qualify for SRF funding because the intent of the projects is to primarily support growth rather than support existing systems. Thus, financing for King Avenue West and Shiloh Road Corridor would need to be secured at a higher interest rate or SRF loans could be obtained for an alternate project. It was determined that the annual Water and Sewer Replacement Project that will replace water mains and sanitary sewer lines throughout various locations in Billings qualifies for SRF funding. At the May 12, 2008 meeting, Council authorized the applications for a State Revolving Fund-backed water loan in the amount of \$1,700,000 and wastewater loan in the amount of \$3,500,000. Because of timing issues, and SRF program delays, Public Works deferred the FY 2008 Water and Sewer Replacements until FY 2009 and have combined the FY 2009 Water and Sewer Replacements with the FY 2008 project. Therefore a new SRF application for an increased amount of SRF funding is now required.

The current SRF loan terms are 20 year amortization with a 3.75% interest rate. The current rate for an INTERCAP loan is 4.25% with an annual adjustment of the interest rate. A comparative current market rate for 20 year, non-collateralized revenue bonds is 5.5%. The SRF Application and Preliminary Engineering Report are both available at the City Clerk's office.

ALTERNATIVES ANALYZED:

- Apply for SRF funding. The cost savings for the SRF loans versus INTERCAP loans is estimated to be \$700,000 over the life of the loan and the cost savings for the SRF loans versus revenue bond financing is more than \$1,900,000 over the life of the loan.
- Do not apply for the SRF loans. An INTERCAP loan would still need to be secured or revenue bonds would need to be sold for \$3,500,000 water and \$7,844,801 wastewater projects or the projects would have to be deferred.

FINANCIAL IMPACT: The Water and Sewer Replacement Projects are budgeted at \$4,000,000 each year in the Capital Improvement Plan. The funding breakdown for W.O. 08-01 is as follows:

CIP PROJECT PUD 205 – FY 2008 AND FY 2009 WATER MAIN REPLACEMENTS

Engineering Services	\$ 771,613
Construction	\$4,018,750
Contingency	\$ 479,036
<u>Administrative and Loan Costs</u>	<u>\$ 265,931</u>
Total Water Main Replacement Project Cost	\$5,535,330
<u>Funded by Water Fund</u>	<u>\$2,035,330</u>
Amount to be funded through SRF Loan	\$3,500,000 (This memo)

CIP PROJECT PUD 302 – FY 2008 AND FY 2009 SEWER MAIN REPLACEMENTS

Engineering Services	\$1,315,274
Construction	\$5,300,000
Contingency	\$ 652,808
<u>Administrative and Loan Costs</u>	<u>\$ 576,719</u>
Total Sewer Main Replacement Project Cost	\$7,844,801
<u>Funded by Wastewater Fund</u>	<u>\$ 0</u>
Amount to be funded through SRF Loan	\$7,844,801 (This memo)

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the applications for a State Revolving Fund-backed water loan in the amount of \$3,500,000 and wastewater loan in the amount of \$7,844,801.

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

ATTACHMENTS

- SRF Loan Application - Water
- SRF Loan Application – Wastewater

**UNIFORM APPLICATION FORM
FOR MONTANA PUBLIC FACILITY PROJECTS**

(Please type or print legibly)

SECTION A - **CERTIFICATION**

To the best of my knowledge and belief, the information provided in this application and in the attached documents is true and correct.

Name (printed): Ron Tussing

Title (printed): Mayor, City of Billings

Chief Elected Official or Authorized Representative

Signature: _____

Date: _____

SECTION B - **SUMMARY INFORMATION**

1. NAME OF APPLICANT(S): City of Billings
2. TYPE OF ENTITY: Municipality
3. FEDERAL TAX ID NUMBER: 81-6001237
4. TYPE OF PROJECT: Water
5. SENATE AND HOUSE DISTRICTS: Senate=27 House=53
6. POPULATION SERVED BY PROJECT: Approximately 550 residential plus additional commercial
7. NUMBER OF HOUSEHOLDS SERVED BY PROJECT: Approximately 219 households and several commercial properties will be served

8. CHIEF ELECTED OFFICIAL OR AUTHORIZED REPRESENTATIVE:

Ron Tussing
(Name)
Mayor
(Title)
P.O. Box 1178
(Street/PO Box)
Billings, MT 59103
(City/State/Zip)
406.657.8296
(Telephone)
tussingr@ci.billings.mt.us
(E Mail address)

Randy Straus, P.E.
(Name)
Staff Engineer
(Title)
2224 Montana Avenue
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8301
(Telephone) (FAX No)
StrausR@ci.billings.mt.us
(E Mail address)

10. PROJECT ENGINEER/ARCHITECT:

Casey Hanson, P.E.
(Name of Engineer)
Morrison Maeirle, Inc.
(Name of Firm)
315 N. 25th Street, Suite 102
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.237.1241
(Telephone) (FAX No)
chanson.m-m.net
(E Mail address)

11. GRANT/LOAN ADMINISTRATOR:

Jennifer Duray, CPA
(Name)
Senior Financial Analyst
(Title)
2224 Montana Avenue
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406-657-8239 (FAX No)
(Telephone) (FAX No)
durayj@ci.billings.mt.us
(E Mail address)

12. LEGAL COUNSEL:

Brent Brooks, J.D.
(Name)
City Attorney
(Title)
210 N. 27th Street
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8205
(Telephone) (FAX No)
BrooksB@ci.billings.mt.us
(E Mail address)

13. BOND COUNSEL:

Mae Nan Ellingson
(Name)
Dorsey & Whitney, LLP
(Title)
125 Bank St., Suite 600
(Street/PO Box)
Missoula, MT 59802
(City/State/Zip)
406-721-6025
(Telephone) (FAX No)
(E Mail address)

14. CLERK/CHIEF FINANCIAL OFFICER:

Pat Weber
(Name)
Finance Controller
(Title)
210 N. 27th Street
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8209
(Telephone) (FAX No)
WeberP@ci.billings.mt.us
(E Mail address)

15. ACCOUNTANT:

(Name of Accountant)
Elde Baily
(Name of Firm)
401 N 31st St.
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406-896-2400
(Telephone) (FAX No)
(E Mail address)

9. PRIMARY ENTITY CONTACT PERSON:

16. BRIEF PROJECT SUMMARY: (Refer to instructions and example on page 13)

Historical Information -

The purpose of water main replacement projects is to implement an ongoing program of maintaining and upgrading the City of Billings' underground

water utilities. As water mains age, they begin to reach the end of their useful lives. Performance of the mains deteriorates resulting in high

maintenance costs. Old water mains contribute to a degradation in water quality and water loss. The deficiencies of these old water mains are listed below.

Problem -

Water main deficiencies for this project include: breaks in water main, aging material, leaking pipe, and bad valves.

Proposed Solution -

The proposed project would replace approximately 8,150' of existing water main with 16" PVC, 1,300' of existing water main with 12" PVC, and 6,625'

of existing water main with 8" PVC. Along with replacing the water main, approximately 168 valves will also be replaced. The estimated number

of residential services reconnected is 219. This number is in addition to the multiple commercial services that will be reconnected.

SECTION C - FINANCIAL INFORMATION

1. ESTIMATED TOTAL PROJECT COST: \$ 5,535,330

2. PROPOSED FUNDING SOURCES (List loans and grants from same funding source separately) (Refer to the instructions on page 15 and example on page 16):

Source	Type of Funds	Amount	Status of Commitment	Loan Rates and Terms
SRF	Loan	\$3,500,000	Discussed	3.75%, 20 Years
City of Billings	Water Reserves	\$2,035,330		

3. FUNDING STRATEGY NARRATIVE

- ☛ **Funding Strategy Narrative (Complete and attach)**
(Refer to the instructions on page 16 and example on page 17. Answer each question individually.)
 - a. What are the conditions on the use of each source of funds?
 - b. When will each source of funds listed be available (month and year)?
 - c. Is there any additional information on the level of commitment for each source of funds listed?
 - d. How will funding sources be coordinated with each other?
 - e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?
 - f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.

- g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.
- h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?

4. PROJECT BUDGET FORM

- ☛ **Project Budget Form (Complete form on next page)**
(Refer to the instructions on page 17 and 18, and example on page 20)
- ☛ **Project Budget Narrative (Complete and attach)**
(Refer to the instructions on page 18 and example on pages 21 and 22)

FUNDING STRATEGY NARRATIVE

a. What are the conditions on the use of each source of funds?

The City of Billings will need an SRF Loan for \$3,500,000. The loan will be at 3.75% interest for 20 years. This funding is needed to complete the 2008 and 2009 Water Rehab Project.

b. When will each source of funds listed be available (month and year)?

The rate increase to pay for the SRF Loan was available July 1st 2008. Presumably, the SRF Loan will close shortly after the construction contract is awarded. The project will go forward using cash reserves from the City of Billings and a reimbursement resolution (already in place), until the loan is available for use.

c. Is there any additional information on the level of commitment for each source of funds listed?

No.

d. How will funding sources be coordinated with each other?

The project will go forward with cash reserves from the City of Billings and a reimbursement resolution until the loan is available for use.

e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?

No.

f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.

The City of Billings will use cash reserves for part of the project; however, the City does not have enough cash reserves to fund the entire project.

g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.

If the funding was not obtained, the City of Billings would look at the Open Bond Market or Intercap Funds to fund the project.

h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?

The City of Billings will use cash reserves of \$2,035,330 to fund the project. This is the maximum amount of funding the City can provide without cancelling other locally funded projects.

Completed by: Jennifer Duray, CPA		For: City of Billings		Date: 2/13/08	
ADMINISTRATIVE and FINANCIAL COSTS:		SOURCE: SRF Loan	SOURCE: City	SOURCE:	SOURCE:
Personnel Costs					\$ -
Office Costs					\$ -
Professional Services					\$ -
Legal Costs					\$ -
Audit Fees		\$ 5,000			\$ 5,000
Travel & Training					\$ -
Loan Fees					\$ -
Loan Reserves		\$ 250,931			\$ 250,931
Interim Interest					\$ -
Bond Counsel and Related Costs		\$ 10,000			\$ 10,000
TOTAL ADMINISTRATIVE/FINANCIAL COSTS		\$ -	\$ 265,931		\$ 265,931
ACTIVITY COSTS:					
Land Acquisition					\$ -
Preliminary Engineering		\$ 16,750			\$ 16,750
Engineering/Architectural Design		\$ 328,875			\$ 328,875
Construction Engineering Services		\$ 425,988			\$ 425,988
Construction		\$ 3,500,000	\$ 518,750		\$ 4,018,750
Contingency			\$ 479,036		\$ 479,036
TOTAL ACTIVITY COSTS		\$ 3,500,000	\$ 1,769,399		\$ 5,269,399
TOTAL PROJECT COSTS		\$ 3,500,000	\$ 2,035,330		\$ 5,535,330

ADMINISTRATIVE AND FINANCIAL COSTS

Audit Fees	\$5,000
-------------------	----------------

\$5,000 of water revenue reserves is budgeted to meet the portion of the organizational audit that can be attributed to the project in accordance with the Single Audit Act.

Loan Reserves	\$250,931
----------------------	------------------

\$250,931 has been budgeted for loan reserves. Funds for this budget item will be provided from water revenues.

Bond Counsel and Related Costs	\$10,000
---------------------------------------	-----------------

\$10,000 has been budgeted for the City's bond counsel costs.

TOTAL ADMINISTRATIVE AND FINANCIAL COSTS	\$265,931
---	------------------

Administrative and financial costs represent 4.8% of the total project costs.

ACTIVITY COSTS

Preliminary Engineering	\$16,750
--------------------------------	-----------------

This amount was incurred from the preparation of the SRF application.

Engineering/Architectural Design	\$328,875
---	------------------

Based on engineering cost estimates, the total cost of preparing the final design is estimated at \$328,875.

Construction Engineering Services	\$425,988
--	------------------

Based on engineering cost estimates, the total cost of inspecting the construction of the project is estimated at \$425,988.

Construction	\$4,018,750
---------------------	--------------------

Based on engineering cost estimates, the total cost of construction of the project is estimated at \$4,018,750. \$3,500,000 of this will be funded with an SRF loan and the remaining \$518,750 will come from water revenue reserves.

Contingency	\$479,036
--------------------	------------------

Contingency funds are 11.9% of the construction costs because the project could encounter unknowns during construction. These unknowns usually cannot be predicted and are discovered once construction has commenced.

TOTAL ACTIVITY COSTS	\$5,269,399
-----------------------------	--------------------

TOTAL PROJECT COSTS	\$5,535,330
----------------------------	--------------------

5. CURRENT DEBT (Refer to the instructions and example on page 23)

Year Issued	Purpose	Type of Bond/Security	Amount	Maturity Date (mo/yr)	Debt Holder	Coverage Requirement	Avg. Annual Payment Amount	Outstanding Balance
2005	Water	Revenue	17,300,000	7-2025	DNRC	125%	1,221,993	15,450,000

6. CURRENT ASSETS (Indicate if assets are obligated.) (Refer to the instructions on page 23.)

Cash (Details) <u>SRF Loan Reserves - \$1,237,994</u>	\$ <u>5,489,535</u>
Investments (Details) <u></u>	\$ <u>9,268,341</u>
Certificates of Deposit (Details) <u></u>	\$ <u></u>
Accounts Receivable (Details) <u></u>	\$ <u>1,988,770</u>
Any other current assets not specifically indicated above (Details) <u>Accrued interest</u>	\$ <u>80,561</u>

7. BALANCE SHEET (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Balance Sheet (Check if attached)

8. INCOME AND EXPENSE STATEMENT (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Income and Expense Statement (Check if attached)

SECTION D**CENSUS INFORMATION**

Do not fill in this section. The following information will be completed by the receiving agency using data supplied by the U.S. Bureau of the Census and the U.S. Department of Housing and Urban Development based on Census data.

1. **MEDIAN HOUSEHOLD INCOME** \$ _____
2. **LOW TO MODERATE INCOME PERSONS**. The percent of the population at or below the level designated as low to moderate income. % _____
3. **POVERTY**. The percent of the population characterized as at or below the level designated as poverty. % _____

SECTION E**SYSTEM INFORMATION** (Refer to instructions on pages 23 and 24)

Number of unimproved properties in jurisdiction: 5,262 (Billings-wide)

☛ **Complete and attach the "System Information Worksheet."** The figures required for the items listed below that are denoted with an "☛" are computed using the "System Information Worksheet." The letter in parenthesis following the "☛" denotes the location in the worksheet to find the figure to be inserted.

	<u>Current</u>	<u>Projected</u>
1. Total System Annual Revenue	\$ <u>14,510,076</u>	\$ <u>15,898,000</u>
2. Total System Annual Operation and Maintenance Costs	\$ <u>10,330,367</u>	\$ <u>11,337,437</u>
3. Total System Equivalent Dwelling Units* ☛(e) for current and (k) for projected	36,635	36,807
4. Total Residential Equivalent Dwelling Units* ☛(f) for current and (m) for projected	26,049	26,135
5. Annual Revenue from Residential Hookups	\$ <u>8,089,612</u>	\$ <u>9,200,000</u>
6. Percent of Total Annual Revenue from Residential Hookups	56	
7. Average Monthly Residential Rate	\$ <u>25.88</u>	\$ <u>29.33</u>
	<input type="checkbox"/> Check box if this is a flat rate.	Projected Average Monthly Residential Rate ☛ (w) or (x)
8. <u>Other System</u> Average Monthly Residential Rate	\$ <u>13.72</u>	\$ <u>14.45</u>

* If this application is for a solid waste project, see instructions.

SYSTEM INFORMATION WORKSHEET
(Refer to instructions on pages 25 through 30)

SUBSECTION 1 – EQUIVALENT DWELLING UNIT COMPUTATION

Applicants with either a water and wastewater project must complete Section I, regardless of whether the applicant is served by a central water system or is planning to charge residential users a flat user fee. If the applicant is not served by a central water system, or it has water connections that provide service to multiple mixed uses, such as commercial and residential, refer to the instructions on page 30 for information on computing the number of EDU's. *Applicants with solid waste projects are not required to complete Section I*. Service connection diameters will be converted to EDU's according to the following table, with the exception of those situations noted on page 25:

<u>Service connection inside diameter (inches)</u>	<u>EDU's</u>
$\frac{3}{4}$ " or smaller	1.00
1"	1.79
1-1/2"	4.00
2"	7.14
2-1/2"	11.16
3"	16.00
4"	28.57
5"	44.64
6"	64.29
7"	87.11
8"	113.78
9"	144.00
10"	177.78

PART A. CURRENT WATER HOOKUP SUMMARY

<u>Diameter (inches)</u>	<u>Current Total Hookups*</u>			<u>Current Residential Hookups</u>			
	<u>(a) Total Number of Hookups</u>	<u>(b) EDU's per Hookup (from table)</u>	<u>Total EDU's [(a) x (b)]</u>	<u>(c) Diameter (inches)</u>	<u>(d) Number of Residential Hookups</u>	<u>EDU's Per Hookup (from table)</u>	<u>Total Residential EDU's [(c) x (d)]</u>
3/4	27,040	1.00	27,040	3/4	25,271	1.00	25,271
1	950	1.79	1,700.5	1	360	1.79	644.4
1.5	400	4.00	1,600	1.5	28	4.00	112
2	186	7.14	1,328.04	2	3	7.14	21.42
3	120	16.00	1,920				
4	35	28.57	999.95				
6	21	64.29	1,350.09				
8	3	113.78	341.34				
10	2	177.78	355.56				
Totals	28,757		36,635.48 (e)		25,662		26,048.82 (f)

* Includes both residential and non-residential hookups

PART B. PROJECTED WATER HOOKUP SUMMARY

* Includes both residential and non-residential hookups

Projected average EDU's per residential hookup: 1.02 (n)
[(m)/(l)]

Provide the following information if applying to the USDA RUS/RD program

Total system flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (a) above]

Total residential flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (c) above]

SUBSECTION 2 – PROJECTED AVERAGE MONTHLY RESIDENTIAL RATE COMPUTATION

Will debt be used to finance the project? Yes No If no, skip to PART E.
If yes, how will debt for the project be secured:

A. Revenue Bond (complete Part A)
B. General Obligation Bond (complete Part B)
C. Rural or Special Improvement District Bond (complete Part C)
D. Other (explain) _____ (complete Part D)

Debt (Loan) Amount: \$ 3,500,000 **Interest Rate:** 3.75 % **Terms:** 20 years, 125% debt coverage requirement

COMPLETE THE APPLICABLE SECTIONS BELOW

PART A. REVENUE BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes No x If no, when will election be held (date) no election needed. Council App

2. Annual debt service for new loan, including coverage: \$ 312,892 (i)

3. Monthly debt service for new loan, including coverage: (line i, 12)	\$ 26,074	(ii)
4. Total number of <u>projected</u> EDU's after completion of project:	<u>36,807</u>	(iii)
5. Average (per total <u>projected</u> EDU's) monthly debt service for new loan: (line ii, line iii)	\$.71	(iv)

PART B. GENERAL OBLIGATION BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes _____ No _____ If no, when will election be held (date): _____
2. Amount of outstanding General Obligation Bonds \$ _____
3. Debt limitations of entity _____
4. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART C. RURAL OR SPECIAL IMPROVEMENT DISTRICT BOND SECURING DEBT OBLIGATION:

1. Type of special assessment:
 - a. SID _____
 - b. RID _____
 - c. Other (specify) _____
2. Proposed method of assessment:
 - a. Assessable Area _____
 - b. Area _____
 - c. Ad Valorem Tax _____
 - d. Lineal Front Footage _____
 - e. Combination of a. through d. above (explain) _____
3. Number of parcels in the district _____
4. What percentage of the property (based on the methods of assessment) within the district fits these descriptions?

TYPE OF PROPERTY	PERCENT DEVELOPED	PERCENT UNDEVELOPED
Commercial		
Industrial		
Single-Family Residential		
Multi-Family Residential		

Agricultural		
--------------	--	--

5. Number of property owners in district _____
6. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART D. OTHER TYPE OF DEBT INSTRUMENT SECURING DEBT OBLIGATION THAT IS NOT INDICATED ABOVE

1. Explain how debt will be secured: _____

2. Estimated average (per property) monthly cost to repay debt: \$ _____

PART E. CALCULATION OF THE PROJECTED AVERAGE MONTHLY RESIDENTIAL USER RATE:

1. Estimated increase in average monthly debt service (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project. Enter \$0 if no increase is projected: \$.71 (o)
[From Part A, B, C, or D]
2. Estimated increase or decrease in total monthly operation and maintenance (O&M) costs (including depreciation and replacement reserves) as the result of this project: \$ 0 (p)
3. List and explain estimated increases or decreases in O&M costs, including depreciation and replacement reserves (Provide a reasonably detailed explanation regarding the reason for the increase or decrease):

4. Estimated increase or decrease in monthly O&M costs (including depreciation and replacement reserves) (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project: \$ 0 (q)
[(p) / (k)]
5. Estimated increase or decrease in total monthly costs (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project: \$.71 (r)
[(o) + (q)]
6. Projected average EDU's per residential hookup: \$ 1.02 (s)
[(n)]
7. Estimated increase or decrease in total monthly costs per average residential hookup/customer as the result of this project: \$.72 (t)
[(r) x (s)]
8. Existing average monthly residential debt service, including coverage and bond reserve (subtract any existing debt service if the loan will expire before the completion of the project): \$ 4.89 (u)

9. Existing average monthly residential O&M costs and replacement and depreciation reserves: \$ 20.99 (v)

Note: (u) plus (v) should equal the current average monthly residential rate as stated on page 43, Section E, Line 7. If these amounts do not equal, provide an explanation of why the numbers differ.

10. Projected average monthly residential user rate after completion of this project: \$ 26.60 [(t) + (u) + (v)] (w)

11. Projected flat user rate: \$ _____ (x)

CITY OF BILLINGS, MONTANA
Proprietary Funds

Statement of Net Assets

June 30, 2008

(Page 1 of 2)

Business-type Activities

Assets	Business-type Activities					Internal Service Funds
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	
Current assets:						
Cash and cash equivalents	\$ 2,941,560	\$ 2,485,697	\$ 4,872,254	\$ 1,494,688	\$ 1,013,119	\$ 2,483,535
Restricted cash and cash equivalents with fiscal agent	5,632,785	763,596	617,281	161,175	1,937,278	1,493,615
Investments	4,770,547	9,268,341	2,871,657			25,374,223
Receivables:						4,437,217
Property taxes						
Accounts and unbilled usage	391,253	479,407	1,988,770	1,011,784		94,055
Accrued interest	53,380	40,468	80,561	26,469	15,163	24,935
Notes						3,896,149
Due from other funds						11,697
Receivables from other governments	5,022,690					227,738
Inventories	183,450	642,748				
Prepaid expense						70,000
Total current assets	14,225,118	9,182,463	17,823,845	5,585,773	2,965,560	27,11,932
Noncurrent assets:						52,474,491
Bond issue costs, net						7,344,927
Notes receivable						
Restricted investments with trustee	2,013,719					
Property and equipment:						2,013,719
Land	496,157	3,248,686	1,405,918	465,544	4,075,502	1,435,291
Buildings	188,095	22,742,834	13,914,120	13,839,576	24,289,909	4,579,587
Improvements other than buildings	1,938,717	69,327,676	1,241,174	2,810,810	400,568	987,849
Equipment and vehicles	8,876,041	8,289,587	14,558,151	12,195,983	722,660	8,244,872
Infrastructure						52,887,294
Construction in progress	483,172	1,226,041	144,998,355	115,097,044		260,095,399
Less: accumulated depreciation	(6,423,758)	(61,691,925)	(66,988,534)	(53,940,895)	(10,881,862)	(6,531,197)
Total noncurrent assets	7,572,143	43,234,311	115,977,609	94,716,564	18,586,777	9,197,187
Total assets	21,787,261	52,416,774	133,801,254	100,281,337	21,552,337	11,909,119

(continued)

CITY OF BILLINGS, MONTANA
Proprietary Funds
Statement of Net Assets
June 30, 2008
(Page 2 of 2)

	Business-type Activities						Internal Service Funds
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	
Liabilities							
Current liabilities:							
Accounts payable	546,566	811,031	1,059,273	838,805	36,536	50,219	3,342,430
Accrued wages and benefits	160,357	135,822	163,894	122,017	20,530	163,144	766,164
Compensated absences	266,020	285,576	395,893	280,762	22,542	235,585	1,496,378
Accrued interest payable	-	-	294,281	77,175	263,020	-	634,476
Incurred but not reported health benefits	-	-	-	-	-	-	94,515
Notes payable	-	-	652,000	170,000	179,771	-	700,000
Due to other funds	-	-	-	-	-	-	251,705
Accrued interest payable from restricted assets	-	-	273,596	-	-	-	16,084
Revenue bonds payable from restricted assets	-	490,000	-	-	-	-	273,596
Total current liabilities	972,943	2,006,025	2,565,341	1,488,759	522,799	448,948	8,004,815
							2,195,625
Noncurrent liabilities:							
Compensated absences	223,936	248,816	333,264	236,346	18,976	198,316	1,259,654
Revenue bonds payable	-	8,635,000	-	-	-	-	8,635,000
Deferred loss on bond refunding	-	(262,579)	-	-	-	-	(262,579)
Notes payable	-	-	15,121,000	3,946,000	5,579,798	-	24,646,798
Landfill closure and postclosure payable from restricted assets	2,013,719	-	-	-	-	-	2,013,719
Landfill closure and postclosure	405,589	8,621,237	15,454,264	4,182,346	5,598,774	198,316	40,5289
Total noncurrent liabilities	2,643,244	8,621,237	18,019,605	5,671,105	6,121,573	547,264	36,698,181
Total liabilities	3,616,187	10,637,262	-	-	-	-	5,429,089
							7,684,714
Net assets							
Invested in capital assets, net of related debt	5,558,424	34,280,478	100,204,609	90,599,564	13,006,979	9,197,187	252,847,241
Restricted for:							6,439,361
Bond and notes payable ordinance reserve	-	2,211,930	1,237,994	323,719	-	-	3,773,643
Unrestricted	12,622,650	5,237,104	14,339,046	3,666,949	2,423,785	2,064,668	40,434,202
Total net assets	\$ 18,181,074	\$ 41,789,512	\$ 115,781,649	\$ 94,610,232	\$ 15,430,764	\$ 11,261,855	\$ 297,055,086
							\$ 12,456,004
Some amounts reported for business-type activities in the statement of net assets are different because certain internal service fund assets and liabilities are included with business-type activities							4,336,508
Net assets of business-type activities							\$ 301,391,594
The notes to the financial statements are an integral part of this statement.							

CITY OF BILLINGS, MONTANA

Proprietary Funds

Statement of Revenues, Expenses, and Changes in Net Assets
For The Fiscal Year Ended June 30, 2008

	Business-type Activities						Internal Service Funds
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	
Operating revenue:							
Charges for services and use of facilities	\$ 7,886,851	\$ 7,791,198	\$ 18,859,890	\$ 10,229,559	\$ 1,811,754	\$ 1,008,694	\$ 47,593,146
Operating expenses:							
Salaries and benefits	3,302,737	3,445,602	3,794,688	2,727,763	543,199	3,160,622	16,974,611
Supplies	1,917,701	653,900	2,285,447	935,335	117,470	774,885	6,688,738
Contracted services	1,020,583	989,893	1,457,761	827,294	316,083	313,209	4,921,923
Utilities	37,738	717,680	1,709,651	840,562	125,686	100,332	3,531,589
Other	1,472,546	212,043	1,078,820	619,025	59,070	249,954	3,691,458
Depreciation	1,108,774	4,330,153	4,427,319	3,012,094	848,912	962,277	14,689,529
Landfill closure and post-closure	189,193	-	-	-	-	-	582,131
Total operating expenses	9,049,372	10,346,271	14,757,686	8,962,073	2,010,370	5,561,279	189,193
Operating income (loss)	<u>(1,162,521)</u>	<u>(2,555,073)</u>	<u>4,112,204</u>	<u>1,257,486</u>	<u>(198,616)</u>	<u>(4,552,385)</u>	<u>14,676,557</u>
Nonoperating revenue (expense):							
Taxes	-	-	-	-	-	-	1,630,110
Intergovernmental	1,161,663	-	-	-	-	-	1,749,437
Interest expense	-	(591,086)	(385,811)	(155,906)	(271,564)	(216)	(1,404,533)
Interest and investment income	713,664	293,155	728,983	285,852	143,490	107,841	2,272,985
Passenger Facilities Charges	-	1,098,784	-	-	-	-	1,098,784
Gain (loss) on sale of capital assets*	8,932	(795,366)	(16,824)	(56,469)	(4,533)	24,254	(840,006)
Other	-	238,463	17,835	2,431	1,500	28,683	28,912
Total nonoperating revenue (expense)	<u>722,586</u>	<u>1,405,613</u>	<u>344,183</u>	<u>75,903</u>	<u>(131,107)</u>	<u>3,540,109</u>	<u>55,358</u>
Income (loss) before capital contributions and transfers	<u>(439,925)</u>	<u>(1,149,460)</u>	<u>4,456,387</u>	<u>1,343,394</u>	<u>(329,723)</u>	<u>(1,012,276)</u>	<u>2,868,397</u>
Capital contributions	-	4,290,258	2,077,133	2,193,141	-	379,058	8,985,590
Transfers in	-	-	-	-	(233,398)	(20,873)	(254,181)
Transfers out	-	-	-	-	(563,031)	(654,091)	(230,779)
Change in net assets	<u>(439,925)</u>	<u>3,140,798</u>	<u>6,533,520</u>	<u>3,536,535</u>	<u>15,983,795</u>	<u>11,915,946</u>	<u>1,688,305</u>
Net assets, beginning of year	18,620,999	38,648,714	109,248,129	91,075,697	-	-	10,777,699
Net assets, end of year	<u>\$ 18,181,074</u>	<u>\$ 41,789,512</u>	<u>\$ 115,781,649</u>	<u>\$ 94,610,232</u>	<u>\$ 15,430,764</u>	<u>\$ 11,261,855</u>	<u>\$ 12,466,004</u>
Some amounts reported for business-type activities in the statement of activities are different because the net revenue (expense) of certain internal funds is reported with business-type activities.							629,623
Change in net assets of business-type activities							\$ 12,183,429
The notes to the financial statements are an integral part of this statement.							

** Gain (loss) on sale of capital assets of the Airport Fund consists solely of the cost to demolish the fully depreciated old air traffic control tower.

CITY OF BILLINGS, MONTANA
Proprietary Funds
Statement of Cash Flows
For The Fiscal Year Ended June 30, 2008
(Page 1 of 2)

	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	Total	Internal Service Funds
Cash flows from operating activities:								
Cash received from customers and users	\$ 5,148,777	\$ 8,029,441	\$ 18,787,749	\$ 10,209,987	\$ 1,811,754	\$ 882,879	\$ 44,870,687	\$ 454,336
Cash received from interfund services provided	-	-	-	-	-	-	-	15,518,037
Cash received from other sources	-	238,463	17,835	2,431	1,500	20,282	280,511	72,574
Cash paid to employees for services	(3,243,240)	(3,414,139)	(3,746,486)	(2,694,914)	(533,331)	(3,117,093)	(16,749,647)	(10,198,246)
Cash paid to suppliers and contracted services	(3,998,461)	(2,965,359)	(7,839,104)	(2,713,427)	(1,474,163)	(1,395,687)	(20,386,241)	(3,909,871)
Cash paid to other sources	-	-	-	-	-	8,401	8,401	-
Net cash provided (used), by operating activities	<u>(2,092,924)</u>	<u>1,888,366</u>	<u>7,220,020</u>	<u>4,804,077</u>	<u>(194,740)</u>	<u>(3,601,188)</u>	<u>8,023,611</u>	<u>1,936,802</u>
Cash flows from noncapital financing activities:								
Cash received from tax revenues	-	-	-	-	-	1,606,375	1,606,375	-
Cash received from intergovernmental revenues	-	1,161,663	-	-	-	1,749,437	2,911,100	-
Transfers to other funds	-	-	-	-	(233,308)	(20,873)	(254,181)	(217,096)
Loans repaid to other funds	-	-	-	-	-	-	-	(15,245)
Net cash provided (used), by noncapital financing activities	<u>-</u>	<u>1,161,663</u>	<u>-</u>	<u>-</u>	<u>(233,308)</u>	<u>3,334,939</u>	<u>4,263,294</u>	<u>(232,345)</u>
Cash flows from capital and related financing activities:								
Capital contributions	4,290,258	-	-	-	-	379,068	4,669,316	-
Acquisition and construction of capital assets	(1,341,891)	(6,966,551)	(10,516,647)	(6,773,805)	(1,093,152)	(487,427)	(27,179,513)	(87,671)
Proceeds from sales of capital assets	-	-	(16,823)	-	-	21,433	4,610	70,000
Cash paid for interest	-	(560,016)	(492,333)	(158,981)	(325,714)	(216)	(1,537,260)	(298,844)
Loan proceeds	-	-	3,046,000	-	-	-	3,046,000	-
Principal paid on bonds, notes and capital leases payable	-	(470,000)	(628,000)	(164,000)	(170,431)	(84,734)	(1,517,165)	(358,174)
Transfers to other funds	-	-	-	-	-	-	-	(13,685)
Transfers from other funds	-	-	-	-	-	-	-	570,845
Passenger facilities charges	-	1,098,754	-	-	-	-	-	-
Net cash provided (used) by capital and related financing activities	<u>(1,341,891)</u>	<u>(2,607,556)</u>	<u>(8,607,803)</u>	<u>(7,096,786)</u>	<u>(1,589,297)</u>	<u>(171,886)</u>	<u>1,098,784</u>	<u>(21,415,228)</u>
Cash flows from investing activities:								
Cash received from interest	773,506	323,430	789,813	312,661	159,670	117,812	2,476,882	289,804
Sale of investments	12,870,463	9,012,138	18,779,498	6,925,060	4,504,959	3,177,847	55,269,615	7,796,451
Purchase of investments	(12,099,486)	(10,017,279)	(19,426,531)	(6,023,546)	(4,082,339)	(3,157,703)	(54,807,384)	(9,309,421)
Net cash provided (used) by investing activities	<u>-1,544,483</u>	<u>(681,711)</u>	<u>142,780</u>	<u>1,214,175</u>	<u>581,440</u>	<u>137,956</u>	<u>2,939,123</u>	<u>(1,223,165)</u>
Net increase (decrease) in cash and cash equivalents	<u>(1,890,332)</u>	<u>(239,247)</u>	<u>(1,245,003)</u>	<u>(1,078,554)</u>	<u>(1,435,905)</u>	<u>(30,179)</u>	<u>(6,189,200)</u>	<u>363,755</u>
Cash and cash equivalents, beginning of year	4,831,892	3,488,540	6,734,538	2,734,397	2,449,024	1,217,293	21,455,684	2,119,785
Cash and cash equivalents, end of year	<u>\$ 2,941,560</u>	<u>\$ 3,249,233</u>	<u>\$ 5,499,535</u>	<u>\$ 1,655,863</u>	<u>\$ 1,013,119</u>	<u>\$ 917,114</u>	<u>\$ 15,266,484</u>	<u>\$ 2,483,533</u>
Cash and cash equivalents consists of:								
Cash and cash equivalents	\$ 2,941,560	\$ 2,485,687	\$ 4,872,254	\$ 1,494,688	\$ 1,013,119	\$ 916,398	\$ 13,723,716	\$ 2,483,533
Restricted cash and cash equivalents with fiscal agent	-	763,596	817,281	161,175	-	716	1,542,788	-
Cash and cash equivalents, end of year	<u>\$ 2,941,560</u>	<u>\$ 3,249,233</u>	<u>\$ 5,499,535</u>	<u>\$ 1,655,863</u>	<u>\$ 1,013,119</u>	<u>\$ 917,114</u>	<u>\$ 15,266,484</u>	<u>\$ 2,483,533</u>

(continued)

CITY OF BILLINGS, MONTANA

Proprietary Funds

Statement of Cash Flows

For The Fiscal Year Ended June 30, 2008
(Page 2 of 2)

	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	Total	Internal Service Funds
Reconciliation of operating income to net cash provided (used) by operating activities:								
Operating income (loss)	\$ (1,162,521)	\$ (2,555,073)	\$ 4,112,204	\$ 1,267,486	\$ (198,616)	\$ (4,552,385)	\$ (3,088,905)	\$ 1,292,886
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:								
Depreciation expense	1,108,774	4,330,153	4,427,319	3,012,094	848,912	962,277	14,689,529	582,181
Landfill closure and postclosure	189,193	880,991	(101,646)	(19,572)	-	(16,413)	189,193	2,918
(Increase) decrease in receivables	(34,925)	(642,748)	-	-	(110,588)	708,435	(3,449,555)	
(Increase) decrease in inventories	(2,696,199)	-	19,505	-	-	100	19,605	(54,061)
(Increase) decrease in prepaid items	(6,950)	(384,883)	(1,303,426)	508,759	(855,904)	40,258	(1,554,958)	649,887
Increase (decrease) in accounts payable	450,207	31,463	48,228	32,848	9,398	227,299	(609,531)	
Increase (decrease) in accrued liabilities	59,497	-	-	-	45,894	-		
Net cash provided (used) by operating activities	\$ (2,092,924)	\$ 1,888,366	\$ 7,220,020	\$ 4,804,077	\$ (94,740)	\$ 8,023,611	\$ 1,936,804	
Noncash investing, capital and financing activities:								
Increase (decrease) in investment market value	(11,211)	(10,979)	(18,211)	(2,952)	(2,213)	(2,364)	(47,930)	(7,731)
Contribution of capital assets	-	-	2,077,133	2,193,141	-	-	4,270,274	-

The notes to the financial statements are an integral part of this statement.

**UNIFORM APPLICATION FORM
FOR MONTANA PUBLIC FACILITY PROJECTS**

(Please type or print legibly)

SECTION A - **CERTIFICATION**

To the best of my knowledge and belief, the information provided in this application and in the attached documents is true and correct.

Name (printed): Ron Tussing

Title (printed): Mayor, City of Billings

Chief Elected Official or Authorized Representative

Signature: _____

Date: _____

SECTION B - **SUMMARY INFORMATION**

1. NAME OF APPLICANT(S): City of Billings
2. TYPE OF ENTITY: Municipality
3. FEDERAL TAX ID NUMBER: 81-6001237
4. TYPE OF PROJECT: Wastewater
5. SENATE AND HOUSE DISTRICTS: Senate=25,26 and 27 House=49,50,51,52, and 53
6. POPULATION SERVED BY PROJECT: Approximately 1,300 residential based on City of Billings sewer video plus additional commercial including Rimrock Mall
7. NUMBER OF HOUSEHOLDS SERVED BY PROJECT: Approximately 520 households and several commercial properties will be served

8. CHIEF ELECTED OFFICIAL OR AUTHORIZED REPRESENTATIVE:

Ron Tussing
(Name)
Mayor
(Title)
P.O. Box 1178
(Street/PO Box)
Billings, MT 59103
(City/State/Zip)
406.657.8296
(Telephone)
tussingr@ci.billings.mt.us
(FAX No)
(E Mail address)

Randy Straus, P.E.
(Name)
Staff Engineer
(Title)
2224 Montana Avenue
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8301
(Telephone)
StrausR@ci.billings.mt.us
(FAX No)
(E Mail address)

10. PROJECT ENGINEER/ARCHITECT:

Casey Hanson, P.E.
(Name of Engineer)
Morrison Maeirle, Inc.
(Name of Firm)
315 N. 25th Street, Suite 102
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.237.1241
(Telephone)
chanson.m-m.net
(FAX No)
(E Mail address)

11. GRANT/LOAN ADMINISTRATOR:

Jennifer Duray, CPA
(Name)
Senior Financial Analyst
(Title)
2224 Montana Avenue
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406-657-8239
(Telephone)
durayj@ci.billings.mt.us
(FAX No)
(E Mail address)

12. LEGAL COUNSEL:

Brent Brooks, J.D.
(Name)
City Attorney
(Title)
210 N. 27th Street
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8205
(Telephone)
BrooksB@ci.billings.mt.us
(FAX No)
(E Mail address)

13. BOND COUNSEL:

Mae Nan Ellingson
(Name)
Dorsey & Whitney, LLP
(Title)
125 Bank St., Suite 600
(Street/PO Box)
Missoula, MT 59802
(City/State/Zip)
406-721-6025
(Telephone)
(FAX No)
(E Mail address)

14. CLERK/CHIEF FINANCIAL OFFICER:

Pat Weber
(Name)
Finance Controller
(Title)
210 N. 27th Street
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406.657.8209
(Telephone)
WeberP@ci.billings.mt.us
(FAX No)
(E Mail address)

15. ACCOUNTANT:

(Name of Accountant)
Eide Bailly
(Name of Firm)
401 N 31st St.
(Street/PO Box)
Billings, MT 59101
(City/State/Zip)
406-896-2400
(Telephone)
(FAX No)
(E Mail address)

9. PRIMARY ENTITY CONTACT PERSON:

16. BRIEF PROJECT SUMMARY: (Refer to instructions and example on page 13)

Historical Information -

The purpose of sewer main replacement projects is to implement an ongoing program of maintaining and upgrading the City of Billings' underground

sewer utilities. As sewer mains age, they begin to reach the end of their useful lives. Performance of the mains deteriorates resulting in high maintenance costs and loss of capacity. The deficiencies of these old sewer mains are listed below.

Problem -

Sewer main deficiencies for this project include: infiltration, pipe setting, cracked and broken pipe, offset joints, deficient slope, root growth through joints or cracks, and offset or broken service connections.

Proposed Solution -

The proposed project would replace approximately 2,300' of existing 18" sewer main with 12" PVC, 3,660' of existing 10" sewer main with 10" PVC, and 17,255' of existing 8" sewer main with 8" PVC or C I P P. Along with the sewer main, approximately 83 manholes will also be replaced. The estimated number of services reconnected based on video analysis obtained by the City of Billings, is 520; however, the actual number of services that will be hooked up may vary slightly based on field conditions and services found once construction has commenced.

SECTION C - FINANCIAL INFORMATION

1. ESTIMATED TOTAL PROJECT COST: \$ 7,844,801

2. PROPOSED FUNDING SOURCES (List loans and grants from same funding source separately) (Refer to the instructions on page 15 and example on page 16):

Source	Type of Funds	Amount	Status of Commitment	Loan Rates and Terms
SRF	Loan	\$7,844,801	Discussed	3.75%, 20 Years

3. FUNDING STRATEGY NARRATIVE

- ☛ **Funding Strategy Narrative (Complete and attach)**
(Refer to the instructions on page 16 and example on page 17. Answer each question individually.)
 - a. What are the conditions on the use of each source of funds?
 - b. When will each source of funds listed be available (month and year)?
 - c. Is there any additional information on the level of commitment for each source of funds listed?
 - d. How will funding sources be coordinated with each other?
 - e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?
 - f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.

 - g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.
 - h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?

4. PROJECT BUDGET FORM

- ☛ **Project Budget Form (Complete form on next page)**
(Refer to the instructions on page 17 and 18, and example on page 20)
- ☛ **Project Budget Narrative (Complete and attach)**
(Refer to the instructions on page 18 and example on pages 21 and 22)

FUNDING STRATEGY NARRATIVE

a. What are the conditions on the use of each source of funds?

The City of Billings will need an SRF Loan for \$7,844,801. The loan will be at 3.75% interest for 20 years. This funding is needed to complete the 2008 and 2009 Sewer Rehab Project.

b. When will each source of funds listed be available (month and year)?

The rate increase to pay for the SRF Loan was available July 1st 2008. Presumably, the SRF Loan will close will close shortly after the construction contract is awarded. The project will go forward using cash reserves from the City of Billings and a reimbursement resolution (already in place), until the loan is available for use.

c. Is there any additional information on the level of commitment for each source of funds listed?

No.

d. How will funding sources be coordinated with each other?

SRF is the only funding source on this project.

e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?

No.

f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.

The City does not have enough cash reserves to fund the project.

g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.

If the funding was not obtained, the City of Billings would look at the Open Bond Market or Intercap Funds to fund the project.

h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?

The City of Billings will not use local funds on this project. This is the maximum amount of funding the City can provide without cancelling other locally funded projects.

Completed by: Jennifer Duray, CPA		For: City of Billings		Date: 2/13/09	
ADMINISTRATIVE and FINANCIAL COSTS:		SOURCE: SRF Loan	SOURCE: City	SOURCE:	SOURCE: TOTAL
Personnel Costs					\$ -
Office Costs					\$ -
Professional Services					\$ -
Legal Costs					\$ -
Audit Fees	\$ 5,000				\$ 5,000
Travel & Training					\$ -
Loan Fees					\$ -
Loan Reserves	\$ 561,719				\$ 561,719
Interim Interest					\$ -
Bond Counsel and Related Costs	\$ 10,000				\$ 10,000
TOTAL ADMINISTRATIVE/FINANCIAL COSTS	\$ 576,719	\$ -			\$ 576,719
ACTIVITY COSTS:					
Land Acquisition					\$ -
Preliminary Engineering	\$ 16,750				\$ 16,750
Engineering/Architectural Design	\$ 685,977				\$ 685,977
Construction Engineering Services	\$ 612,547				\$ 612,547
Construction	\$ 5,300,000				\$ 5,300,000
Contingency	\$ 652,808				\$ 652,808
TOTAL ACTIVITY COSTS	\$ 7,268,082	\$ -			\$ 7,268,082
TOTAL PROJECT COSTS	\$ 7,844,801	\$ -			\$ 7,844,801

ADMINISTRATIVE AND FINANCIAL COSTS

Audit Fees	\$5,000
\$5,000 is budgeted to meet the portion of the organizational audit that can be attributed to the project in accordance with the Single Audit Act.	
Loan Reserves	\$561,719
\$561,719 has been budgeted for loan reserves.	
Bond Counsel and Related Costs	\$10,000
\$10,000 has been budgeted for the City's bond counsel costs.	
TOTAL ADMINISTRATIVE AND FINANCIAL COSTS	\$576,719

Administrative and financial costs represent 7.35% of the total project costs.

ACTIVITY COSTS

Preliminary Engineering	\$16,750
This amount was incurred from the preparation of the SRF application.	
Engineering/Architectural Design	\$685,977
Based on engineering cost estimates, the total cost of preparing the final design is estimated at \$685,977.	
Construction Engineering Services	\$612,547
Based on engineering cost estimates, the total cost of inspecting the construction of the project is estimated at \$612,547.	
Construction	\$5,300,000
Based on engineering cost estimates, the total cost of construction of the project is estimated at \$5,300,000.	
Contingency	\$652,808
Contingency funds are 12.3% of the construction costs because the project could encounter unknowns during construction. These unknowns usually cannot be predicted and are discovered once construction has commenced.	
TOTAL ACTIVITY COSTS	\$7,268,082
TOTAL PROJECT COSTS	\$7,844,801

5. CURRENT DEBT (Refer to the instructions and example on page 23)

Year Issued	Purpose	Type of Bond/ Security	Amount	Maturity Date (mo/yr)	Debt Holder	Coverage Requirement	Avg. Annual Payment Amount	Outstanding Balance
2005	Wastewater	Revenue	4,515,000	7-2025	DNRC	125%	402,306	4,032,000
2008	Wastewater	Revenue	7,400,000	7-2028	DNRC	125%	529,000	3,022,880

6. CURRENT ASSETS (Indicate if assets are obligated.) (Refer to the instructions on page 23.)

Cash (Details) <u>SRF Loan Reserves - \$323,719</u>	\$ <u>1,655,863</u>
Investments (Details) <u></u>	\$ <u>2,871,657</u>
Certificates of Deposit (Details) <u></u>	\$ <u></u>
Accounts Receivable (Details) <u></u>	\$ <u>1,011,784</u>
Any other current assets not specifically indicated above (Details) <u>Accrued interest</u>	\$ <u>26,469</u>

7. BALANCE SHEET (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Balance Sheet (Check if attached)

8. INCOME AND EXPENSE STATEMENT (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Income and Expense Statement (Check if attached)

SECTION D - CENSUS INFORMATION

Do not fill in this section. The following information will be completed by the receiving agency using data supplied by the U.S. Bureau of the Census and the U.S. Department of Housing and Urban Development based on Census data.

1. **MEDIAN HOUSEHOLD INCOME** \$ _____
2. **LOW TO MODERATE INCOME PERSONS**: The percent of the population at or below the level designated as low to moderate income. % _____
3. **POVERTY**: The percent of the population characterized as at or below the level designated as poverty. % _____

SECTION E - SYSTEM INFORMATION (Refer to instructions on pages 23 and 24)

Number of unimproved properties in jurisdiction: 5,262 (Billings-wide)

☛ **Complete and attach the "System Information Worksheet."** The figures required for the items listed below that are denoted with an "☛" are computed using the "System Information Worksheet." The letter in parenthesis following the "☛" denotes the location in the worksheet to find the figure to be inserted.

	<u>Current</u>	<u>Projected</u>
1. Total System Annual Revenue	\$ 8,351,356	\$ 8,742,842
2. Total System Annual Operation and Maintenance Costs	\$ 5,949,979	\$ 6,245,694
3. Total System Equivalent Dwelling Units* ☛(e) for current and (k) for projected	39,601.02	39,830.45
4. Total Residential Equivalent Dwelling Units* ☛(f) for current and (m) for projected	28,655.71	28,845.29
5. Annual Revenue from Residential Hookups	\$ 4,717,817	5,002,000
6. Percent of Total Annual Revenue from Residential Hookups	56.5	
7. Average Monthly Residential Rate	\$ 13.72	\$ 14.45
	<input type="checkbox"/> Check box if this is a flat rate.	Projected Average Monthly Residential Rate ☛ (w) or (x)
8. <u>Other System Average Monthly Residential Rate</u>	\$ 25.88	\$ 29.33

* If this application is for a solid waste project, see instructions.

SYSTEM INFORMATION WORKSHEET

(Refer to instructions on pages 25 through 30)

SUBSECTION 1 – EQUIVALENT DWELLING UNIT COMPUTATION

Applicants with either a water and wastewater project must complete Section I, regardless of whether the applicant is served by a central water system or is planning to charge residential users a flat user fee. If the applicant is not served by a central water system, or it has water connections that provide service to multiple mixed uses, such as commercial and residential, refer to the instructions on page 30 for information on computing the number of EDU's. *Applicants with solid waste projects are not required to complete Section I*. Service connection diameters will be converted to EDU's according to the following table, with the exception of those situations noted on page 25:

<u>Service connection inside diameter (inches)</u>	<u>EDU's</u>
3/4" or smaller	1.00
1"	1.79
1-1/2"	4.00
2"	7.14
2-1/2"	11.16
3"	16.00
4"	28.57
5"	44.64
6"	64.29
7"	87.11
8"	113.78
9"	144.00
10"	177.78

PART A. CURRENT WATER HOOKUP SUMMARY

* Includes both residential and non-residential hookups

PART B. PROJECTED WATER HOOKUP SUMMARY

* Includes both residential and non-residential hookups

Projected average EDU's per residential hookup: 1.01 (n)
[(m)/(l)]

Provide the following information if applying to the USDA RUS/RD program

Total system flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (a) above]

Total residential flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (c) above]

SUBSECTION 2 – PROJECTED AVERAGE MONTHLY RESIDENTIAL RATE COMPUTATION

Will debt be used to finance the project? Yes No If no, skip to PART E.
If yes, how will debt for the project be secured:

A. Revenue Bond (complete Part A)
B. General Obligation Bond (complete Part B)
C. Rural or Special Improvement District Bond (complete Part C)
D. Other (explain) _____ (complete Part D)

Debt (Loan) Amount: \$ 7,844,801 **Interest Rate:** 3.75 % **Terms:** 20 years, 125% debt coverage requirement

COMPLETE THE APPLICABLE SECTIONS BELOW

PART A. REVENUE BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes No x If no, when will election be held (date) no election needed. Council App

2. Annual debt service for new loan, including coverage: \$ 701,308 (i)

3. Monthly debt service for new loan, including coverage: (line i, 12)	\$ 58,442	(ii)
4. Total number of <u>projected</u> EDU's after completion of project:	39,830	(iii)
5. Average (per total <u>projected</u> EDU's) monthly debt service for new loan: (line ii, line iii)	\$ 1.47	(iv)

PART B. GENERAL OBLIGATION BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes _____ No _____ If no, when will election be held (date): _____
2. Amount of outstanding General Obligation Bonds \$ _____
3. Debt limitations of entity _____
4. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART C. RURAL OR SPECIAL IMPROVEMENT DISTRICT BOND SECURING DEBT OBLIGATION:

1. Type of special assessment:
 - a. SID _____
 - b. RID _____
 - c. Other (specify) _____
2. Proposed method of assessment:
 - a. Assessable Area _____
 - b. Area _____
 - c. Ad Valorem Tax _____
 - d. Lineal Front Footage _____
 - e. Combination of a. through d. above (explain) _____
3. Number of parcels in the district _____
4. What percentage of the property (based on the methods of assessment) within the district fits these descriptions?

TYPE OF PROPERTY	PERCENT DEVELOPED	PERCENT UNDEVELOPED
Commercial		
Industrial		
Single-Family Residential		
Multi-Family Residential		

Agricultural		
--------------	--	--

5. Number of property owners in district _____

6. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART D. OTHER TYPE OF DEBT INSTRUMENT SECURING DEBT OBLIGATION THAT IS NOT INDICATED ABOVE

1. Explain how debt will be secured: _____

2. Estimated average (per property) monthly cost to repay debt: \$ _____

PART E. CALCULATION OF THE PROJECTED AVERAGE MONTHLY RESIDENTIAL USER RATE:

1. Estimated increase in average monthly debt service (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project. Enter \$0 if no increase is projected: \$ 1.47 (o)
[From Part A, B, C, or D]

2. Estimated increase or decrease in total monthly operation and maintenance (O&M) costs (including depreciation and replacement reserves) as the result of this project: \$ 0 (p)

3. List and explain estimated increases or decreases in O&M costs, including depreciation and replacement reserves (Provide a reasonably detailed explanation regarding the reason for the increase or decrease):

4. Estimated increase or decrease in monthly O&M costs (including depreciation and replacement reserves) (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project: \$ 0 (q)
[(p) / (k)]

5. Estimated increase or decrease in total monthly costs (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project: \$ 1.47 (r)
[(o) + (q)]

6. Projected average EDU's per residential hookup: \$ 1.01 (s)
[(n)]

7. Estimated increase or decrease in total monthly costs per average residential hookup/customer as the result of this project: \$ 1.48 (t)
[(r) x (s)]

8. Existing average monthly residential debt service, including coverage and bond reserve (subtract any existing debt service if the loan will expire before the completion of the project): \$ 3.39 (u)

9. Existing average monthly residential O&M costs and replacement and depreciation reserves: \$ 10.33 (v)

Note: (u) plus (v) should equal the current average monthly residential rate as stated on page 43, Section E, Line 7. If these amounts do not equal, provide an explanation of why the numbers differ.

10. Projected average monthly residential user rate after completion of this project: \$ 15.20 (w)
 $\frac{[(t) + (u) + (v)]}{}$

11. Projected flat user rate: \$ (x)

CITY OF BILLINGS, MONTANA
Proprietary Funds
Statement of Net Assets
June 30, 2008
(Page 1 of 2)

	Business-type Activities						Internal Service Funds
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	
Assets							
Current assets:							
Cash and cash equivalents							
Restricted cash and cash equivalents with fiscal agent	\$ 2,941,500	\$ 2,485,697	\$ 4,872,254	\$ 1,494,688	\$ 1,013,119	\$ 916,398	\$ 13,723,716
Investments	5,632,785	763,586	617,281	161,175	2,871,657	1,937,278	1,493,615
Receivables:							
Property taxes	391,253	473,407	1,988,770	1,011,784	-	94,055	94,055
Accounts and unbilled usage	53,350	40,468	80,561	26,469	15,163	24,935	3,896,149
Accrued interest	-	-	-	-	-	11,697	227,738
Notes	-	-	-	-	-	-	34,775
Due from other funds	5,022,690	-	-	-	-	-	70,000
Receivables from other governments	183,450	642,748	-	-	-	164,998	991,196
Inventories	-	-	996,438	-	-	659	997,097
Prepaid expense	-	-	-	-	-	4,859	319,400
Total current assets	14,225,118	9,182,463	17,823,645	5,565,773	2,965,550	2,711,932	52,474,491
Noncurrent assets:							
Bond issue costs, net	-	-	-	-	-	-	91,412
Notes receivable	-	-	-	-	-	-	850,000
Restricted investments with trustee	2,013,719	-	-	-	-	-	2,013,719
Property and equipment:							
Land	496,157	3,248,686	1,405,918	465,544	4,075,502	1,435,291	11,127,098
Buildings	188,095	22,742,834	13,914,120	13,839,576	24,269,909	4,579,587	79,534,121
Improvements other than buildings	1,938,717	69,327,676	1,241,174	2,810,810	40,0568	987,849	76,706,754
Equipment and vehicles	8,876,04	8,289,587	14,568,151	12,195,983	722,860	8,244,872	52,887,294
Infrastructure	-	-	144,998,355	115,097,044	-	-	260,095,359
Construction in progress	483,172	1,226,041	6,848,425	4,247,502	-	480,785	13,285,825
Less accumulated depreciation	(6,423,758)	(61,691,925)	(66,988,534)	(53,940,895)	(10,881,862)	(6,531,197)	(236,458,171)
Total noncurrent assets	7,572,143	43,234,311	115,977,659	94,715,564	18,586,777	9,197,187	239,283,591
Total assets	21,797,281	52,416,774	133,801,254	100,281,337	21,552,337	11,909,116	341,756,082
							20,150,716

(continued)

Business-type Activities						
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds
						Internal Service Funds
Liabilities:						
Current liabilities:						
Accounts payable	546,566	811,031	1,059,273	838,805	36,536	50,219
Accrued wages and benefits	160,357	135,822	163,894	122,017	20,930	163,144
Compensated absences	266,020	285,576	395,893	280,762	22,542	235,585
Accrued interest payable	-	-	294,281	77,175	263,020	-
Incurred but not reported health benefits	-	-	-	-	-	634,476
Notes payable	-	-	652,000	170,000	179,771	-
Due to other funds	-	-	-	-	-	1,001,771
Accrued interest payable from restricted assets	-	273,596	-	-	-	251,705
Revenue bonds payable from restricted assets	-	490,000	-	-	-	16,084
Total current liabilities	972,943	2,006,025	2,565,341	1,488,759	522,799	448,948
Noncurrent liabilities:						
Compensated absences	223,936	248,816	333,264	236,346	18,976	198,316
Revenue bonds payable	-	8,635,000	-	-	-	1,259,554
Deferred loss on bond refunding	-	(262,579)	-	-	-	224,364
Notes payable	-	-	15,121,000	3,946,000	5,579,798	-
Landfill closure and postclosure payable from restricted assets	2,013,719	-	-	-	-	-
Landfill closure and postclosure payable from restricted assets	405,589	8,621,237	15,454,264	4,182,346	5,598,774	-
Total noncurrent liabilities	2,643,244	8,621,237	18,019,605	5,671,105	6,121,573	198,316
Total liabilities	3,616,187	10,637,262	-	-	-	647,264
Net assets						
Invested in capital assets, net of related debt	5,558,424	34,280,478	100,204,609	90,559,564	13,006,979	9,197,187
Restricted for:						
Bond and notes payable ordinance reserve	-	2,211,930	1,237,994	323,719	-	252,847,241
Unrestricted	12,622,650	5,237,104	14,335,046	3,886,949	2,423,785	3,773,743
Total net assets	\$ 18,181,074	\$ 41,789,512	\$ 115,781,649	\$ 94,610,232	\$ 15,450,764	\$ 11,261,855
Some amounts reported for business-type activities in the statement of net assets are different because certain internal service fund assets and liabilities are included with business-type activities						4,339,508
Net assets of business-type activities						\$ 301,391,594
The notes to the financial statements are an integral part of this statement.						

CITY OF BILLINGS, MONTANA

Proprietary Funds

**Statement of Revenues, Expenses, and Changes in Net Assets
For The Fiscal Year Ended June 30, 2008**

	Business-type Activities						Internal Service Funds
	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	
Operating revenue:							
Charges for services and use of facilities							
Operating expenses:							
Salaries and benefits	3,302,737	3,445,602	3,794,688	2,727,763	543,199	3,160,622	16,974,611
Supplies	1,917,701	653,900	2,289,447	935,335	117,470	774,385	6,688,738
Contracted services	1,020,683	986,893	1,457,761	827,294	316,083	313,209	4,921,923
Utilities	37,738	717,860	1,709,851	840,562	125,636	100,332	3,531,599
Other	1,472,546	212,043	1,078,820	619,025	59,070	249,954	452,273
Depreciation	1,108,774	4,330,153	4,427,319	3,012,094	848,912	962,277	3,691,458
Landfill closure and post-closeout	189,193	-	-	-	-	-	2,228,780
Total operating expenses	9,049,372	10,346,271	14,757,686	8,992,073	2,010,370	5,561,279	14,689,529
Operating income (loss)	(1,162,521)	(2,555,073)	(4,112,204)	1,257,486	(198,616)	(4,552,385)	16,193,193
Nonoperating revenue (expense):							
Taxes	-	-	-	-	-	-	1,630,110
Intergovernmental	-	1,161,663	-	-	-	1,749,437	1,830,110
Interest expense	-	(591,086)	(385,811)	(155,906)	(271,584)	(216)	2,911,100
Interest and investment income	713,664	293,155	728,983	285,852	143,490	107,841	(1,404,583)
Passenger Facilities Charges	-	1,098,754	(795,336)	(16,824)	(56,469)	-	(292,508)
Gain (loss) on sale of capital assets**	8,932	-	238,463	17,835	(4,533)	24,254	275,392
Other	-	-	-	2,431	1,500	28,883	(84,006)
Total nonoperating revenue (expense)	722,556	1,405,613	344,183	75,908	(131,107)	3,540,109	288,912
Income (loss) before capital contributions and transfers	(439,925)	(1,149,460)	4,456,387	1,343,394	(329,723)	(1,312,276)	55,558
Capital contributions	-	4,290,258	2,077,133	2,193,141	-	379,058	1,348,244
Transfers in	-	-	-	-	-	-	570,840
Transfers out	-	-	-	-	-	-	(230,779)
Change in net assets	-	-	-	-	-	-	-
Net assets, beginning of year	18,620,999	32,646,714	105,248,129	91,073,697	15,983,795	11,915,946	1,688,305
Net assets, end of year	\$ 18,181,074	\$ 41,789,512	\$ 115,781,649	\$ 94,610,232	\$ 15,430,764	\$ 11,261,555	\$ 10,777,899
Some amounts reported for business-type activities in the statement of activities are different because the net revenue (expense) of certain internal funds is reported with business-type activities.							\$ 12,466,904
Change in net assets of business-type activities							\$ 629,623
** Gain (loss) on sale of capital assets of the Airport Fund consists solely of the cost to demolish the fully depreciated old air traffic control tower.							\$ 12,183,429
The notes to the financial statements are an integral part of this statement.							

CITY OF BILLINGS, MONTANA
Proprietary Funds
Statement of Cash Flows
For The Fiscal Year Ended June 30, 2008
(Page 1 of 2)

	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	Total	Internal Service Funds
Cash flows from operating activities:								
Cash received from customers and users	\$ 5,148,777	\$ 8,029,441	\$ 18,787,749	\$ 10,209,987	\$ 1,811,754	\$ 882,879	\$ 44,870,587	\$ 454,339
Cash received from interfund services provided	-	236,483	17,835	2,431	1,500	20,282	280,511	15,518,033
Cash received from other sources	(3,243,240)	(3,414,139)	(3,746,460)	(2,694,914)	(533,831)	(3,117,063)	(16,749,647)	72,574
Cash paid to employees for services	(3,998,461)	(2,965,359)	(7,839,104)	(2,713,327)	(1,474,163)	(1,395,687)	(20,386,241)	(10,198,287)
Cash paid to suppliers and contracted services	-	-	-	-	-	8,401	8,401	(3,909,877)
Cash paid to other sources	-	-	-	-	-	-	-	-
Net cash provided (used) by operating activities	<u>(12,092,924)</u>	<u>1,886,366</u>	<u>7,220,020</u>	<u>4,804,077</u>	<u>(194,740)</u>	<u>(3,601,198)</u>	<u>8,023,611</u>	<u>1,936,894</u>
Cash flows from noncapital financing activities:								
Cash received from tax revenues	-	-	-	-	-	1,606,375	1,606,375	-
Cash received from intergovernmental revenues	-	1,161,663	-	-	-	1,749,437	2,911,100	(217,096)
Transfers to other funds	-	-	-	(233,308)	(20,873)	-	(254,181)	(15,245)
Loans repaid to other funds	-	1,161,663	-	-	-	-	-	-
Net cash provided (used) by noncapital financing activities	<u>-</u>	<u>-</u>	<u>(233,308)</u>	<u>3,334,939</u>	<u>-</u>	<u>4,263,294</u>	<u>-</u>	<u>(232,344)</u>
Cash flows from capital and related financing activities:								
Capital contributions	4,290,258	-	-	-	-	379,058	4,669,316	(87,673)
Acquisition and construction of capital assets	(1,341,891)	(6,966,551)	(10,516,847)	(6,777,805)	(1,093,152)	(487,427)	(27,179,513)	-
Proceeds from sales of capital assets	-	-	(16,823)	-	-	21,433	4,610	70,006
Cash paid for interest	-	(560,016)	(492,333)	(158,981)	(325,714)	(216)	(1,537,260)	(298,844)
Loan proceeds	-	-	3,046,000	-	-	-	3,046,000	-
Principal paid on bonds, notes and capital leases payable	-	(470,000)	(628,000)	(184,000)	(170,431)	(84,734)	(1,517,165)	(358,117)
Transfers to other funds	-	-	-	-	-	-	-	(13,681)
Transfers from other funds	-	-	-	-	-	-	-	570,844
Passenger facilities charges	-	1,098,784	-	-	-	-	-	-
Net cash provided (used) by capital and related financing activities	<u>(1,341,891)</u>	<u>(2,607,555)</u>	<u>(8,807,803)</u>	<u>(7,096,786)</u>	<u>(1,589,297)</u>	<u>(171,886)</u>	<u>1,098,784</u>	<u>(117,544)</u>
Cash flows from investing activities:								
Cash received from interest	773,506	323,430	789,813	312,661	159,570	117,812	2,476,992	289,884
Sale of investments	12,870,463	9,012,138	18,779,498	6,925,060	4,504,509	3,177,847	55,289,615	7,796,481
Purchase of investments	(12,099,486)	(10,017,229)	(19,426,531)	(6,023,546)	(4,082,539)	(3,157,703)	(54,807,384)	(9,309,421)
Net cash provided (used) by investing activities	<u>1,544,483</u>	<u>(681,711)</u>	<u>142,780</u>	<u>1,214,175</u>	<u>581,440</u>	<u>137,956</u>	<u>2,939,123</u>	<u>(1,1223,161)</u>
Net increase (decrease) in cash and cash equivalents	<u>(1,890,332)</u>	<u>(239,247)</u>	<u>(1,245,003)</u>	<u>(1,078,534)</u>	<u>(1,435,305)</u>	<u>(300,179)</u>	<u>(6,189,200)</u>	<u>363,756</u>
Cash and cash equivalents, beginning of year	4,831,892	3,488,540	6,734,538	2,734,397	2,449,324	1,217,233	21,455,684	2,119,781
Cash and cash equivalents, end of year	<u>\$ 2,941,560</u>	<u>\$ 2,485,697</u>	<u>\$ 4,872,254</u>	<u>\$ 1,494,688</u>	<u>\$ 1,013,119</u>	<u>\$ 916,398</u>	<u>\$ 13,723,716</u>	<u>\$ 2,483,534</u>
Cash and cash equivalents consists of:								
Restricted cash and cash equivalents with fiscal agent	<u>\$ 2,941,560</u>	<u>\$ 763,596</u>	<u>\$ 617,281</u>	<u>\$ 161,175</u>	<u>\$ 913,119</u>	<u>\$ 716</u>	<u>\$ 1,542,768</u>	<u>\$ 2,483,534</u>
Cash and cash equivalents, end of year	<u>\$ 2,941,560</u>	<u>\$ 3,249,293</u>	<u>\$ 5,489,555</u>	<u>\$ 1,655,563</u>	<u>\$ 1,013,119</u>	<u>\$ 913,114</u>	<u>\$ 15,286,484</u>	<u>\$ 2,483,534</u>

(continued)

CITY OF BILLINGS, MONTANA

Proprietary Funds

Statement of Cash Flows

For The Fiscal Year Ended June 30, 2008

(Page 2 of 2)

	Solid Waste Fund	Airport Fund	Water Fund	Wastewater Fund	Parking Fund	Nonmajor Enterprise Funds	Total	Internal Service Funds
Reconciliation of operating income to net cash provided (used) by operating activities:								
Operating income (loss)	\$ (1,162,621)	\$ (2,555,073)	\$ 4,112,204	\$ 1,267,486	\$ (198,616)	\$ (4,552,385)	\$ (3,088,905)	\$ 1,292,886
Other nonoperating income (loss)		238,463	17,835	2,431	1,500	28,683	238,912	72,574
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:								
Depreciation expense	1,108,774	4,330,153	4,427,319	3,012,094	843,912	962,277	14,689,529	582,131
Landfill closure and postclosure	189,193			(19,572)			189,193	
(Increase) decrease in receivables	(34,925)	880,991	(101,646)			(16,413)	708,435	2,918
(Increase) decrease in receivables from other governments	(2,696,198)	(642,748)				(110,588)	(3,449,535)	(54,061)
(Increase) decrease in inventories	(6,956)			19,505			100	
(Increase) decrease in prepaid items	450,207	(394,883)	(1,303,425)	508,788	(855,904)	40,268	(1,554,988)	549,887
Increase (decrease) in accounts payable	59,497	31,463	48,228	32,849	9,368	45,894	227,289	(609,631)
Increase (decrease) in accrued liabilities								
Net cash provided (used) by operating activities	\$ (2,092,924)	\$ 1,888,366	\$ 7,220,020	\$ 4,804,077	\$ (194,740)	\$ 8,023,611	\$ 1,936,804	
Noncash investing, capital and financing activities:								
Increase (decrease) in investment market value								
Contribution of capital assets	(11,211)	(10,979)	(18,211)	(2,952)	(2,213)	(2,364)	(47,930)	(7,731)
			2,077,133	2,193,141			4,270,274	

The notes to the financial statements are an integral part of this statement.

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Lockwood Transportation Study

DEPARTMENT: Planning & Community Services

PRESENTED BY: Lora Mattox, AICP, Transportation Planner

PROBLEM/ISSUE STATEMENT: In June of 2006, the City of Billings Planning Division entered into a contract with Marvin & Associates and Engineering, Inc. to complete a transportation study for the Lockwood community. This project was one of the identified projects in the Lockwood Community Plan completed by the Planning Division in 2006.

The Lockwood Transportation Study represents a summary of study goals and objectives, specific work efforts, and the short-term and long-term recommendations for infrastructure improvements in the Lockwood area. The study was completed with input from the Lockwood community at several public meetings during the process and also was drafted in coordination with the Montana Department of Transportation, the County Public Works Department and the City of Billings. This document will provide the citizens of Lockwood, as well as governmental and private entities with a comprehensive list of transportation projects needed to provide a safe and efficient transportation system into the future.

The Lockwood Transportation Study was distributed to the council for the March 2, 2009, City Council Work Session. An additional hard copy of the plan is available in the City Clerk's Office.

ALTERNATIVES ANALYZED: The City Council may:

1. Accept the plan
2. Decline the plan

FINANCIAL IMPACT: There should be no direct financial impact from the adoption of this plan. However, the plan should assist with project identification and prioritization for the Lockwood community.

RECOMMENDATION

Staff recommends that Council approve the Lockwood Transportation Study and forward a recommendation of adoption to the Policy Coordinating Committee.

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Shrine Circus “Elephants on Broadway” Street Closure
DEPARTMENT: Public Works – Engineering Division
PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Shrine Circus request street closures from 4:00 pm to 9:00 pm from 2700 and 2800 blocks of 2nd Avenue North and the 100 and 200 blocks of 28th Street North for its “Elephants on Broadway” Tuesday, March 31st.

Recommended conditions of approval include the Shrine Circus:

1. Contact all businesses and make them aware of the event 30 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide certificate of insurance naming City of Billings as additional insured
6. Provide a minimum of 10ft wide unobstructed lane on all streets that will be closed for emergency access

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closure named above for the Shrine Circus “Elephants on Broadway” Tuesday, March 31st from 4:00 pm to 9:00 pm.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Event map
- C. Certificate of insurance
- D. Support Signatures from area business



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

Submit this application with attachments to either the: Public Works office, 510 N. Broadway, Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Tim Goodridge

ORGANIZATION MAKING APPLICATION Al Bedoo Shrine

PHONE 259-4384

ADDRESS 1125 Broadway Ave. Billings, MT 59102

EMAIL ADDRESS albedoo@mcn.net CITY STATE ZIP

APPROXIMATE TIME EVENT WILL:

Assemble 4pm Start 5pm Disband 9pm

DATE OF EVENT March 31st, 2009

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

Elephants, clowns, acrobats and Shrine bands assemble under Sky point to welcome the 58th annual Shrine Circus to town.

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

under Sky point - 1 block in each direction from intersection of 2nd & 28th.

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

Shrine will clean up.

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

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

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

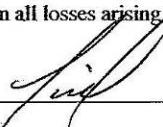
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE  **DATE** 2/3/09

APPLICATION APPROVED _____ **DATE** _____

APPLICATION DENIED _____ **DATE** _____

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

FOR CITY USE ONLY

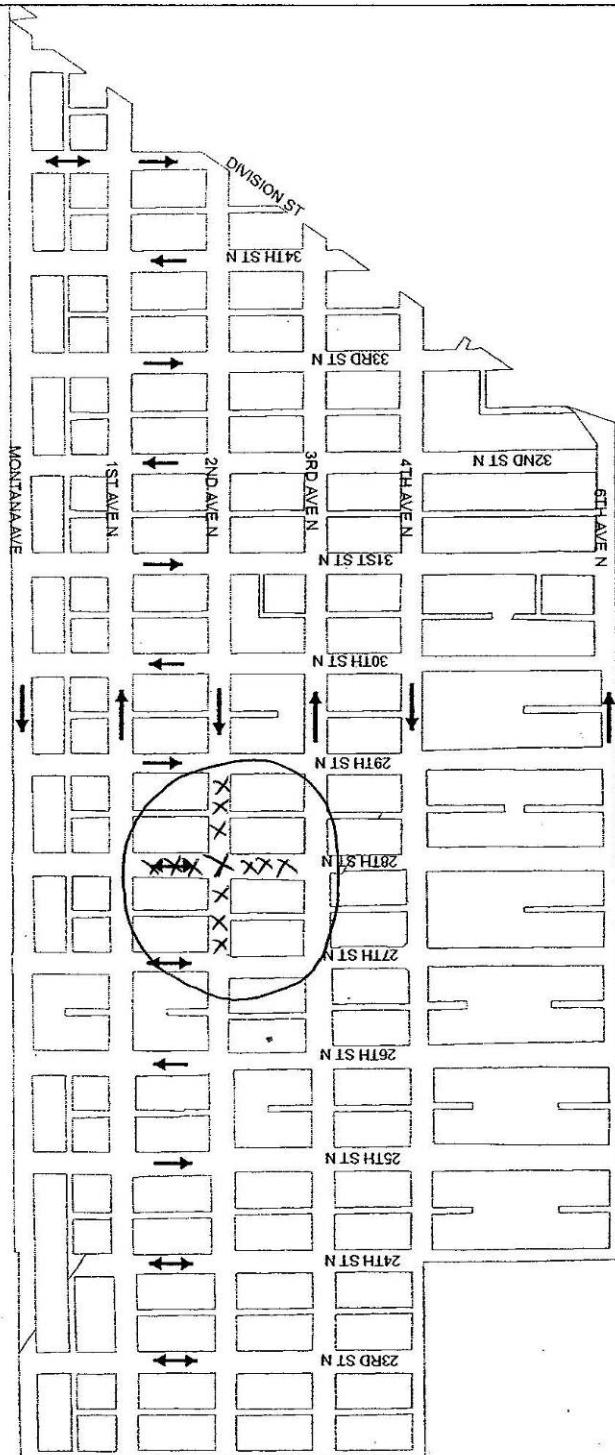
FEES: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

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

Downtown Billings Street Direction Map



FROM: BurnsIns

FAX NO.: 13076751016

Feb. 03 2009 03:31PM P2

ACORD™ CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 02/03/2009		
PRODUCER Phone: (406) 258-6838 Fax: (406) 254-8906 BURNS INSURANCE AGENCY INC 711 NORTH 27TH BILLINGS MT 59101		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
		INSURERS AFFORDING COVERAGE		NAIC #		
INSURED AL BEDOO SHRINE TEMPLE A.A.O.N.M.S. CIO IT'S CLUBS AND UNITS 1125 BROADWATER AVENUE BILLINGS MT 59102		INSURER A: PRAETORIAN INSURANCE INSURER B: PRAETORIAN INSURANCE INSURER C: _____ INSURER D: _____ INSURER E: _____				
COVERAGES						
<small>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.</small>						
<small>INSR ADOL LTR (INSR)</small>	<small>TYPE OF INSURANCE</small>	<small>POLICY NUMBER</small>	<small>POLICY EFFECTIVE DATE (MM/DD/YY)</small>	<small>POLICY EXPIRATION DATE (MM/DD/YY)</small>	<small>LIMITS</small>	
<small>B YES</small>	<small>GENERAL LIABILITY</small> <input checked="" type="checkbox"/> <small>COMMERCIAL GENERAL LIABILITY</small> <small>CLAIMS MADE</small> <input type="checkbox"/> <small>OCCUR</small>	H981000342-01	06/01/08	05/01/09	<small>EACH OCCURRENCE</small> \$ 1,000,000 <small>DAMAGE TO (ENTER PREMISES) (Ex. Premises)</small> \$ 100,000 <small>MED. EXP (Any one person)</small> \$ 5,000 <small>PERSONAL & ADV INJURY</small> \$ 1,000,000 <small>GENERAL AGGREGATE</small> \$ 5,000,000 <small>PRODUCTS-COMP/OP AGG</small> \$ 2,000,000	
	<small>GENL AGGREGATE LIMIT APPLIES PER:</small> <small>POLICY</small> <input type="checkbox"/> <small>PROJECT</small> <input type="checkbox"/> <small>LOC</small>					
<small>A YES</small>	<small>AUTOMOBILE LIABILITY</small> <small>ANY AUTO</small> <small>ALL OWNED AUTOS</small> <small>SCHEDULED AUTOS</small> <small>Hired Autos</small> <small>NON-OWNED AUTOS</small>				<small>COMBINED SINGLE LIMIT (Ex accident)</small> \$ <small>BODILY INJURY (Per person)</small> \$ <small>BODILY INJURY (Per accident)</small> \$ <small>PROPERTY DAMAGE (Per accident)</small> \$ <small>AUTO ONLY - EA ACCIDENT</small> \$ <small>OTHER THAN EA ACC</small> \$ <small>AUTO ONLY: AGG</small> \$	
<small>A YES</small>	<small>EXCESS / UMBRELLA LIABILITY</small> <input checked="" type="checkbox"/> <small>OCCUR</small> <input type="checkbox"/> <small>CLAIMS MADE</small> <small>DEDUCTIBLE RETENTION \$ 0</small>	H983000122-01	06/01/08	05/01/09	<small>EACH OCCURRENCE</small> \$ 1,000,000 <small>AGGREGATE</small> \$ 0 <small>W.C. STATUS/TORY LIMITS</small> <small>OTHER</small> <small>E.I. EACH ACCIDENT</small> \$ <small>E.I. DISEASE-EA EMPLOYER</small> \$ <small>E.I. DISEASE-POLY LIMIT</small> \$	
	<small>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</small> <small>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?</small> <small>If yes, describe under SPECIAL PROVISIONS below</small>					
<small>OTHER:</small>						
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS <small>Certificate holder is an additional Insured as permit issuing entity per endorsement form 660216 (8-99)</small>						

CERTIFICATE HOLDER	CANCELLATION
<small>City of Billings PO Box 1178 Billings, MT 59103</small> <small>Attention:</small>	<small>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 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.</small>
	<small>AUTHORIZED REPRESENTATIVE</small> 

ACORD 25 (2001/08)

Certificate # 28167

© ACORD CORPORATION 1988

The Billings Al Bedoo Shrine welcomes the 58th annual Shrine Circus to town on March 31st with "Elephants on Broadway". On Tuesday March 31, 2009 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings in the traditional circus arrival from years gone by. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable

I support the closure of 2700 & 2800 blocks of 2nd Ave. North and the 100 & 200 blocks of 28th St. North on March 31, 2009 from 5pm-9pm for "Elephants on Broadway".

Address	Property Owner	Business Name	Signature
115 N Broadway		Montana Power Bldg	Mike Mathews
114 N Broadway - 2812 2nd		Babcock	Mike Mathews
		Goldsmiths	
		Baldwin	
		Meridian	
		Montgomery	
		Ches Montague	
112 N Broadway	msub	Jackett & Company	Patricia
108 N. Broadway		IN STEP SHOES	H. Vinal
100 N. Broadway	Catherine Young	Maraca Clothing	Catherine Young
102 N. Broadway	Catherine Young	Rocke Gear	Catherine Young
123 N. Broadway		Lu's	Lu's

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Address

Property Owner

Business Name

Signature

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Ballpark Construction and Maintenance Fund Donations
DEPARTMENT: Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Various donors have made contributions for the Ballpark Construction Fund and the Ballpark Maintenance Fund. Administrative Order #103 requires that all donations of more than \$500 be accepted by the City Council.

The donated funds for the construction fund totaling \$4,000 will be used to offset the construction costs of the Ballpark that exceeded anticipated costs. The donations to the maintenance fund totaling \$77,000 will be applied to the Capital Maintenance Fund and will be used for future Capital Maintenance repairs on the Ballpark.

ALTERNATIVES ANALYZED:

- Accept the donation
- Do not accept the donation

FINANCIAL IMPACT: The funds will be used to offset construction costs and capital maintenance costs for the new Ballpark.

RECOMMENDATION

Staff recommends that Council accept these donations.

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

ATTACHMENTS: **Attachment A – Donor List**

CONSTRUCTION FUND

<u>CONTRIBUTOR NAME</u>	<u>DONATION AMOUNT</u>
Doug Dahlberg	\$ 1,000
Doug Dierenfield	1,000
Jamie Popelka	1,000
Raymond J. Schaak	1,000
Total:	<u>\$ 4,000</u>

MAINTENANCE FUND

<u>CONTRIBUTOR NAME</u>	<u>DONATION AMOUNT</u>
Mel Brown	1,000
William & Sharon Dimich	50,000
Dan Dimich Jr	1,000
Ralph Nelles	25,000
Total:	<u>\$ 77,000</u>

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Acceptance and Recognition of Donation to the Billings Animal Shelter
DEPARTMENT: Police Department, Animal Shelter Division
PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: On February 6, 2009, the Billings Animal Shelter received a \$591.00 donation from Pet Smart Charities. The donation has been placed in the Animal Shelter Injured Animal Donation Fund as requested by the donator. City Council is now asked to accept and deposit this donation into the City of Billings, Animal Shelter donation account as instructed.

ALTERNATIVES ANALYZED:

- Approval and acceptance of the donation.
- Denial and return of the donation.

FINANCIAL IMPACT: This donation to the Injured Animal account will be used to benefit our community's animals.

RECOMMENDATION

Staff recommends City Council's approval and acceptance of this \$591 donation to the Billings Animal Shelter.

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

Attachment

A – Copy of CR deposit slip
Copy of letter mailed with donation

Our Vision: A Lifelong, Loving Home For Every Pet



January 23, 2009

ATTACHMENT A

Dear Adoption Partner,

The enclosed check from PetSmart Charities, Inc. is a grant to your agency, made possible by your community's generous donations to the 2008 Holiday Giving Program (formerly known as the Wish Tree program). This year all funds are being paid in the form of PetSmart Charities grant checks. **The use of these funds is restricted to expenses directly related to the care of homeless pets, including pre-adoption expenses such as vaccinations, sterilizations, medical treatments, and pet supplies.**

The 2008 Holiday Giving Program took place in the PetSmart® stores during November and December. The donations made at each store by PetSmart shoppers have been divided among the active Adoption Partner agencies. Because this program is completely dependent upon the generosity of your community's PetSmart shoppers, the amount varies from year to year.

We are pleased to have your agency as part of the Adoption Partner program, providing adoptable pets to your community at your local PetSmart store. PetSmart Charities makes regular donations to your agency, as part of the Adoption Partner "Adoption Rewards" program, to help offset your adoption expenses. I would like to reinforce how important it is to us, and to our donors, that these designated Rewards and Holiday Giving funds are used for the care of homeless animals and do not go into the general accounts. **The re-direction of these funds from the permissible uses stated above may result in your agency being unable to receive such funds in the future.**

Thank you for all you do every day for the homeless pets in your community. We wish you success in the coming year and look forward to our continued partnership in our vision to ensure a lifelong, loving home for every pet.

Happy New Year,

A handwritten signature in black ink that reads "Susana M. Della Maddalena".

Susana M. Della Maddalena
Executive Director

19601 North 27th Avenue • Phoenix, Arizona 85027

Tel: 800.423.PETS • Fax: 623.580.6561

Contributions are tax deductible to the extent allowed by law. EIN# 93-1140967

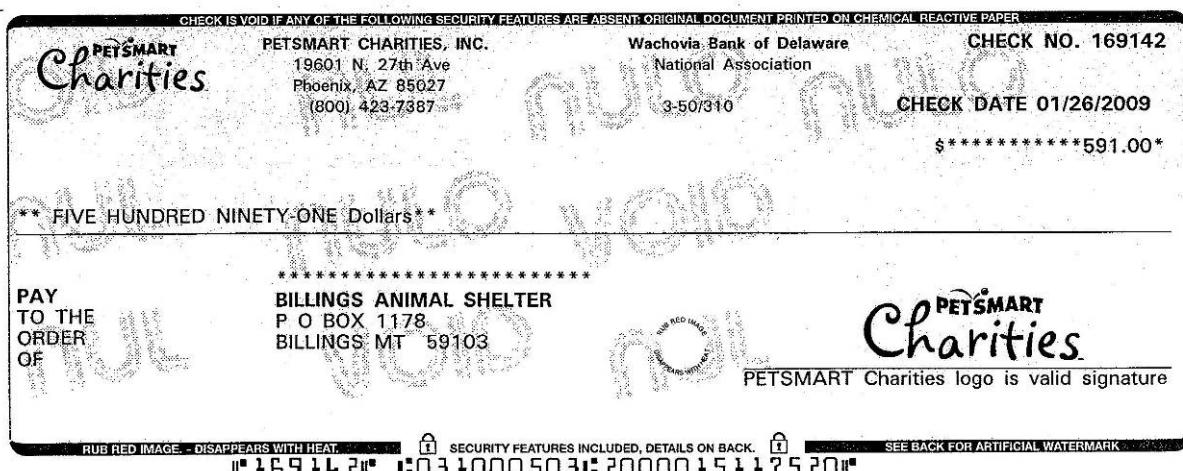
PETSMART CHARITIES, INC. 19601 N. 27TH AVE., PHOENIX, AZ 85027 (623)580-6100

169142

Vendor: BILLINGS ANIMAL SHELTER, 67986

Document #	Date	Invoice #	Trn	Invoice Amt	Disc %	Disc Amt	Net Amount
1044306	01/26/2009	W-4Q08-393-0	KR	591.00	0.000	0.00	591.00
CheckTotals				591.00		0.00	591.00

Key: KR / RE - Vendor Invoice, KG / RA - Vendor Credit, Z1 - A/R Coupon Receivable, DR - Customer Invoice, DG - Customer Credit Memo



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Memorandum of Understanding & Rate Adjustment Resolution– Billings Heights Water District

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The City Council approved resale water rates for the Billings Heights Water District (District) on April 14, 2008 (Resolution 08-18701) as part of the overall water/wastewater rate adjustment. As allowed for in the service agreement between the City and District, the District objected to various items in the resale rate calculation. As a result, city and District staff, City Administrator Volek, City Attorney Brooks and rate consultants for both parties met on July 18, 2008, in an informal mediation session in an attempt to resolve the differences. The subject Memorandum of Understanding (MOU) is the outcome of the mediation. The District has approved the MOU. The subject Resolution allows the Council to adopt the revised resale rates. If the Council approves the MOU and Resolution, the current rate dispute will be settled. Since the new rates were effective July 1, 2008, staff urges the Council's approval.

ALTERNATIVES ANALYZED: Staff has identified the following alternatives:

- Approve the MOU and Resolution
- Do Not Approve the MOU and Resolution, which would then lead to binding arbitration.

FINANCIAL IMPACT: In accordance with the service agreement with the District, its resale water rate is determined on a cost-of-service basis, which is an accepted methodology in the water industry. Accordingly, while the changes addressed in the MOU decrease the District's rates by \$0.06 per Ccf over the 3 year study period, staff believes such changes are justified and are in conformance with the cost-of-service determination. Staff anticipates absorbing the estimated revenue decrease within the budget through either decreased O&M or capital. The cost changes from the initial rate study are:

- Indirect Cost Allocations – estimated revenue decrease of \$11,361 (\$0.01/Ccf).
- Rate of Return – estimated revenue decrease of \$64,397 (\$0.05/Ccf).

- Cost Basis – there is no revenue impact from this item for the current rate study period; however, it is anticipated there will be some revenue decrease in future rate studies, the amount of which is not currently defined.

Comparison of the rates before and after is:

	<u>7/1/08</u>	<u>7/1/09</u>	<u>7/1/10</u>
Resale rates originally adopted by Council on April 14, 2008	\$1.28	\$1.29	\$1.30
Revised resale rates per MOU	\$1.22	\$1.23	\$1.24

Attachment C, which incorporates the items from the MOU and summarizes the rate recalculation, provides more detail and discussion.

RECOMMENDATION

Staff recommends that Council approve the Memorandum of Understanding between the City and the County Water District of Billings Heights covering the resale water rate and Rate Resolution adopting the revised rates.

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

ATTACHMENTS

Attachment A - Memorandum of Understanding

Attachment B – Resolution 09 - _____

Attachment C – Resale Water Cost-of-Service Analysis, February 2009

INTRODUCTION

The City Council approved resale water rates for the Billings Heights Water District (District) on April 14, 2008 (Resolution 08-18701) as part of the overall water/wastewater rate adjustment. As allowed for in the service agreement between the City and District, the District objected to various items in the resale rate calculation. As a result, city and District staff, City Administrator Volek, City Attorney Brooks and rate consultants for both parties met on July 18, 2008 in an informal mediation session in an attempt to resolve the differences. The subject Memorandum of Understanding (MOU) is the outcome of the mediation. The District has approved the MOU. The subject Resolution allows the Council to adopt the revised resale rates. If the Council approves the MOU and Resolution, the current rate dispute will be settled. Since the new rates were effective July 1, 2008, staff urges the Council's approval.

Staff recommends that Council approve the MOU.

PROCEDURAL HISTORY

- April 14, 2008 – City Council approved overall water/wastewater rates and fees including resale water rates for Billings Heights Water District.
- May 1, 2008 – District disputes approved resale water rates.
- July 18, 2008 – City and District hold informal mediation session to discuss disputed rates.
- August 25, 2008 – City Council postponed indefinitely the MOU on advice of staff.
- August 25, 2008 to February 11, 2009 – staff and rate consultants revising rates and discussing among parties.
- February 11, 2009 – District approves MOU and revised rates.
- March 9, 2009 – City Council considered approval of MOU and Rate Resolution.

BACKGROUND

The service agreement between the City and the District was initiated in 1963 at the time the District was originally established. The agreement, which has no defined termination date, was last modified in 1998 and is the agreement by which the parties currently operate. The agreement provides for the following steps regarding determination of the water rates to be charged to the District:

- Rates to be determined on a cost-of-service basis.
- City supplies copy of rate study to the District for their review with the District allowed 45 days to respond to the City with any concerns or objections.
- Parties attempt to resolve any differences with informal mediation.
- If mediation fails, the final outcome is determined through binding arbitration using “baseball” arbitration. Baseball arbitration means that the arbitrator must choose one parties position or the other and nothing in between.

With the District having objected to several issues, the parties met in a mediation session on July 18, 2008. Attendees included City Administrator Tina Volek, City Attorney Brent Brooks, Deputy Director Alan Towlerton, Public Works division manager Dwile Weagel, city rate consultant Paul Matthews, District manager Duke Nieskens, District rate consultant Ed Cebron, District Board President Sandy Reitz and District Vice-President Wynn Pippin.

Because there are inherently differences of opinion between rate consultants regarding individual components that go into determining rates, such as rates of return on equity, staff believes the agreements reached in the mediation reflect a reasonable resolution to the differences.

ALTERNATIVES ANALYSIS

Staff offers the following discussion regarding the identified alternatives:

Approve the MOU – If both parties approve the MOU then the rate dispute is settled, at least for the rate period approved by the Council, which is through FY11. While staff could continue to debate some of the items in the MOU, given the cost of arbitration and the inherent risk, staff believes the prudent course is to approve the MOU.

Do Not Approve the MOU – If either party fails to approve the MOU then the next step per the service agreement is binding arbitration. As noted above, staff could continue to debate some of the issues but does not believe it is prudent to do so in light of the inherent risk and cost of arbitration.

RECOMMENDATION

Staff recommends that Council approve the Memorandum of Understanding between the City and the County Water District of Billings Heights covering the resale water rate and Rate Resolution adopting the revised rates.

ATTACHMENTS

Attachment A - Memorandum of Understanding

Attachment B – Resolution 09 - _____

Attachment C – Resale Water Cost-of-Service Analysis, February 2009

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CITY OF BILLINGS
AND
COUNTY WATER DISTRICT OF BILLINGS HEIGHTS**

I. Parties of the Memorandum

The parties to this MEMORANDUM OF UNDERSTANDING (MOU) are the City of Billings (CITY) and the County Water District of Billings Heights (DISTRICT).

II. Purpose of Memorandum

The purpose of this MOU is to outline the understandings reached between the parties as a result of the July 18, 2008 informal mediation as allowed for in the December 14, 1998 agreement (AGREEMENT) between the parties.

III. Term of the Memorandum

This MOU shall be in effect from the date both parties execute the MOU until April 1, 2009, which is the time by which the parties agree the issues outlined herein shall be resolved, or an attempt to resolve shall be made. After April 1, any further action taken shall be in conformance with the AGREEMENT.

IV. Understanding and Agreement of the Parties

- A. Working Capital – The DISTRICT agrees with the CITY'S methodology, that the amount is de minimus, and the DISTRICT agrees to accept this item as presented in the March 2008 Resale Water Cost-of-Service Study (STUDY) by Red Oak Consulting.
- B. Allocation of Fixed Assets – The parties agree that under the original 1963 agreement between the parties that the DISTRICT was responsible for constructing a 16-inch diameter water main to provide service to the DISTRICT and for which the DISTRICT contends the rate study did not grant credit for the remaining value of this asset. Because of the age of the asset and that there is apparently no record of the asset, that a significant portion of the main is no longer in service, and that the remaining portion is fully depreciated based on a 33-year life, the DISTRICT agrees to accept the CITY'S methodology as presented in the STUDY.
- C. Peaking Factor – The parties agree that there is currently no definitive data to better support the respective positions on maximum-day and peak-hour demand factors. In addition, the parties are aware that, once the upgrade to the Walter Pump Station is complete, data will be available that will allow further evaluation of these demand factors. Accordingly, in recognition of the CITY not including a peak-hour demand factor in the determination of the DISTRICT'S rates, the parties agree to forego further discussion of this issue until such time as data is

available to better define these demand factors. In addition, since the CITY controls the pumps to supply the DISTRICT, the parties agree to discuss remedies available for minimizing the peak demands that the DISTRICT places on the CITY'S delivery system provided such remedies are reasonable with respect to water system operation and do not place undue hardship on the CITY'S operations.

- D. Projection of Rate Base – The parties agree that the CITY'S and DISTRICT'S rate consultant shall converse with each other and verify for the DISTRICT that the rate base used in the STUDY remains constant throughout the study period and that any apparent changes noted in the STUDY are due to other acceptable factors.
- E. Administrative Cost Allocation – The parties agree that there are two generally accepted methods for allocating administrative costs; one with power and chemical costs being included along with all other costs in determining the allocation percentages; and one with power and chemical costs being excluded. While the parties agree that the most accurate method may be somewhere between these two methods, the CITY believes it would be administratively burdensome to proportion these costs so it agrees to exclude power and chemical costs in determining the allocation percentages used to allocate the administrative cost portion of the STUDY.
- F. Cost Basis – The parties agree that the ratio of actual versus budgeted operation and maintenance costs can vary from year-to-year. The parties agree that the CITY will provide the DISTRICT with a summary of its actual versus budgeted operation and maintenance expenses for the recent past. In addition, the parties agree that budgeted operation and maintenance costs will be used throughout the current rate study period, which ends June 30, 2011. Thereafter, the parties agree that the adjustment for operation and maintenance costs will be based on the most recent three year actual costs and will be determined by totaling the actual operation and maintenance costs for the most recently completed three years and dividing this total by the sum of the budgeted costs for the same period. This percentage will then be applied to the budgeted operation and maintenance costs and projections for the next rate study period.
- G. Rate of Return – The parties acknowledge that each has divergent positions on reasonable rates of return for a water utility operation. The CITY agrees to furnish the DISTRICT the results of the recent rate of return survey undertaken by the CITY'S rate consultant. In an effort to minimize recurring discussion on this issue, the parties agree to utilize a return on equity value of 9.55 percent for the current rate study period and for future studies for a period of ten (10) years from the date of this MOU. The weighted average cost of capital (WACC) will then be calculated for each study, including the current STUDY, using the CITY'S then current cost of debt and the agreed upon 9.55 percent return on equity.
- H. Billing Rate – The parties agree that until such time as the DISTRICT'S water billing rate is finally resolved, the CITY will bill the DISTRICT at the rate as determined in the STUDY and approved by the City Council effective July 1, 2008. Should this result in any overbilling, the DISTRICT will receive credit against future water bills.

V. Amendment of the Memorandum

This MOU may be amended from time to time by mutual agreement of the parties. Such amendments shall be in writing and executed by authorized persons from each party.

VI. Termination of the Memorandum

Either party may terminate this MOU upon 14 days written notification to the other party.

THIS MEMORANDUM OF UNDERSTANDING, consisting of three pages, is executed on
_____, 2009 by the persons signing below.

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Approved as to form: _____
City Attorney

Attest:

City Clerk

(SEAL)

COUNTY WATER DISTRICT OF BILLINGS
HEIGHTS

By: _____
President

Attest:

Secretary

(SEAL)

RESOLUTION 09-_____

**A RESOLUTION SPECIFYING WATER RATE SCHEDULE
ADJUSTMENT ENACTED PURSUANT TO MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY OF BILLINGS AND THE
COUNTY WATER DISTRICT OF BILLINGS HEIGHTS.**

WHEREAS, the City Council of the City of Billings, Montana, retained Red Oak Consulting to prepare water and wastewater rate and fee schedules for the municipal water and wastewater utility that would generate adequate funds to operate the utilities over a three year period as well as require each customer class of the utilities to pay its fair share of the cost of operating the water and wastewater systems; and

WHEREAS, the *WATER AND WASTEWATER RATE AND FEE STUDY, CITY OF BILLINGS, MONTANA*, dated March 2008, prepared by Red Oak Consulting projects a need for extension, expansion, repair, improvement, and continued operation and maintenance of existing and proposed water and wastewater system facilities for the providing of water and wastewater service to the inhabitants of the City of Billings, Montana, during the period beginning July 1, 2008 and ending June 20, 2011; and

WHEREAS, in accordance with the provisions of the December 14, 1998 Agreement between the City of Billings and the County Water District of Billings Heights, the District disputed the resale water rates established in the fee study and adopted by the City Council; and

WHEREAS, the City of Billings and the County Water District of Billings Heights met in informal mediation on July 18, 2008 and agreed upon disputed items as outlined in a March 9, 2009 Memorandum of Understanding; and

WHEREAS, recalculation of the resale water rates incorporating the provisions of the Memorandum of Understanding results in the rates shown in this Resolution; and

WHEREAS, under Title 69, Chapter 7 of the Montana Code Annotated, and under the terms of City Resolution Number 13585, the City of Billings is authorized to regulate the City's municipal water and wastewater utility and to change water and wastewater rates, fees, and charges as may be deemed by the City Council to be reasonable and just;

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

1. That the following schedule of rates is found to be just, reasonable, and necessary for the continued sound operation of the water and wastewater utilities and that the proposed rates are approved and adopted and published as the rates of the City of Billings, Montana water utilities, effective July 1, 2008; July 1, 2009; and July 1, 2010.

Resolution 09-

Schedule I

METERED WATER MONTHLY VOLUME CHARGES

<u>Customer Class</u>		<u>Effective Date</u>	
	<u>7/1/08</u>	<u>7/1/09</u>	<u>7/1/10</u>
Residential			
Block 1 (0-4 Ccf)	\$1.51	\$1.63	\$1.75
Block 2 (5-16 Ccf)	1.60	1.72	1.86
Block 3 (>16 Ccf)	2.39	2.57	2.77
Non-Residential	1.20	1.28	1.36
Seasonal	2.02	2.18	2.34
<i>Resale</i>	<i>1.22</i>	<i>1.23</i>	<i>1.24</i>

2. That this Resolution is to be immediately filed in the City Clerk's Office, and that the decision adopting the adjusted rates shall be final ten days after such are so filed.
3. That the Public Works Department is directed to file a copy of the revised wastewater rate schedules with the Public Service Commission within ten days after filing of this Resolution by the City Clerk.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, on the _____ day of _____, 2009.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Attachment C



City of Billings Montana

2251 Belknap Avenue • Billings, MT 59101

Resale Water Cost-of-Service Analysis

Incorporating Agreements from Memorandum of Understanding

February 2009

Report Prepared By:



12670 NW Barnes Road, Suite 104
Portland, OR 97229
(503) 352-0900

5904-002

Attachment C

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Appendices

- A. Memorandum of Understanding (MOU) Between the City and District.
- B. Resale Water Cost-of-Service Model Output

Resale Water Cost-of-Service

The City of Billings, Montana (City) provides municipal water services to its citizens and other residents and business in the greater Billings area. In addition to providing retail service to its citizens and neighboring commercial and residential customers, the City also provides wholesale service to the County Water District of Billings Heights (District).

The City engaged the services of Red Oak Consulting to update a cost-of-service analysis for its water utility. This report provides an overview of the study and presents the major findings. This study is an update to the 2008 cost-of-service analyses and incorporates changes to the methodology agreed to by the City and the District in their draft memorandum of understanding (MOU). Appendix A contains MOU.

The detailed working papers for the analysis are attached as Appendix B.

1.1. Study Objectives

The City set the following objectives for this study:

- Estimate the revised cost of serving each of the City's customer classes
- Ensure the rates for the District are consistent with the findings of the 1998 arbitration ruling and the December 14, 1998 agreement between the City and the District (Agreement) and the MOU

1.2. Methodology

This study analyzed the differing costs of providing services to the City's water customers. The methodology used in this study follows the industry standard approaches described by the American Water Works Association in its *Manual of Water Supply Practices: Principles of Water Rates, Fees, and Charges*. Excluding the changes in methodology introduced by the MOU, this approach was accepted in the arbitration ruling as the proper method of pricing water for the District.

Using a cost-of-service analysis, the rates the City charges will be in proportion to the City's cost of providing service to each class of customers. This proportionality is a central theme in cost-of-service studies—customers pay in proportion to the cost of serving them, with no customer classes receiving a subsidy from or providing a subsidy to another customer class.



City of Billings Montana
Resale Water Cost-of-Service Analysis
5904-002



1

Attachment C

Resale Cost-of-Service

1.3. Significant Findings

Appendix B contains tables from the cost-of-service model modified to meet the terms of the MOU.

Calculating cost-of-service rates requires that both the use of the system and the cost of operations be estimated. In ratemaking, the costs of operating the utility are referred to as the utility's revenue requirements. Both the revenue requirements and the customer usage are described below.

1.3.1. Customer Usage

The water sales of a utility respond to many factors—not just price. External factors that impact water sales for the City include weather, economic growth or recession, and public attitudes. The factor that varies most dramatically in Billings appears to be weather. Because the City, like most water utilities, has primarily fixed costs (i.e., costs the utility incurs regardless of water sales, such as salaries, capital improvements, etc.), the impact that a wet summer has on revenues is not offset by a natural reduction in its costs. Therefore, the revenues of the utility are at risk from unusual summer demands.

Table 2 of Appendix B presents the estimated water sales by customer class. Retail sales volumes were estimated from actual sales in the preceding year. Resale sales volumes were provided based on estimates provided by the District.

1.3.2. Revenue Requirements

Under the 1998 arbitration ruling, the City charges the District rates based on the utility basis. Under the utility basis, the revenue requirements for the District consist of capital costs and O&M costs. The capital costs include depreciation and a return on investment.

1.3.2.1. Capital Costs

The City faces capacity constraints on its water system. To alleviate these constraints, the City adopted a capital improvement program that expanded the capacity of the system. These capital improvements increased the value of investments in the system to which the District is charged. Additionally, the City has made improvements to its water transmission system. Under the agreement with the District, the City charges rates to the District that are based on depreciation and a return on investment. Therefore, future capital improvements do not impact the District's rates until the investments are completed but past capital improvements are included in the rates. Table 181 in Appendix B presents the capital cost revenue requirements used to determine the rates for the District. The return on investment is presented in Table 179 and is based on the rate of return identified by the MOU (i.e., 9.55 percent return on equity, 3.75 percent return on debt, and a weighted average cost of capital of 8.50 percent in FY2009.)

1.3.2.2. O&M Costs

Table 48 presents the O&M costs for the City's water system. The O&M costs were functionalized in the same manner as the 1998 arbitration and 2001 and 2005 updates.



Attachment C

Resale Cost-of-Service

As agreed to in the MOU, the allocation of indirect costs in Table 67 excludes the cost of power and chemicals.

1.3.3. Unit Costs

Table 222 presents the cost-of-service unit costs for the City's customer classes. Tables 223 through 227 present the unit costs for the fixed monthly charges by meter size. The unit cost for the District is consistent with the 1998 agreement and MOU. For the City's other customer classes, additional costs for direct and indirect fire functions are included in the retail rate analysis provided to the City under separate cover.

1.4. Impacts of Changes

Changes to the cost-of-service methodology agreed to in the MOU reduce the rates charged to the District. The impacts on rates for FY2009 are:

Summary for FY2009

Adjustment Items	Revenue Decrease	Sales	Rate Impact
Indirect Cost Allocations	\$11,361	1,176,434	\$0.01
Rate of Return	64,397	1,176,434	\$0.05
Total	\$75,758		\$0.06

This results in rates for the District of:

Rate Reconciliation	Current Rate	Adjustment	Revised Rate
County Water District of Billings Heights	\$1.28	(\$0.06)	\$1.22

The table below presents the resulting rates for fiscal year ending 2009 (FY2009) through FY2011.

Customer Class	FY2009	FY2010	FY2011
Resale	\$1.22	\$1.23	\$1.24

1.5. Recommendations

Red Oak recommends the City adopt the resale rates proposed in this study. The retail rates presented in this study are calculated consistent with the City's agreement and MOU with the District. The purpose of calculating the retail rates is to ensure costs are equitably allocated to the District.

AGENDA ITEM:

N



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Appointment of City Council Members to Boards & Committees

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: At the Feb. 17, 2009, work session, the City Council discussed the appointment of its members to internal and external boards and committees. It was agreed that formal appointment would be made at the March 9 meeting as follows:

- Big Sky EDA – Jani McCall
- Policy Coordinating Committee – Chris Veis, with Larry Brewster as Alternate
- Yellowstone Veterans Cemetery Board – Denis Pitman
- Transportation Plan Update Committee – Vince Ruegamer
- Beartooth RC & D – Ed Ulledalen

ALTERNATIVES ANALYZED:

- Approve the appointments as previously discussed.
- Appoint others to the positions.

FINANCIAL IMPACT: None.

RECOMMENDATION

Approve the appointments as previously discussed.

Approved By: City Administrator CFV City Attorney _____

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Preliminary Plat of Morledge Family Medical Village Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On February 2, 2009, the subdivider, Morledge-Hampton Family, LLC, applied for preliminary minor plat approval for Morledge Family Medical Village Subdivision. The proposed subdivision creates 4 lots from a 2.8-acre tract of land. The subject property is located on the northwest corner of Poly Drive and 17th St. West. The property has been developed with a large medical office building since 1981 and is zoned Planned Unit Development (PUD) with underlying Residential Professional (RP) zoning. The 4 lots will be developed in phases with four new medical offices. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposed subdivision at the March 9, 2009, meeting. The representing agent is Dowl-HKM, 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 a subdivider'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

Planning staff recommends conditional approval of the preliminary plat of Morledge Family Medical Village 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. Photos of the subject property

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

INTRODUCTION

On February 2, 2009, the subdivider, Morledge-Hampton Family, LLC, applied for preliminary minor plat approval for Morledge Family Medical Village Subdivision. The proposed subdivision creates 4 lots from a 2.8-acre tract of land. The subject property is located on the northwest corner of Poly Drive and 17th St. West. The property has been developed with a large medical office building since 1981 and is zoned PUD with underlying RP. The 4 lots will be developed in phases with four new medical offices.

PROCEDURAL HISTORY

- A pre-application meeting was held on September 25, 2008, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on February 2, 2009.
- The City Council will consider the preliminary plat on March 9, 2009.

BACKGROUND

The proposed subdivision will create 4 lots ranging in size from 37,865 square feet to 21,129 square feet in size. The owners intend to develop the lots in phases with medical office uses. The property is bordered on the north and west by single-family residential uses, on the south by commercial, and on east by Rocky Mountain College's ball fields across 17th Street West.

General location:	Northwest corner of Poly Dr. and 17 th St. W.
Legal Description:	Lot 2-B-1 and Lot 3, Rocky Village Subdivision, in Section 36, T1N, R25E
Subdivider/Owner:	Morledge-Hampton Family, LLC
Engineer and Surveyor:	Dowl-HKM, Inc.
Existing Zoning:	PUD with underlying RP
Existing land use:	One large medical complex
Proposed land use:	Four smaller medical buildings
Gross area:	2.8 acres
Proposed number of lots:	4
Lot sizes:	Max: 37,865 square feet Min.: 21,129 square feet
Parkland requirements:	Parkland is not required for commercial subdivisions.

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 Division staff 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 final plat.
2. In order to mitigate impacts on local services, mail delivery to the proposed subdivision shall be accomplished using centralized mailboxes. Location(s) and design of proposed centralized mailbox unit(s) and any required pull-out(s) shall be approved by the United States Postal Service (USPS) prior to final plat approval. (*Required by 23-406.A.17, BMCC*)
3. In order to mitigate impacts on local services, Section III.A.2. of the Subdivision Improvements Agreement (SIA) shall be amended to reflect that each lot shall be served by individual water and sewer services from the main lines within the public rights-of-way. (*Required by 23-406.B.6., BMCC*)
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 of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None

STAKEHOLDERS

A public hearing is not required for minor subdivisions. However, any interested party may review the proposal and make comments. The Planning Division has received no public input on this proposal at the time this staff report was completed.

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

Planning staff recommends conditional approval of the preliminary plat of Morledge Family Medical Village Subdivision, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

- A. Photos of the subject property
- B. Preliminary Plat
- C. Findings of Fact
- D. Mayor's Approval Letter

ATTACHMENT A



Figure 1: View looking West on Poly Drive.
New approach for lot access would be just beyond the tree.



Figure 2: View up existing access road off of 17th St. West. Existing medical complex will be removed in future and replaced with 4 individual buildings.

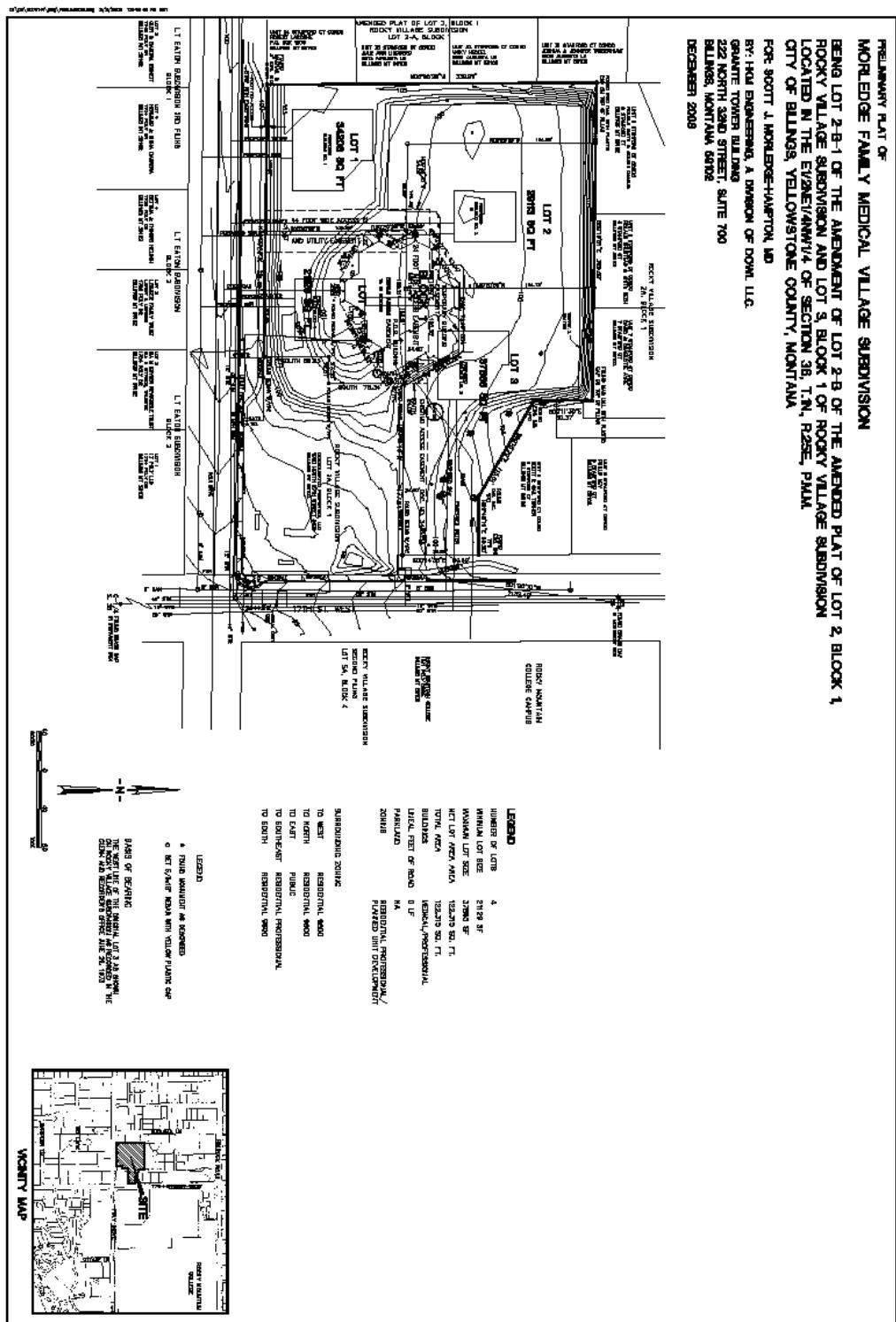
ATTACHMENT B

Preliminary Plat of Morledge Family Medical Village Subdivision

MORLEDGE FAMILY MEDICAL VILLAGE SUBDIVISION

BEING LOT 2-B-1 OF THE AMENDMENT OF LOT 2-B OF THE AMENDED PLAT OF LOT 2, BLOCK 1, ROCKY VILLAGE SUBDIVISION AND LOT 3, BLOCK 1, OF ROCKY VILLAGE SUBDIVISION LOCATED IN THE ELYZIA (ANNW/4 OF SECTION 36, T.M., R.25E., P.M.M. CITY OF BILLINGS, WILLOWBROOK COUNTY, MONTANA.

BY: HJM ENGINEERING, A DIVISION OF DOWL, LLC
GRANITE TOWER BUILDING
222 NORTH 32ND STREET, SUITE 700
BILLINGS, MONTANA 59102
DECEMBER 2008



ATTACHMENT C
Findings of Fact

The Planning staff is forwarding the recommended Findings of Fact for Morledge Family Medical Village 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? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]

1. Effect on agriculture and agricultural water user facilities

The subject property is located in the City limits and is surrounded by urban density development. The proposed future use will not displace any existing agricultural activity, and therefore should have a minimal effect on the agricultural industry. Additionally, there are no irrigation canals or facilities on the property, therefore the subdivision will not have an effect on agricultural water user facilities.

2. Effect on local services

- a. **Utilities** – Water and sanitary sewer services can be provided by the City of Billings by connecting to the existing mains found within the adjacent public rights of way. Public Works-Distribution and Collection Division has requested that the language found in Section VI. of the SIA should be amended to reflect that each lot shall be served by separate and individual water and sewer lines from the main lines. This is recommended as a condition of approval (**Condition #3**).

MDU will provide gas services, and NWE will provide electric services to the subdivision in the future. Utility easements shall be provided along lot boundaries as requested by the utility providers and shall be shown on the face of the final plat (**Condition #1**).

- b. **Storm water** – Storm water drainage is currently collected in a boulder pit that exists under the asphalt parking area. A storm water report will make a recommendation regarding new boulder pits or connection to the City's storm drain facilities. All improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – The property fronts Poly Drive on the south and 17th St. West on the east. Both streets are considered minor arterial streets on the transportation classification map, and

the required amount of right-of-way has already been provided for this property. Additionally, the required curb, gutter, and sidewalk improvements also exist, however, upon site development review of the property, any damaged or altered portions will be required to be replaced.

Access to the individual lots will be gained from an interior private road, built to City standards, within a 44-foot wide access easement.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1928 17th St. West (Fire Station #3). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** –School District #2 provides educational services to elementary through high school students. However, since this is proposed to be a commercial subdivision, no new students are anticipated due to this subdivision.
- g. **Parks and Recreation** –There are no parkland dedication requirements for commercial subdivisions.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. Upon review of the proposal, the USPS has requested that centralized mailboxes are installed to facilitate mail delivery. It is recommended as a condition of approval that the location and design of proposed centralized mailbox units and any required pull-outs shall be approved by the USPS prior to final plat approval (**Condition #2**).

3. Effect on the natural environment

The subject property is entirely surrounded by urban density development and is currently used by a large medical complex. Creation of these lots and subsequent development of additional units on the vacant property should have minimal effects on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. This subdivision should have a minimal effect on wildlife and wildlife habitat, as it is in the middle of an urbanized area.

5. Effect on the public health, safety and welfare

The subdivision is located in an area with no known natural hazards.

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

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 2008 Growth Policy, the Urban Area 2005 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]

1. Yellowstone County-City of Billings 2008 Growth Policy

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

- a. Goal: More housing and business choices within each neighborhood (p. 6).
- b. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).
- c. Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).
- d. Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 10).

2. Urban Area 2005 Transportation Plan Update

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

3. Heritage Trail Plan

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. No trail corridors are identified on the plan within this subdivision.

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

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and 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? [BMCC 23-304 (c) (5)]

The subdivision will continue to use the City's water sanitary sewer system, and the City's 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? [BMCC 23-304 (c) (6)]

The subject property is located within a PUD with underlying RP zoning. The proposed lots and any future development of the land shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]

The subdivider shall provide utility easements as requested by MDU and NWE (**Condition #1**).

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]

Legal and physical access is provided to the proposed lots from the new internal access road which will connect to Poly Drive and 17th St. West.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Morledge Family Medical Village Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 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, March 9, 2009.

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

March 10, 2009

Morledge-Hampton Family, LLC
2420 17th St. West
Billings, MT 59102

Dear Applicant:

On March 9, 2009, the Billings City Council conditionally approved the preliminary plat of Morledge Family Medical Village Subdivision. The conditions of approval are as follows:

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 final plat.
2. In order to mitigate impacts on local services, mail delivery to the proposed subdivision shall be accomplished using centralized mailboxes. Location(s) and design of proposed centralized mailbox unit(s) and any required pull-out(s) shall be approved by the United States Postal Service (USPS) prior to final plat approval.
3. In order to mitigate impacts on local services, Section III.A.2. of the Subdivision Improvements Agreement (SIA) shall be amended to reflect that each lot shall be served by individual water and sewer services from the main lines within the public rights-of-way.
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 of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Juliet Spalding with the Planning Department at 247-8684 or by email at spaldingj@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

Pc: Rick Selensky, Dowl HKM
Scott Atwood, CTA Architects & Engineers



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Preliminary Subsequent Minor Plat of Amended Lot 2, Block 1, Appleby Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On February 2, 2009, the preliminary subsequent minor plat application of Amended Lot 2, Block 1, Appleby Subdivision was submitted to the Planning Division. The proposed plat would create two lots on approximately .66 acres of land (29,000 square feet). The subject property is zoned Residential Multi-Family (RMF) and is located at 428 Milton Road. The property currently has two apartment buildings on it. The proposed subdivision will result with one building on each lot. The property owner is 24 Clark, LLC and the agent is Harlan M. Lund, R.L.S.

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 March 23, 2009. 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: The property is currently developed and will not increase tax revenue for the City.

RECOMMENDATION

Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lot 2, Block 1, Appleby Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

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

ATTACHMENTS

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

INTRODUCTION

On February 2, 2009, the preliminary subsequent minor plat application of Amended Lot 2, Block 1, Appleby Subdivision was submitted to the Planning Division. The proposed plat would create two lots on approximately .66 acres of land (29,000 square feet). The subject property is zoned Residential Multi-Family (RMF) and is located at 428 Milton Road. The property currently has two apartment buildings on it. The proposed subdivision will result with one building on each lot. The property owner is 24 Clark, LLC and the agent is Harlan M. Lund, R.L.S.

PROCEDURAL HISTORY

- A pre-application meeting was held on this property on June 12, 2008.
- The completeness review was submitted on December 15, 2008 and completed on January 21, 2009.
- The preliminary plat application for this subdivision was submitted to the Planning Division on February 2, 2009.
- The City Council will consider the preliminary plat application on March 9, 2009.

BACKGROUND

General location:	428 Milton Road
Legal Description:	Amended Lot 2, Block 1, Appleby Subdivision
Subdivider/Owner:	24 Clark, LLC
Engineer and Surveyor:	Harlan M. Lund, PLS
Existing Zoning:	RMF
Existing land use:	Residential/Apartments
Proposed land use:	Residential/Apartments
Gross area:	.66 acres of land (29,000 square feet)
Net area:	.66 acres of land (29,000 square feet)
Proposed number of lots:	2
Lot size:	max. 16,000 min. 13,000
Parkland requirements:	A parkland dedication is required, as this is a subsequent minor subdivision for multi-family development, 11% of net lot developed is required.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments have reviewed this application and provided input on effects and mitigation. The Planning Division staff 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 final plat. *(Recommended by the Engineering Division)*
2. To ensure compliance with The City of Billings Subdivision Regulations the applicant shall correct language in the SIA concerning parkland dedication in Section VII Parks/Open Space. It shall reflect the requirements of Section 23-1002 B of the City of Billings Subdivision Regulations that addresses how parkland dedication is required for subdivisions that provide multi-family developments. The requirement is 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acres or less. *(Recommended by the Planning Division)*
3. To ensure the correct language in the SIA concerning public improvements, curb, gutter and sidewalks, the applicant shall add language to the SIA in Section III Transportation A Streets, and B Sidewalks that identifies there are currently none of these on Milton Road across the front of the subject property. That the applicant is not being required to install them at this time but they are included in the Waiver of Right to Protest for future installation if re-development occurs, or with the creation of a Special Improvements District. *(Recommended by the City Engineering Division)*
4. To ensure the correct language in the SIA concerning utilities, the applicant shall add language to the SIA in Section VI Utilities A. Water that reads; "Domestic water service will be supplied to each lot by the County Water District of Billings Heights". *(Recommended by the City Public Works Division)*
5. To ensure the correct language in the SIA concerning utilities, the applicant shall add language to the SIA in Section VI Utilities B. Septic System that reads; "Sanitary Sewer: The existing dwellings on each lot are presently being served by the City of Billings public sanitary sewer system. The installation of any additional sanitary sewer service to the lots shall be in accordance with design standards, rules, regulations of and as approved by the City of Billings Public Works Department and the Montana Department of Environmental Quality". *(Recommended by the City Public Works Division)*

6. 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.
7. 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.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the 2008 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 Amended Lot 2, Block 1, Appleby Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A
Preliminary Plat

plat of
Appleby Subdivision Amended
AMENDING LOT 2, BLOCK 1
IN THE SE1/4 OF SECTION 22, T.1N., R.26E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

for: 24 Clark LLC
by: Harlan M. Lund, R.L.S. 1827S
Scale: 1"=30' Billings, Montana June 2008

STATE OF MONTANA
County of Yellowstone } ss.
CENSUS 2000

THIS IS TO CERTIFY that Harlan M. Lund, Montana Registered Land Surveyor 1827S, being first duly sworn, deposes and says that during the month of June 2008, a survey was conducted and a plat was prepared under his supervision of a tract of land to be known as Appleby Subdivision Amended, Amending Lot 2, Block 1, in accordance with the requirements of the law, and in conformity with the provisions of Title 76, M.C.A., sub subdivision, description of boundaries and dimensions being in accordance with the Certificate of Ownership & Dedication and as shown on the annexed plat; that iron monuments of suitable size were at all intersection points as indicated by a mark \bullet or \circ ; that the street lines conform with the adjacent platted areas; that the plat conforms with the work on the ground and the gross and net area is 29,000 square feet.

STATE OF MONTANA } ss.
County of Yellowstone } ss.
Horton M. Lund 1827S

On this _____ day of _____, 2008, before me a Notary Public for the State of Montana, personally appeared Horton M. Lund, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.
printed name: _____
signature: _____
Notary Public for the State of Montana
Residing at Billings, Montana.
My Commission Expires: _____

CONSENT TO PLATTING BY HOLDER OF TRUST INDENTURE
THIS IS TO CERTIFY that Stockman Bank of Montana, holder of a Trust Indenture recorded under Document No. 3447433, records of Yellowstone County, on the tract of land as described on the annexed plat, does hereby consent to the platting and subdivision of said tract in conformity with Section 76-3-612(1), M.C.A.
for: Stockman Bank of Montana

STATE OF MONTANA } ss.
County of Yellowstone } ss.
On this _____ day of _____, 2008, before me a Notary Public for the State of Montana, personally appeared _____, known to me to be the authorized representative of Stockman Bank of Montana, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.
printed name: _____
signature: _____
Notary Public for the State of Montana
Residing at Billings, Montana.
My Commission Expires: _____

NOTICE OF APPROVAL
This plot has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this Board. We, therefore, recommend that it be accepted for filing by the City of Billings, Montana.

President _____
Executive Secretary _____

NOTICE OF APPROVAL
STATE OF MONTANA } ss.
County of Yellowstone } ss.
WE HEREBY CERTIFY that we have examined the annexed and foregoing plot of APPLEY SUBDIVISION AMENDED, AMENDING LOT 2, BLOCK 1, and find that said plot conforms with the requirements of the laws of the State of Montana and the Yellowstone County Board of Planning. It is therefore approved and all land described to the public are accepted.
IN WITNESS WHEREOF, we have hereunto set our hands and the official seal of the City of Billings, Montana, this _____ day of _____, 2008.

By: Mayor _____
Attest: City Clerk _____

CITY ENGINEER'S STATEMENT
I hereby certify that I have examined the annexed plot of Appleby Subdivision Amended, Amending Lot 2, Block 1 and find that it conforms with Sec. 76-4-125(2)(G) M.C.A. removing Sanitary Restrictions since the Subdivision is inside a master planning area and is provided with municipal facilities for the supply of water and removal of sewage and solid waste.
I further certify that I have examined the annexed plot for errors and omissions in calculations and drafting on the _____ day of _____, 2008.

City Engineer's Office _____

CITY ATTORNEY'S STATEMENT
This document has been reviewed by the City Attorney's office and is acceptable as to form.
Dated: _____
Reviewed by: _____
City Attorney _____

CLERK & RECORDER'S RECORDING INFORMATION

STATEMENT OF OWNERSHIP & DEDICATION
STATE OF MONTANA } ss.
County of Yellowstone } ss.
KNOW ALL MEN BY THESE PRESENTS: that 24 Clark LLC has cause to be surveyed, subdivided and platted my tract of land being the northeast quarter (SE1/4) of Section 22, T.1N., R.26E., P.M.M., being Lot 2, Block 1 of Appleby Subdivision and being more particularly described as follows: Beginning at the northeast corner of said Lot 2, thence around its perimeter S0070370'E; 183.70 feet; thence N89°36'00"W, 157.87 feet; thence S0070370'E; 183.70 feet; thence S0070370'E; 183.70 feet; thence N89°36'00"W, 157.87 feet; thence N0070370'W, 183.70 feet; thence S0070370'E; 157.87 feet to the point of beginning, containing 29,000 square feet gross and net area.
The above described tract is to be known as APPLEY SUBDIVISION AMENDED, AMENDING LOT 2, BLOCK 1 and there is no land to be dedicated to the public. There is no contribution for public park under the provisions of Sec. 76-3-621(3)(d) M.C.A., subdivision in which only one additional parcel is created."

24 Clark LLC print name & office
STATE OF MONTANA } ss.
County of Yellowstone } ss.
On this _____ day of _____, 2008, before me a Notary Public for the State of Montana, personally appeared _____, known to me to be the authorized representative of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.
printed name: _____
signature: _____
Notary Public for the State of Montana
Residing at Billings, Montana.
My Commission Expires: _____

ATTACHMENT B
Findings of Fact

Staff is forwarding the recommended Findings of Fact for Amended Plat of Amended Lot 2, Block 1, Appleby 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 (Article 23-100, BMCC).

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

1. Effect on agriculture and agricultural water user facilities

There are no agricultural uses on this property or surrounding properties.

2. Effect on local services

- a. **Utilities** – The property is developed with two apartment buildings, one built in 1955 the other in 1966. The apartments currently have both water and sewer services to them from connections in Milton Road. The water service from the Billings Heights Water District and sewer system connections from the City of Billings. Conditions # 4 and 5 requires that the applicant, in the SIA under Section VI A and B, add language that will clarify the water and sanitary sewer connections that already exist with the existing buildings. The applicant needs to clarify that the water is from the Billings Heights Water District and that the sanitary sewer is from the City of Billings.
- b. **Stormwater** – The property is developed with two apartment buildings. Currently there is parking provided for the apartments with a shared parking area in front of the buildings. Any future development of the parking area would require the applicant to get approval from the City Engineering Division and shall comply with the provision of the Stormwater Management Manual and section 23-706 BMCC.
- 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 lots is via private access from Milton Road. Milton Road, at this location, is a paved street without curb, gutter or sidewalks along the front of the subdivision. There will be no additional right-of-way required from this subdivision. Sidewalks curb and gutter will be installed if there is future re-development as required by the City Engineering Division. Condition #3 requests additional information is added to Section III Transportation, A. Streets and B. Sidewalks, of the SIA to ensure accurate information is provided to prospective owners.
- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601

St Andrews (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR).

- f. **Schools** – The subdivision is located within School District #2. Since this subdivision has existing structures on it with tenants there will not be any additional impacts on the school system. No input was received from School District #2.
- g. **Parks and Recreation** – A parkland dedication is required for this subsequent minor subdivision. Because this property is being subdivided, City Subdivision Regulations Section 23-1002 B states; parkland dedication is required for subdivisions that provide multi-family developments. The requirement is 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acres or less. Condition #2 requires the applicant to provide this parkland dedication or a cash-in-lieu contribution. Required parkland dedication is outlined in Section 23-1002 (B)(1) in the City of Billings Subdivision regulations. Park dedication requirement for subdivision that provide for multi-family shall provide 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less. Based on this requirement the applicant will be required to provide 3,190 square feet of land or cash in lieu. This is based on 11% of the 29,000 square feet total lot area.

3. Effect on the natural environment

A geotechnical report was not submitted to the Building Division with the subdivision application as the property is already developed.

No streams, lakes or reservoirs will be altered by the subdivision.

4. Effect on wildlife and wildlife habitat

As this is a residential neighborhood within the city, there are no known endangered or threatened species on the property.

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 and should not create flooding hazards for surrounding properties.

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

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

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

1. Yellowstone County-City of Billings 2008 Growth Policy

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

b. **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 8).**

The proposed subdivision will separate two existing buildings that were built in this neighborhood in 1955 and 1966. This property will continue to be used in the same way it has been used for many years and is compatible with the surrounding developed residential properties.

e. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 8).**

The subject property is currently developed and will continue the existing use in the existing population center.

f. **Goal: Affordable housing for all income levels dispersed throughout the City and County (p. 9).**

The existing apartments will continue to provide housing and maintain the housing diversity within the existing neighborhood.

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

No specific trails are identified in this area and none are proposed with 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.

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

The subdivision will utilize City water, City 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 RMF zoning and shall comply with the standards set forth in Section 27-309, BMCC.

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

The City Engineering Division 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 has 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 reciprocal access via Milton Road and parking is reciprocal between the two lots.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Amended Lot 2, Block 1, Appleby Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 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, March 9, 2009

Ron Tussing, Mayor

ATTACHMENT C
Mayor's Approval Letter

March 10, 2009

24 Clark, LLC
P. O. Box 80223
Billings, MT 59108

Dear Applicant:

On March 9, 2009, the Billings City Council conditionally approved the preliminary plat of Amended Lot 2, Block 1, Appleby 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 final plat. (*Recommended by the Engineering Division*)
2. To ensure compliance with The City of Billings Subdivision Regulations the applicant shall correct language in the SIA concerning parkland dedication in Section VII Parks/Open Space. It shall reflect the requirements of Section 23-1002 B of the City of Billings Subdivision Regulations that addresses how parkland dedication is required for subdivisions that provide multi-family developments. The requirement is 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acres or less. (*Recommended by the Planning Division*)
3. To ensure the correct language in the SIA concerning public improvements, curb, gutter and sidewalks, the applicant shall add language to the SIA in Section III Transportation A Streets, and B Sidewalks that identifies there are currently none of these on Milton Road across the front of the subject property. That the applicant is not being required to install them at this time but they are included in the Waiver of Right to Protest for future installation if re-development occurs, or with the creation of a Special Improvements District. (*Recommended by the City Engineering Division*)
4. To ensure the correct language in the SIA concerning utilities, the applicant shall add language to the SIA in Section VI Utilities A. Water that reads; "Domestic water service will be supplied to each lot by the County Water District of Billings Heights". (*Recommended by the City Public Works Division*)
5. To ensure the correct language in the SIA concerning utilities, the applicant shall add language to the SIA in Section VI Utilities B. Septic System that reads; "Sanitary Sewer: The existing dwellings on each lot are presently being served by the City of Billings public sanitary sewer system. The installation of any additional sanitary sewer service to the lots shall be in accordance with design standards, rules, regulations of and as approved by the City of Billings Public Works Department and the Montana Department of Environmental Quality". (*Recommended by the City Public Works Division*)

6. 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.
7. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

Ron Tussing, Mayor

Q1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Final Plat of Lot 1, Block 1, Billings Clinic Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The final plat of Lot 1, Block 1, Billings Clinic Subdivision, is being presented to the City Council for approval. The subject property is zoned Medical Corridor Permit Zoning District and is located between North 28th and 29th Street and 7th Avenue North and 9th Avenue North. On January 28, 2008, the City Council conditionally approved the 1-lot subsequent minor plat on approximately 4.4 acres of land. The property currently has medical facilities constructed or under construction on it. The owners are Billings Clinic; the representing agent is Engineering Incorporated.

The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Lot 1, Block 1, Billings Clinic Subdivision.

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

ATTACHMENT

A: Final Plat

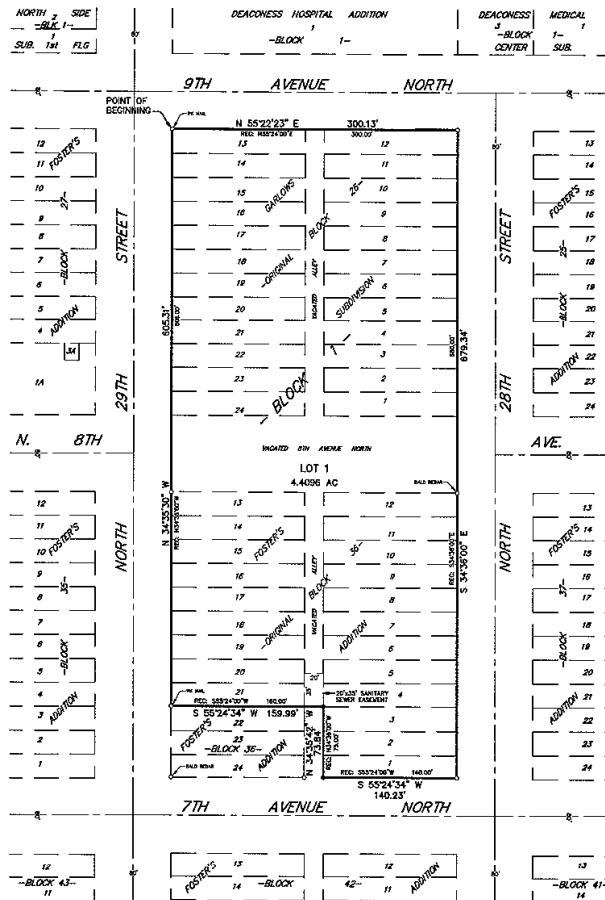
ATTACHMENT A
Final Plat

PLAT OF
BILLINGS CLINIC SUBDIVISION

BEING ALL OF BLOCK 26 OF GARLOWS SUBDIVISION OF BLOCK 26 IN
FOSTERS ADDITION AND LOTS 1 THRU 21, BLOCK 36 IN FOSTERS ADDITION,
PLUS A VACATED PORTION OF 8TH AVENUE NORTH AND VACATED ALLEY
SITUATED IN THE SE1/4 OF SECTION 32, T. 1 N., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : BILLINGS CLINIC
PREPARED BY : ENGINEERING, INC.

SCALE : 1" = 50'



FEBRUARY, 2008
BILLINGS, MONTANA



BASIS OF BEARING: SOUTHWESTERLY RIGHT-OF-WAY LINE OF
N. 26th STREET PER THE PLAT OF
FOSTER'S ADDITION TO THE CITY OF
BILLINGS.

- FOUND SURVEY MONUMENT, REBAR AND CAP
MARKED "ENG INC" OR AS NOTED.
- SET 5/8" X 18" REBAR AND CAP MARKED WITH
THE LICENSE NUMBER OF THE UNDERSIGNED LAND
SURVEYOR AND "ENGINEERING INC BILLINGS MT".

CERTIFICATE OF DEDICATION
SEE SHEET 2 OF 2

CERTIFICATE OF SURVEYOR

STATE OF MONTANA }
County of Yellowstone }
 } 188

The undersigned, a Notable Registered Land Surveyor being first duly sworn, doth
certify that on the month of February, 2008, a survey was performed under his
supervision of a tract of land to be known as BILLINGS CLINIC SUBDIVISION, in accordance
with the requirements of the State of Montana Land Surveyor's Practice Act, the Survey
and Plotting Act, and subdivision, description of boundaries and dimensions being in
accordance with the Certificate of Dedication and as shown on the annexed plat. But the
dimensions stated on the plat are of the character and occupy the positions shown thereon
and that the area is 4.4096 acres.

Engineering, Inc.

By _____

Montana Registration No. _____

Subscribed and sworn to before me, a Notary Public in and for the State of Montana,
this _____ day of _____, 20____.

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

NOTICE OF APPROVAL

STATE OF MONTANA }
County of Yellowstone } 188

This plat has been approved for filing by the Yellowstone
County Board of Planning and conforms to the recommendations
of this board.

Date President _____

Executive Secretary _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that I have examined the annexed and
foregoing plat and find that it conforms with the requirements
of Section 75-4-12(2)(c)(i), M.C.A., for the removal of
vacated property and that the plot is suitable a mass development
area and may later be developed for the purpose of providing
for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF
APPROVAL this _____ day of _____, 20____.

City Engineer's Office _____

ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and
foregoing plat for errors and omissions in computations and
drafting and find that it conforms with the requirements
of Section 75-4-12(2)(c)(i), M.C.A., for the removal of
vacated property and that the plot is suitable a mass development
area and may later be developed for the purpose of providing
for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF
APPROVAL this _____ day of _____, 20____.

Examining Land Surveyor _____ Date _____

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office
and is acceptable as to form.

Date: _____

Reviewed by: _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and
special assessments have been paid per 75-3-81(1)(b)/
75-3-207(3), M.C.A.

Date: _____

Yellowstone County Treasurer

By: _____

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA }
County of Yellowstone } 188

We hereby certify that we have examined the annexed and
foregoing PLAT OF BILLINGS CLINIC SUBDIVISION, and find that it
conforms with the requirements of the laws of the State of
Montana and the requirements of the Yellowstone County Board of
Planning. It is therefore approved and the dedication to public use
of the property shown on this plat is being dedicated to such
use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of
the CITY OF BILLINGS, MONTANA, this _____ day of
_____, 20____.

CITY OF BILLINGS, MONTANA

By: _____
Moyer

Attest: _____
City Clerk

SUBDIVISION IMPROVEMENT AGREEMENT

Document No. _____

PLAT OF
BILLINGS CLINIC SUBDIVISION

BEING ALL OF BLOCK 26 OF GARLOWS SUBDIVISION OF BLOCK 26 IN
FOSTERS ADDITION AND LOTS 1 THRU 21, BLOCK 36 IN FOSTERS ADDITION,
PLUS A VACATED PORTION OF 8TH AVENUE NORTH AND VACATED ALLEY
SITUATED IN THE SE1/4 OF SECTION 32, T. 1 N., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : BILLINGS CLINIC
PREPARED BY : ENGINEERING, INC.

FEBRUARY, 2008
BILLINGS, MONTANA

CERTIFICATE OF DEDICATION

STATE OF MONTANA }
County of Yellowstone }
ss

KNOWN, MDA BY THESE PRESENTS, That the undersigned owners of the property described
tract, doth, and do hereby certify that they have cause to be severed, subdivided and partitioned
lots, blocks and streets as shown on the annexed plan, said tract being situated in the SE1/4 of
Section 32, T. 1 N., R. 26 E., in the City of Billings, Yellowstone County, Montana, and being
more particularly described as follows:

Beginning at a point being a PK post in concrete at the intersection of the northeasterly
right-of-way line of North 29th Street and the southeasterly right-of-way line of 9th Avenue
North, thence N 34°35'42" E, a distance of 73.84 feet, to a corner post marked "2000-002222", E a distance
of 300.13 feet to a rebar & cap marker "2000-002", and on intersection with the southeasterly
right-of-way line of North 28th Street, thence along said southeasterly line, S 34°35'00" E a
distance of 200.00 feet, to a corner post marked "2000-002223", and on intersection with the
northeasterly right-of-way line of 7th Avenue North, thence, along said northeasterly line,
S 34°35'42" E, a distance of 73.84 feet, to the intersection of the northeasterly right-of-way line of
the 7th Avenue North, N 34°35'42" W a distance of 73.84 feet, thence, crossing said northerly right-of-way,
thence N 34°35'42" E, a distance of 73.84 feet, to the intersection of the northeasterly right-of-way line of
a PK, and on intersection with the northeasterly right-of-way line of 9th North 29th Street,
thence, along said northeasterly line, N 34°35'30" W a distance of 605.31 feet to the Point of
Beginning.

There is no park requirement for this non-residential subdivision pursuant to Section
76-3-62(1)(b), M.C.A.

The undersigned hereby grants to the public on easement for the location, maintenance, repair
and removal of sanitary sewer lines and its appurtenances over, under and across the areas
described on the plan "2000-002 SANITARY SEWER EASEMENT" to have and hold forever.

Said tract to be known and designated as **BILLINGS CLINIC SUBDIVISION**.

There is no public land dedication with this plan.

BILLINGS CLINIC, a Montana partnership

By: _____

Title: _____

STATE OF MONTANA }
County of Yellowstone }
ss

This instrument was acknowledged before me on _____, 20____, by

BILLINGS CLINIC, a Montana partnership _____ of Billings

Notary Public In and for the State of Montana
Printed Name _____
Residing at _____
My commission expires _____

BILLINGS CLINIC, a Montana nonprofit corporation

By: _____

Title: _____

STATE OF MONTANA }
County of Yellowstone }
ss

This instrument was acknowledged before me on _____, 20____, by

BILLINGS CLINIC, a Montana nonprofit corporation _____ of Billings

Notary Public In and for the State of Montana
Printed Name _____
Residing at _____
My commission expires _____

THE BILLINGS CLINIC, a Montana general partnership

By: _____

Title: _____

STATE OF MONTANA }
County of Yellowstone }
ss

This instrument was acknowledged before me on _____, 20____, by

THE BILLINGS CLINIC, a Montana general partnership _____ of Billings

Notary Public In and for the State of Montana
Printed Name _____
Residing at _____
My commission expires _____

Q2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Final Plat of E. D. King Subdivision, 3rd Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The final plat of E. D. King Subdivision, 3rd Filing is being presented to the City Council for approval. The subject property is zoned Residential Professional (RP) and is located on the south west corner of the intersection of Avenue E and Zimmerman Trail. On October 27, 2008, the City Council conditionally approved the 3-lot subsequent minor plat on 2.1 acres of land for professional office development. There is currently a building under construction on proposed Lot 1. The owner is Speculators LLC, with Sanderson Stewart as the agent.

The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of E. D. King Subdivision, 3rd Filing.

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

ATTACHMENT

A: Final Plat

ATTACHMENT A
Final Plat

Q3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 9, 2009

TITLE: Final Plat of Amended Lot 3, Block 3, Weil Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The final plat of Amended Lot 3, Block 3, Weil Subdivision, is being presented to the City Council for approval. The subject property is zoned Highway Commercial (HC) and is located East of Mullowney Lane on the east side of Weil Street one half block north of Holiday Avenue. On June 29, 2008, the City Council conditionally approved the 2-lot subsequent minor plat on approximately 1.1 acres of land. The property currently has one commercial building on it with the rest undeveloped. The property owners are Scott and Dana Winchell, and the representing agent is Engineering Inc.

The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lot 3, Block 3, Weil Subdivision.

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

ATTACHMENT

A: Final Plat

ATTACHMENT A
Final Plat

WEIL SUBDIVISION

AMENDED PLAT OF LOT 3, BLOCK 3,
SITUATED IN THE SW 1/4 OF SECTION 17, T. 1 S., R. 26 E., P.M.M.
BILLINGS, YELLOWSTONE COUNTY, MONTANA

SEPTEMBER 2008

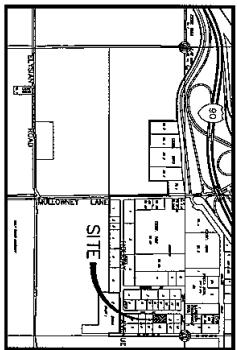
BILLINGS, MONTANA

PREPARED FOR: SCOTT WINCHELL
PREPARED BY: ENGINEERING, INC.
SCALE : 1" = 40'

1" = 40'

BASIS OF BEARING: ORIGINAL PLAT OF WEIL SUBDIVISION
 FOUND SURVEY MONUMENT AS NOTED
 SET 5' X 5' REAR AND CLO MARKED WITH THE LICENSE NUMBER OF
 THE UNDERSIGNED LAND SURVEYOR AND ENGINEERING INC BILLINGS MT.

NORTH



VICINITY MAP

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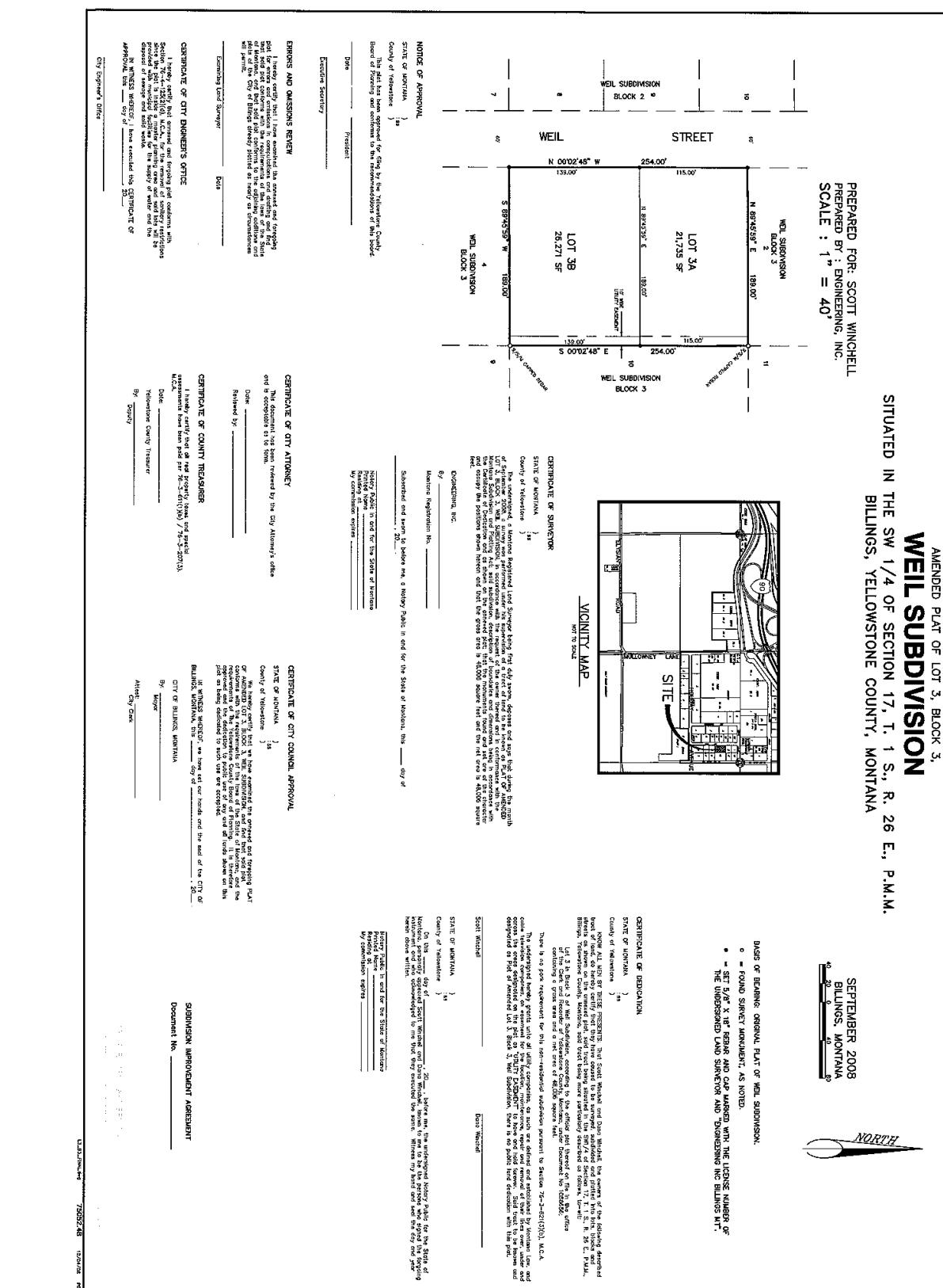
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R1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Payment of Claims
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,000,604.49 audited and are presented for your approval for payment. A complete listing of the claims dated February 6, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

R2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$397,324.90 audited and are presented for your approval for payment. A complete listing of the claims dated February 13, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

R3



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
March 9, 2009

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Melinda Balter, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$430,767.57 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 1, 2008, to January 31, 2009, is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator City Attorney

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, March 9, 2009**

TITLE: Public Hearing and First Reading of Animal Control Ordinance Changes

DEPARTMENT: Billings Police Department

PRESENTED BY: Tim O'Connell, Deputy Chief of Police

PROBLEM/ISSUE STATEMENT: A review of the existing Animal Ordinance by the Animal Control Board due to the contact entered into between the City of Billings and Yellowstone Valley Animal Shelter has resulted in the submittal of these recommended changes to the Animal Ordinance of the City of Billings, Montana. The last changes made to the Animal Ordinance were approved by City Council on October 27, 2003. We now bring to you for first reading and approval, suggested changes needed to the Animal Ordinance.

ALTERNATIVES ANALYZED:

- Approve the Ordinance;
- Do not approve the Ordinance.

FINANCIAL IMPACT: The financial impact would be minimal with a slight revenue increase to Municipal Court from fines to violators for violations of a Ban on Roadside Animal Sales. As the City of Billings will no longer be providing care for the animals at the Animal Shelter revenues for such services will no longer be received.

RECOMMENDATION

The Animal Control Board and staff recommend City Council approval of the changes to the Animal Ordinance as presented.

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

ATTACHMENT

A – Proposed Animal Control Ordinance for the City of Billings, Montana.

INTRODUCTION

Increasingly each year, the Billings Animal Shelter receives complaints from citizens about irresponsible pet breeders selling puppies from the trunks of their vehicles in parking lots or out of boxes or crates along side the city streets. Many of these animals are brought into town from other areas of the State and leave customers who purchase these animals no recourse should something be wrong with the animal after purchase. Most often when these animals are placed into these situations for sale they are exposed to extreme weather conditions, are brought into town from puppy mill situations, and have health issues that are not addressed with the purchaser and the time of sale. Additional changes to the Ordinance are required as the service of animal care at the Billings Animal Shelter will be performed by Yellowstone Valley Animal Shelter according to contact signed and approved by Council on September 22, 2008.

BACKGROUND

Current Animal Control Ordinance does not address sales of pets by private citizens on city streets, private or public parking lots. Animal care at the Billings Animal Shelter has been the responsibility of the City of Billings. A contact entered into and approved by City Council on September 22, 2008, will place this responsibility on the Yellowstone Valley Animal Shelter. Portions of the current Ordinance requiring and directing how this care will be given at the Billings Animal Shelter will no longer apply.

We now come before Council for approval of these Ordinance changes, banning the sales of pets on any roadside, public right-of-way, commercial parking lots, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event. Changes will also remove responsibility and restrictions on the placement and care of any animal by the Billings Animal Shelter. These responsibilities will be with Yellowstone Valley Animal Shelter according to contract.

RECOMMENDATION

The Animal Control Board and staff recommend City Council approval of the changes to the Animal Ordinance as presented.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA MUNICIPAL CODE BE AMENDED BY REVISING SECTIONS 2-513, 4-301, 4-401, 4-404, 4-405.1, 4-405.5, 4-407, 4-433, 4-446, 4-447, 4-448, 4-450, 4-451, 4-453, 4-502, 4-503, 4-504, 4-505 AND ADDING A SECTION TO BE NUMBERED 4-309, AND REPEALING SECTIONS 4-449, 4-452.

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

Section 1. That the Billings, Montana, City Code be amended by adding a new section, amending other sections, repealing some sections, and revising content of ordinances relating to animal control, the animal shelter, and the animal control board, as follows:

Sec. 2-513. Powers and duties.

The animal control board shall serve in an advisory capacity to the city council and shall be for the purpose of providing citizen input to the policy decisions of the city council. The primary responsibilities of the board are to review existing and proposed city policies and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and to make recommendations to the city council in the formulation of programs and policies to improve among others the following areas of concern:

(1) Reserved ~~Operation of the city animal shelter and pound, including sanitation and financial efficiency;~~

(2) Reserved ~~The humane disposition of all of the animals held in the animal shelter or pound;~~

(3) The formulation of policies, regulations, implementation and control of animals within the city;

(4) Solving the serious problem created by the uncontrolled reproduction of pet animals;

(5) Cooperation with other municipal, county and state governments.

Sec. 4-301. Keeping of wild animals.

(a) The terms and words used in this section are defined as follows:

Wild animal means any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, bobcat, coyote, wolf, warm-blooded animal taken from the wild state or bred in captivity, or any wild animal hybrid.

Wild animal hybrid or *hybrid* means an animal which is the product of the breeding of:

- (1) A wild animal with an animal that is not wild, including, but not limited to wolf/dog hybrids;
- (2) A wild animal with an animal of a different species, variety or breed;
- (3) An animal that is expressly or impliedly represented to be a wild animal hybrid; or
- (4) An animal, the appearance of which (including but not limited to the color, shape, size and markings) causes a representative of the Montana Fish, Wildlife and Parks or the Billings Animal Shelter Control to reasonably believe that the animal is a wild animal hybrid.

Wolf/dog hybrid means an animal which is part wolf and part domestic dog.

(b) No person shall keep or permit to be kept on his or her premises within the city limits any wild or vicious animal or wild animal hybrid for display for exhibition purposes, whether

gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

(c) No person shall bring into, offer for sale or barter, or release anywhere in the city limits any wild animal or wild animal hybrid.

(d) No person shall possess, keep or permit to be kept on or off his/her premises within the city limits a wild animal or wild animal hybrid. If the following conditions are met, wolf/dog hybrids which were in private possession prior to February 1, 1993, may be retained by the same owner as a domestic pet, but may not be transferred to another person:

(1) The owner must comply with all rules, regulations and requirements of the Montana Department of Fish, Wildlife and Parks.

(2) By May 1, 1993, the owner must register the wolf/dog hybrid with the city, must purchase a small animal license and must comply with all requirements for a small animal license as set forth in sections 4-432 through 4-438.

(3) The owner must keep the wolf/dog hybrid in a securely enclosed structure to which all entrances remain locked. The structure must be designed so that a person cannot place an extremity in any part of it and so that the wolf/dog hybrid cannot escape. The structure must be kept in good repair at all times. No person shall allow or permit the wolf/dog hybrid to be removed from its structure unless the animal is muzzled and on a leash held by a person able to control the animal.

(4) At the time of licensing the wolf/dog hybrid or by May 1, 1993, if the wolf/dog hybrid is currently licensed, the owner of the wolf/dog hybrid must schedule a time with the animal shelter for an animal control officer to inspect and approve the structure in which the animal will be kept. The animal control officer shall also take a photo of the wolf/dog hybrid to be retained by the animal shelter for identification purposes.

(5) The owner/keeper of the wolf/dog hybrid shall allow an animal control officer at any reasonable time with 24-hour notice to inspect the premises upon which the wolf/dog hybrid is kept.

(6) No person shall possess, keep or harbor a wolf/dog hybrid unless all of the above conditions have been met.

(7) A wolf/dog hybrid which has not been licensed in accordance with subsection (d)(2) shall be seized and impounded by an animal control officer or a police officer. In the alternative, the animal control officer or police officer may order the person owning, keeping, or harboring the wolf/dog hybrid to deliver the animal to the animal shelter within twenty-four (24) hours. The person owning, keeping or harboring such animal shall then be ordered to appear in city court to show cause why the animal should not be destroyed. The city court judge, after making a determination that the animal is a wolf/dog hybrid and that it was not licensed, shall order that the animal be destroyed or that it immediately be removed from the city.

(8) A wolf/dog hybrid which is running at large in the city shall immediately be impounded by an animal control officer or police officer. The person owning, keeping or harboring such animal shall be ordered to appear in city court to show cause why the animal should not be destroyed. The city court judge, after making a determination that the animal is a wolf/dog hybrid and that it was running at large, shall order that the animal be destroyed or that it immediately be removed from the city.

(e) The animal control officers shall have the power to release or order the release of any young wild animal kept under temporary permit, issued by the State of Montana, which is deemed capable of survival.

Sec. 4-309. Roadside and flea market sales

(a) It shall be unlawful for any person to sell, trade, or barter a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

- (1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;
- (2) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or
- (3) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

Any person/organization found in violation is guilty of a misdemeanor.

ARTICLE 4-400. DOGS, CATS AND SMALL ANIMALS

DIVISION 1. GENERALLY

Sec. 4-401. Definitions.

Terms and words, as used in this article, shall have the following meanings unless the context otherwise indicates:

Adult animal means any animal over six (6) months of age.

Animal means to include all livestock and any domestic pet, both male and female.

Animal control officer means any one or more of the employees of the city designated by the city administrator or his designee as animal control officer.

Animal shelter means the place provided by the city for the impounding of dogs, cats or other small animals, or livestock.

At large means off the premises of the owner and not under the control of the owner or any other person either by leash, cord, chain, or other physical means of control; obedience trained dogs under complete verbal control of the owner or trainer shall not be allowed to separate from their owner by more than six (6) feet except on private property with owner permission or on public property as referenced in section 4-407.

Bite means any abrasion, scratch, puncture, laceration, bruise, tear, or piercing of the skin inflicted by the teeth of an animal.

Bodily injury means physical pain, illness, or any impairment of physical condition.

City administrator means the city of Billings city administrator or his/her designee.

Dangerous animal means any animal that in the absence of intentional provocation:

- (1) Inflicts serious bodily injury to a person on public or private property; or
- (2) Is involved in a continuous sustained attack upon a person, not allowing the victim any means of escape, regardless of the extent of injury or defensive action required; or
- (3) Is previously found to be potentially dangerous and while on or off the owner's property chases or approaches a person in a menacing fashion or apparent attitude of attack or inflicts bodily injury to a person or small animal;
- (4) Inflicts injury to a person on public or private property, which injury results in the death of the person.

(5) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

Foster home means a tax exempt facility or organization where animals may be placed for the purpose of finding a new home.

Neutered/Spayed means rendered permanently incapable of reproduction.

Owner means any person owning, keeping, feeding or harboring an animal over thirty (30) days.

Persons means two (2) or more people.

Potentially dangerous animal means any animal that in the absence of intentional provocation:

(1) While off the owner's property, chases or approaches a person in a menacing fashion or apparent attitude of attack or inflicts bodily injury to a person or small animal; or

(2) While on the owner's property causes bodily injury to a person; or

(3) While off the owner's property kills a domestic animal, excluding birds, rodents and reptiles.

(4) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

Registration authority means the agency or department of the city or any designated representative thereof charged with administering the issuance and/or revocation of permits and registrations under the provisions of this chapter.

Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function or process of any bodily member or organ.

Service animal means in addition to a guide dog, police dog, as defined in MCA 45-8-209, law enforcement or military canine all other animals that are "individually trained to provide assistance to an individual with a disability" in a public setting.

Small animal includes any dog, cat, rabbit or domesticated small animal, both male and female.

Small animal permit means a permit that allows the premises to be inspected and approved by the animal control officer, or by the health department, at a prearranged appointment established with the owner.

Vaccination means the inoculation of a dog or cat with anti-rabies vaccine administered by a licensed veterinarian in compliance with regulations established by the state.

(Code 1967, § 8.08.010; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 1, 12-23-85; Ord. No. 90-4829, § 3, 5-7-90; Ord. No. 90-4848, § 1, 11-19-90; Ord. No. 03-5259, § 3, 10-27-03; Ord. No. 05-5351, § 1, 12-12-05)

Sec. 4-404. Noisy animals.

Every person who keeps, feeds, harbors or allows to stay about any premises occupied or controlled by such person, any animal which unreasonably annoys or disturbs any person by continuous and habitual barking, howling, yelping, whining or other noise is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor. This section does not apply to an animal that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

The complainant must identify himself or herself by name, address and telephone number.

To constitute a violation for prosecution under this section, a written complaint must be received by the animal shelter control officer which shall include but not be limited to a summary of the nature and duration of the animal noise and any other information as may be required by the animal shelter control officer to establish a violation of this section.

Upon conviction in municipal court of a noisy animal, the penalty shall be in accordance with section 4-411.
(Code 1967, § 8.08.040; Ord. No. 90-4829, § 4, 5-7-90; Ord. No. 03-5259, § 5, 10-27-03; Ord. No. 05-5351, § 3, 12-12-05)

Sec. 4-405.1. Quarantine--Rabies.

(a) Any animal not currently vaccinated for rabies which bites a person shall be isolated in strict confinement at the animal shelter or a licensed veterinarian clinic to be observed for at least ten (10) days from the day of infliction of the bite. The owner will be responsible and must pay the confinement fees. If the owner fails to pay such fees, the animal control officer shall dispose of the animal.

(b) Upon the discretion and advice of the animal control or law enforcement officer any animal currently vaccinated for rabies which bites a person may be isolated in strict confinement at the owner's home provided the following conditions are available and met:

- (1) Animal must be kept away from all animals and people except the immediate household.
- (2) Animal must be kept inside an enclosed structure such as a house, garage or if outside, the animal must be in a covered pen from which it cannot escape or come into contact with another animal or person. If confinement is authorized under this condition, the person responsible for the animal shall further assure that the animal shall only be allowed outside the above-described pen or other suitable place approved by the animal control or law enforcement officer if the animal is on a leash which is held by a person that is capable of and is in fact controlling the animal in question.
- (3) Animal cannot be sold, given away, destroyed or moved from the premises until notified by an animal control or law enforcement officer that the quarantine period is over.
- (4) Animal under quarantine is not to receive any vaccinations without the authorization of a veterinarian and the animal control officer.
- (5) If the animal becomes lost, sick, acts strangely in any way, or dies during quarantine it must be reported immediately to the Billings animal control office shelter.
- (6) Animal control and/or law enforcement officers must be allowed reasonable access to the place of quarantine between the hours of 7:00 a.m.--10:00 p.m. for inspections.
- (7) The owner will be responsible and must pay all confinement fees. If the owner fails to pay such fees, the animal control officer shall dispose of the animal.

(c) Any animal owner who fails to cooperate with the animal control officer in satisfactory quarantine of his dog or cat (or any other warm-blooded animal, if pertinent) who has bitten a person is guilty of a misdemeanor.

(d) A dog or cat (or other warm-blooded animal) manifesting characteristics of rabies (hydrophobia) may be put to death at the discretion of the animal control or law enforcement officer so that the head may be examined to make a confirmatory search for Negri bodies. All animals definitely known to have been bitten by the infected animal should be destroyed. If, however, the animal is only suspected of having the disease he should not be put to death but quarantined for observation, for a negative laboratory examination at this time would only leave the diagnosis in doubt.

(e) Quarantine procedures do not apply to animals used in military or law enforcement work and service animals for the disabled. These animals will be required to be under current veterinarian care and subject to inspections by an animal control or law enforcement officer.

(Ord. No. 05-5351, § 5, 12-12-05)

Sec. 4-405.5. Dangerous behavior.

(a) Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city any animal exhibiting dangerous behavior is guilty of maintaining a public nuisance and is guilty of a misdemeanor. An animal is presumed to have exhibited dangerous behavior if it demonstrated any of the behavior set forth in section 4-401. Such presumption is rebuttable. Upon conviction of maintaining a public nuisance with a particular dangerous animal, said animal may be ordered by the court to be destroyed by the animal control officer. An animal involved in a fatal attack on a person will be impounded and destroyed by the animal control officer.

(b) The owner or keeper convicted of having a dangerous animal shall forthwith register the animal as such with the animal control division. The owner of the dangerous animal must comply with and must show the animal control division sufficient evidence that the following requirements are met within thirty (30) days following registration:

(1) A securely enclosed structure is provided by the owner suitable to prevent unauthorized entry and designed to prevent the animal from escaping. The enclosure must also provide protection from the elements for the animal.

(2) The owner or keeper shall display signs on his or her premises warning that there is a dangerous animal on the property. These signs shall be visible and capable of being read from the public roadway and from any normal means of entry to the premises. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that will inform children of the presence of a dangerous animal.

(3) The owner or keeper of a dangerous animal shall present proof of procurement of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering the 12-month period during which registration is sought. This policy shall contain a provision requiring the city to be named as an additional insured and requiring that the city be notified by the insurance company at least ten (10) days in advance of any cancellation, termination or expiration of the policy.

(4) The owner or keeper shall, at his or her own expense, have the dangerous animal registration number provided by the animal control division tattooed upon the inner side of the right ear by a licensed veterinarian, or micro-chipped, and the chip number provided to the animal control division.

(c) The owner or keeper of an animal convicted of having a dangerous animal shall notify the animal control division within twenty-four (24) hours of a change of address or death of the animal, immediate notification will be required if the animal is loose.

(d) The owner or keeper of an animal convicted of having a dangerous animal shall not sell, transfer or give away the animal, other than to the animal control officer shelter for disposal.

(e) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. Should it be found that the owner or keeper is in noncompliance with the provisions, the animal shall be immediately confiscated, impounded, and destroyed.

(Ord. No. 90-4829, § 6, 5-7-90; Ord. No. 03-5259, § 7, 10-27-03)

Sec. 4-407. Small animals in city parks.

No small animals, whether restrained or unrestrained, shall be permitted in the city parks except for service animals when being used for that purpose and service animals being used in police work. This prohibition does not prohibit small animals in posted areas of parks or public lands that are specifically designated by council resolution for use by small animals in accordance with posted regulations. Small animal in the city parks are deemed a nuisance and may be impounded; provided, that a permit for organized obedience training or shows may be granted for use in designated areas of designated parks on designated days. The permit shall be obtained from the animal shelter control division at the discretion of the animal control

supervisor for that particular event. The permit shall be in writing and shall designate the park, area within the park, the dates and duration. A fee as prescribed by council resolution shall be collected for each permit for each event.

Sec. 4-433. Proof of vaccination prerequisite.

No dog/cat registration shall be issued unless the applicant therefor produces satisfactory proof that the dog/cat has been vaccinated with a rabies vaccine currently effective. Such proof may be made by presenting the vaccination receipt referred to in section 4-409; provided that when a dog/cat has been reclaimed from the animal shelter, registration fees and all impound fees shall be paid and all bonds shall be posted prior to release of the dog/cat. If satisfactory proof of rabies vaccination cannot be produced, the registration tag shall be retained by the city until the dog/cat has been vaccinated or proof of vaccination is produced. Proof of vaccination must be provided to the animal shelter control officer within thirty (30) days after the dog/cat becomes three (3) months old, or within thirty (30) days in the case of a dog/cat three (3) months or older. Failure to provide proof of vaccination will result in the registration being void.

Sec. 4-446. Animal shelter and a Animal control officer.

~~There is hereby established a city animal shelter.~~ The animal control officers shall be employees of the city, designated by the city administrator to act as such animal control officers, and they shall receive no pay other than their regular pay as city employees.

Sec. 4-447. Impoundment of small animals at large.

Every small animal, licensed or unlicensed, found running at large in the streets, avenues, alleys or other public places within the city, or on private property, except as provided in section 4-406, is a public nuisance and may be taken and impounded in the city animal shelter by an animal control officer, police officer or other employee designated by the city administrator or persons with whom the city has contracted. Such persons are specifically authorized to pursue small animals running at large onto private property and apprehend such small animals. Small animals are running at large unless they are restrained pursuant to section 4-406.

Sec. 4-448. Records of impounded animals.

Immediately upon impounding any animal, the animal control officer shall record, ~~in a book to be provided by the city and kept by him for that purpose~~, a description of such animal. Such record shall state the sex, color, breed, estimated age, distinguishing marks, if any, and the date and hour of impounding, ~~and upon final disposition of such animal, the record shall show such disposition.~~

Sec. 4-449. Reserved Additional fee for adopted dogs or cats.

- (a) ~~In addition to all impound and registration fees, the animal shelter control officer shall collect a deposit for spaying or neutering any animal adopted prior to sterilization surgery. The amount collected shall be equal to the amount set by the city administrator or his designee after consultation with the local veterinarian association.~~
- (b) ~~It is unlawful for any person to adopt a dog or cat from the animal shelter and fail to have the animal spayed or neutered within the prescribed time limit as set by the spay/neuter certificate. Such failure is a misdemeanor and can result in forfeiture of the animal.~~

Sec. 4-450. Disposition of unclaimed animals.

Every dog or cat impounded shall be held for a period of not less than forty-eight (48) hours nor more than seventy-two (72) hours after such impounding and if not claimed by the owner the animal shall become the property of the Yellowstone Valley Animal Shelter, and if not claimed by the owner or by some person acting in the owner's behalf who pay the license and impounding fees as provided in section 4-451, may be put to death by the animal control officer; provided, that instead of putting such dog or cat to death, the animal control officer, in his discretion, may turn any such dog or cat over to some person who agrees to find a home for the dog or cat. Such person must pay the fees referred to in section 4-451, except that no license fee need be paid for a dog to be removed from the city. The refusal or failure of the owner of any such dog or cat to pay the pound fees and charges after due notification shall be held to be an abandonment of the dog or cat by the owner.

Sec. 4-451. Collection of fees for impounded animals.

Before any dog, cat or other animal is released from the animal shelter, the animal control officer shall collect from the person claiming/adopting such dog, cat or other animal all fees and the usual registration fee for such dog/cat if it is not already registered, subject to the conditions outlined in section 4-450. Tax exempt organizations shall be allowed to participate as a foster home for up to (3) three adult animals provided they have complied with requirements of the animal shelter. Fees for such animals shall be paid within (10) ten days after finding the animal a new home or within (10) days after the animal has been in the foster home for (60) days. The small animal control officer shall remit immediately all sums of money collected to the city finance department.

Sec. 4-452. Reserved Disposal of animal upon request.

The animal shelter shall dispose of dogs, cats or other small animals, upon request of the person bringing the animal to the animal shelter pursuant to the procedure established at the animal shelter and upon payment of the proper fee.

Sec. 4-453. Animal control shelter fees.

The city council by resolution shall establish from time to time the fees to be charged by the animal control division shelter.

Sec. 4-502. Impoundment authorized.

The animal control officer shelter is authorized to take possession of any livestock animal found to be at large within the city limits, and to impound the same.

Sec. 4-503. Notice to owner.

Immediately upon impounding any livestock animal, the animal control officer warden shall use reasonable means to ascertain the owner of such livestock animal, and to give notice to such owner of the impoundment.

Sec. 4-504. Release to owner; fee.

Before any livestock animal is released from the animal control officer shelter to an owner, the animal control officer warden shall collect from the person claiming such

~~animal and fee costs incurred as a result of feeding, care, and impounded of the livestock, as established by council resolution.~~

Sec. 4-505. Auction of unclaimed animals.

Every livestock animal not claimed within ~~fifteen (15)~~ thirty (30) days of impoundment shall be sold at public auction.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of
_____, 2009.

PASSED, ADOPTED and APPROVED on second reading this _____ day of
_____, 2009.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Adoption of Resolution Adjusting Fees Charged at Animal Shelter

DEPARTMENT: Billings Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: As of March 22, 2009, the City no longer is expected to be providing for the care of animals as covered by the contract that City Council approved with Yellowstone Valley Animal Shelter, Inc. (YVAS). A review of the existing fees charged for services at the Billings Animal Shelter by the Animal Control Board, has resulted in the submittal of these recommendations and changes. The last changes made to the fees charged were approved by City Council in 2005. We now bring to you this resolution for fees to better reflect costs and services to the City. As the Billings Animal Shelter will no longer exist when Yellowstone Valley Animal Shelter begins caring for the animals at the Animal Shelter, these service fees will no longer apply.

ALTERNATIVES ANALYZED:

- Approve fee adjustment
- Do not approve fee adjustment

FINANCIAL IMPACT: Contract approved by City Council on September 22, 2008, places the responsibility of care for the animals at the Animal Shelter with Yellowstone Valley Animal Shelter. As the City of Billings will no longer be providing these services the fees for these services will no longer be collected and will be regulated by the contract.

RECOMMENDATION

The Animal Control Board and staff recommend City Council approve this resolution as presented on this date.

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

INTRODUCTION

On September 22, 2008, City Council authorized and accepted a contract with Yellowstone Valley Animal Shelter, Inc. (YVAS) for the care of the animals at the Animal Shelter. As the City of Billings will no longer be providing the services, and care of the animals is covered by contract with YVAS, the proposed changes delete fees for services that will no longer be collected or provided by the Billings Animal Shelter.

BACKGROUND

- Historically the City of Billings has provided for the care and housing of unwanted, stray, or abandoned animals at the Billings Animal Shelter.
- On December 12, 2005, City Council approved an initiative to investigate privatizing animal control.
- On April 16, 2006, Animal Shelter Report proposes an animal care co-op to provide a low-kill facility.
- On February 6, 2008, animals being considered for euthanasia were made available to private organizations through the “Save – A – Life Program.
- On January 29, 2008, Animal Shelter Operations Request for Proposals was issued.
- On February 29, 2008, a response to RFP of 150 pages received from Yellowstone Valley Animal Shelter, Inc.
- September 22, 2008, negotiated contract present and approved by Council.

We now come before Council for approval of this Resolution changing fees charged by the Billings Animal Shelter. Changing the fees charged to reflect the services that will no longer be provided by the Billings Animal Control.

ALTERNATIVES ANALYSIS

No change to fees currently charged. Failure to delete fees for services no longer provided, will not properly reflect fees for non-existent services.

RECOMMENDATION

The Animal Control Board and staff recommend that City Council approve the Resolution as presented.

ATTACHMENTS

A – Resolution

RESOLUTION NO. 09-_____

A RESOLUTION AMENDING RESOLUTION NO. 05-18248;
ESTABLISING FEES TO BE CHARGED BY THE CITY ANIMAL
SHELTER-CONTROL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 4-453 of the Billings, Montana City Code provides that the City Council shall establish from time to time the fees to be charged by ~~the~~ Animal Shelter Control; and

Whereas, the Animal Shelter Control fees need to be changed to more accurately reflect the cost of services to be provided; and

Whereas, the City Council has duly considered the matter.

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

1. ANIMAL SHELTER CONTROL FEES: The fees to be charged by ~~the~~ Animal Shelter Control are hereby established as follows:

Licenses Registrations:

Duplicates \$ 2.50

Unaltered* Dog/Cat registration for 1 year \$ 30.00

Spayed/neutered license registration for 1 year \$ 7.50

Unaltered* Dog/Cat registration for 3 years \$ 80.00

Spayed/neutered registration for 3 years \$ 15.00

Senior Citizen 65 or older shall receive 1/2 off license registration fees.

Late fee \$ 5.00

*Unaltered = unsprayed/unneutered.

Dangerous Dog Registration \$ 50.00

Small Animal Permit \$ 30.00 plus license registration fee for each animal

~~Personal Request Euthanasia \$ 35.00~~

~~Disposal fee \$ 30.00~~

Veterinarian Clinic Monthly Disposal Fee \$ 150.00

Drug & Paraphernalia Disposal Fee \$ 25.00 per pound
maximum 250.00 per burn

~~Trap Rental \$ 10.00 per week~~

~~Release of animal to Animal Shelter by owner \$ 5.00 per animal
with a ceiling of \$15.00 per day~~

~~Impound Fees: (dog/cat) \$ 25.00~~

~~Boarding Fees: (dog/cat)~~

~~First day \$ 10.00~~

~~Each additional day \$ 10.00~~

~~Quarantine Fees: (dog/cat)~~

~~Shelter Quarantine \$ 100.00~~

~~Rabies Submission Fee \$ 40.00~~

~~Adoption & Spay/Neuter Fees:~~

~~\$50.00 fee. Animal Shelter provides:~~

~~health vaccination~~

~~microchip implantation/record keeping~~

~~feline leukemia testing~~

~~canine parvo virus testing~~

~~Spay/Neuter Dog/Cat: \$50.00 fee. Animal Shelter provides:~~

~~neutering/spaying certificate or~~

~~neutering/spaying to be done at the Animal~~

~~Shelter by a participating local Veterinarian,~~

~~if available and the animal is unaltered. Fee~~

~~shall be waived if animal altered previously.~~

2. TERM OF FEES: Said fees shall continue in full force and effect until changed by the City Council by subsequent resolution.

3. EFFECTIVE DATE: The above resolution shall be effective March 22, 2009.

PASSED by the City Council and APPROVED this 9th day of March, 2009.

CITY OF BILLINGS

By _____
Ron Tussing, Mayor

ATTEST:

By _____
City Clerk

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

SUBJECT: Resolution to Adopt Sahara Park Master Plan**DEPARTMENT:** Department of Parks, Recreation & Public Lands**PRESENTED BY:** Mike Whitaker, Director

PROBLEM/ISSUE STATEMENT: In 2007 Athletic Pool was demolished to make way for Dehler Park. Today there are only 2 swimming pools to serve the entire community. Sensing the need for additional swimming facilities, the Better Billings Foundation, a 501 C3 non-profit organization, approached the Parks and Recreation Department in May of 2008 with the desire to build a swimming pool facility in the Billings Heights. A number of public and private sites were evaluated for suitability. The Sahara Park site turned out to be the best of all the sites considered. The Sahara Park is 9.26 acre property that was acquired through parkland dedications of the Sahara Sands Subdivision between 1975 and 1977. The park is bordered on the west by Aronson Avenue and on the north by Caravan Avenue. Currently Sahara Park does not have an approved master plan on file so a master plan was undertaken. The plan was facilitated by PRPL Staff with assistance from the Better Billings Foundation. The plan was developed with the intent that Sahara Park would be a large urban or special use park (on the scale of Pioneer Park) with facilities that would meet the needs of the entire city. The plan's major elements includes a Family Aquatic facility, a potential site for a Satellite Library, on site parking and furnishings that would be geared to accommodating the needs of larger and diverse groups. This plan has an alternative (known as Alternative Plan B) which is based on the premise that Sahara Park would be developed as a subdivision park. The Alternative B plan includes open areas for multi-use and programmable activities such as sports and practice areas, a picnic shelter, play structures, volleyball and basketball courts and a potential site for a Satellite Library with associated parking and outdoor reading areas. As this plan with its alternative was being developed, public meetings were held November 20, 2008 and January 15 and 27, 2009 at the Billings Community Center to discuss the master plan and alternative B and receive comments from interested citizens. The plan was presented to the Billings Park, Recreation, and Cemetery Board, at the February 11, 2009 meeting, and the Board voted to recommend adoption of Sahara Park Master Plan to the City Council and that Alternative Plan B be considered only after all avenues for development of the Family Aquatic Facility are exhausted through formal agreement with the Better Billings Foundation. See Attachment A – Sahara Park Master Plan resolution.

FINANCIAL IMPACT: There is no immediate financial impact to the City.

RECOMMENDATION

Staff and the Parks Recreation and Cemetery Board recommend that City Council approve and adopt the Sahara Park Master Plan as the governing plan for development of the park as outlined in the attached resolution.

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

ATTACHMENTS

A – Sahara Park Master Plan Resolution.

INTRODUCTION

In 2007 Athletic Pool was demolished to make way for Dehler Park. Today there are only 2 swimming pools to serve the entire community. Sensing the need for additional swimming facilities, the Better Billings Foundation, a 501 C3 non-profit organization, approached the Parks and Recreation Department in May of 2008 with the desire to build a swimming pool facility in the Billings Heights. A number of public and private sites were evaluated for suitability. The Sahara Park site turned out to be the best of all the sites considered. The Sahara Park is 9.26 acre property that was acquired through parkland dedications of the Sahara Sands Subdivision between 1975 and 1977. The park is bordered on the west by Aronson Avenue and on the north by Caravan Avenue. Currently Sahara Park does not have an approved master plan on file so a master plan was undertaken. The plan was facilitated by PRPL Staff with assistance from the Better Billings Foundation. The plan was developed with the intent that Sahara Park would be a large urban or special use park (on the scale of Pioneer Park) with facilities that would meet the needs of the entire city. The plan's major elements includes a Family Aquatic facility, a potential site for a Satellite Library, on site parking and furnishings that would be geared to accommodating the needs of larger and diverse groups. This plan has an alternative (known as Alternative Plan B) which is based on the premise that Sahara Park would be developed as a subdivision park. The Alternative B plan includes open areas for multi-use and programmable activities such as sports and practice areas, a picnic shelter, play structures, volleyball and basketball courts and a potential site for a Satellite Library with associated parking and outdoor reading areas. As this plan with its alternative was being developed, public meetings were held November 20, 2008 and January 15 and 27, 2009 at the Billings Community Center to discuss the master plan and alternative and receive comments from interested citizens. The plan was presented to the Billings Park, Recreation, and Cemetery Board, at the February 11, 2009 meeting, and the Board voted to recommend adoption of Sahara Park Master Plan to the City Council and that Alternative Plan B be considered only after all avenues for development of the Family Aquatic Facility are exhausted through formal agreement with the Better Billings Foundation. See Attachment A – Sahara Park Master Plan resolution.

PROCEDURAL HISTORY

The Better Billings Foundation is currently raising funds to construct a Family Aquatic Facility in the Billings Heights. After consideration of several potential sites, Sahara Park was chosen as the most viable location for the Aquatic Project. Because a master plan was not on record, PRPL Staff undertook the task to develop the plan. Staff analyzed the park site, its constraints and opportunities, and city requirements for park development. After public review and comment at public meetings, a master plan was developed with an Alternative Plan B. The plan was reviewed by the Parks, Recreation and Cemetery Board and they voted to recommend approval and adoption of the master plan to City Council at their February 11, 2009 meeting. The final step is presentation to the City Council for consideration and adoption.

BACKGROUND

According to the City of Billings Park Master Plan Policy, a park may not be developed until a park Master Plan has been prepared and adopted by the Billings City Council. All proposed development of parks or facilities within parks must be consistent with an approved Master Plan.

It is prepared by a qualified park planning consultant, and considers surrounding zoning and land uses and local and general park and recreation needs as well as specific requests from interested users. This is to assure the highest quality and most beneficial development of parks and recreation facilities, and to assure adequate public input into the development, sale, or use, of Billings' parklands. A proposed modification to a park that is a significant departure from the approved Master Plan requires a revision of the Master Plan following the above process, to determine if the proposed change is acceptable and appropriate for that park. The Sahara Park Master Plan as presented has been reviewed and recommended to the City Council for approval and adoption by PRPL Staff and Billings Park, Recreation, and Cemetery Board.

The master plan:

- Sets forth the guidelines for development of Sahara Park.
- Provides a regional Family Aquatic Facility.
- Provides appropriate active open space and structured play areas for patrons of the Aquatic Facility and the surrounding neighborhood.
- Identifies Sahara Park as a possible location for a future satellite library.
- Provides connection to the Heritage Trail System and to mass transit.
- Has an Alternative Plan B.

ALTERNATIVE ANALYSIS

The staff considered the following:

- Do nothing.
- Seek Council adoption of a park master plan to provide guidelines for the future development of Sahara Park.

CONSISTENT WITH ADOPTED POLICIES AND PLANS

The Sahara Park Master Plan follows recommendations contained in the Parks 20/20 Plan (adopted in 1997) and the Heritage Trail Plan (adopted in 2004).

RECOMMENDATION

Staff and the Parks, Recreation and Cemetery Board recommend that City Council approve and adopt the Sahara Park Master Plan as the governing plan for the development of the park as outlined in the attached resolution.

ATTACHMENTS

A – Sahara Park Master Plan Resolution.

Attachment A

RESOLUTION NUMBER 09-_____

**A RESOLUTION ADOPTING A MASTER PLAN FOR THE
DEVELOPMENT OF SAHARA PARK IN THE SAHARA SANDS
SUBDIVISION**

WHEREAS, the public interest requires the creation and adoption of a Master Plan for Sahara Park in the Sahara Sands Subdivision, 1st and 2nd Filings to control and limit development in accordance with the needs of the community and subdivision, the limitations and constraints of the park site, and with improvements suited to and appropriate for the surrounding land uses; and

WHEREAS, it is in the public interest and necessary that the current and future development of the park shall conform to the adopted master plan; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

BILLINGS:

1. *Master Plan.* The master plan for Sahara Park presented for adoption and attached as *Exhibit “A”* is the official Master Plan for the park. The Alternative Plan B would only become effective based on the criteria listed below.
2. *General Character of Improvements Provided for by the Plan.* The general character of the improvements is intended to meet a long standing public need for a Family Aquatic Facility and the contemplation of a Satellite Library in the Billings Heights. Also to provide recreational opportunities and to site the park amenities in an aesthetic manor to compliment the surrounding neighborhoods. The purpose of the plan is to guide development of the park. Alternative Plan B becomes effective only after 2 conditions are met: First, there is not adequate progress made in fund raising and construction of the Family Aquatic Facility within a 5 year period or as agreed upon in a formal agreement between the City and the Better Billings Foundation. Second, a formal petition brought forward by a majority of the residents in the Sahara Park benefit district requesting Alternative plan B be adopted through the creation of a Special Improvement District (SID) and Park Maintenance District (PMD).
3. *Changes.* Proposed improvements not part of the adopted plan shall not be installed unless a new master plan is adopted through the normal park planning process that finds that the proposed improvement is appropriate as described above and can be incorporated as part of an “amended” park master plan to be presented for adoption at that time.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Billings, Montana,
this 9th day of March, 2009.

CITY OF BILLINGS

By: _____
Ron Tussing Mayor

ATTEST:

By: _____
Cari Martin City Clerk

SAHARA PARK MASTER PLAN

Prepared For:

**City of Billings
Parks, Recreation and Public Land
390 North 23rd Street
Billings, MT 59101**

March 9, 2009



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Appendix

- A: Benefit Matrix
- B: Sahara Park Master Plan
- C: Sahara Park Master Plan Alternative B

ACKNOWLEDGEMENTS

City of Billings Parks, Recreation and Public Lands
Mike Whitaker, Director
Mark Jarvis, ASLA, Park Planner
390 North 23rd Street
Billings, Montana 59101

Better Billings Foundation
Chuck Barthuly, executive Director
P.O. Box 50489
Billings, MT 59105

AT Architecture, Inc
Alex Tommerup, AIA
848 Main Street Suite 7
Billings, MT 59105
Donation of Analysis and Graphic Services

History

Sahara Park is a 9.26 acre property that was acquired through parkland dedications of the Sahara Sands Subdivision between 1975 and 1977. The Park is bounded on the west by Aronson Avenue and to the north by Caravan Avenue. Sahara Park has had no development, and there is no current approved master plan on record.

The need for a master plan was determined when the Better Billings Foundation, a 501 C3 non-profit organization, approached the Parks and Recreation Department in May of 2008 with the desire to build a family aquatic facility in the Heights. Several public and private properties were analyzed through a benefit matrix to determine the best overall location for an aquatic facility and Sahara Park was determined to be the best location of all the sites considered.

According to the City of Billings Master Plan Policy, parkland can not be developed until a park master plan has been prepared and adopted by the Billings City Council. All proposed park development must be consistent with an approved master plan. This plan considers surrounding zoning, land uses, local and general parks and recreation needs and requests from interested users. This is to assure adequate public input into the development, sale or use of public parklands. A proposed modification to a park that significantly departs from the approved master plan requires a revision of the master plan in the same process to determine if the proposed change is acceptable and appropriate for that park.

Introduction

The master plan for Sahara Park is unique in that it also has an alternative B component. The original master plan viewed Sahara Park as a Special Use or Multiple Use Park designation as outlined in the Parks 20/20 Plan. These designations are geared toward meeting the park and recreational needs of the larger community. This type of park tends to be intensively developed often serving unique and often singular activities or uses that are enjoyed by the entire community. Upon request of the City Council an Alternative Plan B was also developed to see what Sahara Park could look like without a family aquatic facility. This plan reflects the Neighborhood Park concept described in the Parks 20/20 Plan.

Sahara Park Master Plan Process

Sahara Park was one of a number of potential sites that were evaluated through a benefit matrix to determine suitability for construction of an aquatic facility (see Appendix A). After evaluating a number of criteria including location, accessibility to the site, access to utilities, environmental factors and build-ability of the site, Sahara Park came out as the most favorable site to locate an aquatic facility. Parks and Recreation Staff facilitated the plan with the assistance of the Better Billings Foundation and evaluated the site for opportunities and constraints consistent with a Special Use or Multiple Use Park. At the same time the Library Department approached the Parks and Recreation Department to request that as part of the master plan, a portion of the site be identified for future consideration as a possible location for a Satellite Library. When funding becomes available the Library would like to have a place holder

in the master plan to consider Sahara Park along with a number of other potential sites in the Billings Heights for a Satellite Library. The preliminary master plan was developed which contained the following elements:

- Family Aquatic Park.
- Satellite Library/Community Center site for future evaluation by the Library Department.
- On site parking requirements.
- Structured Play areas including picnic shelters, tennis courts
- Large open active play areas that could be programmed for a wide variety of sports and activities.
- Access to the Heritage Trail along Aronson Avenue.
- Access to public transportation.
- Inter-park walking/exercise path.

On November 20, 2008, a public meeting was held at the Billings Community Center to present the preliminary master plan and to receive public comment. The following are the comments received:

Comments from the Public:

1. Do not want more traffic on Caravan. Eliminate the parking ingress/egress there.
2. Do not want a huge tall Library building which will block the view shed or be ugly.
3. Want the Library building to visually fit into the neighborhood.
4. Our buildings are ugly in Billings-need more trees and landscaping.
5. Do not want other amenities in the park. (No pool or library)
6. Want basketball courts in the park.
7. Want tennis courts in the park.
8. Want sand volleyball in the park.
9. Want a nature learning center in the park.
10. Keep as much of the park natural as possible.
11. Purchase the adjacent property and keep that as natural open space.
12. Concerned about drinking parties in the park.
13. Want the playground to be open to the public year round.
14. Make sure there is adequate parking.
15. Consider the view shed of the neighborhood when placing the park features.
16. Screen the pool area and other areas with plantings in the park.

From these comments, a buffer area between the property owners and the park was added to the plan (see Appendix B).

Sahara Park Master Plan Alternative B Process

After presenting the preliminary Sahara Park Master Plan to the City Council on December 1, 2008 at a regularly scheduled work session, Council asked Staff to develop an Alternative B plan

that would explore what the Sahara Park Master Plan could look like without the family aquatic facility.

Staff took the approach that without an aquatic facility, the park would function as a Neighborhood Park. As part of the analysis process in determining the elements to include in a neighborhood park model, public input from the neighborhood would be important. Therefore two public meetings were scheduled.

Public Meeting #1

The first meeting was held on January 15, 2009 at the Billings Community Center. In the meeting the attendees were divided into 3 groups and asked a series of questions. Their responses were recorded on flip charts. At the end of the meeting each group made a brief presentation of their responses. The questions and their responses are as follows:

Sahara Park Master Plan Alt. B
Comments to Questions at Public Meeting #1
January 15, 2009

Total Number Signed In: 22 (approximately 25 in attendance)

Park Usage

- For what purpose/activities would you use the park?
 - Walking
 - Gathering area
 - Sports
 - Active play on structures
 - Water activities
 - Picnics (open and shelter)
- How often?
 - Range from daily to never

Your Vision

- What elements are important?
 - Trails (multi-use)
 - Natural landscape
 - Wildlife area
 - Safety (pedestrian,
 - Parking
 - Ball field (boys and girls)
 - General sports – practice
 - Picnic tables
 - Picnic shelter
 - Restrooms
 - Open area (sports, games)

- Water play area
- Trees
- Preserve rims
- Volleyball
- Library (smaller footprint)
- Are there any concerns you would have?
 - Environmental impacts
 - Wildlife
 - Traffic volume and high speeds on Aronson
 - Pedestrian safety
 - Bus stop (safe location)
 - Adequate parking
 - Preserving natural landscape, topography
 - Bring back girls softball in the area
 - Ball control (from leaving park)
 - Development and maintenance costs
 - Pool and library located on site
 - Overhead power lines, gas line
 - Impacts with crime (illicit activity)
- What would you not want to see in the park?
 - Pool facility
 - Library
 - Commercial
 - Concessions
 - Curbside parking

Character

- Are there any unique features you would like to see or preserve in the park?
 - Natural vegetation
 - Wildlife
 - Existing game trails
 - Preserve rims (rock outcrops?)
- What would make this park unique?
 - No response given

These comments along with other factors and constraints that need to be considered for public health, safety and welfare of the general public were analyzed to develop a preliminary Sahara Park Master Plan Alternative B (see Appendix C). The elements contained in the plan are as follows:

- Proposed Library/Community Center
 - This element was retained as a placeholder for future consideration by the Library Department.
 - Parking would be part of the Library consideration.

- Formal Structured Play Area
 - Picnic Shelter
 - Play Structure
 - Water Play area
 - Volleyball
 - Basketball Courts
 - Outdoor Reading/Gathering Area
- Active Programmable Space
 - Open area for sports and sport practices.
 - Large gatherings including reunions, company picnics, neighborhood Parties, school activities.
- Other Features
 - Low development and maintenance costs.
 - Trails (connections to the Heritage Trail system and exercise).
 - Safety for pedestrians and bus access.
 - Trees
 - Natural Landscape

Public Meeting #2

The second meeting was held on January 27, 2009 in conjunction with the Billings Heights Task Force monthly meeting at Castle Rock Middle School. Parks and Recreation Staff presented the Sahara Park Master Plan Alternative B. Attendees at the meeting were generally in favor of the plan. Questions of implementation and funding were asked and it was explained that the original Sahara Park Master Plan would go forward as the plan for the park. If the original plan does not get developed and there is interest in the neighborhood to develop Alternative Plan B then the property owners in the benefit district would have to approve (through a simple majority vote) the development of the park through creation of a Special Improvement District (SID) and Park Maintenance District (PMD). These assessments would fund the construction and ongoing maintenance of the park.

Master Plan Implementation

The Sahara Park Master Plan is unique because of its two part nature. It is recommended that Alternative Plan B be considered only after all options to the original plan are thoroughly explored. A formal agreement between the City and the Better Billings Foundation should be initiated identifying the time limits and performance standards to be met as conditions to utilizing public parkland. Alternative Plan B should become effective only after 2 conditions are met. First, if there is not adequate progress made in fund raising and construction of the Family Aquatic Facility through the agreement as described above. Second, a formal petition is brought forward by a majority of property owners in the Sahara Park benefit district requesting Alternative Plan B be adopted through the creation of a Special Improvement District (SID) and Park Maintenance District (PMD).

Appendix A:

Location options	Weight of Importance	Harvest	Castlerock	Sahaha	High Sierra
Environment					
Soils	3	2	4	4	2
Wind	4	1	2	3	2
Dust	3	1	3	3	2
Adequate land	5	5	3	4	5
Expansion Potential	3	3	2	3	5
Road Circulation					
Vehicile accessible	5	2	3	4	1
Bike trail accessible	2	2	3	4	1
Road improvments	3	3	5	5	2
Traffic impact	3	2	3	3	2
Overall location	3	2	3	4	1
Restaurant/Shoppin g					
Lodging	3	1	3	4	1
Visibility	4	2	3	4	1
Demographics/User groups					
Utilities	3	3	4	4	1
Improvements	4	3	5	5	2
Other					
Fund raising opportunities	4	2	3	3	3
Masterplanned	2	5	1	4	2
Totals		146	192	234	130

NOTE: Weight value 1-5 with 5 being most important.

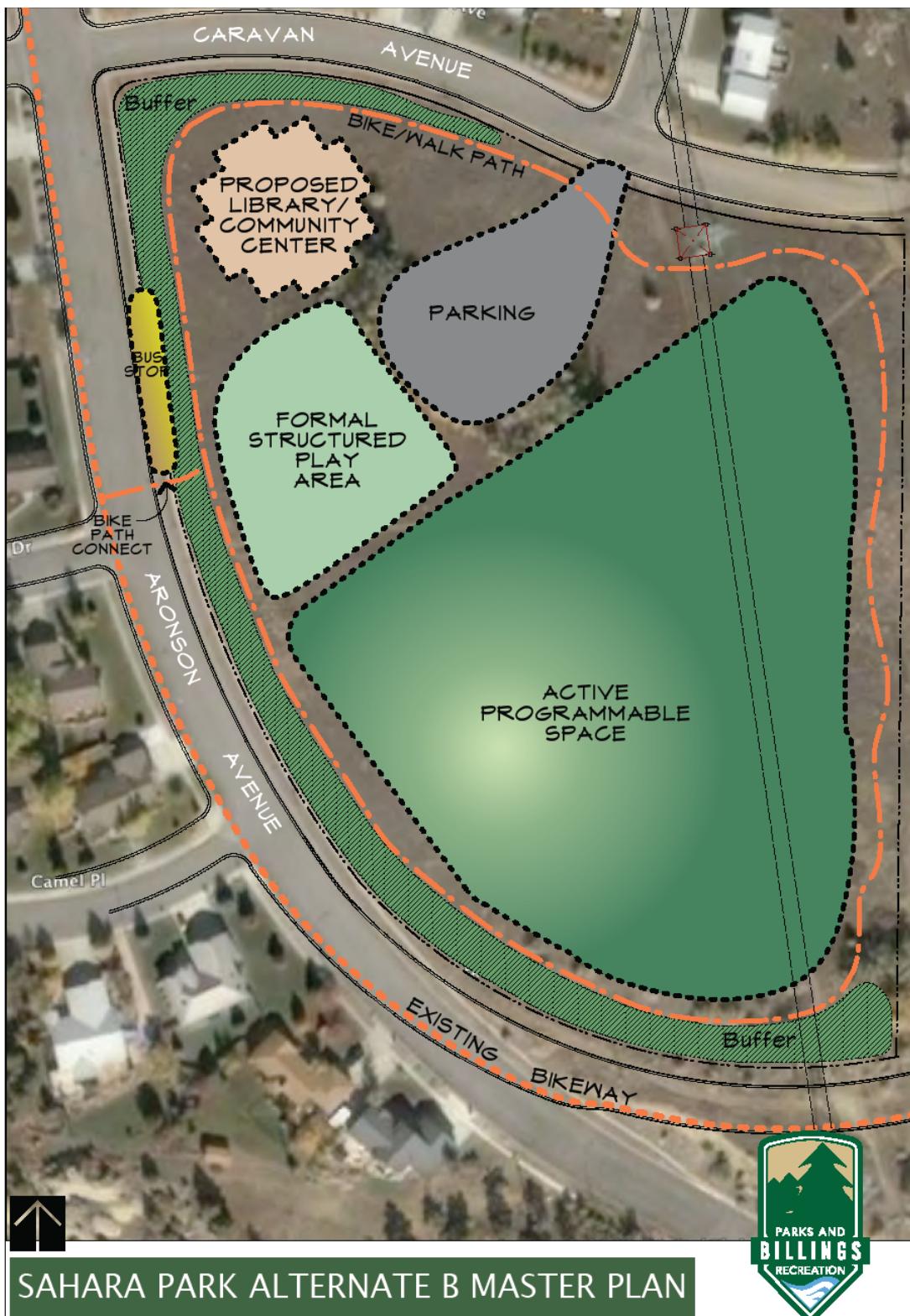
Weight considered both constructability and operational concerns

Appendix B



HEIGHTS POOL AT SAHARA PARK

Appendix C



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 9, 2009

TITLE: Local 521 International Association of Firefighters (IAFF) 2008-2010
Collective Bargaining Agreement

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Asst. City Administrator
Karla Stanton, HR Manager

PROBLEM/ISSUE STATEMENT: All confirmed firefighters below the rank of Asst. Chief are members of Local Chapter 521 of the IAFF. The collective bargaining agreement (CBA) between the local and the City expired on June 30, 2008. Management staff and union representatives have been negotiating a new CBA since April, 2008 and met several times with a state mediator since August. The Council is being asked to approve a new two (2) year CBA.

ALTERNATIVES ANALYZED: The Council can approve the CBA, approve it with changes or reject it. Amending it or rejecting it will return the contract to management and union representatives to continue negotiations, probably with mediation, or either party may request fact finding. By state law, firefighters cannot strike, so the process for resolving contract disputes is mediation, followed by fact-finding and concluding with binding arbitration.

FINANCIAL IMPACT: The estimated cost for the first year of the CBA is approximately \$317,500 in on-going wages and benefits plus a one-time cost of approximately \$34,000. The contract's second year adds approximately \$420,000 of on-going expenses to the first year cost. The second year total could be higher, depending on the amount of increase for health insurance premiums.

RECOMMENDATION

Staff recommends that Council approve the two (2) year contract with the IAFF local 521.

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

INTRODUCTION

All confirmed firefighters below the rank of Asst. Chief are members of Local Chapter 521 of the IAFF. The collective bargaining agreement (CBA) between the local and the City expired on June 30, 2008. Management staff and union representatives have been negotiating a new CBA since April, 2008 and met several times with a state mediator since August. The Council is being asked to approve a new two (2) year CBA.

BACKGROUND

The City and Local 521 IAFF have historically started contract negotiations by April 1 and negotiated two (2) or three (3) year contracts. The most recent contract expired on June 30, 2008. An impasse was declared on that date and the City requested state mediation. The two negotiating teams met with mediators several times in July, August and December. A tentative agreement was achieved on December 19th but additional time was required to work out specific wording on contract changes.

Most of the contract changes affect wages and benefits. Year 1 contains the following elements: 2.5% base wage or COLA increase; adding the City's health plan contribution to the base wage for retirement purposes only and; increasing the amount of holiday pay. Additional costs/benefits add \$5,000/year to the tuition reimbursement program and wildland firefighting boots will be added to the list of personal protective equipment (PPE). One pair will be purchased for each union member. The boots will eventually need to be replaced as they wear out or are damaged but this will have a relatively low annual cost and can be incorporated in the department's annual budget.

The contract's second year includes a COLA of 2.75%. Other first year pay and benefits continue in the second year except the wildland boot purchase.

The single biggest change in this contract is adding the city's health plan contribution to base pay. The sole purpose is to increase retirement benefits. With higher base pay, the employees, the City and the State of Montana will increase retirement contributions to the Firefighter Unified Retirement System (FURS) and this should increase retirement pay. The base pay increase will not impact any other pay or benefit item, including overtime. The City's 2009 contribution to the health plan is \$575/month. Adding that amount to each union member's gross pay increases annual compensation by \$6,900/year. Firefighters may retire after 20 years of service and receive 2.5% of their final salary per year of service. The additional gross pay of \$6,900/year produces a minimum retirement benefit of \$3,450/year. The city's contribution to FURS is 14.36% of the member's pay, so the City will pay approximately \$82.57/month/union employee more in retirement contribution than in previous years, plus slightly higher workers compensation and Medicare. The estimated annual cost is \$135,000, but because the benefit takes effect on January 1, the first year cost is $\frac{1}{2}$ of the annual amount. The second year cost is estimated to range between \$135,000 and \$155,000 depending on how much the city's portion of the health plan premium increases in calendar year 2010. The COLA for all other employees is 4% in 2008-2009 and the Teamster union is guaranteed 3%- 4% in 2009-2010. Based on the CPI-U change that was reported last December, the Teamster increase will be 3%. The firefighter union is willing to accept a 2.5% COLA in the first contract year and 2.75% in the second in order to "pay" for the increased retirement benefit. Bozeman and Great Falls have successfully implemented this program for firefighters and some other employees.

The other major pay change is for holiday pay. By state law, straight time wages are paid to public employees who do not work on a holiday. When Police and Teamster union members and non-represented employees work during one of the State recognized holidays, those employees are paid straight time for the holiday, plus 1.5X overtime for the hours worked. Since the fire department is a 24/7 operation, firefighters must work holidays, but because of their shift schedules, they work only about 1/3 of the recognized holidays per year. The current holiday pay calculation pays firefighters straight time for 1/3 of the holidays/year. The proposed contract change will increase that pay to the overtime rate that other employees receive when they work holidays. The estimated first year cost is \$75,000.

Several minor contract language changes are recommended. Firefighters will be required to meet qualifications for Firefighter II within 36 months versus the present 60 months. The union and management will convene a committee that will oversee and improve the Officer Development Program, completion of which will be required for advancement to Captain. Titles, tests and position qualifications will be updated.

Management recommends a two (2) year contract. The primary reason is that General Fund and Public Safety Fund revenues and spending are predicted to change substantially over the next two years and management prefers to negotiate a new contract in 2010 when those impacts will be better known. This will require simultaneous negotiation of the Teamster and Fire union contracts.

ALTERNATIVES ANALYSIS

The Council can approve, reject or amend the contract proposal. Approving it puts the contract provisions in place effective on July 1, 2008 through June 30, 2010. Rejecting or amending the contract forces the union and management to reopen negotiations, probably with mediation, or either party can request fact finding. By state law, firefighters can't strike, so the process for resolving contract disputes begins with state mediation, then fact-finding and finally ends with binding arbitration. In mediation the two sides identify the outstanding issues and the mediator works between the two sides, trying to develop a solution. Fact-finding involves both sides presenting their contract proposals and the fact-finder recommending solutions to the issues. Those recommendations are made public and public airing of the issues and solutions is intended to pressure the two sides to agree with the recommendations and to execute a contract. Binding arbitration requires both parties to make final proposals and the arbitrator must choose one of them. Arbitration imposes a solution on the parties and the decision may not be appealed unless the arbitrator exceeds his/her authority as outlined in state law. Local 521 plans to vote on the CBA on March 2, 3 or 4, so the results will be available prior to this Council meeting.

RECOMMENDATION

Staff recommends that Council approve the two (2) year contract with the IAFF local 521.